



---

# Grant Compliance and Purchasing Manual

**Pursuant to Requirements in 2 CFR Part 200:  
Uniform Administrative Requirements, Cost Principles, and  
Audit Requirements for Federal Awards, and  
Education Department General Administrative Regulations (EDGAR)**

2025-2026  
REVISED: OCTOBER 2025

# TABLE OF CONTENTS

Introduction	1
Purpose	1
Effective Date	1
Monitoring for Compliance and Consequences for Non-compliance	1
Definitions	2
Education Department General Administrative Regulations (EDGAR)	3
Organization of District	4
I. Federal Grant Application Process	5
TEA Grants	5
Other Federal Grants	8
School Nutrition Program	9
II. Financial Management System	9
A. Overview	9
B. Financial Management Standards	10
C. Budgeting Grant Funds	18
Budgeting - The Planning Phase: Meetings and Discussions	18
Negotiating the Submitted Application	23
After Receiving the Approved Application and NOGA/GAN	23
Amending the Application	25
D. Timely Obligation of Funds	25
When Obligations are Made	25
Period of Availability of Federal Funds	27
Liquidation of Financial Obligations	28
Carryover	29
E. Accounting Records	31
Documentation Associated With Using District Credit Cards	32
F. Expending Grant Funds	34
Direct and Indirect Costs	34
Indirect Cost Rate	35
Determining Allowability of Costs	37
Factors Affecting Allowability of Costs	38
Requesting Prior Written Approval	41
Selected Items of Cost – 2 CFR Part 200, Subpart E	42
Other Considerations for Allowability	44
Costs That Require Special Attention	45
Travel	46

Nederland ISD Federal Travel Procedure	47
Advertising and Public Relations Costs	52
Hosting Meetings and Conferences	52
Entertainment Costs, Prizes, and Field Trips	54
Use of Federal Funds for Religion Prohibited	54
Use of Federal Funds for Construction or Major Remodeling and Renovation	54
Use of Federal Funds Benefiting Students and Teachers in Private Schools	55
G. Reporting Expenditures	57
TEA Grants	57
Refunds Due to TEA	59
Grants from Other Awarding Agencies	59
H. Federal Cash Management Policy/Procedures	59
Advance Method	60
Interest Earned on Advances	62
Remitting Interest	62
Excess Cash on Hand	63
Reimbursement Method	64
Noncompliance with Cash Management Requirements	64
I. Program Income	65
Definition	65
Use of Program Income	65
Reporting Program Income	66
Earning Program Income after the Grant Period	66
III. Procurement System	67
A. Conflict of Interest Requirements	67
Standards of Conduct	68
Disciplinary Actions	73
Mandatory Disclosure	73
B. Full and Open Competition	73
Domestic Preferences for Procurement	74
Prohibition on Certain Telecommunications Companies	74
Never Contract with the Enemy	75
Contracting with Small, Minority, Women's, or Veteran-Owned Businesses	75
Prequalified Lists	75
Solicitation Language	75
C. Federal Procurement System Standards	76
Avoiding Acquisition of Unnecessary or Duplicative Items	76
Use of Intergovernmental Agreements	76
Use of Federal Excess and Surplus Property and Procurement of Recovered Materials	77

Awarding Contracts to Responsible Contractors	79
Contract Provisions	81
Maintenance of Procurement Records	82
Time-and-Materials Contracts	84
Settlements of Issues Arising Out of Procurements	85
Protest Procedures to Resolve Disputes	85
D. Responsibility for Purchasing	86
E. Purchase Methods When Using Federal Funds	86
State Requirement Related to Purchasing Methods	86
Micro-Purchases (Purchases up to \$10,000)	86
Simplified Acquisition Procedures (Purchases between \$10,000 and \$49,999 in the Aggregate)	87
Competitive Procurement (\$50,000 or more)	89
Professional and Consulting Services	90
Allowable Professional Service Costs	91
Noncompetitive Procurement	92
Cost/Price Analysis for Federal Procurements in Excess of \$250,000	93
F. Purchase Cards (District-Issued Credit Cards)	95
G. Contract Administration	96
Documentation for Contracts	98
Payment Only After Services Are Performed	99
Verification of Receipt of Goods and Services Provided by Contractors	99
Prompt Payment to Vendors/Contractors	100
H. Submission of Procurement System	100
IV. Property Management Systems	100
A. Property Classifications	100
B. Inventory Procedure	101
C. Inventory Records	101
D. Physical Inventory	102
E. Equipment Insurance and Maintenance of Equipment	103
F. Lost or Stolen Items	103
G. Use of Equipment	103
H. Disposal of Equipment and Supplies	104
Equipment	104
Supplies	105
V. Written Compensation Policies	106
Allowable Compensation	106
Reasonable Compensation	106
Professional Activities Outside the District	106
Job Descriptions	107

A. Documentation of Personnel Expenses	108
Standards for Documentation of Personnel Expenses	108
Time and Effort Procedures	109
Reconciliation and Closeout Procedures	110
Employee Exits	110
VI. Human Resources Policies	111
VII. Record Keeping	112
A. Record Retention	112
B. Records That Must Be Maintained	114
C. Collection and Transmission of Records	115
D. Access to Records	117
E. Privacy	118
VIII. Monitoring	119
A. Self-Monitoring	119
B. TEA Monitoring	119
C. Subrecipient Monitoring	122
IX. Audits	122
A. Annual Independent Audit	122
B. Single Audit	123
C. Audits and Special Investigations Conducted by TEA or By Another Regulatory Agency	126
District Procedures for Reporting Fraud, Waste, or Abuse	127
X. Programmatic Fiscal Requirements	127
A. Supplement, Not Supplant	127
What Does Supplement, Not Supplant Mean?	127
Rebutting the Presumption of Supplanting	128
Supplement, Not Supplant Under Title I, Part A of the ESEA	128
How to Document Compliance for an Auditor	129
Procedures for Complying with Supplement, Not Supplant	130
B. Maintenance of Effort (MOE)	131
Expenditures Included in the Determination of MOE	131
Expenditures Excluded from the Determination of MOE	132
“Preceding Fiscal Year” Defined	133
Failure to Meet MOE	133
Procedures for Complying with MOE	133
XI. Programmatic Requirements	134
A. Private Nonprofit School Participation	134
B. Equitable Access and Participation	135
C. Civil Rights and Prohibition of Discrimination	136
Prohibition of Discrimination on the Basis of Race, Color, or National Origin	137

Prohibition of Discrimination on the Basis of Sex	138
Prohibition of Discrimination on the Basis of Age	139
Prohibition of Discrimination on the Basis of Disability	141
Section 504	142
Title II of ADA	144
Enforcement of Section 504 and Title II of ADA	144
Prohibition of Discrimination of Groups Affiliated with Boy Scouts of America	144
School Prayer	145
D. Program Reporting	146
XII. Emergency Policies and Procedures	147
1. Leadership and Coordination	147
2. Employee and Stakeholder Communication	148
3. Employee Pay and Contracts	148
4. Inventory of Property Purchased with Federal Funds	148
5. Recuperation of Prepaid Travel Costs	148
6. Program Continuity and Flexibility	149
7. Contingency Planning	149
XIII. Legal Authorities and Helpful Resources	149
Appendices	150
Appendix 1 – Organization Chart of the District	150
Appendix 2 – NISD EDGAR & Purchasing Requirements Chart	150

# Introduction

## Purpose

This manual sets forth the policies and procedures used by The Nederland Independent School District (the District) to administer federal funds pursuant to [Title 2 of the Code of Federal Regulations \(2 CFR\) Part 200](#), which took effect for non-federal entities on December 26, 2014. It also includes requirements and references from the federal regulations in [EDGAR](#) (*Education Department General Administrative Regulations*) as well as certain policies and laws pertaining specifically to Texas school districts.

The manual contains the internal controls and grant management standards used by the District to ensure that all federal funds are lawfully expended. It describes in detail or references the District's financial management system, including cash management procedures; procurement policies; inventory management protocols; procedures for determining the allowability of federal expenditures; time-and-effort reporting; record retention; and monitoring responsibilities. All employees of the District who deal with federal funds in any capacity are expected to review this manual to gain familiarity and understanding of the District's rules and practices and to comply with all requirements.

## Effective Date

The Uniform Guidance (2 CFR Part 200), incorporated into EDGAR, went into effect on December 26, 2014, applying to federal education programs no later than July 1, 2015. The Uniform Guidance and EDGAR were revised in 2024 and all federal awards after that date are subject to the new rules. These policies and procedures reflect those updates.

## Monitoring for Compliance and Consequences for Non-compliance

The District is responsible for complying with all the U.S. Constitution, Federal statutes, regulations, and the terms and conditions of federal awards (2 CFR 200.303(b)). Compliance with these policies and procedures is monitored by the District and TEA. Failure of a district employee to comply with any of these requirements may result in disciplinary action, up to and including termination.

The federal programs covered in this manual include the following:

- Federal Entitlement Grant Programs

- Federal Competitive Grant Programs from all agencies

The state funded programs covered in this manual include the following:

- State Compensatory Education
- State Competitive Grant Programs from all agencies

The private grants covered in this manual include the following:

- Corporate (offered by businesses)
- Private Foundations
- Local Agencies

All competitive grants including federal, state, local, corporate and foundation grants must follow all applicable policies. Please note, certain grants may flow through other agencies so it is important to ensure that applicable regulations from the original source of funding are allowed.

## Definitions

Definitions as they pertain to federal grants appear in two places: *34 CFR Part 77 - Definitions That Apply to Department Regulations*, and *2 CFR Part 200, Subpart A*, which relate to the policies and procedures in this document. District employees who deal with federal grants must be familiar with the definitions in both.

Two terms used frequently in 34 CFR Part 75 and 76 are “state-administered grants” and “direct grants.” “*State-administered grants*” are those grants that pass through a state agency (i.e., a *pass-through agency*) such as TEA. The majority of grants the District receives are state-administered grants. Both TEA and the subgrantees must comply with the requirements in 34 CFR Part 76 in addition to the requirements in 2 CFR Part 200.

“*Direct grants*” are those grants that do *not* pass through another agency such as TEA and are awarded directly by the federal awarding agency to the grantee organization. These are usually discretionary grants that are awarded by USDE or by another federal awarding agency. In many instances, TEA may apply for a direct grant from the USDE on a competitive basis and then award subgrants. Or the District may apply directly from the USDE for a competitive grant. In either case, these grants are “*direct grants*,” and the District must comply with the requirements in 34 CFR Part 75 in addition to the requirements in 2 CFR Part 200.



All of the requirements outlined in these policies and procedures apply to both *direct* grants and *state-administered* grants.

The federal provisions contained and referenced in this document apply to all recipients and subrecipients receiving and expending federal funds. A *recipient* is “an entity, usually but not limited to non-Federal entities that receives a Federal award directly from a Federal awarding agency” and a *subrecipient* is “an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award.” (2 CFR 200.1). The terms *recipients* and *grantees* are used interchangeably throughout this manual, as well as *subrecipient* and *subgrantee*.

### Education Department General Administrative Regulations (EDGAR)

The USDE adopted the Uniform Grant Guidance in 2 CFR Part 200 as its regulations in 2 CFR Part 3474 (with two minor exceptions), which gives regulatory effect to the Office of Management and Budget (OMB) guidance in 2 CFR Part 200. Therefore, as of December 26, 2014, EDGAR consists of:

EDGAR	Applicability
<a href="#">34 CFR Part 75 – Direct Grant Programs</a>	Applies to grants awarded directly to the District by the USDE or by another federal awarding agency; also applies to subgrants awarded by TEA for a competitive grant that TEA applied for and received
<a href="#">34 CFR Part 76 – State-Administered Programs</a>	Applies to all formula grants administered by TEA and to all grants allocated to TEA based on a formula
<a href="#">34 CFR Part 77– Definitions that Apply to Department Regulations</a>	Applies to all federal education grants
<a href="#">34 CFR Part 81 – General Education Provisions Act (GEPA) – Enforcement</a>	Applies to all federal education grants
<a href="#">34 CFR Part 82 – New Restrictions on Lobbying</a>	All federal grants (government-wide)
<a href="#">34 CFR Part 84 – Government-wide Requirements for Drug-Free Workplace</a>	Applies to all entities that receive grants directly from the USDE or from any other federal agency. It does not apply to LEAs that only receive funds through TEA or another pass-through agency.

<a href="#">34 CFR Part 86 – Drug and Alcohol Abuse Prevention</a>	Applies to IHEs (i.e., colleges and universities) receiving federal funds directly from the USDE or any other federal agency
<a href="#">34 CFR Part 97 – Protection of Human Subjects</a>	Applies to all research involving human subjects conducted, supported, or otherwise subject to regulation by the USDE or any other federal department or agency that makes it applicable. There are exemptions for certain educational activities.
<a href="#">34 CFR Part 98 – Student Rights in Research, Experimental Programs, and Testing</a>	Applies to all federal education grants unless specifically exempted in the regulations
<a href="#">34 CFR Part 99 – Family Educational Rights and Privacy</a>	Applies to all entities receiving federal education funds
<a href="#">2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards</a>	Applies to all new federal grants awarded as of December 26, 2014
<a href="#">2 CFR Part 3474 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (adopts 2 CFR Part 200 in its entirety with two minor exceptions)</a>	Applies to all federal education grants awarded as of December 26, 2014
<a href="#">2 CFR Part 3485 – Nonprocurement Debarment and Suspension</a>	Applies to all entities that receive federal grants, subgrants, and subcontracts (government-wide)

## Organization of District

The District is organized into the following departments and divisions:

The Mission of the Nederland Independent School District Business Office is to provide support to all District students, staff, parents, and the community and to ensure that all business operations are supportive of the instructional goals and objectives of the district in the attainment of the campus performance objectives (Student Achievement Indicators).

The Business Division's primary goal is to protect the assets of the district and to ensure that all financial transactions are performed in accordance with generally accepted accounting practices.

The Business Department staff shall perform multiple roles; however, adequate internal controls and separation of duties shall be maintained at all times regardless of the size of the business department staff. The staff consists of:

Chief Financial Officer , Secretary, Bookkeeper, Purchasing Agent, Accounts Payable Clerk

All Business Department staff are expected to comply with the:

- Code of Ethics and Standard Practices for Texas Educators [Board Policy DH (Exhibit),
- School Board Policies, especially CAA Local regarding fraud,
- Nederland ISD Code of Conduct (Employee Handbook),
- Nederland ISD Fiscal Manual, sub-manuals and procedures,
- Confidentiality Agreement, and
- Nederland ISD Acceptable Use Guidelines.

Each staff member shall have an up-to-date job description on file in the Human Resources department. In addition, each staff member should receive and sign a job description and corresponding evaluation instrument during the annual evaluation process. Changes to job descriptions should be made when substantial changes occur in job duties or responsibilities.

### Organizational Chart

See Exhibit #1

## I. Federal Grant Application Process

### TEA Grants

The majority of federal grants the District applies for and receives are *formula* grants administered by TEA (i.e., state-administered grants). The District may also apply for and receive *discretionary* grants from TEA or directly from the USDE or another federal awarding agency (i.e., direct grants). The policies and procedures outlined in this document apply to all federal formula and discretionary grants, regardless of the awarding agency. Federal agencies impose requirements or conditions that are not addressed herein and that may result in the need to create additional policies and/or procedures to comply with those requirements.

Refer to TEA's [Grant Process for](#) a description of their process for administering state and federal formula and discretionary grants. Also refer to TEA's description of [Applying for a Grant](#) for information on allocations, notices of grant funding opportunities, and the competitive review process.

### *Request for Application (RFA)*

TEA publishes a *Request for Application* (RFA) for each grant (formula and discretionary) and posts all grants on the [TEA Grant Opportunities](#) page (eGrants). Some grants are available only in eGrants, while others are available only in paper. Applicants for eGrants must be approved for access to [TEA Secure Applications \(TEASE\)](#) before applying for an eGrant. Each District staff member who wishes to access the application must ensure they are approved for access to eGrants in sufficient time to allow timely access to the electronic application.

The process an applicant must follow to apply for funds is different for eGrants than for paper applications. Applicants can find detailed information about individual grants by selecting a grant from the **Application Name** dropdown list on the [TEA Grant Opportunities](#) page. For each individual grant available, the following information is displayed:

- **Program Information:** Briefly describes the program purpose and lists eligibility criteria
- **Eligibility:** Describes organizations that are eligible to apply for the grant
- **Statutory Authority:** Cites the legislation that authorizes the grant
- **Funding Information:** Provides the start and ending date of the grant, whether it is state or federal, and the total amount that will be awarded
- **Application and Support Information:** Lists links to components of the RFA such as the General and Fiscal Guidelines, Program Guidelines, Application, and any other pertinent grant materials, such as the announcement letter and any issued errata notices
- **Critical Events:** Lists all deadlines associated with the grant, including the application due date, amendment due date, and fiscal and programmatic reporting due dates
- **Contact Information:** Lists the TEA program and fiscal contacts. The TEA Program Contact can provide information about eligibility, program purpose or description, or allowable uses of funds. The TEA Funding Contact can answer questions about the grant application, including allocation and amendment questions.

Each RFA published by TEA includes the [General and Fiscal Guidelines](#) that apply to all federal and state grants, the *Program Guidelines* (that apply to a specific grant program), and the [General Provisions and Assurances](#) that apply to all grants administered by TEA. District employees who manage the program or fiscal aspects of any TEA grant should consult the *General and Fiscal Guidelines* regularly and frequently, as they may change or be updated periodically.

All employees who deal with federal grants must also carefully review and be familiar with all [Provisions and Assurances](#), as applicable:

- *General Provisions and Assurances:* Required for every TEA grant agreement
- *Debarment and Suspension:* Required for all federal grants, regardless of dollar amount and for contracts over \$25,000
- *Lobbying Certification:* Required for all contracts greater than \$100,000

- Every Student Succeeds Act: Required for all programs funded under the Elementary and Secondary Education Act of 1965, as amended by Public Law 114-95, Every Student Succeeds Act

The RFA also includes the grant application (i.e., Standard Application System, or SAS) and the instructions for completing the SAS schedules (i.e., forms). Program managers preparing grant applications should carefully review all contents of the RFA package *prior to planning and developing a grant application* to ensure all requirements are met and the application is completed correctly. Some applications require advance coordination among district staff and/or among other entities such as local businesses, community organizations, or institutions of higher education (IHEs, i.e., colleges and universities).

#### *Submitting Complete Applications on Time*

It is equally important that federal grant applications be prepared and submitted *on time*. For formula grants administered by TEA that usually begin July 1, the District cannot obligate funds and begin grant activities until the District submits the application to TEA in *substantially approvable form*. In order to prevent unnecessary delays in program implementation and the provision of services to students, it is the policy of the District that all formula grant applications will be submitted as soon as possible but no later than July 1 unless a later grant beginning date is published by TEA. TEA will process the applications in the order received.

For *competitive discretionary grants*, it is the policy of the District that those applications be submitted in sufficient time for TEA to *receive* the application by the established deadline date and time specified in the competitive RFA. Failure of TEA to *receive* the application by the specified deadline date and time will render the application ineligible for consideration for review and scoring and for funding. In addition, all required forms must be completed in accordance with the instructions in the RFA in order to be eligible for consideration for funding. The program manager assigned to the grant is responsible for ensuring the application is completed accurately and submitted on time to TEA.

#### *Authorized Official*

The person signing/certifying the application must be an authorized official of the District (usually the Superintendent) who will represent the District in the event of a legal dispute. Dr. Stuart Kieschnick, Superintendent or Dr. Steven Beagle, Assistant Superintendent of Curriculum, in his absence, is the authorized official for this District. By signing/certifying the application, the authorized official is certifying that they will comply with the terms and conditions of the grant, all applicable provisions and assurances, and the approved application. The signed/certified application submitted to TEA, and the Notice of Grant Award (NOGA) issued by TEA, together

constitute a legally binding contractual agreement between the District and TEA. Campus principals do not have the authority to submit a grant application.

District program staff, fiscal staff, and management personnel are responsible for knowing all requirements and complying with them. It is the policy of the District that the grant program described in the application is carried out in compliance with applicable statutes, regulations, rules, and guidelines, and in accordance with the approved application to achieve maximum efficiency and effectiveness with the goal of providing an integrated, coordinated delivery of services for students. Grant funds will be obligated, expended, and accounted for in an environment based on ethical principles and sound business practices.

The District program manager assigned to the grant program is responsible and held accountable for knowing the program requirements, fiscal requirements, and reporting requirements. In addition to the policies and procedures outlined in this manual, the program manager may be required to develop additional policies and procedures in order to comply with the specific requirements that may apply to a particular grant program. Any such additional policies and procedures must be used in conjunction with the policies and procedures outlined in this manual.

TEA monitors federal grants for compliance with fiscal and program requirements. In addition, the District's independent auditor is required to determine compliance with certain requirements during the annual independent audit. Failure to comply with applicable statutes, regulations, rules, and guidelines or to implement the grant program in accordance with the approved application could result in the District being identified as a high-risk grantee and having corrective actions or additional sanctions imposed by TEA or other awarding agency; the repayment of federal dollars as a result of monitoring or audit findings; or termination of the grant. Refer to TEA's [Corrective Actions Related to Federal Grants](#) for more information related to potential actions for noncompliance.

### **Other Federal Grants**

The assigned program manager is responsible for monitoring grant opportunities that may be available from agencies other than TEA. Approval from the Assistant Superintendent of Curriculum to pursue the grant opportunity must be obtained in advance of completing and submitting the application. An authorized official of the District (as previously described) must sign/certify the application prior to submission.

Opportunities for other federal grants passed through other state agencies might be published in the [Texas Register](#) in the "IN ADDITION" section. Opportunities for federal grants available directly from the USDE or from another federal awarding agency are published in [www.grants.gov](http://www.grants.gov).

## School Nutrition Program

In accordance with the Texas Department of Agriculture Administrative Procedures Manual for School Nutrition Programs, if there is a regulatory conflict, Nederland ISD will follow the USDA regulations for Child Nutrition Program funds in regards to income, allowable and unallowable costs, and procurement. School Nutrition micro-purchases will follow TDA policy in which aggregate is defined as the total amount of a single invoice for a single purchase.

In conjunction with federal guidance outlined by the Texas Department of Agriculture (TDA), Food Services will follow the TDA Food and Nutrition Guidelines in the administration of its program as outlined in the Administrator's Reference Manual, released by the Texas Department of Agriculture, Food and Nutrition Division; 1700 North Congress Ave, Suite 1125 E, Austin, Texas 78701-1496 as updated. Link to manual: [Administrator's Reference Manual \(ARM\)](#).

## II. Financial Management System

### A. Overview

Federal regulations require grantees to use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for federal funds (34 CFR 76.702 and 2 CFR 200.302). Implementing and maintaining a proper accounting system is a fiduciary responsibility associated with receiving a federal award. The acceptance of an award creates a legal duty on the part of the District to use the funds or property made available under the award in accordance with the terms and conditions of the grant. The approved grant application itself constitutes an accounting document in that it establishes the purpose and amount of TEA's obligation to the subgrantee. In turn, it establishes a commitment by the District to perform and expend funds in accordance with the approved grant agreement and the applicable laws, regulations, rules, and guidelines. (2 CFR § 200.303(b)).

The District maintains a proper financial management system in order to receive both direct and state-administered grants and to expend funds associated with a grant award. Certain fiscal controls and procedures are in place to ensure that all federal financial management system requirements are met. Failure by the District to meet a requirement may result in the return of funds or termination of the award.

Financial management requirements for Texas school districts are established through a pyramid consisting of

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

### ***Texas Law and Rule***

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

[Title 19 of the Texas Administrative Code \(19 TAC\), Chapter 109](#), establishes the SBOE rule for school district budgeting, accounting, and financial reporting. The detailed requirements of the financial accounting system adopted by the SBOE are published in TEA's [Financial Accountability System Resource Guide \(FASRG\)](#), adopted and incorporated by reference as TEA's official rule.

FASRG currently consists of the following 6 modules:

- Module 1 – [Financial Accounting and Reporting \(FAR\) \(PDF, 2,518 KB\)](#) and [FAR Appendices \(PDF, 7,241 KB\)](#)
- Module 2 – [Special Supplement - Charter Schools \(PDF, 1,556 KB\)](#)
- Module 3 – [Special Supplement - Nonprofit Charter School Chart of Accounts \(PDF, 3,398 KB\)](#)
- Module 4 – [Auditing \(PDF, 2,376 KB\)](#)
- Module 5 – [Purchasing \(PDF, 1,401 KB\)](#)
- Module 6 – [State Compensatory Education, Guidelines, Financial Treatment, and an Auditing and Reporting System \(PDF, 917 KB\)](#)

## **B. Financial Management Standards**



The federal standards for financial management systems are found at 2 CFR § 200.302(b). The mandatory accounting requirements established by TEA in the [Financial Accountability System Resource Guide \(FASRG\)](#) conform to these federal financial management standards. Therefore, in accordance with federal regulations, the District's financial management system, including records documenting compliance with federal statutes, regulations, and the terms and conditions of the award, is sufficient to permit:

- the preparation of reports required by general and program-specific terms and conditions; and
- the tracing of funds to a level of expenditures adequate to establish that funds have been used according to the federal statutes, regulations, and the terms and conditions of the federal award.

The District complies with the required federal standards for financial management systems by complying with the minimum budgeting, accounting, auditing, and reporting requirements established in TEA's [Financial Accounting and Reporting \(FAR\) \(PDF, 2,518 KB\)](#) *Module 1* of the FASRG. Based on generally accepted accounting principles, [FAR Appendices \(PDF, 7,241 KB\)](#) details a mandatory account code structure which all school districts, ESCs, and open-enrollment charter schools must use in accounting for all funds received and expended, including state and local funds and federal grant funds.

[FAR Appendices \(PDF, 7,241 KB\)](#) establishes uniformity in governmental accounting and specifies a *mandatory* account code structure consisting of a minimum of 15 digits, plus 5 digits used at local option (for a total of 20 possible digits). For each accounting transaction, the minimum 15-digit account code structure consists of a *fund code*, *function code*, *object code*, *organization code*, *fiscal year code*, and *program intent code*, each serving a different purpose in designating the use of funds, campus served, and student population served.

The mandatory account code structure begins with a 3-digit fund code, which designates the funding source, e.g., the general fund, food service fund, a specific grant (referred to as a *special revenue code*), etc. A different 3-digit fund code is provided for fiscal agents of a shared services arrangement (SSA).

Each accounting transaction recorded in the general ledger must begin with the 3-digit fund code (*net asset code* for nonprofit open-enrollment charter schools). For example, the 3-digit fund code for Title I, Part A is 211. The budget and all revenues and expenditures for Title I, Part A must be recorded in the accounting records using this specific fund code.

Additionally, 34 CFR § 76.760(b) authorizes grantees to use more than one program to support an activity if the grantee has an accounting system that permits the identification of costs paid for under each program. The fund accounting system in FAR accommodates this requirement.

### ***Identification of All Federal Awards***

The District identifies, in its accounts, all federal awards received and expended and the federal programs under which they were received. Federal program and award identification includes, as applicable, the Assistance Listings (formerly referred to as the Catalog of Federal Domestic Assistance (CFDA)) title and number, federal award identification number, year the federal award was issued, and name of the federal agency or pass-through entity. Upon receipt of each grant award, the District obtains the required information from TEA's NOGA or other awarding agency's Grant Award Notification (GAN) and enters the information in the general ledger using the assigned 3-digit fund code.

General ledger entries shall be made on an on-going basis as needed. End-of-the-month and end-of-the-year entries shall be made on a timely basis. End-of-the-year entries shall be made prior to the audit field work by the district's external audit firm.

The Chief Financial Officer shall be responsible for monitoring the general ledger maintenance on a monthly basis as part of the monthly End-of-Month Process. The Chief Financial Officer shall have ultimate responsibility for the accuracy of the general ledger.

### ***Financial Reporting***

Accountability is the paramount objective of financial reporting. Accurate, current, and complete disclosure of the financial results of each federal award or program is made in accordance with the financial reporting requirements set forth in 2 CFR §§ 200.328 - .329 and in EDGAR. The District collects and reports financial information with the frequency required in the terms and conditions of the award and monitors its activities under federal awards to assure compliance with applicable federal requirements.

Within 20 days after the end of the month, all end-of-month reports should be printed and verified and the end-of-month process completed. There are four (4) steps in completing the End-of-Month process as listed below:

- Reconciliation of all bank accounts
- EOM Activities (Report Generation & Verification)
- Run EOM Reports (archival purposes)

- Process the EOM Close

The Finance EOM Checklist and Procedures should be utilized to ensure that all critical steps are followed during the EOM Process. The Chief Financial Officer and the bookkeeper will work together in the districts Financial Management System, eFinance Plus records are accurate. The Chief Financial Officer shall have ultimate responsibility for the accuracy of the general ledger.

***Accounting Records***

The District maintains records which sufficiently identify the amount, source, and expenditure (i.e., use) of federal funds for federal awards. In accordance with federal regulations, these records contain information pertaining to grant or subgrant awards, authorizations, financial obligations, unobligated balances, assets, expenditures, income, and interest. All transactions are supported by source documentation (i.e., purchase orders/requisitions, invoices, receipts, travel vouchers, time-and-effort documentation and employee salary records, copies of checks, etc.).

The accounting system mandated in FAR conforms to generally accepted accounting principles (GAAP). The accounting structure is organized and operated on a fund basis and is organization-wide covering all funds. The District uses the 3-digit fund code specified in FAR for each grant received to identify the source of funds. The use of funds is identified by using the required function code, object code, organization code, program intent code, and fiscal year code specified in FAR.

The District uses the minimum 15-digit account code structure mandated in FAR to record all revenues, encumbrances, and expenditures.

School Board Reports and a detailed Check Payments report for the previous month should be generated by the Bookkeeper and forwarded to the Superintendent for board review.

All reports should be filed for audit purposes including, but not limited to, the following:

- Cash General Journal
- General Journal
- Check Payments & Check Register
- Detail General Ledger
- Summary General Ledger

The Chief Financial Officer shall review a Summary General Ledger on a monthly basis to ensure the accuracy of fund accounting.

***Internal Controls***

Effective control and accountability must be established and maintained for all funds, property, and assets. The District must safeguard all assets and ensure they are used solely for authorized purposes.

Internal controls are tools (i.e., policies, procedures, best practices, and activities) to help program and financial managers achieve results and safeguard the integrity of their program. The District's internal controls are in alignment with guidance in the [Standards for Internal Control in the Federal Government](#) (the Green Book) issued by the Comptroller General of the United States and the [Internal Control Integrated Framework](#), issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO), and are designed to provide *effective and efficient operations* based on demonstration of the following principles:

- A commitment to integrity and ethical values
- Independent oversight over the development and performance of internal controls
- Clearly defined organizational structure, clear reporting lines, and appropriate authorities
- A commitment to attract, develop, and retain competent individuals, and
- Maintaining a level of competence that allows personnel to accomplish their assigned duties and holding individuals accountable

In accordance with 2 CFR § 200.1, "internal controls" means a process implemented by the District to provide reasonable assurance regarding the achievement of objectives in the following categories:

- (a) Effectiveness and efficiency of operations
- (b) Reliability of reporting for internal and external use, and
- (c) Compliance with applicable laws and regulations

To accomplish these objectives, the District:

- develops and maintains policies, procedures, and effective practices to ensure federal funds are properly administered and spent and federal property is safeguarded against loss and from unauthorized use or disposition. The District also ensures all employees who deal with federal funds are aware of the policies and procedures and are properly trained in the use of them.

Every staff member will be scheduled to attend at least one training and/or conference opportunity per year. An annual training calendar shall be developed that may include, but is not limited to, topics in the following areas:

- Account coding
  - Payroll and Human Resources Compliance Issues
  - PEIMS Data Reporting and Quality
  - GASB
  - Audit requirements
  - Legal changes, such as Purchasing
  - State and Federal Grants Management
  - Data system (software)
  - Travel Guidelines
  - Other job-related area(s) requested by a staff member
  - Other job-related area(s) assigned by the supervisor as a growth opportunity
- ensures employees comply by regularly and frequently evaluating and monitoring their compliance with the policies and procedures, statutes, regulations, and the terms and conditions of the award.

In an effort to support compliance of fiscal policies and procedures, the business office shall conduct annual training for campus and department administrative and support staff, as appropriate. The Chief Financial Officer shall be responsible for developing the training calendar. Critical training areas shall include, but not be limited to:

- Activity Account Management
- Budget Development Process
- Cash Management
- State and Federal Grants Management
- Other area(s) requested by the Superintendent or department/campus administrator
- takes prompt action when instances of noncompliance are identified, including noncompliance identified in audit findings, and taking the appropriate disciplinary action for employees who do not comply, and
- takes reasonable cybersecurity and other measures to safeguard information including protected personally identifiable information (PII) and other information designated as sensitive consistent with applicable federal, state, and local laws regarding privacy and obligations of confidentiality. 2 CFR § 200.303.

In accordance with **2 CFR § 200.303**, Nederland ISD takes reasonable and proactive cybersecurity and administrative measures to safeguard **Protected Personally Identifiable Information (PII)** and other sensitive data. These protections apply to all populations served under federal and state grant programs, including students, teachers, and staff.

**Specific Safeguards Include:****1. Technology-Based Monitoring and Intrusion Prevention:**

The District's **Information Technology Department** utilizes automated security monitoring tools to review:

- a. Intrusion detection system logs
- b. Firewall activity logs
- c. User account access logs
- d. Network scanning results
- e. Backup and recovery logs
- f. Help desk incident records

**2.** These tools provide real-time alerts and scheduled reports to detect suspicious activity or vulnerabilities. Where applicable, **security baselines** are established, and exceptions are flagged for immediate review.

**3. Quarterly Risk-Based Security Checks:**

Designated personnel conduct quarterly audits to assess:

- a. Password strength and security
- b. Unauthorized devices or servers on the network
- c. Improper sharing or access to sensitive files
- d. Software licensing compliance

**4. Restricted Access and Role-Based Permissions:**

Access to PII is **role-restricted**, with employees only permitted access to information necessary for their duties. Password-protected systems and secure authentication protocols are enforced district-wide.

**5. Training and Compliance Oversight:**

Staff members receive **annual training** on data privacy, confidentiality, and security, including **FERPA** and internal protocols. Violations of data protection policies are subject to disciplinary actions in accordance with **Board Policies DH, FN series, FO series**, and the **Student Code of Conduct**.

**6. Incident Response and Reporting:**

Any identified security issue is escalated to the **Director of Instructional Technology** for

investigation and remediation. Where required, breaches are reported, and corrective actions are taken to mitigate risk and prevent recurrence.

Nederland ISD's layered approach to cybersecurity and compliance helps ensure the integrity and confidentiality of information entrusted to the District under all grant-funded programs.

Internal controls, defined in 2 CFR 200.1, is a process, implemented by the district, designed to provide reasonable assurance regarding the achievement of objectives in the following categories.

- Effectiveness and efficiency of operations
- Reliability of reporting for internal and external use; and
- Compliance with applicable laws and regulations

The district's Internal Control Procedures over financial management, developed in accordance with the Internal Control Integrated Framework (COSO) and TEA's Internal Controls Guidance Handbook, shall be made available to all staff involved in the management of federal grant funds. [2 CFR 200.303] TEA's Internal Controls Guidance Handbook provides a general overview of internal controls as they relate to the federal grants TEA awards. According to the Handbook, the district must have an effective system of internal controls in place to prevent, detect and reduce the risks of fraud, waste and abuse of federal grant awards.

The internal control procedures shall be reviewed on at least an annual basis and updated as appropriate. If any weakness in an internal control is detected, the internal control procedures shall be revised to incorporate the weakness(es) at either the annual review or as the need arises dependent upon the severity (materiality) of the weakness.

The Chief Financial Officer shall be responsible for the annual review and update of the Internal Control Procedures.

### ***Budget Control***

The budget for each federal award is recorded in the general ledger in accordance with FAR using the designated 3-digit fund code. Obligations/encumbrances and expenditures are also recorded in the general ledger for each federal award. On a regular basis, the District compares actual *expenditures* or outlays with *budgeted* amounts for each federal award.

Nederland ISD ensures effective budget control over federally funded programs in accordance with **2 CFR § 200.302(b)(5)** and based on the approved **Notice of Grant Award (NOGA)** and **Federal Award Record (FAR)**. Once a federal grant is awarded and the NOGA is received, the Business Office verifies the funding amounts, program timelines, and allowable use of funds.

Following approval, the **State and Federal Programs Coordinator** initiates the internal **budget setup process** by submitting online **Budget Request Distribution Forms**, which include detailed account codes aligned to the intended purpose and allowable activities of the grant. These forms are routed for approval and used by the Business Office to enter the approved budget into the **District's general ledger system**.

Budgets are monitored monthly to ensure alignment with the NOGA, and any necessary amendments are processed in accordance with TEA and federal guidelines. Controls are in place to prevent expenditures in excess of the approved budgeted amounts.

### ***Cash Management***

The District maintains written procedures to implement the cash management requirements found in 2 CFR § 200.305 and in EDGAR.

Please see *II. Financial Management System, G. Federal Cash Management Policy/Procedures* of this document for these written cash management procedures.

### ***Allowable Costs***

The District maintains written procedures for determining *allowability* of costs in accordance with 2 CFR § 200.302(b)(7) and EDGAR.

Please see *II. Financial Management System, E. Expending Grant Funds* of this document for the written procedures for determining allowability of costs.

## **C. Budgeting Grant Funds**

### **Budgeting - The Planning Phase: Meetings and Discussions**

*Before Developing the Grant Budget and Submitting the Application:* The grant budget must be based on the proposed activities planned and described in the grant application. Prior to developing the budget, the program manager must know the intent of the federal program and the activities that are allowable to be conducted with grant funds. The program manager must coordinate with other District staff as appropriate to conduct the appropriate needs analysis using the appropriate data to determine the goals and objectives for the program and the activities that will be implemented to accomplish the goals and objectives. Once the goals, objectives, strategies, and activities are outlined, then the budget to carry out the identified strategies and activities should be developed.



Prior to completing the application, the program manager develops a detailed budget in a document (such as in an Excel spreadsheet) separate from the application. The program manager coordinates with the District's Business Office in preparing the budget to ensure budgeted items are categorized according to the proper class/object code. This detailed budget, which serves as the guide for expenditures and becomes part of the "working papers" maintained by the program manager, is used to complete the application. In most instances, particularly for formula grants, the budget entered into the grant application will not be as detailed. The detailed budget is to be modified or revised as necessary to accommodate changes, which may result in an amendment to the application prior to incurring certain expenditures.

If the grant program will be implemented on a Title I schoolwide campus, the planned activities and expenditures must be identified in the schoolwide plan. Conducting activities and expending funds that are not included in the schoolwide plan could result in an audit exception or monitoring finding for the District. Therefore, the program manager is responsible for coordinating with the Title I program director and for ensuring the activities and anticipated expenditures are described in the schoolwide plan.

Each federal & state entitlement program will follow the guidance as specified within its federal and state program guidance unless otherwise specified below for budget development and monitoring.

Quarter: Month	Activities
----------------	------------

<p><b>Quarter 1: July-September</b></p> <p><b>Cont./ Quarter 1: July- September</b></p>	<ul style="list-style-type: none"> <li>● Submit program evaluation of secondary exit level state compensatory effectiveness reviews to supervisor for Board review</li> <li>● Submit all federal program compliance reports in accordance to established due dates by TEA aligned to 2 C.F.R. 200.302.b.2:             <ul style="list-style-type: none"> <li>○ Accurate, current and complete disclosure of the financial results of each federal program</li> <li>○ Maintain records that identify adequately the resources and application of funds for federally-funded activities.</li> </ul> </li> <li>● Release job descriptions for signature per grant</li> <li>● Collect monthly time and effort reports</li> <li>● Process part time and extra duty payroll</li> <li>● Monitor grant programs for spending alignment to allowable program activities per grant, campus and district plans (Quarter 1 Review)</li> <li>● Review campus and district needs assessment and district/ campus continuous improvement plans for services specified in grant applications &amp; evaluate campus needs. (Quarter 1 Review)</li> <li>● Attend Federal/State Grant Implementation training through State and Federal Programs Coordinator for new awardees.</li> </ul>
<p><b>Quarter 2: October-December</b></p>	<ul style="list-style-type: none"> <li>● Ongoing review of grant awards</li> <li>● Ensure accounts are established in accordance to grant guidelines</li> <li>● Ensure each ESSA account is established in accordance with 2C.F.R200.302. b.1 to include the following:             <ul style="list-style-type: none"> <li>○ Identification of all federal accounts received and expended under each federal program to include the CFDA title and number, federal award identification number, year and federal agency</li> </ul> </li> </ul> <p>Program intent codes for Special Education (23), Dyslexia (37), Career &amp; Technology (22), Gifted &amp; Talented (21), Compensatory Education (24 and 28), Early Education (36), CCMR (38), and Bilingual Education (25) will be budgeted by the respective department.</p> <ul style="list-style-type: none"> <li>● Release semi-annual certifications, substitute systems of time and effort and stipend agreements for first semester</li> <li>● Review Semester 1 job descriptions for any late hires, release and obtain job descriptions</li> <li>● Collect monthly time and effort reports</li> <li>● Process part time and extra duty payroll</li> <li>● Monitor grant programs for spending alignment to allowable program activities per grant, campus and district plans (Quarter 2 Review)</li> <li>● Review campus and district needs assessment and district/ campus continuous improvement plans for services specified in grant applications &amp; evaluate campus needs. (Quarter 2 Review)</li> <li>● Pull snapshot data for preliminary Title I planning for upcoming school year</li> <li>● Attend Federal/State Grant Implementation training through State and Federal Programs Coordinator for new awardees.</li> </ul>

<p><b>Quarter 3: January - March</b></p> <p><b>Cont./ Quarter 3: January - March</b></p>	<ul style="list-style-type: none"> <li>● Review and archive semi-annual certifications, substitute systems of time and effort and stipend agreements for first semester</li> <li>● Collect monthly time and effort reports</li> <li>● Process part time and extra duty payroll</li> <li>● Update budgets according to maximum entitlement for current year funding</li> <li>● Review Program Effectiveness Reviews for all title programs and state compensatory programs</li> <li>● Monitor grant programs for spending alignment to allowable program activities per grant, campus and district plans (Quarter 3 Review)</li> <li>● Review campus and district needs assessment and district/ campus continuous improvement plans for services specified in grant applications &amp; evaluate campus needs. (Quarter 3 Review)</li> <li>● Review snapshot data with the district PEIMS Coordinator for determining campuses participation in Title I for the upcoming school year.</li> <li>● Attend Federal/State Grant Implementation training through the Fed/State Office for new awardees.</li> </ul>
<p><b>Quarter 4: April - June</b></p>	<ul style="list-style-type: none"> <li>● Release semi-annual certifications, substitute systems of time and effort and stipend agreements for the first semester.</li> <li>● Review Semester 1 job descriptions for any late hires, release, and obtain job descriptions.</li> <li>● Collect monthly time and effort reports.</li> <li>● Process part time and extra duty payroll.</li> <li>● Work with current year district improvement teams, Curriculum &amp; Instruction (C&amp;I), Assistant Superintendent and campuses to complete upcoming year district/campuses comprehensive needs assessment &amp; evaluate and adjust plans to reflect changes to programs based on progress and need.</li> <li>● Invite and hold Private Non-Profit Schools Consultation and equitable service planning meetings (if applicable).</li> <li>● Publish public notice for intent to apply for ESSA funding through online survey.</li> <li>● Present upcoming year's Comprehensive Needs Assessment and District Improvement Plan (DIP) to the District Educational Improvement Committee (DEIC) for input from stakeholders.</li> <li>● Present the DIP to the Board for review and approval.</li> <li>● Review campus and district needs assessment and district/ campus continuous improvement plans for services specified in grant applications and evaluate campus needs. (Quarter 4- Final Review)</li> <li>● Monitor grant programs for spending alignment to allowable program activities per grant, campus and district plans (Quarter 4-Final Review)</li> <li>● Attend Federal/State Grant Implementation training through State and Federal Programs Coordinator for new awardees.</li> </ul>

During the budget process, the estimated state allotment shall be calculated by the Chief Financial Officer based on prior year special program enrollment, average daily attendance (ADA), and projected revenue based on the most current Summary of Finance template. The estimated state allotment by special program shall be provided to the Special Programs Administrator(s). The Special Programs Administrator(s) has global oversight of all state special programs. The Special Program Administrator(s), as noted below, shall be directly responsible for their respective program(s). These special program administrators shall be responsible for the programmatic compliance in their respective program(s). Programmatic compliance shall include, but not limited to: program eligibility, program design, instructional delivery, entry/exit procedures, professional development, and certification.

● Special Education	Special Education Director
● Career & Technical Education	Career and Technology Education Director
● Gifted & Talented Education	Assistant Superintendent and Principals
● State Compensatory Education (SCE)	Assistant Superintendent and Principals
● Bilingual/ESL Education	Assistant Superintendent and Principals
● Dyslexia	Assistant Superintendent of Curriculum
● Early Education	Assistant Superintendent of Curriculum
● CCMR Outcomes Bonus	Assistant Superintendent of Curriculum
● High School Allotment	Assistant Superintendent of Curriculum

The per-pupil expenditures of federal, state and local funds, including actual personal expenditures and actual non-personnel expenditures must be in compliance with federal regulations [ESSA and 34 CFR]. As a best practice, the district shall ensure that the appropriate program intent code (PIC) and campus/department organization codes are used during the budget and expenditure processes. Expenditures coded to PIC 99 (undistributed) and Organization Code 999 will be distributed by TEA using a methodology that may include: student enrollment by campus, staff FTEs, square footage of buildings (for functions such as 34, 35, 51, etc.), or other methodology as may be determined by TEA.

*Reviewing and Approving the Budget Prior to Submitting the Application:*

The finance department, specifically the Chief Financial Officer, shall be responsible for the financial compliance in each of these special programs. Financial compliance shall include, but not limited to: budgeting development & monitoring, approval of expenditures, financial reporting to TEA, financial audit, calculating per-pupil expenditures by program, and purchasing with state allotment funds.

As part of the budget adoption process, the Chief Financial Officer shall verify that the proposed budget includes appropriations in each of the special programs of no less than the percentages stated above as required direct expenditures for each special program.

By 5 days, the Grant Manager reviews the items in the proposed budget to ensure budgeted items are listed in the correct class/object code according to FAR and the District's classification chart and to ensure the items are allowable. The budget is also reviewed to ensure that any costs requiring specific or prior approval are specifically identified and listed. See *II. Financial Management System, E. Expending Grant Funds*, for a discussion on performing allowability determinations. If the Grant Manager determines that a cost is not allowable, then they will contact the relevant staff member and discuss a revision and resubmit the request.

Once the State and Federal Programs Coordinator determines that all budgeted items are allowable and are budgeted in the proper class/object code according to FAR, the budget is sent to the Assistant Superintendent of Curriculum and the Chief Financial Officer for final review and approval. Generally, the budget receives final approval by 10 business days. The assigned program manager then enters the final approved budget into the appropriate budget schedules of the grant application.

### **Negotiating the Submitted Application**

Once the grant application is submitted to the awarding agency, the designated program contact, usually the Program or Project Director assigned to the grant program, is available via phone and/or e-mail in the event that the awarding agency needs to contact the District to negotiate the application or to ask questions or seek clarification related to the proposed program and/or budget. The assigned Program/Project Director will seek guidance, if needed, from appropriate District personnel and will respond to any inquiries from the awarding agency within [24] hours. A delay in contacting the awarding agency delays final approval of the grant application, which delays grant program implementation and providing services to intended beneficiaries of the grant.

### **After Receiving the Approved Application and NOGA/GAN**

Each grant funded program will distribute the budget allotment in accordance with the approved grant specifications and in accordance with established federal, general fund and state procedures outlined within each grant application.

Within 5 days of receiving the approved application and NOGA/GAN from the awarding agency, a complete copy of the application and NOGA/GAN will be provided to the responsible Program

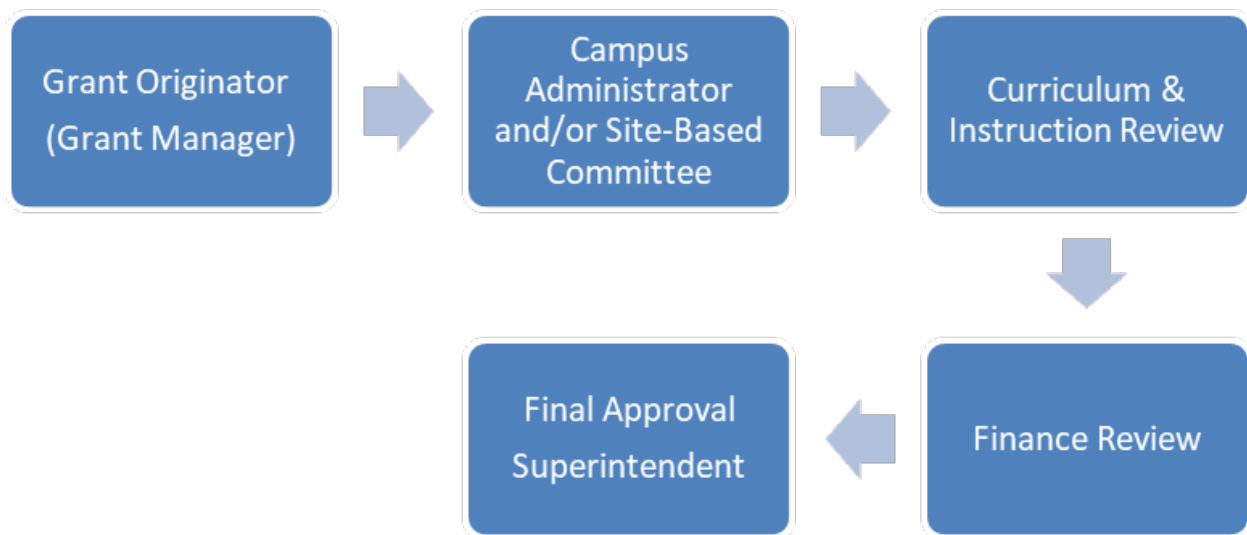
Manager/Director and to the Business/Accounting Office. The Federal Programs Coordinator distributes the NOGA/GAN to appropriate staff within the designated timeframe.

All grant budgets are entered into the accounts of the District in the general ledger as approved in the application.

The grant budget process is completed by the district bookkeeper and reviewed by the Chief Financial Officer for accuracy.

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

The school district's grant application process for federal grants is illustrated below on a flowchart (Illustration 1). As noted on the flowchart, all grant applications must be reviewed by the Finance, Curriculum & Instruction, and Grants Management departments. In addition, all grant applications that will support student instruction at one or more campuses, must be developed in collaboration with the respective campus principal(s). Specific grant activities to support the academic program at a campus should be reflected in the Campus Improvement Plan.



## Amending the Application

The District consults and complies with the guidelines and procedures provided by TEA or other awarding agency as it pertains to when and how to submit an amendment to an approved application. TEA publishes its requirements for [when to amend the application](#) online. Specific deadlines for submitting amendments are published in the corresponding RFA and/or in the *Critical Events* calendar on the TEA Grant Opportunities Page for the specific grant program. Procedures are in place to ensure the District does not exceed any maximum allowable variation in the budget.

*Monitoring and Amending the Budget:* Nederland ISD regularly monitors all federal and state grant budgets to ensure spending remains within allowable limits and aligned with approved grant objectives. Budget reviews are conducted quarterly in coordination with campus and department leadership, with oversight by the Business Office and State and Federal Programs Coordinator. This process ensures expenditures are in compliance with grant guidelines and that no budget category exceeds the maximum allowable variation without prior approval.

*Monitoring and Amending the Program Description:* Nederland ISD consults and complies with the amendment guidelines provided by the Texas Education Agency (TEA) or the respective awarding agency. The District monitors the TEA Grant Opportunities page and adheres to deadlines and requirements specified in the Request for Application (RFA) and Critical Events Calendar. When an amendment is necessary, the District submits the required documentation through eGrants or the appropriate platform, ensuring all changes are approved before expenditures are made. Internal procedures are in place to verify whether proposed changes require a formal amendment and to initiate that process in a timely and compliant manner.

## D. Timely Obligation of Funds

### When Obligations are Made

“Financial Obligations,” means orders placed for property and services, contracts and subawards made, and similar transactions that require payment under a federal award that will result in expenditures by a recipient or subrecipient under a federal award. 2 CFR § 200.1 (*Financial obligations*).

(This does *not* mean obligations for which goods and services will be delivered in a future *budget* period.) Essentially, a financial obligation is a *commitment to pay*.

All financial obligations for all goods and services must occur during the approved budget period or the time interval from the start date of a funded portion of an award to the end date of that funded portion (i.e., between the beginning and ending dates as stated on the NOGA) 2 CFR § 200.403(h). Then, in order to be an allowable cost, those goods and services must be delivered during the grant period in sufficient time to provide substantial benefit to the grant to be considered *necessary* to carry out the objectives of the grant. 2 CFR § 200.404(a).

Per [TEA's General and Fiscal Guidelines](#), in some instances, goods or services delivered near the end of the grant period may be viewed by TEA as not necessary to accomplish the objectives of the current grant program. TEA will evaluate such expenditures on a case-by-case basis. Please note that a TEA monitor or an auditor may disallow those expenditures if the District is unable to (1) document the need for the expenditures, (2) demonstrate that program beneficiaries receive benefit from the late expenditures, or (3) negate the appearance of "stockpiling" supplies or equipment.

The following table illustrates when funds are determined to be *obligated* under federal regulations:

If the obligation is for:	The obligation is made:
Acquisition of property	On the date which the District makes a binding written commitment to acquire the property
Personal services by an employee of the District	When the services are performed
Personal services by a contractor who is not an employee of the District	On the date which the District makes a binding written commitment to obtain the services
Public utility services	When the District receives the services
Travel	When the travel is taken
Rental of property	When the District uses the property
A pre-agreement cost that was properly approved by TEA prior to the obligation	On the first day of the grant project period
Pre-agreement cost that was properly approved by the Secretary under the cost principles in 2 CFR part 200, subpart E	On the first day of the grant or subgrant period of performance

34 CFR § 75.707; 34 CFR § 76.707.

In addition, TEA's FAR requires *encumbrance* accounting. The amount *committed (or obligated)* must also be known to avoid over-expenditure of budgeted funds. An *encumbrance* accounting system is a method of ascertaining the availability of funds and then reserving funds to cover outstanding obligations.



Encumbrances represent commitments (i.e., obligations) related to contracts not yet performed (executory contracts), and are used to control expenditures for the year and to enhance cash management. A school district often issues purchase orders or signs contracts for the purchase of goods and services to be received during the grant period. At the time these commitments or obligations are made, which in its simplest form means that when a purchase order is prepared, the appropriate account is checked for available funds. If an adequate balance exists, the amount of the order is immediately charged to the account to reduce the available balance for control purposes. The encumbrance account does not represent an expenditure for the period, only a commitment to expend resources.

### **Period of Availability of Federal Funds**

All financial obligations must occur on or between the beginning and ending dates of the grant project. This time between the start and end date of a federal award is known as the *period of performance*. 2 CFR § 200.1. The *period of performance* consists of either one, or many, funded portions or budget periods during which the District is authorized to spend award funds. For a cost to be allowable, it must be incurred in the appropriate budget period. 2 CFR § 200.403(h). The period of performance and budget period are indicated on TEA's NOGA or other awarding agency's GAN. Further, certain grants have specific requirements for carryover funds that must be adhered to.

*TEA Grants:* As a general rule, state-administered federal funds are available for obligation within the year that Congress appropriates the funds for. However, given the unique nature of educational institutions, for many federal education grants, the period of availability is 27 months. Federal education grant funds are typically awarded on July 1 of each year. While the District will always plan to spend all current grant funds within the year the grant was appropriated for, the period of obligation for any grant that is covered by the "Tydings Amendment" is 27 months, extending from July 1 of the fiscal year for which the funds were appropriated through September 30 of the second following fiscal year. This maximum period includes a 15-month period of initial availability, plus a 12-month period for carryover. 34 CFR 76.709. For example, funds awarded on July 1, 2025 would remain available for obligation through September 30, 2026.

July – September (Forward Funding)	3 months
October – September (Federal fiscal year)	12 months
October – September (carryover period; Tydings Amendment)	<u>12 months</u>
	27 months

Federal education formula grant funds are typically awarded on July 1 of each year. While funds not obligated during the initial 15-month grant period remain available as carryover in the subsequent 12-month period, the District will always plan to spend to the best of its ability all current grant funds within the year for which the funds were initially appropriated. Per TEA, excess carryover and lapsing of funds may be an indicator in TEA's risk assessment process.

TEA calculates and manages the carryover process each year after final expenditure reports from the prior year are processed. Any carryover funds from the prior year are added to the application and NOGA for the subsequent year. Carryover funds must be used in accordance with the federal statute and regulations in effect for the carryover period and with any approved state plan or application. 34 CFR 76.710

*Direct Grants:* In general, the *period of availability* for funds authorized under *direct* grants is identified in the GAN.

### **Liquidation of Financial Obligations**

The District must *liquidate* (i.e., make the final payment because the goods or services were received during the grant period, or *cancel* the obligation because the goods or services were *not* received during the grant period) all financial obligations incurred under the award in accordance with the requirements of TEA or other awarding agency. For TEA formula grants, this is usually within 30 calendar days after the ending date of the formula grant to coincide with the submission of the final expenditure report to TEA. For *direct* grants from USED, this may be not later than 90 days after the end of the period of performance (or an earlier date as agreed upon) unless an extension is authorized. 2 CFR § 200.344(c).

Any funds not obligated within the period of performance or not liquidated within the appropriate time frame are said to *lapse* and must be returned to the awarding agency. 2 CFR § 200.344(e). Lapsing of funds is usually considered by TEA to be an indicator of poor planning and may cause the District to be identified as high risk. Consequently, the District closely monitors grant spending throughout the grant cycle.

Nederland ISD is committed to ensuring the timely, appropriate, and compliant use of all federal and state grant funds in accordance with applicable laws, regulations, and grant-specific requirements.

All grant funds must be obligated and expended within the school calendar year for which they are awarded, in alignment with the **allowable activities and timelines** established by the granting

agency and outlined in the approved grant application. Grant funds may **not** be obligated **prior to** the approved start date or **after** the end date specified in the grant award notice.

Expenditures must be reasonable, necessary, allocable, and allowable under the terms of each individual grant program. All purchasing decisions should reflect **fiscal responsibility** and **programmatic alignment** with the unique intent and design of the respective grant.

For grant programs with extended periods of availability (e.g., awards ending September 30), obligations occurring after June 30 should be **minimal and program-specific**, limited to items such as:

- Summer instructional services or learning programs
- Professional development activities occurring during the summer months
- Software licensing or subscriptions that begin in the summer but directly support allowable grant activities

End-of-year purchasing must not be used to stockpile materials or supplies for future use beyond the approved grant period or outside the scope of allowable use.

In the case of multi-year grants, a new budget should be developed for each grant year, following the funding period of **September 1 – August 31**, to reflect annual allocations and planned expenditures.

### **Purchase**

### **Order**

### **Deadlines**

To ensure timely compliance with obligation and liquidation deadlines, Nederland ISD has established a district-wide purchase order cutoff date of **May 1**. This deadline applies to all district employees responsible for initiating purchases using grant funds. Campus principals and department heads may impose earlier deadlines as necessary. For federal grants, additional or alternate deadlines may be established to ensure all purchases occur strictly within the approved **obligation period** of the grant.

### **Carryover**

*TEA Grants:* As previously described, the Tydings Amendment typically extends the period of availability for formula grants for an additional 12 months. Accordingly, the District may have multiple years of grant funds available under the same program at the same time.

Usually, TEA *discretionary* grants do not have a carryover period, as any unobligated and unexpended funds are carried over at the *state* level and are used to issue NOGAs for the subsequent funding period. TEA discretionary grantees must request to extend the ending date of the project/NOGA directly from TEA if such an extension is allowable pursuant to the guidelines related to a particular grant.

*Direct Grants:* Grantees receiving direct grants are not covered by the 12-month Tydings period. However, under 2 CFR § 200.308(g)(2), direct grantees enjoy unique authority to expand the period of availability of federal funds. Prior approval is not required if authorized in the terms and conditions of the Federal award to initiate a one-time extension ; however, in order to obtain this extension, the District must provide written notice to the federal awarding agency at least 10 calendar days before the end of the period of performance specified in the award. This one-time extension may not be exercised merely for the purpose of using unobligated balances. The federal agency may approve additional no-cost extensions.

Nederland ISD is committed to ensuring compliance with all federal regulations regarding the administration of federal awards. In accordance with **2 CFR § 200.308(g)(2)**, the District will request **written prior approval** from the appropriate federal awarding agency or pass-through entity before extending the period of performance for any federally funded program under the following conditions:

**1.Prohibited Extensions:**

When the **terms and conditions** of the Federal award expressly **prohibit an extension** of the project period.

**2.Request for Additional Federal Funds:**

When the requested extension will require **additional federal funding** beyond what was originally awarded.

**3.Change in Project Scope or Objectives:**

When the proposed extension involves a **significant change in the approved objectives or scope of the project**.

**Procedures for Requesting an Extension:**

- The request will be initiated by the **Federal Programs Coordinator** and submitted through the **Business Office** for review.

- All requests must include a **justification** for the extension, a revised **project timeline**, a current **budget summary**, and documentation showing the necessity of the extension.
- Requests will be submitted to the federal awarding agency or the pass-through entity **prior to the end of the original period of performance** to ensure uninterrupted funding and program continuity.
- All approvals and related correspondence will be documented and maintained in the District's federal programs compliance records.

Nederland ISD will ensure that all extension requests are submitted in a timely manner and in full compliance with Uniform Guidance requirements, maintaining transparency and accountability in the use of federal funds.

#### E. Accounting Records

The Business Office is responsible for maintaining the official accounting records of the District. All grant budgets are entered into the accounts of the District in the general ledger. Funds are accounted for and records are kept in accordance with the requirements in TEA's FAR. The chart of accounts provided in FAR provides the framework for the accounting system, and the District uses the accounting terminology specified in FAR and generally accepted accounting principles (GAAP).

All general ledger entries shall be in balance (debits shall equal credits). A Journal Voucher form shall be used to document all entries. All journal entries shall be numbered for tracking purposes. An automated numbering system through E Finance Plus shall be utilized by the district. The bookkeeper, shall be authorized to create journal entries. The Chief Financial Officer shall be authorized to approve journal entries. All of the aforementioned business staff shall be authorized to post journal entries to the general ledger.

The Business Office maintains (on paper or electronically) original source documentation to support all expenditures recorded in the general ledger. Source documentation may include but is not limited to purchase orders/requisitions, invoices, itemized receipts, travel authorizations and travel vouchers, contracts, proof of delivery, copies of checks, bank statements, etc.

The Chief Financial Officer shall have ultimate responsibility for the accuracy of the general ledger. The general ledger shall be reviewed for accuracy in areas such as, but not limited to the following:

- Cash and investment balances equal the respective bank or investment monthly statements
- Aged purchase orders, receivables and payables
- Verify that fund accounts are in balance
- Verify that bank account reconciling items are posted to the general ledger

If electronic source documentation is maintained, the District ensures the documentation is easily retrievable and is readable in accordance with the requirements in 2 CFR § 200.334-.338. Refer to *Section VII. Record Keeping* of this manual for more information about these requirements.

### **Documentation Associated With Using District Credit Cards**

Purchases made with credit cards or procurement cards must be closely controlled and monitored to prevent fraud, waste, and abuse. The appropriate and corresponding entries must be made in the general ledger as with any other individual purchase.

Employees who receive and use district-issued credit cards must submit to the Accounting Office *the original itemized receipt* that identifies each item purchased (and not just the credit card receipt). The itemized receipt constitutes the required original source documentation and must be legible and must clearly identify the date of the transaction and *each item* that was purchased. The employee must provide documentation, either on the receipt itself or in a separate file cross-referencing that particular transaction, of how each item was used to benefit the grant program. If the employee does not provide an original, itemized receipt, the expenditure will not be charged to a federal grant.

The District must also maintain all other appropriate internal accounting records, such as travel vouchers, expense reimbursement vouchers, purchase orders, etc., related to the credit card purchase.

The classification of costs by funding source and expense type and the maintenance of adequate original source documentation are necessary for reporting purposes to TEA or other awarding agency. It is also necessary to demonstrate compliance with state and federal cost principles, standards of financial management systems, and conformance with GAAP. Lastly, it is a requirement of the Internal Revenue Code applicable to all business entities.

The District's general ledger will reflect each individual charge on each credit card statement with each of the following:

- The individual vendor name (not just the credit card company name)

- The grant funding source/fund code
- The expense category (i.e., supplies, instructional materials, equipment, travel, etc.)
- The actual date of the charge (as opposed to the billing statement or the date the credit card bill was paid)

*Rebates on Purchase Cards:* Per 2 CFR 200.406, any rebates on a district-issued purchase card will be credited to the original funding source(s) for which the card is used to make purchases. The District may prorate rebates based on a percentage of the total amount of funds used from each funding source.

## **Credit Card Use Policy**

Nederland ISD issues credit cards to designated employees for the efficient procurement of approved goods and services. To ensure compliance with EDGAR regulations and to safeguard against fraud, waste, and abuse, the District has established the following policy governing the use of district-issued credit cards:

### **1. Authorization and Issuance**

Credit cards may only be issued to employees with administrative approval and demonstrated need based on job responsibilities. Each employee must sign a **Nederland ISD Credit Card Acknowledgment Form** certifying they have read, understood, and agreed to abide by this policy.

### **2. Acceptable Use**

Credit cards may only be used for authorized district purchases aligned with applicable funding sources and budgeted expenditures. Use of the card for personal, unauthorized, or unapproved transactions is strictly prohibited.

### **3. Documentation Requirements**

All credit card transactions must be supported by a **legible, itemized receipt**. Failure to provide such documentation will result in the charge being deemed **non-reimbursable**, and the employee will be **personally liable** for the expense.

### **4. Monitoring and Controls**

The Business Office will regularly monitor credit card usage to ensure adherence to policy and detect any irregularities. Monthly reconciliations are required and must be submitted with receipts and explanations for each transaction.

## 5. Consequences for Misuse

Any misuse of a district-issued credit card may result in card revocation, disciplinary action up to and including termination, and potential legal action to recover funds.

Nederland ISD is committed to fiscal responsibility and transparency. This policy ensures that the use of district credit cards complies with federal guidelines and promotes accountability at all levels.

## F. Expending Grant Funds

All costs charged to a federal grant are classified as either *direct* or *indirect*. While developing and reviewing the grant budget and when expending grant funds, program and fiscal staff should keep in mind the difference between *direct* costs and *indirect* costs as defined in the federal cost principles. All costs must be properly and consistently identified as either *direct* or *indirect* in the accounting system.

### Direct and Indirect Costs

#### *Determining Whether a Cost is Direct or Indirect*

*Direct* costs are those costs that can be identified specifically with a particular final *cost objective*, such as a federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy. 2 CFR § 200.413(a).

*Indirect* costs are those that have been incurred for a common or joint purpose benefitting more than one *cost objective*, and not readily assignable to the *cost objectives* specifically benefited, without effort disproportionate to the results achieved. 2 CFR § 200.1. Generally, these costs cannot be directly assigned or allocated to one specific project because they support multiple projects. Consistent with the Uniform Guidance, these costs are sometimes classified as “facilities and administration” costs (F&A costs).

*Cost Objective:* A *cost objective* is a program, function, activity, award, organizational subdivision, contract, or work unit for which cost data are desired. A cost objective may be a major function of the District, a particular service or project, a federal award, or an indirect cost activity.

All costs charged to a federal grant are either direct or indirect costs. There is no universal rule for classifying certain costs as direct or indirect costs. A cost may be direct for some specific



service or function but indirect for the federal award or other final cost objective. Therefore, it is essential that each item of cost incurred for the same purpose in like circumstances must be treated consistently as either a *direct* cost or *indirect* cost to avoid possible double charging of federal awards. 2 CFR § 200.412. Indirect costs usually support areas that benefit all activities of the District, such as Accounting, Budget, Human Resources, Purchasing, Building Maintenance, etc.

The association of costs with a federal award determines whether costs are direct or indirect. Costs charged directly to a federal award are typically incurred specifically for that federal award (including, for example, supplies needed to achieve the award's objectives and the proportion of employee compensation and fringe benefits expended in relation to that specific award). 2 CFR § 200.413(b).

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

- Administrative or clerical services are integral to a project or activity.
- Individuals involved can be specifically identified with the project or activity.
- The costs are not also recovered as *indirect costs*.

### **Indirect Cost Rate**

Pursuant to 34 CFR §§ 75.561 and 76.561, TEA, as the cognizant agency, approves federal indirect cost rates for school districts, ESCs, and open-enrollment charter schools in Texas. The rates are calculated using costs specified in the District's indirect cost plan/proposal submitted to TEA and are effective July 1 through June 30 of each year.

Two indirect cost rates are approved by TEA and are used by the District. The *restricted* rate is used for federal grants containing the *supplement, not supplant* requirement (34 CFR §§ 76.563 and .564). The *unrestricted* rate may be used for federal grants that do *not* contain the supplement, not supplant requirement.

A cost allocation plan or an indirect (F&A) cost rate, whether submitted to a Federal cognizant agency for indirect costs or maintained on file by the district, must be certified by the district using the Certificate of Cost Allocation Plan or Certificate of Indirect Costs as set forth in Appendices III through VII, and Appendix IX. The certificate must be signed on behalf of the district by the Superintendent.

All district costs with federal grant funds, whether direct or indirect, shall meet the minimum requirements of allowability as specified in the [2 CFR 200.403]. In addition, the costs must meet the general provisions for selected items of cost [2 CFR 200.420]. Specific items not listed within these procedures shall be evaluated by the Grant Manager and Chief Financial Officer on case-by-case basis for allowability. The general cost allowability rules for specific items of cost listed within these procedures shall apply to all federal grant funds, unless more restrictive allowability rules are required by a particular federal grant award.

The district shall adhere to the more restrictive allowability rules when a conflict arises between the general allowability rules, the program-specific allowability rules, and the district's allowability rules.

The same expense allocation formula shall be used for non-federal and federal funded expenditures. Purchases shall be expensed to the appropriate fiscal year and/or grant period, as appropriate. For example, if the district purchases a subscription or maintenance agreement that covers a twelve-month period from January 1<sup>st</sup> through December 31<sup>st</sup>, only the current year expenditure and/or current grant period expenditure shall be posted to the general ledger, as appropriate. In this scenario, the following expenses would be posted to the general ledger.

Current fiscal year	January to August	8 months	Object code 6XXX
	September to December	4 months	Object code (1410)

The district has not elected to use federal grant funds for both compensation/benefits and non-compensation expenditures.

*Applying the Indirect Cost Rate:* The District must have a current, approved federal indirect cost rate to charge indirect costs to a federal grant. Once the District has an approved indirect cost rate, the percentage is multiplied against the *actual* direct costs (excluding distorting items specified by TEA or other awarding agency, such as the portion of each contract in excess of \$50,000, subgrants, capital outlay, debt service, etc.) incurred under a particular grant to produce the dollar amount of indirect costs allowable to that award. 34 CFR § 75.564 - 34 CFR § 76.569. Once the District applies the approved rate, the funds that may be claimed for indirect costs have no federal accountability and may be used as if they were non-federal funds. For *Direct Grants*, reimbursement of indirect costs is subject to the availability of funds and statutory or administrative restrictions. 34 CFR § 75.564.

Indirect costs are part of *administrative* costs (vs. *program* costs). Where a federal program has a specific cap on the percentage of *administrative* costs that may be charged to a grant, that cap

must include all *direct administrative* charges as well as any recovered *indirect* charges. If *administrative* costs are limited to 5%, for example, the total *direct* administrative costs plus *indirect* costs claimed for the grant cannot exceed 5%.

Indirect costs are budgeted in the grant application in the corresponding line item. Although the maximum allowable indirect costs may be budgeted in the application, indirect costs can only be *charged* to the grant based on *actual* expenditures of *direct* costs. Therefore, if the District does not expend all of its funds during the grant period, the *maximum* amount of indirect costs budgeted based on the total grant award cannot be charged to the grant. Prior to finalizing expenditures for the grant and submitting the final expenditure report to TEA or other awarding agency, the District adjusts the final amount charged to indirect costs based on the *actual* expenditures.

Grantees must have a current, approved federal indirect cost rate to charge indirect costs to the grant. The indirect cost rate is calculated using costs specified in the grantee's indirect cost plan. Those specified costs may not be charged as direct costs to the grant under any circumstances. [\[TEA Indirect Cost Guidance\]](#).

The district has applied for an Indirect Cost Rate through the pass-through entity (TEA) for the current fiscal year. The Chief Financial Officer shall complete and submit an Indirect Cost Rate Proposal by the established deadline as specified by the pass-through entity (TEA) on the Indirect Cost webpage at: [Indirect Cost Rates | Texas Education Agency](#).

The district's Indirect Cost Rate, or the maximum allowable rate, whichever is less shall be used to post Indirect Costs for federal funds to the General Fund. The Chief Financial Officer shall prepare a general ledger entry for the indirect costs. The bookkeeper shall post the entry to the finance general ledger.

### **Determining Allowability of Costs**

Grantees are required to have written procedures for determining the *allowability* of costs charged to federal grants. 2 CFR § 200.302(b)(7). All costs must be allowable under the federal cost principles in 2 CFR Part 200, Subpart E, and under the terms and conditions of the specific federal award.

Expenditures must be aligned with budgeted items in the approved grant application. Certain changes or variations from the approved budget and grant application need prior approval from TEA or other awarding agency. Refer to TEA's guidelines on [When to Submit an Amendment](#)

(under *Amendment Submission Guidance*) to determine when an amendment to the budget is required for TEA grants.

When determining how the District will spend grant funds, Grant Manager, Assistant Superintendent of Curriculum and the Chief Financial Officer will review the proposed cost to determine whether it is an allowable use of federal grant funds *before* obligating and spending those funds on the proposed goods or services. All expenditures made with federal education funds must meet the standards outlined in EDGAR, 2 CFR Part 3474, and 2 CFR Part 200. The assigned program manager and fiscal staff must consider the following factors when making an allowability determination.

### **Factors Affecting Allowability of Costs**

In general, District staff must consider the following elements when determining the allowability of a cost. In accordance with the federal cost principles, all costs budgeted and charged to a federal grant must be:

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

*Reasonable Costs:* A cost is *reasonable* if it does not exceed an amount a prudent person would incur under the circumstances prevailing when the decision was made to incur the cost. “Reasonable” means that sound business practices were followed, and purchases were comparable to current market prices.

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

When determining reasonableness of a cost, consideration must be given to:

- Whether the cost is generally recognized as ordinary and necessary for the operation of the District or the proper and efficient performance of the federal award.
- The restraints or requirements imposed by factors, such as: sound business practices; arm’s-length bargaining; federal, state, local, tribal, and other laws and regulations; and terms and conditions of the federal award.
- Market prices for comparable goods or services for the geographic area.
- Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the District, its employees, its students, the public at large, and the federal government.

- Whether the district significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the federal award's cost. 2 CFR § 200.404

*Necessary Costs:* While 2 CFR § 200.404 does not provide specific descriptions of what satisfies the “necessary” element beyond its inclusion in the reasonableness analysis above, *necessary* is determined based on the needs of the program. Specifically, the expenditure must be necessary to achieve an important program objective. It means it is vital or required in order to meet the objectives of the grant or for the grant to be successful. *Necessary* does *not* mean “nice to have,” which means it is *not necessary* to accomplish the objectives of the program in that it is not vital or required for the success of the program.

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

When determining whether a cost is *necessary*, the District considers:

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

- ✓ **Allocable to the federal award.** A cost is *allocable* to the federal award if the goods or services involved are *chargeable* or *assignable* to the federal award *in accordance with the relative benefits received*. This means that the federal grant program derived a benefit in proportion to the funds charged to the program. 2 CFR § 200.405. For example, if 50% of a supplementary teacher's salary is paid with grant funds, then that teacher must spend at least 50% of his or her time on the grant program. Additionally, if equipment or supplies purchased with grant funds benefits more than one grant program, the purchase must be “split-funded” among the grant programs receiving benefit. The District must be able to demonstrate how a particular cost benefits the specific population being served in the grant. This is an area of frequent audit exceptions.

- ✓ **Consistent with policies and procedures** that apply uniformly to both federally-financed and other activities of the District. For example, personnel whose travel is paid with federal funds is reimbursed at the same rates as personnel whose travel is paid with state or local funds, and the grant is charged accordingly.
- ✓ **Conform to any limitations or exclusions set forth as cost principles** in 2 CFR Part 200, Subpart E, or in the terms and conditions of the federal award.
- ✓ **Consistent treatment.** A cost cannot be assigned to a federal award as a *direct* cost if any other cost incurred for the same purpose in like circumstances has been assigned as an *indirect* cost under another award.
- ✓ **Adequately documented.** All expenditures must be properly documented with original source documentation that is clearly written and maintained on file (either electronically or on paper) with accounting records. Documentation includes purchase orders/requisitions, invoices, receipts, verification of receipt of goods and services, travel authorizations and vouchers, contracts, time-and-effort records, copies of checks, bank statements, etc. Expenditures that are not supported by source documentation cannot be charged to the grant.
- ✓ **Determined in accordance with generally accepted accounting principles (GAAP), unless provided otherwise in 2 CFR Part 200.**
- ✓ **Not included as a match or cost-share of another federal program,** unless the specific federal program authorizes federal costs to be treated as such. Some federal program statutes require the grantee to contribute a certain amount of non-federal resources to be eligible for the federal program.
- ✓ **The net of all applicable credits.** The term “applicable credits” refers to those receipts or reduction of expenditures that operate to offset or reduce expense items allocable to the federal award. Typical examples of such transactions are: purchase discounts; rebates or allowances; recoveries or indemnities on losses; and adjustments of overpayments or erroneous charges, such as credits. To the extent that such credits accruing to or received by the District relate to the federal award, they shall be credited to the federal award, either as a cost reduction or a cash refund, as appropriate. 2 CFR § 200.406.

- ✓ **Administrative Closeout Costs.** Administrative closeout costs may be incurred until the due date of the final report(s). If incurred, these costs must be liquidated prior to the due date of the final report(s) and charged to the final budget period of the award unless otherwise specified by the Federal agency. All other costs must be incurred during the approved budget period.

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

2 CFR Part 200's cost guidelines must be considered when federal grant funds are expended. Federal rules require state- and District-level requirements and policies regarding expenditures to be followed as well. For example, state and/or District policies relating to travel or equipment may be narrower or more restrictive than the federal rules. In this case, the stricter State and/or District policies must be followed.

### **Requesting Prior Written Approval**

Some costs discussed in the following sections and in the instructions to completing the grant application require *prior written approval* from the awarding agency. For TEA grants, prior written approval must be requested in accordance with TEA's process. The District must submit the request in writing to the TEA Chief Grants Administrator. The Chief Grants Administrator may request additional information, as applicable, and may meet or consult with applicable TEA staff prior to responding to the District in writing.

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

The Grant Manager will determine if and when the District should seek prior written approval for a certain cost prior to incurring the cost. Federal grant funds will not be expended for any costs

that require prior written approval in accordance with 2 CFR 200, Subpart E, or the grant application instructions, if such prior written approval was not properly secured.

### **Selected Items of Cost – 2 CFR Part 200, Subpart E**

2 CFR Part 200, Subpart E, examines the allowability of 56 specific cost items (commonly referred to as *Selected Items of Cost*) at 2 CFR §§ 200.420 -.476. These cost items are listed in the chart below along with the citation where it is discussed. Please do not assume that an item is allowable because it is specifically listed, as it may be *unallowable* despite its inclusion in the selected items of cost section, or it may be allowable only under certain conditions, including prior written approval.

The expenditure may be *unallowable* for a number of reasons, including: the express language of the regulation states the item is unallowable; the terms and conditions of the grant deem the item unallowable; or State/local restrictions dictate that the item is unallowable or allowable only under certain conditions or circumstances. The item may also be unallowable because it does not meet one of the factors affecting allowability of costs, such as being reasonable because it is considered too expensive. If an item is unallowable for any of these reasons, the District does not use federal funds to purchase it.

The selected items of cost addressed in *2 CFR Part 200, Subpart E* include the following (in alphabetical order):

<b>Item of Cost</b>	<b>Citation of Allowability Rule</b>
Advertising and public relations	2 CFR § 200.421
Advisory councils	2 CFR § 200.422
Alcoholic beverages	2 CFR § 200.423
Alumni activities	2 CFR § 200.424
Audit services	2 CFR § 200.425
Bad debts	2 CFR § 200.426
Bonding costs	2 CFR § 200.427
Collections of improper payments	2 CFR § 200.428
Commencement and convocation costs	2 CFR § 200.429
Compensation – personal services	2 CFR § 200.430
Compensation – fringe benefits	2 CFR § 200.431
Conferences	2 CFR § 200.432
Contingency provisions	2 CFR § 200.433
Contributions and donations	2 CFR § 200.434



Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements	2 CFR § 200.435
Depreciation	2 CFR § 200.436
Employee health and welfare costs	2 CFR § 200.437
Entertainment and prizes	2 CFR § 200.438
Equipment and other capital expenditures	2 CFR § 200.439
Exchange rates	2 CFR § 200.440
Fines, penalties, damages and other settlements	2 CFR § 200.441
Fundraising and investment management costs	2 CFR § 200.442
Gains and losses on the disposition of depreciable assets	2 CFR § 200.443
General costs of government	2 CFR § 200.444
Goods or services for personal use	2 CFR § 200.445
Idle facilities and idle capacity	2 CFR § 200.446
Insurance and indemnification	2 CFR § 200.447
Intellectual property	2 CFR § 200.448
Interest	2 CFR § 200.449
Lobbying	2 CFR § 200.450
Losses on other awards or contracts	2 CFR § 200.451
Maintenance and repair costs	2 CFR § 200.452
Materials and supplies costs, including costs of computing devices	2 CFR § 200.453
Memberships, subscriptions, and professional activity costs	2 CFR § 200.454
Organization costs	2 CFR § 200.455
Participant support costs	2 CFR § 200.456
Plant and security costs	2 CFR § 200.457
Pre-award costs	2 CFR § 200.458
Professional service costs	2 CFR § 200.459
Proposal costs	2 CFR § 200.460
Publication and printing costs	2 CFR § 200.461
Rearrangement and reconversion costs	2 CFR § 200.462
Recruiting costs	2 CFR § 200.463
Relocation costs of employees	2 CFR § 200.464
Rental costs of real property and equipment	2 CFR § 200.465
Scholarships, student aid costs, and tuition remission	2 CFR § 200.466
Selling and marketing costs	2 CFR § 200.467
Specialized service facilities	2 CFR § 200.468
Student activity costs	2 CFR § 200.469
Taxes (including Value Added Tax)	2 CFR § 200.470
Telecommunications and video surveillance costs	2 CFR § 200.471
Termination and standard closeout costs	2 CFR § 200.472
Training and education costs	2 CFR § 200.473

Transportation costs	2 CFR § 200.474
Travel costs ( <i>TEA restricts to actual costs, not per diem</i> )	2 CFR § 200.475
Trustees	2 CFR § 200.476

Likewise, it is possible for the State and/or District to put additional requirements on a specific item of cost. Under such circumstances, the stricter requirements must be met for a cost to be allowable. Accordingly, employees must consult federal, State and District requirements when spending federal funds. For example, the travel rules for grants administered by TEA are more restrictive than the federal cost principles allow, which means TEA's policies must be followed.

### Other Considerations for Allowability

In order for a cost to be allowable, the expenditure must also be allowable under the applicable *federal program statute* (e.g., Title I of the Elementary and Secondary Education Act [ESEA], or the Carl D. Perkins Career and Technical Education Act [Perkins]), along with accompanying *program regulations, non-regulatory guidance, and grant award notifications*.

Most federal programs also contain the *supplement, not supplant* requirements. In general, this means that the District cannot use federal grant funds to pay for a cost or activity that is usually supported by state or local funds. See *Section X. Programmatic Fiscal Requirements, A. Supplement, Not Supplant*, of this manual for more information about this requirement.

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

- ✓ *reasonable* in cost (as described above)
- ✓ *necessary* to accomplish the objectives of the grant program (as described above)
- ✓ based on an identified need, concern, or area of weakness within the grant program
- ✓ appropriate under the authorizing program statute
- ✓ consistent with the underlying needs of the program in that it benefits the intended population of students or teachers for which the funds are appropriated
- ✓ *allocable* to the grant based on the relative benefits received (as described above)
- ✓ authorized or not prohibited under state or local laws or regulations

- ✓ consistent with policies, regulations, and procedures that apply to all activities, including other grants and state and local activities
- ✓ treated consistently as either a *direct* cost or as an *indirect* cost
- ✓ determined in accordance with GAAP
- ✓ not used to meet cost sharing or matching requirements of another federal grant (unless specifically permitted in the other program statute or regulations)
- ✓ consistent with the terms and conditions of the grant award
- ✓ budgeted in the approved grant application
- ✓ adequately documented with appropriate supporting original source documentation
- ✓ the net of any applicable credits such as rebates or discounts
- ✓ allowable under the federal cost principles
- ✓ in most cases, supplemental to the core foundation program of the school and to other activities normally conducted by the school (i.e., supplement, not supplant)
- ✓ if the school is a Title I schoolwide program, the grant program's activities and applicable costs must be included in the schoolwide plan, the school must have conducted a comprehensive needs assessment, and the plan must contain the required components specified in statute (see Title I, Part A, §1114[b]).

District personnel responsible for spending federal grant funds and for determining allowability must be familiar with the Part 200 selected items of the cost section. District employees are required to follow these rules when charging these specific expenditures to a federal grant. In addition to checking the selected items of cost in Part 200, District staff must check costs against TEA's [Guidelines Related to Specific Costs](#), the *Request for Application* (RFA), local district policy, and any grant program restrictions to ensure the cost is allowable.

The district shall utilize the Allowability/Allocability of Costs Worksheet to verify that all proposed obligations and expenditures meet the Cost Principles. If the Worksheet reflects that the proposed obligation and/or expenditure is not allowable and/or allocable to a federal grant award, the district shall not make the obligation/purchase with the federal grant funds. Other funds, such as local funds, may be used to make the obligation/expenditure, as appropriate.

### **Costs That Require Special Attention**

In addition to the aforementioned, certain types of costs may be allowable under federal law but may not be allowable under state law or guidelines, or may only be allowable under certain circumstances and conditions. TEA's [Guidelines Related to Specific Costs](#) (under *Allowable Cost Guidance*) outlines several other types of costs that require special attention due to the fact some

costs frequently cause audit exceptions or monitoring findings. Included in that guidance are descriptions of allowable awards and incentives; cell phones; employer contributions to *voluntary* retirement plans; field trips; printing costs; food costs, including for hosting meetings and conferences; fundraising; gifts; promotional items; social events; and training on grant writing.

The District makes every effort to comply with these guidelines in the expenditure of federal grant funds to avoid audit exceptions. The Grant Manager will follow all procedures and guidelines of the grant are followed and implemented. District employees engaged in federally-funded activities are required to consult this document regularly and be familiar with its contents. The Grant Manager will monitor compliance of updated policies as previously described in this manual (refer to the table on page 19-21).

The state and/or District rules related to some specific cost items are discussed below. District employees must be aware of these State and District rules and ensure they are complying with these requirements.

## **Travel**

Travel costs are the expenses for transportation, lodging, subsistence (i.e., meals), and related items incurred by employees who are in travel status on official business of the District. TEA's policy for reimbursing travel is more restrictive than the federal cost principles allow. In an effort to keep travel costs reasonable, TEA restricts reimbursement for travel paid from federal and state grants to rates that are specified in the State of Texas *General Appropriations Bill, Article IX, General Provisions, Travel Regulations*, in effect for the particular grant period. TEA regularly publishes information and guidance about allowable travel costs and rates on the [Administering a Grant](#) page (scroll down under *Handbooks and Other Guidance*).

The federal cost principles allow for reimbursement for meals on a *per diem* basis, whether or not the employee actually spends the entire per diem. However, Texas is more restrictive. TEA in following the travel restrictions specified in the Appropriations Bill for state employees, allows for reimbursement of meals at *actual costs*, not to exceed the federal rate for the locale, or local policy, *whichever is less*. Travel *allowances* (where the employee is reimbursed the per diem rather than actual costs whether or not the employee actually spends all of the maximum allowable per diem) are not allowable charges to state and federal grants in Texas. The State of Texas defines reimbursement of the difference between the maximum per diem and the actual amount spent on meals as a "gift of public funds," which is unallowable per the Texas Constitution. Therefore, the District ensures that its travel policy and reimbursement practices reflect this requirement.

Additionally, if local District policy provides for reimbursement for travel expenses at an amount that exceeds the rates allowed by TEA, the District pays the difference from state or local funds. District policy does provide for reimbursement of travel expenses at a higher rate as specified in the District's written travel policies.

In general, reimbursement from state or federal grants for employees on travel is limited to the following:

- the *actual* cost of meals incurred by the employee per day, not to exceed the maximum allowable federal per diem rate
- the *actual* cost of lodging, not to exceed the current federal rate in the locale to which the employee is traveling
- the actual cost of coach airfare
- actual mileage in a personal vehicle
- the cost of a rental car and gasoline

### **Nederland ISD Federal Travel Procedure**

Nederland ISD follows federal guidelines for employee travel using federal funds, in accordance with the Education Department General Administrative Regulations (EDGAR) and 2 CFR Part 200 (Uniform Guidance). All federally funded travel must be necessary, reasonable, and directly related to the grant objectives.

**Lodging and Per Diem Allowances**  
Travel expenses for lodging, meals, and incidentals are reimbursed based on the federal per diem rates established by the U.S. General Services Administration (GSA). The most current rates can be accessed at the GSA website:

 <https://www.gsa.gov/travel/plan-book/per-diem-rates>

Employees must use this site to determine the maximum reimbursable lodging and meal rates for the specific travel destination.

### **Key Travel Procedures:**

- All travel must be pre-approved by the appropriate administrator and coordinated through the Business Office.
- Receipts are required for lodging and other non-meal expenses.

- Meal reimbursements must not exceed the daily per diem rate and do not require receipts.
- Federal funds will not reimburse for alcohol, tips, or personal expenses.
- Travel reimbursements must be submitted within 10 business days of the trip's conclusion.

Nederland ISD is committed to ensuring the responsible use of federal funds and compliance with all applicable regulations.

*Temporary Dependent Care Costs:* Pursuant to the provisions in 2 CFR § 200.475(c), the District may reimburse an employee on travel status for temporary dependent care costs *above and beyond regular dependent care*. Such travel is allowable provided that *all* of the following conditions are met:

1. The costs are a direct result of the individual's travel to the conference for the federal grant.
2. The costs are consistent with the District's established written policy for all District travel regardless of funding source of the employee or of the travel.
3. The dependent care costs are only temporary during the travel period.

Travel costs for dependents are unallowable.

The District [does not] reimburse employees for temporary dependent care costs.

*Documentation that Travel Costs are **Reasonable** and **Justifiable**:* Additionally, costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, must be deemed by the District to be *reasonable* and otherwise allowable only to the extent such costs do not exceed charges normally allowed by the District in its regular operations as the result of its written travel policy.

Pursuant to the requirements in 2 CFR § 200.475(b), documentation must be maintained that *justifies* that (1) participation of the particular *individual* is *necessary* to the federal award; and (2) the costs are *reasonable* and *consistent* with the District's established policy.

The district shall reimburse federal grant-related travel expenses that are reasonable and necessary.

Each official and employee of the district has a responsibility to limit travel to purposes that are clearly essential, directly related to federal grant activities, and to consider the most economical

means of accomplishing travel. Travelers are encouraged to evaluate the options: driving versus flying, carpooling instead of flying, sharing of rooms when feasible.

The following guidelines shall apply to the expenditure of grant funds for staff, student and/or parent travel, as appropriate.

- All travel expenditures shall be reasonable and necessary to carry out the federal grant activities
- A completed Travel Settlement form for all travel expenses
- Submission of a purchase requisition for all anticipated travel expenditures to encumber the anticipated expenditures
- Submission of documentation and receipts to support *actual* travel expenditures within 10 days of the travel event, as required by the travel procedures
- Travel expenses shall not be recorded as travel expenses in a federal grant fund until “after the travel event” in compliance with the Obligation Rules
- After the travel event, the prepaid expenses shall be posted as expenses to a 64XX account via general journal

Refer to the District’s *written travel reimbursement policy*, which complies with TEA’s guidelines related to travel, for specific provisions related to travel. 2 CFR § 200.475(a).

[Nederland ISD Board Travel Policy](#)

#### *Request to Travel Form*

Employees who plan to travel must complete a *Request to Travel* (or similar document) *prior* to travel, detailing the dates of the proposed travel, purpose of the travel, how it will benefit the grant program, and *estimated* travel expenses. The *Request to Travel* (or similar document) must be approved by the employee’s supervisor and by the Accounting Department. The supervisor will verify that the travel by the particular *individual* is necessary to accomplish the objectives of the grant program. The Accounting Department will verify that costs are reasonable and consistent with the District’s travel policies. The Accounting Department will also ensure that sufficient funds are budgeted and available for travel in the appropriate grant program prior to the employee incurring any travel expenditures.

#### *Travel Voucher*

Travel costs must be properly documented to be reimbursable by the District. The employee must document travel costs with a *Travel Voucher* (or other comparable documentation) that is completed *after* the travel has occurred. The *Travel Voucher* (or similar documentation) must include the following at a minimum:

- Name of the individual claiming travel reimbursement
- Destination and purpose of the trip, including how it was necessary for this particular individual to travel on this particular trip in order to accomplish the objectives of the grant program
- Dates of travel
- Actual mileage (not to exceed reimbursement at the maximum allowable rate). Travelers are required to calculate mileage by one of the following two methods:
  - Actual odometer reading (point-to-point method)
  - Electronic mapping source (such as that on google maps or any other online mapping service). If this method is chosen, the traveler must print out the driving directions provided by the site and attach them to the travel voucher.

Travelers are required to select the shortest and most economical route but may justify the selection of another route if it was chosen for safety reasons and specific justification of the selection is given.

- *Actual amount* expended on lodging per day, with a receipt attached (may not exceed the federal rate for the locale)
- *Actual amount* expended on meals per day (must not exceed the federal rate for the locale; tips and gratuities are not reimbursable). Receipts for meals are not required by TEA but may be required per local District policy.
- Actual amount of airfare (receipt must be attached; a printed copy of an online receipt is acceptable)
- Actual amount expended on public transportation, such as taxis and shuttles (receipt not required by TEA but may be required per local District policy)
- Actual amount expended on a rental car, with receipt attached and justification for why a rental car was necessary and how it was more cost effective than alternate transportation; receipts for any gasoline purchased for the rental car must be attached (*mileage* is not reimbursed for a rental car – only the *actual cost for gasoline* is reimbursed)
- Actual cost of parking (receipt may be required at the local level, but is not required by TEA)



- Actual amount expended on incidentals, such as hotel taxes, copying of materials, and other costs associated with the travel (receipts must be attached)
- The amount of any cash advance paid to the employee prior to the travel
- Total amount to be reimbursed to the employee
- The signature and date of the employee
- The signature and date of the supervisor or other manager

Travel costs that are not supported by proper documentation as described above are not allowable to be charged to the grant and are subject to disallowance by state and federal auditors and monitors.

*Predetermined Conference Hotel Lodging Rates:* Lodging expenses for overnight travel (in accordance with local travel guidelines) shall be allowed if reasonable, necessary and directly related to federal grant activities. The district shall pay for lodging expenses up to the GSA limits with federal grant funds. The district shall pay the actual cost of lodging in excess of GSA limits only with local funds, i.e. General Fund. Receipts shall be required for all lodging expenses. Recreational or personal services such as gyms, spas, etc. shall not be allowed with local, state or federal grant funds.

The primary goal is to demonstrate that the employee is staying in the most cost-effective (while still being safe) hotel lodging. If the hotel *conference* rate *exceeds* the federal rate for the locale, check the rate of hotels in close proximity and **print or record the rates in writing**. If the hotel is within walking distance and is within the federal rate for the locale, it may be difficult to justify staying at the conference hotel at the higher rate.

But if the hotel with a lower rate is *not* within walking distance and **would require the traveler to travel by bus, taxi, or even rental car to get to the hotel conference facilities each day**, it may be justifiable to stay at the conference hotel with the higher rate if the traveler can document that it would cost more to stay at another hotel and pay for the bus or taxi at least twice per day, or even pay for a rental car and gas and parking for the rental car (whichever is the most economical) than to stay at the conference hotel.

Complete and accurate documentation must be maintained in order for this scenario to be considered acceptable by an auditor or monitor. The traveler must complete the Instructional Leave Report Request prior to travel and the written form must be approved by the [Assistant Superintendent of Curriculum].

Other costs requiring special attention are discussed below.

### **Advertising and Public Relations Costs**

Pursuant to the requirements in 2 CFR § 200.421, the costs of *advertising* are allowable only for the recruitment of grant personnel; the procurement of goods and services for the award; disposal of scrap or surplus materials acquired under the award; and program outreach. Allowable *public relations* costs are those specifically required by the federal award, necessary to communicate with the public and press pertaining to specific activities or accomplishments, or as necessary to keep the public informed on matters of public concern. All advertising and public relations costs must be necessary for the performance of the particular award, and must *not* be for the purpose of advertising or relating to the public with regard to the District in general.

### **Hosting Meetings and Conferences**

2 CFR § 200.432 discusses the allowability of conference costs paid by the district as a sponsor or host of the conference. A conference is defined as “an event whose primary purpose is to disseminate technical information beyond the recipient or subrecipient and is necessary and reasonable for successful performance under the award.” These federal guidelines state that costs may include rental of facilities, cost of meals and refreshments, local transportation, identifying and providing locally available dependent-care resources, and other items incidental to such conferences unless further restricted by the terms and conditions of the federal award. Per the guidance, conference hosts/sponsors must exercise discretion and judgment in ensuring that conference costs are appropriate, necessary, and managed in a manner that minimizes the costs to the federal award.

However, the USDE issued more [restrictive guidance related to the use of funds for conferences and meetings \(under Allowable Cost Guidance\)](#), particularly with regard to food costs such as meals, snacks, and refreshments.

Per guidance from the USDE:

“Generally, there is a very high burden of proof to show that paying for food and beverages with Federal funds is necessary to meet the goals and objectives of a Federal grant. When a grantee is hosting a meeting, the grantee should structure the agenda for the meeting so that there is time for participants to purchase their own food, beverages, and snacks. In addition, when planning a meeting, grantees may want to consider a location in which participants have easy access to food and beverages.

While these determinations will be made on a case-by-case basis, and there may be some circumstances where the cost would be permissible, it is likely that those circumstances will be rare. Grantees, therefore, will have to make a compelling case that the unique circumstances they have identified would justify these costs as reasonable and necessary.”

Additionally, the USDE guidance states that grantees should consider whether a face-to-face meeting or conference is the most effective or efficient way to achieve the desired result and whether there are alternatives, such as webinars or video conferences, that would be equally or similarly effective and more efficient in terms of time and costs than a face-to-face meeting. The USDE guidance also states that grantees should consider how the meeting or conference will be perceived by the public; for example, will the meeting or conference be perceived as a good use of taxpayer dollars?

These and more specific guidelines are also discussed in TEA’s [Budgeting Costs Guidance Handbook](#) in the *Food and Beverage Costs* section.

District staff will adhere to these guidelines if and when hosting a meeting or conference for non-employees. Prior to planning a meeting or conference, approval will be obtained from [Assistant Superintendent of Curriculum] in the District. The proposed meeting or conference will be budgeted in the approved application and the District will obtain prior approval from TEA as specified in the [Budgeting Costs Guidance Handbook](#) in the *Costs that Require Specific Approval* section.

The Grants Manager shall obtain pre-approval for the following activities which have been identified by the granting agency or pass-through entity (TEA);

- [Student educational field trips](#) – TEA Division of Grants Administration form
- [Hosting or sponsoring conferences](#) - TEA Division of Grants Administration form
- [Out-of-state travel](#) - TEA Division of Grants Administration form
- [Request for Approval of Special or Unusual Costs](#) – TEA Division of Grants Administration form
- [Request for Approval of Participant Support Costs](#) – TEA Division of Grants Administration form

An approved copy of a pre-approval form, if required, shall be attached to the purchase order for audit purposes.

The District does not use grant funds to pay for *identifying and providing* locally available dependent care resources.

### **Entertainment Costs, Prizes, and Field Trips**

Pursuant to 2 CFR § 200.438, costs of *entertainment*, including amusement, diversion, and social activities and any associated costs are *unallowable*, except where specific costs that might otherwise be considered entertainment have a programmatic purpose. TEA interprets this section to include some *field trips*, depending on the nature and purpose of the field trip. All field trips require the prior written approval of TEA.

TEA's [Budgeting Costs Guidance Handbook](#) includes information about allowable and unallowable field trips. District staff will consult these guidelines and secure prior written approval from TEA prior to planning and scheduling any field trips.

Prizes are only allowable if they have a specific and direct programmatic purpose and are included in the federal award.

### **Use of Federal Funds for Religion Prohibited**

Without exception, federal funds will not be used to pay for any of the following:

- religious worship, instruction, or proselytization
- equipment or supplies to be used for any of those activities

34 CFR § § 75.532 and 76.532

### **Use of Federal Funds for Construction or Major Remodeling and Renovation**

Federal funds will not be used to purchase real property or for construction unless the costs are specifically permitted by applicable statutes or implementing regulations for the program. 34 CFR § 76.533.

*Remodeling and Renovation:* Major remodeling and renovation is defined as *construction*. Therefore, all of the federal requirements apply to any major remodeling or renovation paid with federal funds.

The term *construction* does *not* include *minor* remodeling and renovation. *Minor remodeling* as defined in 34 CFR Part 77 means

“minor alterations in a previously completed facilities project. The term also includes the *extension* of utility lines, such as water and electricity, from points beyond the confines of the space in which the minor remodeling is undertaken but within the confines of the previously completed facility. The term may also include related designs and drawing for these projects. The term does *not* include construction or renovation, structural alterations to buildings, facilities maintenance, or repairs.”

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

If construction and/or major remodeling and renovation are allowable and approved under a particular federal program, there are numerous laws and regulations with which the District must comply. The District will comply with all applicable state and federal laws, regulations, and guidelines for construction and/or major remodeling and renovation, including those found in 34 § CFR 76.600 and in 34 CFR §§ 75.600 - .617, as well as those found in 2 CFR §§ 200.318 - .327 related to procurement. In addition, the District will comply with requirements under the Department of Labor’s [Davis-Bacon and related Acts](#), as well as bonding requirements specified in 2 CFR § 200.326. Failure to comply with these requirements could result in the repayment of funds.

Nederland ISD board policy pertaining to facilities construction can be found at [CV- Facilities Construction](#)

### **Use of Federal Funds Benefiting Students and Teachers in Private Schools**

Many federal programs contain the requirement that equitable services be provided to students and teachers in private nonprofit schools located within the District’s boundaries if the officials of the nonprofit school desire that their children and teachers receive the benefits of those federal programs. In the event that private nonprofit schools wish to participate, there are restrictions with regard to the use and control of funds which benefit those students and teachers. 34 CFR §§ 76.658 - .662.

The expenditure of all federal funds for the benefit of participating private school students and teachers is directly related to the specific federal program under which private school students and teachers are receiving benefits. The following provisions will be adhered to in the use of federal funds for the benefit of private school students and teachers.

- The District shall maintain continuing administrative direction and control over funds and property that benefit private school teachers and students. No funds will ever be paid to a private school. All goods and services are purchased by the District on behalf of and for use by the participating private school.
- The District will monitor participating private schools to verify compliance with these requirements.
- The District shall not use funds to finance the existing level of instruction in a private school or to otherwise benefit the private school.
- The District shall use funds to meet the *specific program needs of students* enrolled in private schools, rather than the *needs of a private school* or the *general needs of the students* enrolled in a private school.
- The District may use funds to make *District* personnel available in facilities *other than* District facilities to the extent necessary to provide equitable program benefits designed for students enrolled in a private school and if those benefits are not normally provided by the private school.
- The District may use funds to pay for the services of a *private school employee* if the employee performs the services outside of his or her regular hours of duty and the employee performs the services under the supervision and control of the District or other public entity.
- Equipment and Supplies
  - The District must keep title to and exercise continuing administrative control of all equipment and supplies that the District acquired with federal funds. The District will only place equipment and supplies in a private school for the period of time needed for the federal grant project. (The equipment and supplies are “on loan” to the private school for the duration of the grant project.)
  - The District will monitor to ensure that the equipment or supplies placed in a private school are used only for the purposes of the project and can be recovered from the private school without remodeling the private school facilities.
  - The District will remove the equipment or supplies from a private school if the equipment or supplies are no longer needed for the purposes of the project or if removal is necessary to avoid use of the equipment or supplies for purposes other than the project purposes.

- The District will ensure that federal funds are not used for the construction of private school facilities.

At this time, Nederland ISD confirms that there are no registered nonprofit private schools operating within the geographic boundaries of the district.

For additional information pertaining to the requirements for participation by students enrolled in private nonprofit schools, see section *XI. Programmatic Requirements, A. Private Nonprofit School Participation* in this manual.

## G. Reporting Expenditures

### TEA Grants

The [General Provisions and Assurances](#) that accompany every grant application funded by or through TEA contains an assurance that grantees agree to comply with expenditure reporting requirements. The District will submit expenditure reports in the time and manner requested by TEA.

TEA requires that districts and other grantees use a standard format for reporting expenditures for grants funded through TEA. Reports are submitted electronically through the automated [Expenditure Reporting \(ER\)](#) system by class/object code. The *Program Guidelines* for each RFA published by TEA and/or the *Critical Events* calendar provided on the [TEA Grant Opportunities](#) page for a specific program identify the required expenditure reporting dates. However, even though dates for submitting interim expenditure reports may not be specified, the District will submit expenditure reports more frequently, such as monthly, to indicate that grant activities and expenditures are occurring as planned and there are no major delays in the project.

Final expenditure reports are generally due 30 days after the ending date of the grant. If the grant program has a cost share or matching funds requirement, the District must also report the total cost share or matching funds in ER.

Each District employee who reports and/or certifies expenditures in ER is required to have a TEASE (TEA Secure Environment) username and password to access ER. (As of the writing of this template, TEA was in the process of migrating to a new secure environment, [TEA Login \(TEAL\)](#), which replaces the older TEASE. ER and eGrants will eventually be transferred to TEAL.) The District reports cumulative expenditures to date in ER, and the system automatically calculates

the amount already paid to the District and the amount owed and generates a payment to the District.

When filing interim reports, the District will only report actual expenditures, and any expenditures that will be paid out within three business days once payment is received by the District. In addition, the District will comply with the cash management procedures described in *II. Financial Management System, G. Federal Cash Management Policy/Procedures* of this manual.

The Chief Financial Officer in the District's Business Office submits the reports in ER. Each report is certified by the Chief Financial Officer, an authorized official who attests that expenditures are true and correct. Effective July 1, 2015, the fiscal reports requesting payment will include a certification signed/certified by an official who is authorized to legally bind the District. 2 CFR § 200.415. The certification reads as follows:

"I certify to the best of my knowledge and belief that the information provided herein is true, complete, and accurate. I am aware that the provision of false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil, or administrative consequences including, but not limited to violations of U.S. Code Title 18, Sections 2, 1001, 1343 and Title

31, Sections 3729-3730 and 3801-3812."

See *II. Financial Management System, G. Federal Cash Management Policy/Procedures* in this manual for more information on requesting grant payments and the "three-day rule," as well as the calculation of interest earned on funds not paid out upon receipt.

The ER system automatically rejects expenditure reports if:

- The District is claiming expenditures in a class/object code not budgeted in the application.
- The total amount reported exceeds the total amount awarded.

TEA (or other agency administering the grant on behalf of TEA) reserves the right to require supporting documentation (such as an accounting ledger) that lists the individual expenditures by object code, as well as invoices, receipts, travel vouchers, and other expenditure documents for expenditures at any time during or after the grant period for as long as the records are retained according to requirements for record retention. The District will be required to reimburse all expenditures that are unsupported by appropriate documentation or found to be



unallowable under the grant. Depending upon the severity of noncompliance with allowable cost principles, additional sanctions may be imposed, up to and including termination of the grant and refund of all unallowable costs.

In addition, failure to submit the expenditure reports according to the required reporting dates could cause the grantee to be identified as high risk and could result in additional sanctions. (See *Part VIII. Monitoring, B. TEA Monitoring, Identification as a High-Risk Grantee* in this manual.)

### **Refunds Due to TEA**

If the final expenditure report indicates that a refund is due to TEA, within 30 days of notification that a refund is due, the District will submit a refund check to the following address:

Texas Education Agency—MSC  
P.O. Box 13717  
Austin TX 78711-3717

The District will write the name of the grant program and the NOGA ID number on the refund check and note the reason for the refund (e.g., due to an internal audit or an annual audit).

Failure to comply with the requirements for submitting a refund within 30 days will result in an enforcement action by TEA to withhold future payments. 2 CFR § 200.339

### **Grants from Other Awarding Agencies**

The District will submit expenditure reports to other awarding agencies in the time and manner requested by the agency. The District will comply with the cash management procedures described in the following section.

## **H. Federal Cash Management Policy/Procedures**

Generally, grantees receiving state and federal grants from TEA receive payment from TEA by reporting cumulative expenditures (by class/object code) and requesting payment in TEA's electronic Expenditure Reporting (ER) system. Specific expenditure reporting requirements are provided in TEA's [General and Fiscal Guidelines](#) that accompany each *Request for Application* (RFA) from TEA. These guidelines are updated regularly and must be consulted on a regular basis.

Payments through ER are deposited into the District's depository bank by the state comptroller's office within six to seven business days of the payment request (provided TEA receives any supporting documentation requested in a timely manner and there are no other complications with the automated system).

Two methods of payment are provided in federal regulations: *advance* and *reimbursement*. The District uses the [reimbursement] method for requesting grant payments from TEA and other awarding agencies.

### **Advance Method**

If the advance payment method is used, the District maintains

- *written procedures* that minimize the time elapsing between the transfer of funds and disbursement by the District, and
- *financial management systems* that meet the standards for fund control and accountability. 2 CFR § 200.305.

In accordance with federal requirements, advance payments are limited to the minimum amounts needed and are timed in accordance with the actual, immediate cash requirements of the District. The timing and the amount of advance payments is as close as is administratively feasible to the actual disbursements by the District. The District also makes timely payments to contractors.

To the extent the District receives advance payments of federal funds as described above, the District will expend (i.e., pay out) the federal funds on allowable expenditures within 3 business days (i.e., 72 hours) of receipt to avoid excess cash on hand and a refund due to TEA (see *Excess Cash on Hand* section below). (Please note that interest starts accruing upon *receipt* of funds. See *Interest Earned on Advances* section below.) Accordingly, the District will not have more cash on hand than is necessary to meet three days' cash needs. Therefore, the District requests cash no earlier than six working days before actual disbursement of funds and will request only that amount that has already been paid out or will be paid out within three business days once the payment is received from TEA.

The District ensures that it requests payment only for obligations incurred during the grant period and for goods and services that have been actually received. The District also verifies that it is not requesting payment for any costs that cannot be satisfactorily documented with appropriate source documentation.

Prior to each payment request, the Chief Financial Officer reviews the general ledger to determine the exact amount of cumulative expenditures to date and reviews and calculates the exact amount of payroll and/or other payables that will be paid out within three business days once the payment is received. The Chief Financial Officer verifies that legible, satisfactory source documentation is on file to support each cost included in the request for payment. Prior to the draw-down request, the [Chief Financial Officer title of position] reviews and verifies the accuracy of the amount to be requested. The [Chief Financial Officer title of position] logs into the ER

system to request payment and certifies that the expenditures are true and correct and that the payment received will be paid out within three business days of receipt in the District's depository account.

No later than three days after payment was requested, the [Bookkeeper] will verify that the payment was received in the District's depository account. The [Bookkeeper title of position] will notify the Chief Financial Officer that payment has been received and to immediately process said payroll or other payables. The Chief Financial Officer will verify all payments to ensure that no funds are being paid out for goods and services not actually received and to verify that all funds received for a particular payment are paid out and do not remain on deposit in the District's account.

In accordance with **2 CFR § 200.305(b)(6)** and Texas prompt payment guidelines, Nederland ISD ensures that contractors and service providers paid with federal funds are compensated **within 30 days** of receiving a **proper invoice** and verification that services or goods were received in accordance with contract terms. This practice supports timely cash management and maintains strong vendor relationships while ensuring compliance with federal requirements.

Advance payments are deposited and maintained in *insured* accounts whenever possible. In addition, the District maintains advance payments in *interest-bearing* accounts unless *any* of the following apply:

- The District receives less than \$250,000 in federal awards per year.
- The best available interest-bearing account would not reasonably be expected to earn interest in excess of \$500 per year on federal cash balances.
- The depository bank would require an average or minimum balance so high that it would not be feasible with the expected federal and non-federal resources.
- A foreign government or banking system prohibits or precludes interest-bearing accounts.
- An interest-bearing account is not readily accessible (for example, due to public or political unrest in a foreign country).

### Interest Earned on Advances

The District will calculate interest earned on cash advances upon *receipt* of advance payments and will remit interest as specified below. Any interest earned on those funds while on deposit in the District's bank account after receipt and before disbursement will be included in the interest-earned calculation. Total federal grant cash balances will be calculated on cash balances per grant and applying the District's [actual] interest rate.

Annually, the District will remit interest earned on U.S. Department of Education grants to the U.S. Department of Health and Human Services Payment Management System (PMS) as specified below. As permitted in the regulations, the District will retain up to \$500 per year for administrative expenses.

The district shall not maintain grant funds in a separate bank account. The district has not elected to draw down federal grant funds under the advanced cash reimbursement program guidelines, i.e. after the delivery of the payment to the payee. Bank account interest shall not be earned, recorded, nor returned to the granting agency as a result of the cash reimbursement program.

### **Remitting Interest**

**[Watch for further details/information from TEA about remission of interest. You may need to revise the following language depending on the information provided by TEA. The following information is taken from 2 CFR § 200.305(b)(9)-(11).]**

Payment of interest will be through an electronic medium using either Automated Clearing House (ACH) network or a Fedwire Funds Service payment.

Returns should follow the instructions provided by the Federal agency. All returns to PMS should follow the instructions provided at <https://pms.psc.gov/grant-recipients/returning-funds-interest.html>.

When returning funds or interest to PMS the District includes the following information on the return, as applicable:

#### **For ACH Returns:**

Routing Number: 051036706

Account number: 303000

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

#### **For Fedwire Returns\*:**

Routing Number: 021030004

Account number: 75010501

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

\* Please note that the organization initiating payment is likely to incur a charge from their Financial Institution for this type of payment.

**For recipients that do not have electronic remittance capability, please make check\*\* payable to:**

The Department of Health and Human Services

Mail Check to Treasury approved lockbox:

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

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

Questions can be directed to PMS at 877-614-5533 or PMSSupport@psc.hhs.gov.

### **Excess Cash on Hand**

In addition to remitting interest per the preceding instructions, per TEA's policy (TEA's [General and Fiscal Guidelines](#), Return of Interest Earned from Excess Cash on Hand), any funds that are not paid out within three business days of *receipt* of funds are considered *excess cash on hand*, which must be returned to TEA immediately as a refund. Refunds that are a result of excess cash will be sent to the following address:

Texas Education Agency—MSC

P. O. Box 13717

Austin TX 78711-3717

Per instructions from TEA, the District will write the name of the grant program and the NOGA ID number on the refund check. The refund will be credited to the NOGA ID from which the excess funds were drawn down.

Upon receipt of a TEA Preliminary SAMP report, the shall review the report and submit any additional information to TEA within 10 days of the report. If the results of a TEA Special Allotments Monitoring Program report indicate that the district did not over a period of three (3) fiscal years, utilize the state allotment program funds in accordance with TEC, TAC or TEA guidelines, the State and Federal Grant Writer shall develop a Corrective Action Plan. If the Corrective Action Plan indicates that the district must return state allotment program funds to TEA, the funds shall be submitted to TEA within the allotted time period. If the Corrective Action Plan indicates that the district shall correct operational procedures related to the budgeting and expensing of state allotment program funds, the State and Federal Grant Writer shall draft and implement the operational procedures.

### **Reimbursement Method**

Under the reimbursement method, the District initially charges federal grant expenditures to nonfederal funds and makes appropriate journal entries to charge the federal grant once

payment is received. All reimbursements are based on actual disbursements (i.e., payments already made), not on obligations.

The District Chief Financial Officer will request reimbursement for actual expenditures incurred under the federal grants [semi-monthly] or as specified by TEA or other awarding agency through TEA's ER System (described above) or through other awarding agency's system, such as the Department of Education's G5 system, for direct grants. When using this method, the District will only request *reimbursement* for funds actually already paid out.

Reimbursements of *actual expenditures* do not require interest calculations as detailed in the *Advance Method* section.

### **Noncompliance with Cash Management Requirements**

Pursuant to the provisions of 2 CFR § 200.339, grantees that fail to comply with cash management requirements, including the repayment of interest earned, may be subject to the following special conditions or enforcement actions:

- Identification as a high-risk grantee, pursuant to the provisions of 2 CFR § 3474.10 and 2 CFR § 200.208, which may involve the imposition of special conditions and being placed on reimbursement basis only (District would not be able to draw down its own funds in the ER system without first submitting supporting documentation for expenditures)
- Temporarily withholding payments until the District takes corrective action
- Disallowing all or part of an activity associated with the noncompliance
- Suspension or termination of the award, in part or in its entirety
- Withholding further awards for future grants from TEA
- Debarment or suspension from receiving any future federal funds from any entity
- Other remedies that may be legally available

### **I. Program Income**

#### **Definition**

*Program income* means gross income earned by the District that is directly generated by a supported activity or earned as a result of the federal award during the grant's period of performance. 2 CFR § 200.1.

*Program income* includes, but is not limited to:

- income from fees for services performed

- the use or rental of real or personal property acquired under federal awards
- the sale of commodities or items fabricated under a federal award (costs to purchase or fabricate items must be allowable under the grant and the activities must be appropriate for the grant program)
- license fees and royalties on patents and copyrights
- principal and interest on loans made with federal award funds

Interest earned on advances of federal funds is *not* program income. Except as otherwise provided in federal statutes, regulations, or the terms and conditions of the federal award, program income does *not* include rebates, credits, discounts, and interest earned on any of these. 2 CFR § 200.1. Additionally, taxes, special assessments, levies, fines, and other such revenues raised by the District are *not* program income unless the revenues are specifically identified in the federal award or federal awarding agency regulations as program income. Finally, proceeds from the sale of real property, equipment, or supplies are *not* program income. 2 CFR § 200.307

The District will describe in the applicable grant application any program income it wishes to earn, including a description of the activity(ies) that will be conducted to earn program income and how the activity(ies) will further the objectives of the grant program. The Chief Financial Officer will make the final determination if the activity that is proposed to generate program income is suitable for the program and whether it is permissible to proceed with requesting it in the application.

### **Use of Program Income**

*Deduction Method:* Per federal regulations, the default method for the use of program income for the District is the *deduction* method. 2 CFR § 200.307(b). Under the *deduction* method, program income is *deducted* from *total* allowable costs to determine the *net* allowable costs. Thus, prior to submitting the expenditure report, the amount of program income must be deducted from total expenditures. Program income will only be used for current costs unless the District is otherwise directed by TEA or other awarding agency. 2 CFR § 200.305(b)(2)(ii)(5).

*Addition Method:* The District may also request written prior approval from the TEA Chief Grants Administrator (or other awarding agency) to use the *addition* method. Under the *addition* method, program income may be *added* to the Federal award. The program income must then be used for the purposes and under the conditions of the Federal award. 2 CFR § 200.307(e)(2)

While the *deduction* method is the default method, the District always refers to the NOGA/GAN prior to determining the appropriate use of program income. If the NOGA/GAN does not address the use of program income or does not authorize districts to use the *addition* method, the District

must determine if it needs to request authorization from TEA or other awarding agency to apply the *addition* method if it is in the best interest of the District.

The district does not plan to generate any program income as part of a federal grant award. Federal regulations (CFR 200.307) allow the district to generate program income to offset federal grant award costs. Income earned, if any, must be expended in accordance with the grant requirements.

In the event that the district opts to generate program income as part of a federal grant award in the future, all recommendations for program income activities, shall be reviewed and approved by the Grant Manager and the Chief Financial Officer.

If program income activities are approved, the Grant Manager over the activities shall ensure that the costs of generating the program income are not federal grant funds, are nominal in cost, are offset from the program income, and meet all of the federal requirements. The TEA Division of Grant Administration [Request to Add Program Income to Federal or State Grant Award and Expansion Delivery of Programmatic Services Form](#) shall be used to request authorization to use any program income to support a state or federal grant.

The district shall not retain any program income earned through a federal grant program.

### **Reporting Program Income**

If the District earns any program income, all program income will be reported on the expenditure report, even when the District has been given permission in the application to retain the program income and add it to the grant funds.

### **Earning Program Income after the Grant Period**

Per 2 CFR § 200.307(f), there are no federal requirements governing the disposition of program income earned after the period of performance, unless specified in the terms of the award. Accordingly, after the ending date of a grant, the District is no longer required to report program income generated. For multi-year discretionary grant projects, this means at the end of the multi-year grant project.

## **III. Procurement System**



*Module 5* of TEA's [Financial Accountability System Resource Guide \(FASRG\)](#) outlines requirements and best practices related to the purchasing function. Reflecting state (and some federal) requirements for purchasing, *Module 5* is based on statutes containing requirements for districts for competitive *purchasing/contracting processes* found in the *Texas Education Code*, *Local Government Code*, *Texas Government Code*, *Texas Revised Civil Statutes*, Texas Attorney General Opinions, federal regulations and other sources.

According to *Section 271.003(9), Local Government Code*, "school district" means an independent school district, common school district, community college district, junior college district or regional college district organized under the laws of this state. Therefore, the District is required to comply with all requirements outlined in *Module 3* and in state law.

In accordance with TEA's *purchasing policy* established in *Module 3*, the District's objective is to purchase the best products, materials, and services at the lowest practical prices within relevant statutes and policies. It is important to acquire goods and services for the best price through fair and open competition to protect the interest of the local, state, and federal government while still maintaining the desired quality and minimizing exposure to misuse of funds.

Also in accordance with *Module 5*, the District's administrative *procedures* pertaining to purchasing goods and services shall reflect *quality assurance* and *quality control*, including an analysis of products provided through the procurement process, a review of services provided, and a review of vendor performance. Additionally, the District's purchasing practices and procedures must comply with federal procurement standards, some of which are already incorporated into *Module 5*. It should be noted that some state requirements for purchasing are more restrictive than the federal requirements. Key state requirements that are more restrictive are noted in this section.

#### A. Conflict of Interest Requirements

Substantial state and federal requirements exist pertaining to standards of conduct and conflict of interest. It is the intent of the District for all employees, officers, or agents to conduct all activities associated with procurements in compliance with the highest ethical standards, including the avoidance of any *real or perceived conflict of interest*. It is also the intent of the District to impose appropriate sanctions or disciplinary actions, including but not limited to termination and/or prosecution, for any employees or officers who violate any of these requirements.

## Standards of Conduct

### *State Requirements*

According to *FASRG Module 5*, it is a serious breach of the public trust to subvert the public purchasing process by directing purchases to certain favored vendors, or to tamper with the purchasing process, whether it is done for kickbacks, friendship or any other reason. State law relating to violation of purchasing requirements imposes upon violators certain criminal penalties, which are found in *Section 44.032, Texas Education Code, and Chapter 271.029, Local Government Code*.

The following common standards of ethics shall govern the conduct of District employees involved in the purchasing function:

1. It is a breach of ethics to attempt to realize personal gain through public employment with a school district by any conduct inconsistent with the proper discharge of the employee's duties.
2. It is a breach of ethics to attempt to influence any public employee of a school district to breach the standards of ethical conduct set forth in this code.
3. It is a breach of ethics for any employee of a school district to participate directly or indirectly in a procurement when the employee knows that:
  - The employee or any member of the employee's immediate family has a financial interest pertaining to the procurement;
  - A business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement; or
  - Any other person, business or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.
4. **Gratuities:** It is a breach of ethics to offer, give or agree to give any employee or former employee of a school district, or for any employee or former employee of a school district to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement or a contract or subcontract, or to any

solicitation or proposal therefore pending before this government. Acceptance of gratuities may be construed as a criminal offense.

5. In addition, Texas law makes a gift (an item valued at \$50 or more, cash of any amount, or a negotiable instrument of any value) to a public employee a Class A misdemeanor if the employee is someone who exercises some influence in the purchasing process of the governmental body. (*Texas Penal Code*, 36.09[d] and [h]).

All district employees are prohibited from soliciting gifts or tokens from vendors or other parties who are affected by (or have an interest in) a federal grant award.

In addition, all district employees are prohibited from accepting *unsolicited* gifts or tokens from vendors or other parties who are affected by (or have an interest in) a federal grant award that exceed an nominal (individual) value of \$25 [IRS business gift limit] and an aggregate value of \$100 [or current Conflict of Interest limit, whichever is less] in a fiscal year. The unsolicited gifts or tokens may be a nominal meal, vendor promotional items, calendars, or other nominal value items not specifically excluded below:

Items prohibited at a public elementary and secondary schools such as drugs, tobacco or alcohol products

District employees who violate this administrative directive shall be subject to disciplinary action, up to and including termination of employment with the district. Violations that exceed the federal Conflict of Interest thresholds shall be reported to the federal granting agency and/or pass-through entity by the Superintendent.

6. Kickbacks: It is a breach of ethics for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract of a school district, or any person associated therewith, as an inducement for the award of a subcontract or order.
7. Contract Clause: The prohibition against gratuities and kickbacks prescribed above should be conspicuously set forth in every contract and solicitation therefore.
8. It is a breach of ethics for any employee or former employee of a school district knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated gain of any person.

*Local Government Code, Chapter 176* provides information regarding conflict of interest statements to be filed by vendors and certain school district employees. Refer to the [Texas Ethics Commission website](#) for additional information and sample forms.

### *Federal Requirements*

In addition to the state requirements pertaining to standards of conduct and avoiding conflict of interest, in accordance with 2 CFR § 200.318(c)(1), the District's standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of federal contracts include the following federal standards.

No employee, officer, agent, or board member may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a *real or apparent* conflict of interest. Such a conflict of interest would arise when the employee, officer, agent, board member, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

The officers, employees, agents, and board members of the District may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts, unless the gift is an unsolicited item of nominal value. (See state requirements above pertaining to defining "nominal value.")

The District shall comply with all General Provisions of EDGAR (Subpart B). Specific areas of compliance are noted below:

### **Federal Regulations (EDGAR)**

1. The district shall execute an organizational conflict of interest disclosure (signed by the Superintendent) only if the district enters into a relationship with an outside entity as described in the EDGAR organizational conflict regulations. [2 CFR 200.318(c)(2)] At this time, the district has no such relationships. [Note. EDGAR requires that if a non-Federal entity has a parent, affiliate, or subsidiary organization (that is not a state, local government, or Indian tribe), the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest.]
2. The district has developed a Purchasing Conflict of Interest Form to be used to disclose employee conflicts related to purchasing, contract management or other expenditure

of federal grant funds. [EDGAR requires that employees engaged in the selection, award and administration of contracts disclose conflicts to the district.] 2 CFR 200.318(c)(1)]

### **State Regulations (State Law)**

The District has established conflict of interest policies [School Board Policy BBFA, CAA, CB, CBB and DBD).

1. School Board Policy DBD Legal states: A local government officer (defined as the School Board and Superintendent) shall file a conflicts disclosure statement with respect to a vendor if the vendor enters into a contract with the district or the district is considering entering into a contract with the vendor and the officer has a conflict of interest or has accepted gifts in excess of \$100 in the aggregate in a 12-month period.
2. School Board Policy DBD Legal states: The Superintendent shall file an affidavit with the Board President disclosing a substantial interest, as defined by Local Government Code 171.002, in any business or real property that the Superintendent or any of his or her relatives in the first degree may have.

### **Local Regulations (Local Board Policy and/or Procedures)**

1. School Board Policy CB Local states: Each employee, board member or agent of the district who is engaged in the selection, award or administration of a contract supported by a federal grant or award and who has a potential conflict of interest as defined at Code of Federal Regulations, Title 2, section 200.318, shall disclose to the district, in writing, any conflict that meets the disclosure threshold in Chapter 176 of the Local Government Code. In addition, each employee, board member or agent of the district shall comply with any other conflict of interest requirements imposed by the granting agency or a pass-through entity.
2. School Board Policy DBD Local states: Any other employee who is in a position to affect a financial decision involving any business entity or real property in which the employee has a substantial interest, as defined by Local Government Code 171.002, shall file an affidavit with the Superintendent; however, the employee shall not be required to file an affidavit for the substantial interest of a relative.

### **Other Conflict of Interest Requirements**

1. The district shall comply with all additional conflict of interest requirements required by the federal granting agency and/or the pass-through entity (TEA).

- a. The District shall disclose in writing to the granting agency and/or pass-through entities any potential conflict of interest concerning the expenditure of federal or state grant funds. The TEA Division of Grants Administration Conflict of Interest Disclosure Form shall be used to disclose the potential conflict.
- b. The District shall disclose in writing to the granting agency and/or pass-through entities any violations of federal criminal law including fraud, bribery, or gratuity violations affecting a federal grant award. Upon detection of any fraud, abuse or waste with federal grant funds, the District shall promptly notify the proper legal authorities and pursue appropriate criminal and/or civil actions. The TEA Division of Grants Administration Conflict of Interest Disclosure Form shall be used to disclose the violation(s).
- c. The Chief Financial Officer shall be responsible for overseeing, reporting, and documenting any fraud, abuse, or waste of federal grant funds.
- d. The Superintendent shall be responsible for completing the Certification Statement on the TEA Division of Grants Administration Conflict of Interest Forms.
- e. The District shall reclassify fraudulent expenditures made with federal grant awards to local district funds, i.e. the General Fund on a temporary basis and shall seek to recover the funds for fraudulent expenditures from the individual(s) perpetrating the fraud.

#### Conflict of Interest Forms:

##### Nederland ISD Purchasing Conflict of Interest Form

- [Conflict of Interest Disclosure \(CIS\)](#) – Texas Ethics Commission
- [Conflict of Interest Disclosure Form](#) - TEA Division of Grants Administration
- [Mandatory Disclosure Form](#) - TEA Division of Grants Administration

#### Disciplinary Actions

The District will impose appropriate sanctions or disciplinary actions, including but not limited to termination and/or prosecution, for any employee or officer who violates any of these requirements related to standards of conduct and conflict of interest. 2 CFR § 200.318(c)(1)

District employees who violate this administrative directive shall be subject to disciplinary action, up to and including termination of employment with the district. Violations that exceed the

federal Conflict of Interest thresholds shall be reported to the federal granting agency and/or pass-through entity by the Superintendent.

### **Mandatory Disclosure**

The District will promptly disclose in writing to TEA within 72 hours, the federal awarding agency, and the agency's Office of Inspector General whenever it has credible evidence of the commission of a violation of federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations under Title 18 or Civil False Claims Act (31 U.S.C. 3729–3733). Failure to report can result in remedies for noncompliance per 2 C.F.R. § 200.339.

- Includes both criminal and civil false claims actions
- Must be made in writing to the Federal agency, the agency's Office of Inspector General, and the pass-through entity (if applicable)
- Also required to report matters to recipient integrity and performance (i.e. SAM and FAPIIS)
- Includes any activities or subawards in connection with the Federal award.

### **B. Full and Open Competition**

All procurement transactions paid with federal funds are conducted in a manner that provides *full and open competition* consistent with 2 CFR § 200.319 and 200.320. In an environment of full and open competition, no proposer or bidder has a competitive advantage over another. All potential proposers and bidders must be provided the same information and have the same opportunity to submit a bid or proposal. Providing a competitive advantage to one or more potential proposers or bidders over another can open up the potential for disputes and lawsuits that can be costly and can significantly delay the completion of projects.

In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals (RFPs) are excluded from competing on those procurements. The District does not engage in the following situations that may restrict *full and open competition*, including but not limited to:

- placing unreasonable requirements on firms in order for them to qualify to do business;
- Prequalified lists must not preclude potential bidders from qualifying (200.319(e));
- requiring unnecessary experience and excessive bonding;
- noncompetitive pricing practices between firms or between affiliated companies;
- noncompetitive contracts to consultants that are on retainer contracts;
- organizational conflicts of interest;

- specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
- any arbitrary action in the procurement process. 2 CFR § 200.319(a)

See Nederland ISD Board Policy: [Board Policy CH- Purchasing and Acquisition](#)

The District also complies with the following requirements in 2 CFR 200 to ensure full and open competition when purchasing with federal funds.

### **Domestic Preferences for Procurement**

The District should, to the greatest extent practicable and consistent with law, provides a preference for the purchase, or acquisition, of goods and products produced in the United States. The District includes this preference in all contracts and purchase orders for work or products using federal funds. 2 CFR § 200.322.

### **Prohibition on Certain Telecommunications Companies**

The District will not procure, enter into a contract to procure, or extend or renew a contract to procure covered telecommunications and video surveillance equipment or services described in Public Law 115-232, section 889. In accordance with 2 CFR § 200.216, the District is prohibited from obligating or expending grant funds to procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract with the following covered telecommunications equipment or services providers: Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, and Dahua Technology Company, or any subsidiary or affiliate of such entities. To meet this requirement, Chief Financial Officer will check [www.sam.gov](http://www.sam.gov) to ensure the vendor is not excluded for this reason. See *OMB 2 CFR Frequently Asked Questions*, Q-47 [https://www.cfo.gov/assets/files/2CFR-FrequentlyAskedQuestions\\_2021050321.pdf](https://www.cfo.gov/assets/files/2CFR-FrequentlyAskedQuestions_2021050321.pdf)

### **Never Contract with the Enemy**

The District complies with the regulations implementing Never Contract with the Enemy in 2 CFR part 183 prohibiting contracts, grants and cooperative agreements that exceed \$50,000, are performed outside the U.S. and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities. 2 CFR § 200.215.

### **Contracting with Small, Minority, Women’s, or Veteran-Owned Businesses**



When possible, Nederland ISD will consider small businesses, minority businesses, women's businesses, veteran-owned businesses, and labor surplus area firms. Consideration means:

- Including these businesses on solicitation lists
- Soliciting whenever deemed eligible as potential sources
- Dividing separate procurements and establishing delivery schedules to permit maximum participation
- Use orgs like the Small Business Administration and the Minority Business Development Agency of the Department of Commerce
- Requiring contractors under a federal award to apply these conditions to subcontracts

### **Prequalified Lists**

The District ensures that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. 2 CFR § 200.319(e). The District accomplishes this by conducting internet searches, including using [vendor searches available through the Texas Comptroller of Public Accounts](#), and by using other less technologically-advanced tools to locate and identify potential contractors such as newspaper legal listings and posting on the district web page. Also, the District will not preclude potential bidders from qualifying during the solicitation period. The district purchasing agent is responsible for reviewing prequalified lists and determining if they include an adequate number of qualified sources.

### **Solicitation Language**

All solicitations will incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description will not, in competitive procurements, contain features which unduly restrict competition. The description will include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, will set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications will be avoided if at all possible.

When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description of features may be used to provide procurement requirements. The specific features of the named brand will be clearly stated and will identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals. 2 CFR § 200.319(d)(1)-(2).

Bids will be evaluated, ranked, and a recommendation for award made to the School Board at a regularly scheduled board meeting.

If no bidder is recommended, the district shall reject all bids and evaluate whether to modify the bid specifications to initiate a new bid process

### **C. Federal Procurement System Standards**

In addition to avoiding conflicts of interest and ensuring full and open competition as described above, the District's written procurement procedures for purchases made with federal funds reflect applicable state and local laws and regulations and conform to the following *federal* standards for procuring goods and services with federal funds. 2 CFR § 200.318

#### **Avoiding Acquisition of Unnecessary or Duplicative Items**

The District avoids the acquisition of unnecessary or duplicative items. Additionally, the District considers consolidating or breaking out procurements to obtain a more economical purchase. And, where appropriate, the District makes an analysis of leasing and purchasing property or equipment to determine the most economical approach. 2 CFR § 200.318(d)

These considerations are given as part of the process to determine the allowability of each purchase made with federal funds. See *II. Financial Management Standards, E. Expending Grant Funds, Determining Allowability of Costs*, for written procedures on determining allowability.

#### **Use of Intergovernmental Agreements**

When appropriate for the procurement or use of common or shared goods and services, the District is encouraged to enter into state and local intergovernmental agreements for procurement transactions. These or similar procurement arrangements using strategic sourcing may foster greater economy. Documented procurement actions of this type (using strategic sourcing, shared services, and other similar procurement arrangements) will meet the competition requirements of the UGG. Cooperative purchasing is described in section 1.3.1.2 of *Module 1 (FAR)*.

The district is currently participating in the following cooperative purchasing programs:

- TASB Buy Board
- ESC 19- Allied State Co-Op
- ESC 20 – (PACE) Co-Op
- Harris County – Choice Partners Co-Op
- Houston Galveston Purchasing Co-Op
- ESC 8 – Inter-local Purchasing System (TIPS)
- ESC 5 – Southeast Texas Purchasing Co-Op
- ESC 10 – Equalis Group
- Central Texas Purchasing Alliance (CTPA)

- State of Texas Purchasing Program Co-Op (TX Smart Buy)
- Sourcewell Co-Op
- US Communities Government Purchasing Alliance (Omnia Partners)

### **Use of Federal Excess and Surplus Property and Procurement of Recovered Materials**

The District considers the use of federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs. 2 CFR § 200.318(f).

The district administrators and directors will determine if any excess or surplus property that was purchased with federal funds is available for use prior to purchasing new equipment or property. The superintendent will be consulted before making the final determination that excess or surplus property will be used instead of purchasing new equipment or property.

*Procurement of Recovered Materials:* In addition, the District complies with section [6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act](#). 2 CFR § 200.323. The requirements of section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR Part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The requirements apply to state and local governments, including school districts, and include the purchase of everyday items such as paper products, non-paper office products, office furniture, floor mats, and awards and plaques, as well as many other items, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000. Requirements also include

- procuring solid waste management services in a manner that maximizes energy and resource recovery and
- establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Pursuant to section 6002, the decision *not* to procure recovered materials must be based on a determination that such procurement items—

- A. are not reasonably available within a reasonable period of time;
- B. fail to meet the performance standards set forth in the applicable specifications or fail to meet the reasonable performance standards of the District; or
- C. are only available at an unreasonable price. Any determination under subparagraph (B) shall be made on the basis of the guidelines of the Bureau of Standards in any case in which the material is covered by the guidelines.

The district shall comply with the federal regulations related to the procurement of recovered materials [2 CFR 200.323] and the Solid Waste Disposal Act.

For all purchases that exceed the Simplified Acquisition Threshold of \$250,000, the district shall perform a cost or price analysis with every procurement [2 CFR 200.324]. Secondly, all purchases that exceed this threshold shall comply with federal bonding requirements such as [2 CFR 200.326]:

- Bid guarantee from each bidder of five percent (5%) of the contract price
- Performance bond on the part of the contractor for 100% of the contract price
- Payment bond on the part of the contractor for 100% of the contract price

The Chief Financial Officer shall be responsible to ensure that all purchases above this threshold are guaranteed with the appropriate bid guarantee, performance bond and payment bond.

All contracts shall contain the applicable provisions described in 2 CFR 200 Appendix II [2 CFR 200.327]. In addition, all contracts for services and/or goods purchased with federal grant funds shall be subjected to the same review and approval process as all other district contracts. The Contract Procedures and Contract Review Checklist are applicable to all federally funded contracts.

The district shall retain all records related to the procurement of goods and services in accordance with federal, state and local requirements. In addition, all procurement records shall be available for inspection and/or audit during the life of the records. The district shall maintain all procurement records for five (5) years in accordance with the district's Local Records Retention Schedule.

### **Awarding Contracts to Responsible Contractors**

The District must award contracts only to responsible contractors that possess the ability to perform successfully under the terms and conditions of a proposed contract.

The District considers:

- Contractor integrity
- Public policy compliance
- Proper classification of employees (see FLSA)
- Past performance record
- Financial and technical resources

The District may develop written procedures for procurement transactions that incorporate a scoring mechanism that rewards bidders that commit to specific numbers and types of U.S. jobs, minimum compensation, benefits, on-the-job-training for employees making work or products providing services on a contract, and other worker protections. Any scoring mechanism must be consistent with the U.S. Constitution, applicable Federal statutes and regulations, and the terms and conditions of the Federal award.

The District will check references where possible and engage in practical activities such as checking with the local Better Business Bureau and the Texas Attorney General's office to ensure there are no outstanding complaints against the contractor.

The District will award a contract to a contractor who has the appropriate experience, expertise, qualifications, and any required certifications, necessary to perform the work. Contractors should also have the financial resources to sustain the project while the initial work is being completed and during each service period until he or she submits invoices for payment to the District as work is completed (for example, at the end of each month). Contractors should have the proper equipment or the capability to subcontract for the proper equipment necessary to complete the contracted work. For example, if the contractor is to develop curriculum guidelines on a computer, the contractor should already have his or her own computer with the appropriate software.

*Debarment and Suspension:* The District will not subcontract with or award subgrants to any person or company who is debarred or suspended from receiving federal funds. The District is required to ensure all contracts over \$25,000 are not made to suspended or debarred vendors. 2 CFR § 200.214; 2 CFR Part 180; 2 CFR Part 3485. Accordingly, for all contracts over \$25,000 [Purchasing office ] will ensure this is met by either

- a. Checking SAM at <http://www.sam.gov/>; or
- b. Collecting a certification from that person; or
- c. Adding a clause or condition to the covered transaction with that person. 2 CFR § 3485.310; 2 CFR § 180.300.

A copy of the certification Form shall be maintained with the contract and/or purchase order for audit purposes. The finance department [purchasing] shall monitor ongoing contracts to verify the contractor's compliance with the debarment, suspension, ineligibility and voluntary exclusion provisions. In the event that a vendor is suspended or debarred during a contract, the district shall continue the contract in force until the contract lapses. The contract term shall not include any extensions to the original term of the contract.

### *State Rules for Selecting Vendors*

In addition to federal standards for making awards only to responsible contractors, TEC § 44.031 establishes nine criteria that school districts must use in determining contract awards to vendors, whether using state, local, or federal funds. All nine criteria must be considered *unless federal law prohibits it or is more restrictive as noted below*. These criteria are as follows:

- (1) the purchase price
- (2) the reputation of the vendor and of the vendor's goods or services
- (3) the quality of the vendor's goods or services
- (4) the extent to which the goods or services meet the district's needs
- (5) the vendor's past relationship with the district
- (6) the impact on the ability of the district to comply with laws and rules relating to historically underutilized businesses
- (7) the total long-term cost to the district to acquire the vendor's goods or services
- (8) for a contract for goods and services, other than goods and services related to telecommunications and information services, building construction and maintenance, or instructional materials, whether the vendor or the vendor's ultimate parent company or majority owner:
  - (A) has its principal place of business in this state; or
  - (B) employs at least 500 persons in this state

(**Note:** Federal requirements prohibit geographic preference when purchasing with federal funds. Therefore, *this requirement cannot be used to select a contractor when the purchase is made with federal funds.*)
- (9) any other relevant factor specifically listed in the request for bids or proposals. Factors that a school district may consider under this criteria would include vendor response time and compatibility of goods/products purchased with those already in use in the district.

### **Contract Provisions**

In all federally-funded contracts, the District includes the applicable provisions described in [Appendix II to 2 CFR Part 200 – Contract Provisions for non-Federal Entity Contracts under Federal Awards](#). 2 CFR § 200.327. Provisions include the following:

1. All contracts paid from state or federal grants administered by TEA must retain copyright for the Texas Education Agency (TEA) and for the federal government (if a federally funded contract) unless otherwise negotiated in writing with TEA. Pursuant to the provisions in 2 CFR § 200.315, title to intangible property vests in the District as long as such property is used for authorized purposes. However, TEA and the federal awarding

- agency reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for federal purposes, and to authorize others to do so.
2. All contracts greater than \$250,000 must address administrative, contractual, or legal remedies.
  3. All contracts greater than \$10,000 must address termination for cause and for convenience.
  4. All construction contracts must include the Equal Employment Opportunity clause.
  5. All prime construction contracts in excess of \$2,000 must include a provision for compliance with the Davis-Bacon Act and its implementing regulations.
  6. All contracts in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with the Contract Work Hours and Safety Standards Act and its implementing regulations.
  7. All contracts that meet the definition of “funding agreement” and where the District wishes to enter into a contract with a small business firm or nonprofit organization must include a provision for compliance with the Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements.
  8. All contracts and subgrants greater than \$150,000 must contain a provision for compliance with the Clean Air Act and the Federal Water Pollution Control Act and their implementing regulations.
  9. All contracts must include compliance with the Energy Policy and Conservation Act pertaining to mandatory standards and policies relating to energy efficiency contained in the state energy conservation plan.
  10. A contract or subcontract must not be made to any party that is debarred or suspended from receiving federal funds.
  11. Lobbying Certification and Disclosure of Lobbying (Byrd Anti-Lobbying Amendment) – All contractors that apply or bid for an award of \$100,000 or more must file the required Lobbying Certification that it has not and will not use any federal funds to lobby. If *non*-federal funds are used to lobby, the contractor must complete the Disclosure of Lobbying and forward the disclosure to the next tier, who must forward it through each tier to the federal awarding agency.
  12. All contracts greater than \$10,000 must include compliance with section 6002 of the Solid Waste Disposal Act and its implementing regulations. 2 CFR § 200.322

The District also adheres to the best practices recommended by TEA as it pertains to professional services contracts paid from federal grants. See *III. Procurement System, G. Contract Administration*.

## Maintenance of Procurement Records

Per *Module 5* of FASRG, “accurate record-keeping and documentation should be a fundamental element of the procurement process. Precise and systematic record-keeping and records management withstands the constant scrutiny of various interest groups including vendors, the general public, and outside agencies as well as internal groups which are the users or customers of the purchasing system. This records management function should support the school district's overall information management plan described in the Data Collection and Reporting module and generally provide for:

- Both the *flow and retention of forms* including requisitions, purchase orders, petty cash and cash reimbursement receipts.
- *Full documentation of all competitive procurements* with comprehensive competitive procurement files containing specifications, competitive procurement advertisement, pre-competitive procurement conference minutes (as appropriate), competitive procurements submitted, competitive procurement tabulation, board minutes indicating competitive procurement awards (or a similar award notice) and related records.
- *Full documentation of procurement procedures* utilized to obtain goods and services through competitive sealed proposals, design/build contracts and other procurement options.
- *Documentation of price quotations* obtained when purchasing with federal funds.

The records management function may rely on electronic formats including automated systems, diskettes, CD-ROM, imaging and microfiche. Alternatively, it may use hard copy or a combination of methods.”

Therefore, the District will select the methods best suited to its needs.

In addition, in accordance with federal standards, the District maintains records sufficient to detail the history of all federal procurements, including but not necessarily limited to, the following:

- the method of procurement and the rationale for choosing that method (i.e., the reason the District chose procurement by micro-purchase, small purchase procedures, sealed bid, competitive proposals, or noncompetitive proposals)
- the type of contractual agreement or instrument used and rationale for using that type



- the process used to either select the contractor or to reject the contractor (what was the process and what were the factors considered in selecting or rejecting the contractor; this must be in writing)
- the basis used for determining the price of the contract (including a cost or price analysis), and
- verification that the contractor is not suspended or debarred. 2 CFR § 200.318(i)

Please see section *VII. Record Keeping* for more information on the District's records management policies.

The district shall maintain grant-related records in a combination of paper and electronic formats. The following records shall be maintained in format(s) specified below:

- Grant applications and grant award notifications (Paper and PDF files)
- Grant revenues and expenditures (eFinancePlus)
- Grant purchasing records (eFinancePlus, paper, PDF and Excel files)
- Grant expenditure draw-downs (reimbursements) (Paper, PDF, and Excel files)

In accordance with federal regulations, the district shall maintain the grant-related records in an open and machine-readable format. Specifically, the district shall use the following formats to store electronic data. [2CFR 200.335]

- Laserfiche
- Microsoft products such as Word, Excel, Access, etc.
- Financial Management System, eFinancePlus, HR, Assets, Purchasing, etc. modules

The Records Custodian for the financial records of the district is the Superintendent. All questions related to the retention, destruction, and/or addition of new record series shall be directed to the District's Records Management Officer (RMO), Chief Financial Officer.

### **Time-and-Materials Contracts**

Time-and-materials contracts are a hybrid of fixed-price and cost-reimbursement contracts. They present the highest risk to the government and the lowest risk to the contractor. Therefore, they are the *least* desirable for the federal or state government and are rarely awarded. 2 CFR § 200.318(j)

Time-and-materials type contract means a contract whose cost to the District is the sum of: the actual costs of materials, and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. In other words, the contractor is saying it will work until the task is completed, but it has no idea how long it will take, nor how much money it will cost. This obviously can be very cost prohibitive and can encourage fraudulent behavior by some unscrupulous contractors. Therefore, federal regulations permit the use of a time-and-materials contract only after a determination is made that no other contract is suitable and only if the contract includes a ceiling price that the contractor exceeds at its own risk. Further, the District must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

The District may use a time-and-materials type contract paid with federal funds in accordance with the above and *only* (1) after a determination that no other contract is suitable; and (2) if the contract includes a ceiling price that the contractor exceeds at its own risk.

The district shall implement the following strategies to maximize federal grant funds:

- Consolidation of purchases to obtain volume pricing, as appropriate
- Evaluate the cost efficiencies of leases versus purchases of equipment
- Utilize cooperative purchasing agreements, as appropriate, to obtain volume pricing (2 CFR 200.318(e))
- Utilize federal or state excess/surplus property supplies or equipment in lieu of purchasing new supplies or equipment, as appropriate (2 CFR 200.318(f))
- Utilizing value-engineering in construction projects to seek cost reductions (2 CFR 200.318(g))
- Develop vendor selection criteria to select the best vendor (2 CFR 200.318(h))
- Develop a tracking system of all informal and formal procurements (2 CFR 200.318(i))
- Avoid “time and materials” contracts if other alternatives exist (2 CFR 200.318(j)(1))
- Monitor vendor performance to ensure that the vendor provides the services and/or goods, as appropriate (2 CFR 200.318(k))
- Ensure that all contract and vendor disputes are resolved in the most advantageous manner
- Minimize the risk of jurisdictional issues by ensuring that all contracts would be litigated in a court within the county, city and/or state, as appropriate

### **Pre-Procurement Documents**

In accordance with 2 C.F.R. § 200.325, the District will make available upon request from [pass-through entity or federal awarding agency] all procurement documents for pre-procurement review, such as requests for proposals or invitations for bids, or independent cost estimates.

The District must submit the technical specifications of proposed procurements when requested by the Federal agency or pass-through entity.

### **Settlements of Issues Arising Out of Procurements**

The District alone is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements made with federal funds. 2 CFR § 200.318(k). These issues include, but are not limited to, source evaluation (i.e., analyzing information *sources* in order to assess their credibility), protests, disputes, and claims. These standards do not relieve the District of any contractual responsibilities under its contracts. Violations of law will be reported to the local, state, or federal authority having proper jurisdiction. The Chief Financial Officer and/or the Superintendent of the District is the primary office responsible for handling and coordinating the settlement of any contractual and administrative issues arising out of procurements.

### **Protest Procedures to Resolve Disputes**

The District maintains protest procedures to handle and resolve disputes relating to procurements made with federal funds and, in all instances, discloses information regarding the protest to TEA or other awarding agency. 2 CFR § 200.318(k). The protestor must exhaust all administrative remedies with the District before pursuing a protest with a federal agency. The [Chief Financial Officer and/or the Superintendent] in the District is the primary office responsible for handling and coordinating any disputes relating to procurements.

## **D. Responsibility for Purchasing**

The [Purchasing Agent and the Chief Financial Officer ] in the [Business Office ] is responsible for overseeing all procurements of the District. This includes development and revision of the policies and procedures related to the purchasing function, training staff in how to use and implement the policies and procedures, and monitoring for employee compliance with policies and procedures. It also includes reporting any potential or realized conflicts of interest to TEA and implementing the appropriate sanctions or disciplinary actions for employees who fail to comply with the policies and procedures.

## **E. Purchase Methods When Using Federal Funds**

### **State Requirement Related to Purchasing Methods**

In some situations, the federal requirements pertaining to purchasing methods are more restrictive than state of Texas requirements. In other situations, the state requirements are more restrictive than the federal requirements. Therefore, when determining the method that must be used in a particular purchasing situation, the more restrictive method or requirement must be used in each case. TEA has developed a [Side-by-Side Comparison of EDGAR and State Requirements for Procurements](#) to support in identifying the most restrictive method.

### **Micro-Purchases (Purchases up to \$10,000)**

Federal methods provide for procurement by *micro-purchase*. *Micro-purchase* is defined in 2 CFR § 200.320(a)(1) as the aggregate amount of the procurement transaction the micro purchase threshold defined in 2 CFR 200.1, currently set at \$10,000. The micro-purchase method is used in order to expedite the completion of its lowest-dollar small purchase transactions and minimize the associated administrative burden and cost.

In accordance with federal requirements, micro-purchases may be awarded without soliciting competitive price or rate quotations *if the District considers the price to be reasonable* based on research, experience, purchase history or other information and documents it files accordingly. Purchase cards can be used for micro-purchases if procedures are documented and approved by the non-federal entity. Also, when using federal funds, to the maximum extent practicable, the District should distribute micro-purchases equitably among qualified suppliers.

The Procurement by Micro-purchase may be the most frequently used method due to the frequent purchase of goods or services that are less than \$49,999 in the aggregate, as defined in CFR 200.1 and the granting agency. The district shall purchase goods and services under this method from among qualified vendors, but will not competitively procure the micro-purchases, unless in the aggregate in a 12-month period (fiscal year), the district exceeds federal or state law thresholds [2 CFR 200.320 (a)], or the district's threshold in Board Policy CH Legal or Local.

The finance/purchasing department shall distribute micro-purchases equitably among qualified vendors to the maximum extent possible and shall ensure that the price is reasonable.

Under 2 CFR § 200.320(a)(1)(iv), the District may increase its micro-purchase threshold up to \$50,000 through yearly self-certification. Texas self-certification threshold is set at \$49,999. Self-certification from the District includes justification and identification of the increased threshold and supporting documentation of any of the following:

1. The District is a low-risk auditee for the most recent audit in accordance with 2 CFR § 200.520

2. The District receives an annual internal institutional risk assessment that identifies, mitigates, and manages financial risks; or
3. The increased threshold is consistent with state law.

The district's Board Policy CH Local has a \$50,000 threshold for Board approval of purchases. The district has elected to self-certify a threshold up to \$49,999 in accordance with Texas law (TEA 44.031). The Chief Financial Officer shall complete the Self-Certification of Increased Micro-purchase threshold Form on an annual basis at least 30 days prior to the start of each fiscal year.

Under 2 CFR § 200.320(a)(1)(v), the District may increase its micro-purchase threshold up to \$50,000 with approval from the cognizant agency for indirect costs after submitting documentation that demonstrates that the District is a low-risk auditee or that it receives an annual internal institutional risk assessment.

#### **Simplified Acquisition Procedures (Purchases between \$10,000 and \$49,999 in the Aggregate)**

The *federal* threshold for *simplified acquisitions* is \$250,000. 2 CFR § 200.320(a)(2). However, with some exceptions noted in TEC § 44.031, the *state* threshold for all school district contracts that do not require competitive bidding is less than \$50,000 in the aggregate. Therefore, the more restrictive *state* threshold of less than \$50,000 must be followed.

[Note for Charter Schools: The FASRG requirements are not applicable to charter schools unless the commissioner approved otherwise in the individual contract for charter. Generally, TEC § 12.1053 provisions do not significantly limit the contracting and purchasing activities of open-enrollment charter schools. The federal EDGAR requirements will, therefore, be more restrictive where FASRG does not apply and must in some instances be followed for all procurements under federal awards for charter schools. Therefore, a charter school that is not under FASRG requirements, would have a small purchase threshold of \$250,000 as stated in the federal requirements. If the charter school is under FASRG requirements, the small purchase threshold would be \$49,999 based on the state's more restrictive requirement.] *Simplified acquisition procedures* (as defined in 2 CFR § 200.320(a)(2)(i)). The acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the State small purchase threshold of \$49,999.

For purchases funded from *state or local funds*, to obtain the most competitive price, a district, *may* at its option, obtain price quotes for items costing less than \$50,000. Per FASRG *Module 5*, the district's purchasing procedures should clearly define the lower figure for which quotes are required and obtain and retain written verification of the prices quoted. Unlike the mandatory competitive procurement described for purchases over \$50,000, if an item to be paid from *state*

*or local funds* costs less than \$50,000, a district may utilize price quotations to stimulate competition and to attempt to receive the most favorable pricing.

If **NOT self-certified** at a higher micro-purchase threshold, and using *federal funds* to purchase goods or services, ***price or rate quotations must be obtained*** from an adequate number of qualified sources (as determined appropriate by the district) for **all purchases in the aggregate cost between \$10,000 and \$49,999**. Such price or rate quotations must be documented in writing, and the District must demonstrate that price or rate quotations were obtained from an adequate number of qualified sources.

If **self-certified at a higher micro-purchase threshold** and using *federal funds* to purchase goods or services in the aggregate cost between \$10,000 and up to \$49,999 (depending on the threshold of self-certification), the district **can follow the micro-purchase procedures or identify additional procedures**.

The Procurement by **Simplified Acquisition Procedures** shall be used by the district when the purchase of goods or services do not exceed \$250,000, the Simplified Acquisition Threshold (CFR 200.1). The purchasing department shall require written, emailed, or faxed quotations from at least three (3) qualified vendors for all small purchases, i.e. purchases that do not exceed \$50,000 [the state law threshold which requires a competitive procurement]. Note. The quotes can be from three (3) separate vendors within a qualified purchasing cooperative or different purchasing cooperatives to meet both the EDGAR and state law requirements for competitive procurement.

The district shall use a Small Purchase Quotation Form to document the quotations from vendors. A copy of the Small Purchase Quotation Form shall be filed with the appropriate purchase order. The Small Purchase Quotations shall be tabulated by the purchaser on a Quote Tabulation Form.

The district shall strive to obtain small purchases from qualified vendors under a Cooperative Purchasing Program [2 CFR 200.318 (e)]. Even though these cooperative purchasing programs have competitively procured the vendor contracts, the district shall compare the pricing among the vendors to select the best quality and price.

### **Competitive Procurement (\$50,000 or more)**

Unless otherwise more restrictive in federal law for procurement with federal funds, the District complies with the purchasing methods prescribed in TEA's FASRG and in state law for all purchases regardless of the funding source (i.e., state, local, or federal).

Texas Education Code § 44.031 (a) states that all school district contracts for the purchase of goods and services valued at **\$50,000 or more** in the aggregate, for each 12-month period are to

be made by the method that provides the best value to the district. This does not apply to contracts for the purchase of produce or vehicle fuel.

The law enumerates several options for competitive procurement that are available to school districts. One of these options must be used for contracts expected to equal or exceed \$50,000 regardless of the funding source (i.e., state, local, or federal):

- (1) competitive bidding for services other than construction services;
- (2) competitive sealed proposals for services other than construction services;
- (3) a request for proposals, for services other than construction services; (RFP)
- (4) an interlocal contract;
- (5) a method provided by Chapter 2269, Government Code, for construction services; (RFQ)
- (6) the reverse auction procedure as defined by Section 2155.062(d), Government Code; or
- (7) the formation of a political subdivision corporation under Section 304.001, Local Government Code.

[Note for Charter Schools: The FASRG requirements are not applicable to charter schools unless the commissioner approved otherwise in the individual contract for charter. Generally, TEC § 12.1053 provisions do not significantly limit the contracting and purchasing activities of open-enrollment charter schools. The federal EDGAR requirements will, therefore, be more restrictive where FASRG does not apply and must in some instances be followed for all procurements under federal awards for charter schools. Therefore, a charter school that is not under FASRG requirements, would have a small purchase threshold of \$250,000 as stated in the federal requirements. If the charter school is under FASRG requirements, the small purchase threshold would be \$49,999 based on the state's more restrictive requirement.]

### **Professional and Consulting Services**

Several exceptions to following one of these competitive procurement methods are identified in TEC § 44.031. This section does not apply to a contract for *professional services* rendered, including services of an architect, attorney, certified public accountant, or engineer (which must be selected in accordance with [Chapter 2254 of the Government Code](#).) A school district may, at its option, contract for professional services rendered by a *financial consultant* or a *technology consultant* in the manner provided by Section 2254.003, Government Code, in lieu of the methods provided by this section.

The federal cost principles (specifically in 2 CFR § 200.459) broadly define *professional and consultant services* as those services rendered by persons who are members of a particular profession or possess a special skill, and who are not officers or employees of the District.



*Professional services* are further defined in the [Budgeting Costs Guidance Handbook](#) as “Professional, consulting, and contracted services are those services delivered by an independent contractor (individual entity or firm) who is not on your organization’s payroll and who offers its services to the public. Such services are paid on a fee basis for specialized services that are usually considered to be temporary or short-term in nature, normally in areas that supplement the expertise of your organization.” Finally, professional services as described in Attorney General Opinion DM-418, are further defined in the [Budgeting Costs Guidance Handbook](#).

Certain *professional services*, specifically those covered under Chapter 2254, Subchapter A of the Texas Government Code, (i.e., architects, CPAs, registered engineers, optometrists, physicians, surgeons, land surveyors, landscape architects, registered nurses and state certified or state licensed real estate appraisers) are not selected based on competitive bidding. Rather, they must be selected based on demonstrated competence and qualifications obtained through a *Request for Qualifications* or similar document. After the District makes its selection based on demonstrated competence and qualifications, a fair and reasonable price for the services is then negotiated and agreed upon.

*Consulting services*: According to [TEA Budgeting Cost Guidance](#), consulting services

*“Consulting services (6291) refers to the practice of helping districts to improve performance through analysis of existing problems and development of future plans. Consulting may involve the identification and integration of best practices, analytical techniques, change management and coaching skills, technology implementations, strategy development, or operational improvement.*

*Consultants often rely on their outsider’s perspective to provide unbiased recommendations. They generally bring formal frameworks or methodologies to identify problems or suggest more effective or efficient ways of performing tasks. Consulting services cover all functional areas such as instruction, curriculum, and administration. Consultants must be selected based upon demonstrated competence, qualifications, experience, and reasonableness of proposed fees. Consultant fees, travel costs, and costs for materials provided by the consultant are to be budgeted in 6200 and must be reasonable and necessary.*

*Consulting services does not include a routine service/activity that is necessary to the functioning of a school district’s programs, such as hiring additional people on contract to supplement present staff. It does not apply to services provided to conduct organized activities such as training, professional development, or other similar educational activities. It also does not include contracted services provided by an ESC.*

*The District shall use a consultant only if the services of the consultant are necessary to accomplish the objectives of the particular program/project, the fees are reasonable in cost, and the District cannot meet the needs by using an employee. 34 CFR 75.515. For example, an employee may have the knowledge, skills, and capability to provide the consulting services, but the employee may not have the time in an already-busy schedule to provide the consulting services in the time required.”*



Under IRS rules, a person cannot work part of the time as an employee, and part of the time as a contractor/consultant. If an employee provides additional services above and beyond his or regular contracted hours and regular job responsibilities, the employee is paid *extra-duty pay* in accordance with the District's employee compensation policy, and not a fee based on a contract.

### **Allowable Professional Service Costs**

Professional and consultant services are allowable to be purchased with federal funds when reasonable and when the District considers the following factors:

- The nature and scope of the service rendered in relation to the service required;
- The necessity of contracting for the service, considering the District's capability in the particular area;
- The past pattern of such costs, particularly in the years prior to federal awards;
- The impact of federal awards on the District's business (i.e., what new problems have arisen);
- Whether the proportion of federal work to the District's total business is such as to influence the District in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under federal awards;
- Whether the service can be performed more economically by direct employment rather than contracting;
- The qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-federally funded activities; and
- The adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation, and termination provisions).

### **Noncompetitive Procurement**

There are specific circumstances in which noncompetitive procurement can be used. All circumstances must be documented. When using federal funds, noncompetitive procurement can only awarded if one or more of the following circumstances apply:

- The procurement is for a micro-purchase
- The procurement transaction can only be fulfilled by a single source
- The public exigency or emergency for the requirement will not permit a delay resulting from providing public notice of a competitive solicitation. The recipient or subrecipient requests in writing to use a noncompetitive procurement method, and the federal agency

or TEA provides written approval. After solicitation of several sources, competition is determined inadequate.

Additionally, *state* requirements related to sole source purchasing are, in some ways, more restrictive. In addition to the federal requirements above, sole source purchases must meet established criteria:

- Identification and confirmation that competition in providing the item or product to be purchased is precluded by the existence of a patent, copyright, secret process or monopoly;
- A film, manuscript, or book;
- A utility service, including electricity, gas, or water; and
- A captive replacement part or component for equipment.

According to state requirements, sole source does not apply to mainframe data-processing equipment and peripheral attachments with a single item purchase price in excess of \$15,000.

In all cases, the District will obtain and retain documentation from the vendor which clearly delineates the reasons which qualify the purchase to be made on a sole source basis.

The Procurement by Noncompetitive Proposal method shall be used by the district when the purchase of goods or services is from a “sole source vendor” [2 CFR 200.320 (c)].

A sole source vendor is defined as a vendor that meets the following requirements:

- The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold [2 CFR 200.320 (c)(1)]
- The goods or services are only available from a single source [2 CFR 200.320 (c)(2)]
  - The district shall acquire and maintain a copy of a vendor’s sole source letter which specifies the statutory or other reason for its sole source status
  - The [TEA Division of Grants Administration Request for Noncompetitive Procurement \(Sole Source\) Approval Form](#) shall be utilized to request prior approval of a non-competitive, sole source proposal.
  - The district’s Sole Source Justification Form shall be completed and submitted with the single source proposal.
- A public exigency or emergency will not permit a delay resulting from the competitive solicitation process [2 CFR 200.320 (c)(3)]
  - The district shall declare a public exigency or emergency prior to making such as purchase of goods or services under this method
- The granting agency or pass-through entity authorized the use of a non-competitive proposal method [2 CFR 200.320 (c)(4)]

- o The district shall obtain written approval/authorization from the granting agency or pass-through entity.
- o The district has received written authorization from the Texas Education Agency that the Education Service Center, Region 20 is approved as a non-competitive proposal.

After solicitation of a number of sources, competition is determined to be inadequate [2 CFR 200.320 (c)(5)]

### **Cost/Price Analysis for Federal Procurements in Excess of \$250,000**

In accordance with the requirements in 2 CFR § 200.324(a), the District will make independent estimates of the goods or services being procured *before* receiving bids or proposals to get an estimate of how much the goods and services are valued in the current market.

To accomplish this, *after* bids and proposals are received, but *before awarding a contract*, the District conducts either a *price analysis* or a *cost analysis*, depending on the type of contract, in connection with every procurement with federal funds in excess of \$250,000. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation; however, the District will come to an independent estimate prior to receiving bids or proposals. 2 CFR § 200.324(a). The *cost analysis* or *price analysis*, as appropriate for the particular situation, will be documented in the procurement files.

Accordingly, the District performs a *cost or price analysis* in connection with every *federal* procurement action in excess of \$250,000, including contract modifications, as follows:

**Cost Analysis - Non-competitive Contracts:** A *cost analysis* involves a review of proposed costs by expense category, and the federal cost principles apply, which includes an analysis of whether the costs are allowable, allocable, reasonable, and necessary to carry out the contracted services. In general,

- A *cost analysis* must be used for all *non-competitive contracts*, including sole source contracts.
- The federal cost principles apply.
- All *non-competitive contracts* must also be awarded and paid on a *cost-reimbursement basis*, and not on a fixed-price basis.
- In a cost-reimbursement contract, the contractor is reimbursed for reasonable actual costs incurred to carry out the contract.
- Profit must be negotiated as a separate element of the price in all cases where there is no competition.

**Price Analysis - Competitive Contracts:** A *price* analysis determines if the lump sum price is fair and reasonable based on current market value for comparable products or services. In general,

- A price analysis can only be used with *competitive* contracts and is usually used with fixed-price contracts. It cannot be used with non-competitive contracts.
- Compliance with the federal cost principles is not required for fixed-price contracts, but total costs must be reasonable in comparison to current market value for comparable products or services.
- A competitive contract may be awarded on a fixed-price basis or on a cost-reimbursement basis. If awarded on a cost-reimbursement basis, the federal cost principles apply and costs are approved by expense category, and not a lump sum.

Costs or prices based on *estimated* costs for contracts are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable costs under the federal cost principles.

#### F. Purchase Cards (District-Issued Credit Cards)

[Retain this section if the district issues credit cards or pro cards that are paid directly by the District. Insert or revise the language as it applies specifically to your District.]

The use of district-issued credit cards or procurement cards is carefully controlled and monitored to prevent fraud, waste, and abuse. Module 5 of the FASRG addresses the use of credit/pro cards. The District superintendent, Chief Financial Officer, human resources director, and procurement director work together to set and enforce policies and procedures. Misuse and abuse will not be tolerated.

In accordance with suggested procedures in *Module 5* of FASRG, the District:

- Holds reviewers of credit card purchases to the same standards as cardholders.
- Applies the same set of rules to all card users, although spending limits may vary.
- Restricts card usage by spending limits, unauthorized merchant category codes, and time of use to business hours.
- Issues cards to employees only after they have completed training on the purchasing card program.

#### *Segregation of Duties*

- Identifies certain employees to be cardholders and others within the same department to be reviewers of the cardholders' purchases.
- Does not allow the same employee to buy, receive, approve, and reconcile card purchases.
- Has different employees set up cardholders and reviewers in the P-card system and the banking system.

#### *Cardholders*

- Requires cardholders to turn in detailed receipts in accordance with policies and documenting the business reason. Restaurant receipts must include line-by-line detail of the order.
- Requires cardholders to complete training prior to receiving a card and acknowledge in writing receipt of the policy and procedure manual.

#### *Reviewers*

- Revokes a department's card privileges if a departmental reviewer does not review and approve transactions according to policy.
- Requires the reviewers to call the employee immediately upon noticing a questionable transaction rather than waiting for the due date of receipts.
- Requires the reviewers to complete training prior to reviewing transactions and acknowledging in writing receipt of the policy and procedure manual.
- Reviewers are responsible for 4 to 10 cardholders at most in order to be effective.

#### *Monitoring and Oversight*

- Is selective when issuing cards--focus on repetitive, small-dollar purchases.
- Keeps limits as low as possible to accommodate normal business needs. If there is a need to allow for emergency purchases, certain employees can have a higher limit.
- Card reviewers must follow the same high standards applied to cardholders.
- The business office staff reviews the work of the card reviewers, and the list of P-card users is reviewed annually.
- Uses the software to review the average spent by the cardholder, purchases from unauthorized suppliers, purchases shipped to the cardholder's home, and purchase amounts slightly below purchase limits.
- Reviews reports provided by the p-card programs such as declined authorizations report, disputes report, and lost/stolen card report which can reveal employees in need of additional training or attempting to misuse the card.
- Reviews district-wide activity periodically to identify frequently used vendors or products to consider negotiating volume discounts in order to obtain best prices for the district.
- Encourages staff to contact the hotline used to report any fraud.

Each credit card transaction must be properly accounted for. Refer to *II. Financial Management System, E. Accounting Records, Documentation Associated with Using District Credit/Pro Cards*, for specific information related to the proper accounting of credit card purchases.

The district shall comply with the general procurement requirement of the EDGAR (2 CFR 200) effective July 1, 2018 and amended in November 2020. The district shall utilize a purchase order and encumbrance system to manage the expenditure of all federal grant funds unless other methods such as credit cards, petty cash, direct payments, etc. are authorized in the district's operating procedures. All purchases shall be in accordance with the district's School Board Policies (CH Legal and Local) and the district's Purchasing Procedures (Exhibit Section). The district purchasing procedures shall comply with all federal, state, and local procurement requirements. If a conflict arises between the federal, state and local requirements, the stricter requirement shall prevail.

### G. Contract Administration

The District maintains the following oversights to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. 2 CFR § 200.318(b).

To ensure proper administration of contracts and any subgrants that may be awarded by the District, the District uses the following guidelines to determine whether each agreement it makes for the disbursement of federal funds is a *contract*, whereby funds are awarded to a *contractor*, or a *subaward*, whereby funds are awarded to a *subrecipient*.

#### *Subawards/Subgrants*

A *subaward/subgrant* is for the purpose of carrying out a portion of a federal award and creates a federal assistance relationship with the subrecipient. The District determines who is eligible to receive what federal assistance, and a *subrecipient/subgrantee*:

- Has its performance measured in relation to whether the objectives of a federal program are met
- Has responsibility for programmatic decision-making
- Is responsible for adhering to applicable federal program requirements, and
- Implements a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the District.

#### *Contracts*

A *contract* is for the purpose of obtaining goods or services for the District's own use and creates a procurement relationship with the contractor. A *contractor*:

- Provides goods and services within normal business operations
- Provides similar goods or services to many different purchasers

- Normally operates in a competitive environment
- Provides goods or services that are ancillary to the implementation of a federal program, and
- Is not subject to compliance requirements of a federal program as a result of the contract, though similar requirements may apply for other reasons.

The District complies with the following *best practices* recommended by TEA for all *professional services contracts* paid with federal funds:

1. The effective dates (i.e., beginning and ending dates) of the contract are within the effective dates of the federal award as stated on TEA's NOGA. A contract may be *negotiated* prior to the effective date of the award, but it may not be signed or be effective until on or after the effective date stated on the NOGA.
2. The District may sign a *letter of intent* with the potential contractor prior to the issuance of the NOGA. The letter of intent must contain a provision that the pending contract is contingent upon receipt of the specific NOGA.
3. To ensure the potential contract is approved by TEA, the contract shall not be signed until after the NOGA is received by the District.
4. The contract will contain the following provisions (in addition to the Contract Provisions required and identified in *III. Procurement System, C. Federal Procurement System Standards, Contract Provisions*.
  - a. All services will be completed during the effective dates of the contract.
  - b. All services will be paid only upon receipt of a proper invoice that coincides with the contract upon verification that the services were satisfactorily performed in accordance with the description in the contract. For ongoing services, payment may be made at the end of every month upon receipt of the invoice. Contractors will not be paid in advance.
  - c. The contract specifies that the invoice provided by the contractor will include the list of services provided, dates of services, and location(s) where services were provided during the billing period.
  - d. The District complies with the regulations pertaining to procurement in 2 CFR § 200.318 - .324.
  - e. The District complies with the provisions in 2 CFR § 200.459 pertaining to allowable professional service costs.
  - f. The contract identifies the funding source(s) that will be charged for the services provided, including the specific amount and/or percentage of the total contract amount to be charged to each funding source.
  - g. The contract identifies and lists only reasonable, necessary, and allocable services to be provided in accordance with the funding sources that will be charged.

- h. The administrative costs charged to the grant in the contract must be reasonable and must comply with any statutory limitations for administrative costs specified in the federal program funding source.

Additionally, the District complies with the *Standards of Conduct* and *Conflict of Interest* policies and procedures related to procurement, including the mandatory disclosure of any potential or real conflicts of interest. (See section *III. Procurement System, A. Conflict of Interest Requirements.*)

### **Documentation for Contracts**

The District maintains the following written documentation, at a minimum, for each contract paid with federal funds:

1. A copy of the written, signed contract/agreement for services to be performed
2. The rationale or procedure for selecting a particular contractor
3. Evidence the contract was made only to a contractor or consultant possessing the ability to perform successfully under the terms and conditions of the contract or procurement
4. Records on the services performed – date of service, purpose of service – ensuring that services are consistent and satisfactorily performed as described in the signed contract or purchase order
5. Documentation that the contractor was *not paid before services were performed*, and
6. Records of all payments made (such as a spreadsheet or report generated from the general ledger), including the total amount paid to the contractor.

Business office will maintain the documentation in their contract files

### **Payment Only After Services Are Performed**

For both state and federally funded contracts, it is not permissible under Texas law to pay a contractor or consultant in *advance* of performing services. Advance payment to contractors is considered “lending credit” to the contractor and is prohibited under the *Texas Constitution*, Article 3, §§ 40 and 52. For ongoing services that occur monthly, payment can be made at the end of every month (based on a proper invoice submitted by the contractor and verification of work performed) for services performed during the month, or some other similar arrangement.

Consultants and contractors will not be paid without having a properly signed and dated contract or other written agreement in place which clearly defines the scope of work to be performed, the beginning and ending dates of the contract, and the agreed-upon price. The contract should also include a description of the payment procedures.



Upon performance of services (monthly or upon completion of services), the contractor is required to submit an *invoice* to the District that contains at a minimum the following:

- a clear identification of the contractor/consultant, including name and mailing address
- a corresponding contract (or written agreement) number, if applicable
- the dates (beginning and ending date) during which the services were performed (i.e., billing period)
- a description of the services/activities completed during the billing period
- the total amount due to the contractor for the billing period

By submitting a properly-prepared invoice, the contractor is certifying that it is true and correct.

### **Verification of Receipt of Goods and Services Provided by Contractors**

If the purpose of the contract or purchase order is to deliver goods, the Warehouse Supervisor] in the [Maintenance Department] will verify that the quantity and quality of goods were received as specified in the contract/purchase order. The receiving report and procedures used in all other state/local purchases will be used for all federal purchases.

If the purpose of the contract is to purchase services, the Department Director/Manager will verify that the quality and scope of services were received as specified in the contract.

### **Prompt Payment to Vendors/Contractors**

The District pays all vendors/contractors within 30 days of receipt of a proper invoice and the receipt of the goods or services in accordance with the [\*Texas Prompt Payment Act\*](#), *Government Code, Chapter 2251, Subchapter A, for all contractors*, and [\*Property Code, Chapter 28 for Construction Contractors\*](#).

## **H. Submission of Procurement System**

In accordance with 2 CFR § 200.325(b), the District will make available upon request from TEA all procurement documents for pre-procurement review, such as requests for proposals or invitations for bids, or independent cost estimates.

In addition, the District may request (in accordance with the process established by TEA) that its procurement system be reviewed by TEA to determine whether the system meets federal standards in order for the system to be certified. The District may also self-certify its

procurement system in accordance with the provisions in 2 CFR § 200.325(c), which does not preclude TEA's right to survey the system.

## IV. Property Management Systems

### A. Property Classifications

Equipment means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the District for financial statement purposes, or \$10,000. 2 CFR § 200.1. The District's capitalization level is [\$5,000 amount].

Supplies means all tangible personal property other than equipment. A *computing device* is a supply if the acquisition cost is less than the lesser of [\$5,000 the capitalization level established by the District for financial statement purposes] or \$10,000, regardless of the length of its useful life. 2 CFR § 200.1.

Computing devices means machines used to acquire, store, analyze, process, and publish data and other information electronically, including accessories (or "peripherals") for printing, transmitting and receiving, or storing electronic information. 2 CFR § 200.1.

Capital assets means tangible or intangible assets used in operations having a useful life of more than one year which are capitalized in accordance with GAAP. Capital assets include:

- Land, buildings (facilities), equipment, and intellectual property (including software) whether acquired by purchase, construction, manufacture, lease-purchase, exchange, or a lease accounted for as a financed purchase under Government Accounting Standards Board (GASB) standards or a finance lease under Financial Accounting Standards Board (FASB) standards; and
- Additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations or alterations to capital assets that materially increase their value or useful life (not ordinary repairs and maintenance). 2 CFR § 200.1.

### B. Inventory Procedure

The district has defined "inventory items" as items with a unit cost between \$1,000 and \$4,999.

Consumable Supplies-Consumable supplies shall include technology-related “walkable” or “personal use” items with a unit cost less than \$1,000 as the following (these items shall be tracked by the Technology Department).

- § I-Pads
- § Kindle/Nook
- § Computers with a cost under \$1,000

Consumable supplies, including the walkable and personal items with a unit cost less than \$1,000, shall be made from object code 6399 accounts. The consumable supplies shall be tracked by the campus or department making the purchase.

### C. Inventory Records

For equipment and computing devices purchased with federal funds (in whole or in part), the following information is maintained.

Titles to federally funded equipment and supply purchases shall be retained by the district, unless otherwise notified by the granting agency. [2 CFR 200.313(a)] As district property, the district shall affix a tag, inventory, and dispose of all assets (non-grant and grant-funded) according to the district’s fixed asset procedures. The district procedures shall include the recording of all assets on a database with the following information:

- Serial number or other identification number (District issued tag)
- Source of funding for the property
- Who holds title\*
- Acquisition date, description, and cost of the property
- Percentage of federal contribution towards the original purchase
- Location, use, and condition of the property, and
- Any ultimate disposition data including the date of disposal and sale price of the property.

\*Pursuant to federal regulations, the District holds a *conditional title* for equipment purchased with federal funds unless a statute specifically authorizes a federal agency to vest title in the District without further obligation to the federal government. Title will vest in the District as long as:

- the District uses the equipment for the authorized purposes of the project until funding for the project ceases, or until the property is no longer needed for the purposes of the project

- the District does not encumber the property without approval of TEA or other awarding agency, and
- the District uses and disposes of the property in accordance with federal rules.

In accordance with **2 CFR § 200.313(d)(4)**, Nederland ISD updates its property inventory records whenever federally funded property is **sold, lost, stolen, or deemed beyond repair**. The District documents the reason for the adjustment, obtains appropriate administrative approvals, and maintains records of the disposition. In cases of loss or theft, a report is filed and investigated, and the inventory system is updated to reflect the change.

#### D. Physical Inventory

A physical inventory of the property is taken and the results reconciled with the property records annually.

The district fixed asset procedures require an annual inventory (or more frequently if required by a granting agency) of all capital assets and reconciliation of the asset reports. [Note. Federal requirements CFR 200.313(d)(1) requires an inventory at least once every 2 years.]

#### E. Equipment Insurance and Maintenance of Equipment

The District insures equipment acquired or improved with federal funds at the same levels and in accordance with the same policies as provided to equipment purchased with state or local funds unless required to be insured by terms and conditions of the federal grant. 2 CFR § 200.310.

In accordance with 2 CFR § 200.313(d)(4), the District maintains regular maintenance procedures to ensure that property is kept in good and proper working condition. During the life of the asset, the district shall ensure that all assets purchased with federal grant funds are insured against loss. The costs to insure and maintain (repair) assets purchased with federal grant funds are generally allowable costs, unless specifically prohibited by a granting agency. [2 CFR 200.310]

#### F. Lost or Stolen Items

The District maintains a control system that ensures adequate safeguards are in place to prevent property loss, damage, or theft of the property. Any loss, damage, or theft is investigated in accordance with the following procedures. The District must notify the Federal agency or pass-through entity of any loss, damage, or theft of equipment that will have an impact on the program. 2 CFR § 200.313(d)(3)

The district's annual inventory of capital assets shall be conducted by the Business department. Lost, damaged, or stolen assets shall be recorded on the fixed assets database with the date of the loss. The disposition records such as the loss report (police report for thefts) shall be maintained with the capital asset records

### **G. Use of Equipment**

Equipment will be used in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the federal award. The District will not encumber the property without prior approval of TEA and the federal awarding agency.

When no longer needed for the original program or project, the equipment may be used in other activities supported by the federal awarding agency, in the following order of priority: (1) activities under a federal award from the federal awarding agency which funded the original program or project; then (2) activities under federal awards from other federal awarding agencies.

During the time equipment is used on the project or program for which it was acquired, the equipment will also be made available for use on other projects or programs currently or previously supported by the federal government, provided that such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use must be given to other programs or projects supported by the federal awarding agency that financed the equipment. Second preference is given to programs or projects under federal awards from other federal awarding agencies. Use for non-federally funded programs or projects is also permissible, provided such use will not interfere with the purpose for which it was originally acquired. However, the original purchase of any equipment to be used in other programs will be properly allocated (i.e., prorated) among the applicable funding sources.

### **H. Disposal of Equipment and Supplies**

#### **Equipment**

In accordance with 2 CFR §200.313(e), when it is determined that original or replacement equipment acquired under a federal award is no longer needed for the original project or program or for other activities currently or previously supported by a federal awarding agency, the Chief Financial Officer will contact the TEA Chief Grants Administrator or other awarding agency for disposition instructions.

Generally, disposition of equipment is dependent on its fair market value (FMV) at the time of disposition.

- An item that has a current FMV of **\$10,000 or less**, may be retained, sold, or otherwise disposed of with no further obligation to TEA or the federal awarding agency. However, TEA must still approve disposition in accordance with specified procedures.
- If an item has a current FMV of **more than \$10,000**, TEA or the federal awarding agency is entitled to the federal share of the current market value or sales proceeds. Pursuant to the provisions in 2 CFR § 200.313(d)(5), the District uses procedures to ensure the highest possible return. TEA must approve the disposition. The District may retain \$1,000 to cover expenses associated with the selling and handling of the equipment.

If acquiring replacement equipment, the District may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.

Disposition of equipment will be properly recorded in the fixed asset inventory. The fixed asset inventory system is managed by the Chief Financial Officer and the Warehouse Supervisor.

Additionally, TEA's [General Provisions and Assurances](#) for all grants (state and federal) administered by TEA contain the following provision:

**V. Capital Outlay:** If the Contractor purchases capital outlay (furniture and/or equipment) to accomplish the objective(s) of the project, title will remain with the Contractor for the period of the Contract. The Agency reserves the right to transfer capital outlay items for Contract noncompliance during the Contract period or as needed after the ending date of the Contract. This provision applies to any and all furniture and/or equipment regardless of unit price and how the item is classified in the Contractor's accounting record.

The district's annual inventory of capital assets shall be conducted by the Business department. Lost, damaged, or stolen assets shall be recorded on the fixed assets database with the date of the loss. The disposition records such as the loss report (police report for thefts) shall be maintained with the capital asset records.

## Supplies

Supplies are an allowable direct charge (2 C.F.R. § 200.453). Title to supplies acquired under the Federal award will vest upon acquisition in the recipient or subrecipient. If there is a residual inventory of unused supplies at the end of the period of performance exceeding \$10,000 in total aggregate value, and the supplies are not needed for any other Federal award, the District may retain or sell the supplies. The federal agency or pass-through entity is entitled to

compensation in an amount calculated by multiplying the percentage of the federal agency's or pass-through entity's contribution towards the cost of the original purchase(s) by the current market value or proceeds from the sale. The District may retain \$1,000 to cover expenses associated with the selling and handling of the equipment.

- Unused supplies means supplies that are in new condition, not having been used or opened before.
- The aggregate value of unused supplies consists of all supply types, not just like-item supplies.

The Chief Financial Officer and/or the Superintendent will contact the TEA Chief Grants Administrator or other awarding agency for disposition instructions of supplies. 2 CFR § 200.314.

## V. Written Compensation Policies

### Allowable Compensation

Compensation for employees paid from federal funds will be in accordance with the established written policy for compensation for all employees, and the written policy will be consistently applied among all employees, whether paid from state, local, or federal funds. Compensation includes all remuneration, paid currently or accrued, for services of employees rendered during the period of performance under the federal award, including but not necessarily limited to wages and salaries. Compensation for personal services may also include fringe benefits.

Costs of compensation are allowable to be charged to a federal award to the extent that they satisfy the following requirements as specified in 2 CFR § 200.430 and that the total compensation for individuals:

1. Is reasonable for the services rendered and conforms to the established written policy of the District consistently applied to both federal and non-federal activities;
2. Follows an appointment made in accordance with the District's rules or written policies and meets the requirements of federal statute; and
3. Is determined and supported by documentation that meets the federal *Standards for Documentation of Personnel Expenses*.

### Reasonable Compensation

Compensation for employees engaged in work on federal awards will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the District. In cases where the kinds of employees required for the federal awards are not found in the other activities of the District, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the District competes for the kind of employees involved.

### **Professional Activities Outside the District**

Unless an arrangement is specifically authorized by TEA or other awarding agency, the District must follow its written policies and practices concerning the permissible extent District employees may provide professional services outside the District for non-District compensation. If a policy does not exist or does not adequately define the permissible extent of consulting or other non-District activities undertaken by an employee for extra outside pay, the federal government may require that the effort of professional staff working on federal awards be allocated between:

1. District activities and
2. Non-district professional activities.

If TEA or other awarding agency considers the extent of non-District professional effort excessive or inconsistent with the conflicts-of-interest terms and conditions of the federal award, appropriate arrangements governing compensation will be negotiated on a case-by-case basis.

Therefore, the District's policy which governs employees obtaining payment for performing professional services outside the District is incorporated into the District's written employee compensation policy. Any employee wishing to perform professional services outside the District and receive payment for such services by another entity must complete, sign and submit the *Conflict of Interest* form prior to agreeing to perform professional services outside the District. The purpose of the *Conflict of Interest* form is to disclose the nature of the professional services to be performed outside the district to ensure a conflict of interest does not exist for the District. The completed, signed form will be submitted to [Chief Financial Officer] for review and determination of whether a potential conflict of interest exists.

The District complies with other requirements pertaining to allowable and unallowable costs as specified in 2 CFR § 200.430(d), (e), and (f), including:

1. Compensation for certain employees of cost-reimbursement contracts covered under 10 USC 2324(e)(1)(P); 41 USC 1127; and 41 USC 4304(a)(16);
2. Changes in compensation resulting in a substantial increase in the District's employees' level of compensation; and



3. Incentive compensation based on cost reduction, efficient performance, suggestion awards, safety awards, etc.

The District also adheres to the guidance for areas of employee compensation that could require internal control procedures. TEA's *Module 1 – FASRG* and [TEA's Internal Controls Handbook](#)

### **Job Descriptions**

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

Job descriptions must be updated as new assignments are made. The supervisor must review the job description with the employee upon hiring and as the job description is updated. The employee must sign and date that he or she has read and understands the job description and the programs under which he or she is working.

The job description must be immediately available upon request by an auditor or monitor.

Nederland ISD ensures that all employees compensated in full or in part with federal funds have a **written job description** that clearly outlines their roles, responsibilities, and alignment with the objectives of the grant program. In accordance with **2 CFR § 200.430**, these job descriptions are reviewed and **signed annually** by the employee and their supervisor to confirm accuracy and continued alignment with allowable program activities. Signed descriptions are maintained by the Business Office as part of the District's documentation for time and effort compliance.

## **A. Documentation of Personnel Expenses**

### **Standards for Documentation of Personnel Expenses**

Charges to federal awards for salaries and wages must be based on records that accurately reflect the work performed. In accordance with 2 CFR § 200.430(g), these records must:

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

- Reasonably reflect total activity for which the employee is compensated, not exceeding 100% of compensated activities
- Encompass both federally assisted and all other activities compensated by the District on an integrated basis
- Comply with the established accounting policies and practices of the District, and
- Support the distribution of the employee's salary or wages among specific activities or costs objectives if the employee works on:
  - More than one federal award
  - A federal award and a non-federal award
  - An indirect cost activity and a direct cost activity
  - Two or more indirect activities which are allocated using different allocation bases, or
  - An unallowable activity and a direct or indirect cost activity.

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

These documents, known as time-and-effort records, are maintained in order to charge personnel costs to federal grants. In addition, current and up-to-date job descriptions for each employee are maintained.

### **Time and Effort Procedures**

[Nederland ISD is committed to ensuring that all personnel compensated with federal funds accurately document their time and effort in accordance with **2 CFR § 200.430(i)**. This procedure outlines the District's approach to maintaining compliance with federal requirements for time and effort reporting.

#### **1. Applicability**

This procedure applies to all employees whose salaries are fully or partially funded by federal grants administered by Nederland ISD.

#### **2. Documentation Requirements**

##### **A. Employees Working on a Single Cost Objective:**

- Employees who work solely on a single federal program or cost objective must complete a **Semi-Annual Certification**.

- The certification must state that the employee worked exclusively on that program for the period covered.
- Certifications are to be prepared every six months and signed by the employee and a supervisor with first-hand knowledge of the work performed.

#### **B. Employees Working on Multiple Cost Objectives:**

- Employees who work on multiple programs or cost objectives must complete **Personnel Activity Reports (PARs)**.
- PARs must:
  - Reflect an after-the-fact distribution of the actual activity of the employee.
  - Account for the total activity for which the employee is compensated.
  - Be prepared at least monthly and coincide with one or more pay periods.
  - Be signed by the employee and a supervisor with first-hand knowledge of the work performed.

### **3. Review and Retention**

- The Business Office is responsible for reviewing all time and effort documentation for accuracy and completeness.
- All records must be retained for a minimum of five years or as specified by the grant requirements.

### **4. Training and Compliance**

- Nederland ISD will provide annual training to all employees involved in federally funded programs on the requirements for time and effort reporting.
- Failure to comply with time and effort reporting requirements may result in disciplinary action and the potential repayment of disallowed costs.

### **Reconciliation and Closeout Procedures**

It is critical for payroll charges to match the actual distribution of time recorded on the monthly certification documents. Grantees may **initially** charge payroll costs based on budget estimates. Budget estimates or other distribution percentages determined before the services are performed do not qualify as support for charges to federal awards, but may be used for interim accounting purposes provided that the system for establishing the estimates produces reasonable approximations of the activity actually performed.

If using budget estimates, the District will reconcile payroll charges to the actual time and effort reflected in the employees' time-and-effort records. The Chief Financial Officer reconciles all closeout procedures, with the Bookkeeper, for Nederland ISD.

## **Employee Exits**

Nederland ISD has established the following procedure to ensure a consistent, compliant, and supportive process when an employee resigns or separates from the District:

### **1. Notice of Resignation**

- Employees must submit a **written resignation** to their **immediate supervisor**.
- The supervisor will forward the resignation to the **Superintendent** and the **Human Resources Department** for formal acceptance.
- The resignation becomes official upon approval by the Superintendent or designee and, if applicable, by the Board of Trustees.

### **2. Exit Interview and Final Documentation**

Prior to the employee's final working day, Human Resources will schedule an **Exit Interview** to address the following:

- **Insurance Termination and Portability Options**  
A representative will review the termination of health and supplemental insurance and provide information on **COBRA coverage, portability of benefits, and retirement plan options**, if applicable.
- **Return of District Property**  
The employee will be reminded to return all District-owned materials, equipment, keys, ID badges, technology, and instructional resources prior to their last day.
- **Final Paycheck and Benefits**  
Details regarding the employee's **final paycheck**, payout of any eligible **leave balances**, and timing of **TRS contributions** will be shared. Employees will also be informed of how to access W-2 forms and pay history.
- **Service Records and Official Documents**  
The employee will receive a copy of their **original service record**, including verification of employment and any relevant HR documents needed for future employment.

### **3. Follow-Up and Records Maintenance**

- The Human Resources Department will ensure all required documents are filed, and payroll, technology, and benefits departments are notified for account deactivation and final processing.

- A copy of the signed exit interview checklist and resignation will be maintained in the employee's personnel file.

## VI. Human Resources Policies

Nederland ISD has human resource policies which at least cover (1) how employees are hired (2 CFR § 200.430[a][2]); (2) the extent to which employees may provide professional services outside the District (2 CFR § 200.430[c]); (3) the provision of fringe benefits and costing policy, including leave and insurance, (2 CFR § 200.431[b]-[e]); (4) pension plan costs (2 CFR § 200.431[g]); post-retirement health benefits (2 CFR § 200.431[h]); severance pay (2 CFR § 200.431[i]); (4) the use of recruiting expenses to attract personnel (2 CFR § 200.463(b)); and (5) reimbursement for relocations costs. 2 CFR § 200.464.

All employees, including those paid with federal funds and those not, will adhere to the District's written leave policy. The human resource policies can be found at [TASB board policy online](#)

If the District institutes any mass or abnormal severance pay, the District will request prior written approval from TEA in accordance with 2 CFR § 200.431(g)(2)(ii).

## VII. Record Keeping

### A. Record Retention

In general, records document the use of funds, compliance with program and fiscal requirements, and the performance of the grant. In accordance with 34 CFR § 76.730-.731 and § 75.730-.731, the District maintains all records that fully show (1) the amount of funds under the grant or subgrant; (2) how the District uses those funds; (3) the total cost of each project; (4) the share of the total cost of each project provided from other sources; (5) other records to facilitate an effective audit; and (6) other records to show compliance with federal program requirements. The District also maintains records of significant grant project experiences and results. 34 CFR § 75.732. These records and accounts must be retained and made available for programmatic or financial audit.

Pursuant to the provisions in 34 CFR § 81.31(c), the USDE is authorized to recover any federal funds misspent within 5 years before the receipt of a program determination letter. Consequently, in accordance with TEA's [General Provisions and Assurances](#) and the statute of limitations, the District retains records for a minimum of five (5) years from the date on which

the final expenditure report is submitted or the ending date of the grant, whichever is later, unless otherwise notified in writing to extend the retention period by TEA or other awarding agency. However, if any litigation, claim, or audit is started before the expiration of the record retention period, the records will be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken. 2 CFR § 200.334.

Local governments in Texas, including all school districts, open-enrollment charter schools, and ESCs, are required to implement a *Records Management Policy*, designate a *Records Management Officer* to oversee the policy, and comply with a *Records Retention Schedule*. The [Texas State Library and Archives Commission](#) (TSLAC) administers the records management requirements pursuant to the *Local Government Records Act*, *Local Government Code, Chapters 201-205*, and *Chapter 441, Subchapter J*, published as [Local Government Bulletin D](#) on TSLAC's website.

The District retains and destroys records in accordance with these requirements. Failure to produce a program or fiscal record for an auditor or monitor during the 5-year retention period will most likely result in an audit or monitoring finding and the repayment of funds for the missing documentation.

#### *Destruction of Records*

Because records establish compliance with the use of funds and with program and fiscal requirements, failure to retain the proper records or to dispose of them prematurely can result in monumental problems for the District, including the repayment of all funds associated with the activity, event, decision, or transaction for which the records are missing. In addition, destroying or disposing of a record improperly or prematurely constitutes a Class A Misdemeanor under state law.

The District cannot destroy any record that is involved in an ongoing

- Litigation
- Claim
- Negotiation
- Public information request (PIR)
- Audit or investigation
- Administrative review or hearing

The District's *Records Management Policy* includes policy and procedures for *disposing* of records. Records can only be destroyed in accordance with the [Records Retention Schedule](#) adopted by the District. Records that are not on the *Records Retention Schedule* may require written permission from the TSLAC prior to disposing. Procedures include maintaining a "records disposition log" that identifies the disposition date and method of disposal of each record.

According to [Local Government Code, §202.003](#), *confidential* records must be *burned, shredded, or pulped*. *Open* records can be *burned, shredded, pulped, recycled, or buried in a landfill*. If a contractor is hired to destroy records, the contractor must comply with all of the state and local government laws pertaining to the destruction of records as if it were the District.

The Records Custodian for the financial records of the district is the Superintendent. All questions related to the retention, destruction, and/or addition of new record series shall be directed to the District's Records Management Officer (RMO), Chief Financial Officer.

## B. Records That Must Be Maintained

A *record* is any recorded information that documents school business; it serves as evidence that an activity, event, decision, or transaction occurred. A record must be retrievable at a later date (i.e., for 5 years after the ending date of the grant or after submittal of the final expenditure report, whichever is later).

Not every piece of paper or every piece of data is an *official record*. Materials used for *reference* are just that – reference materials; they are not records. District personnel must use some judgment in determining whether a record constitutes an "official business record" by looking at the content of the record to determine its value in serving as evidence. A good place to start is by consulting the District's *Records Management Officer* and *Records Management Policy*. The [title of position] serves as the District's *Records Management Officer*.

Records are created by the District to support a grant activity and they are retained as evidence of that activity. Records may come in a variety of different forms and may be *created* by the District or be *received* by the District in any medium, including hard copy paper or electronic, audio, or video. Whether the District *creates* it, or *receives* it from someone outside the District, if it documents school operations, it's a record and must be retained according to the records retention schedule.

Most e-mails are records; telephone messages can be records. The record can be on a computer's hard drive, on a USB, on a DVD, in a filing cabinet, or on someone's desk. Even if the record

contains confidential information and may be exempt from release under a Public Information Request (PIR), it is still a record and must be retained using proper security procedures to safeguard the confidential data.

Records generally include but are not limited to

- General correspondence, including letters and e-mail
- Handwritten notes and electronic notes
- Completed forms and reports and the data used to complete the reports
- Personnel documentation
- Websites created by the District
- Audio tapes and video tapes
- Final, complete, and signed (if applicable) documents
- Plans, photographs, or drawings
- Data in spreadsheets and databases
- Financial records, including but not limited to budgets, accounting ledgers, all supporting documentation for expenditures, copies of checks, bank statements, etc.

Records generally do NOT include

- Convenience copies (extra identical copies created only for convenience of reference or research)
- Drafts of documents
- Copies of documents furnished to the public to fulfill a PIR
- Blank forms/stocks of publications (keep at least one copy for archives to demonstrate compliance or proof of program activities)
- Library or museum materials
- Dispute resolution working files (the *final* written finding or report is a record)
- Personal or junk e-mail
- Ccs of emails (or letters) or convenience copies of emails (or letters) (the recipient in the "To" line is the keeper of the official record)

### C. Collection and Transmission of Records

When practicable, the District must collect, transmit, and store Federal award information in an open file, non-licensed, and machine-readable formats. The District may substitute electronic versions of original paper records through duplication or other forms of electronic conversion,



provided that the procedures are subject to quality control reviews. Quality control reviews must ensure that electronic conversion procedures provide reasonable safeguards against alteration of records and assurance that records remain in a format readable by a computer system.

It is becoming more common to store records electronically to conserve storage space. Storing records electronically is acceptable and is encouraged. However, TEA or other awarding agency must always provide or accept paper versions of grant-related information to and from the District upon request.

The retention period is the same whether the record is paper or electronic. However, a few precautions are in place.

It is permissible to scan hard copies of records and then store them electronically. The District must comply with *Electronic Records Standards and Procedures* ([Local Government Bulletin B](#) on TSLAC's website) when scanning records. The District's designated *Records Management Officer* is aware of these standards. The [Chief Financial Officer] in the [Business Office Department] is responsible for performing or overseeing the scanning of all records to ensure the following procedures are properly carried out.

Prior to scanning, the employee must ensure that the original document has not been altered in any way. It is permissible to have *additional* hand-written notes on an original record, but the hand-written notes cannot obscure the contents of the original document in any way.

When scanning records, the employee must conduct *visual quality control* on each page of each document to ensure the scan is high quality and that it is *entirely* legible. Even one illegible line, word, or number on a scanned document can render the scanned document as unacceptable by auditors, monitors, TEA, and other oversight agencies.

Once the original has been scanned and the employee has conducted a thorough visual quality control **on each page of each document**, the scanned version becomes the official record and the originals can be destroyed. However, *before destroying any documents*, the employee must check with the District's designated *Records Management Official*. He or she may wish to confer with legal counsel or the auditor. There may be legal reasons for not destroying the originals. Also before destroying the originals, the employee will want to consider if there is any historical value to retaining the original, and if so, perhaps retain the original for historical purposes.

The employee must also ensure that each scanned document is properly indexed (labeled) so that a specific document can be easily searched and retrieved at a moment's notice. Failure to properly index a scanned document can result in the inability to retrieve it in a timely manner for audit or monitoring purposes, which could ultimately result in an audit or monitoring finding and the repayment of grant dollars.

The District must also ensure that scanned versions can be preserved over the long term as technology becomes obsolete. The District considers archival quality microfilm for some records.

Records that are available only in electronic format [are] backed up on a regular schedule (such as nightly) in another physical location. If the original electronic records are destroyed or lost due to any reason, the backup location will have a duplicate copy of the records.

[Nederland ISD Records Management Manual](#)

#### D. Access to Records

All grant records are government records and are the property of the District; they are not the personal property of an individual. Records should be easily accessible by all personnel in the District who may need to refer to the documentation for program management, accounting, compliance, audit, or monitoring purposes. With the exception of confidential personnel hiring records, proprietary information of contractors, and confidential student information, all grant information is public information.

Pursuant to the provisions in 2 CFR § 200.337, the District provides TEA or other awarding agency, Inspectors General, the Comptroller General of the United States, the Texas State Auditor's Office, the Texas Attorney General's Office, and the US Department of Education staff or their contracted monitors or any of their authorized representatives, the right of access to any documents, papers, or other records of the District which are pertinent to the federal award to perform audits, execute visits, examinations, excerpts, other official use, and transcripts. The right also includes timely and reasonable access to the District's personnel for the purpose of interview and discussion related to such documents or the federal award in general.

#### *Protecting the True Names of Victims of a Crime*

Only under extraordinary and rare circumstances would such access include review of the true name of victims of a crime. Routine monitoring would not necessitate access to this information, as it is not considered extraordinary and rare circumstances. When access to the true name of victims of a crime is necessary, appropriate steps to protect this sensitive information must be

taken by both the District and the awarding agency. Any such access, other than under a court order or subpoena pursuant to a bona fide confidential investigation, must be approved by the head of the awarding agency or delegate.

The rights of access in this section are not limited to the required retention period but last as long as the records are retained. 2 CFR § 200.337(c)

## E. Privacy

Nederland ISD is committed to ensuring the privacy and security of student and employee personal information in accordance with **federal and state regulations**, including the **Family Educational Rights and Privacy Act (FERPA)**, the **Texas Education Code**, and **District board policies**. Key protections are embedded in policies such as **CQ (Technology Resources)**, **FL (Student Records)**, and **DH (Employee Standards of Conduct)**.

### 1. FERPA Compliance and Staff Training

In accordance with **Board Policy FL(LEGAL)** and **FL(LOCAL)**, all employees receive **annual training on FERPA** and the legal requirements for protecting student education records. Staff are instructed on the confidentiality of personally identifiable information (PII) and the specific limitations on access, use, and disclosure of such records.

### 2. Technology and Password Security

Under **CQ(LOCAL)** and **CQ(REGULATION)**, the District maintains strict technology usage and cybersecurity protocols. Employees must adhere to the District's **strong password policies**, which include regular password updates and complexity requirements. Access to student and employee data is limited through **role-based permissions** to ensure that only authorized personnel have access to sensitive information.

### 3. Verification of Records Requests

When a request for student or employee records is received, the District follows the protocols outlined in **FL(LEGAL)** and **GBA(LEGAL)** to verify the **requestor's identity and legal authority**. Documentation is not released unless the individual has the appropriate legal standing or consent is obtained, as applicable under FERPA and the Texas Public Information Act.

### 4. Employee Confidentiality and Conduct

Employees are expected to maintain the confidentiality of all student and personnel information as part of their professional responsibilities, as outlined in **DH(LOCAL)**. Breaches of confidentiality are subject to disciplinary action and may be reported to appropriate state agencies as required.

## 5. Information Security Measures and Breach Response

Nederland ISD's Technology Department implements industry-standard security measures, including **firewalls, encryption, secure servers, and activity logging**, in alignment with **CQ(LOCAL)**. In the event of a data breach or security incident, the District follows a documented **incident response protocol** to contain the threat, notify stakeholders if necessary, and implement corrective actions.]

# VIII. Monitoring

## A. Self-Monitoring

The District is responsible for oversight of the operations of the federal award-supported activities. The District is responsible for monitoring its activities under federal awards to assure compliance with applicable federal requirements and to ensure performance expectations are being achieved. This process is known as self-monitoring. Monitoring by the District must cover each program, function, or activity. 2 CFR § 200.329. Additionally, the District must directly administer or supervise the administration of each project. 34 CFR § 76.701

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

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

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

## B. TEA Monitoring

### **Risk Assessment**

Pursuant to the provisions in 2 CFR § 200.332(c), TEA, as a pass-through agency, is required to evaluate each subrecipient's risk of noncompliance with federal statutes, regulations, and the terms and conditions of the award for purposes of determining the appropriate subrecipient monitoring. Accordingly, the risk assessment may include:

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

### **Special Conditions**

Based on the evaluation of risk, TEA *must* consider imposing one or more of the following specific conditions upon the District if appropriate:

- Requiring payments as reimbursements rather than advance payments
- Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance
- Requiring additional or more detailed financial reports
- Requiring the District to obtain technical or management assistance
- Establishing additional prior approvals. 2 CFR § 200.208(d)

TEA is required to notify the District as to:

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

TEA must promptly remove any additional requirements once the conditions that prompted them have been satisfied.

### **Identification as a High-Risk Grantee**

In accordance with the provisions 2 CFR § 3474.10, TEA has the authority to identify the District as a high-risk grantee, based on an analysis of the following factors:

- Based on the results of the risk assessment;
- The District's history of compliance with the general or specific terms and conditions of a federal award;
- The District's ability to meet expected performance goals as described in the award;
- A responsibility determination of the District.

TEA may impose one or more special conditions as needed to bring the District into compliance.

### **Monitoring**

TEA must monitor the activities of the District as necessary to ensure that the award is used for authorized purposes, in compliance with the federal statutes, regulations, and the terms and conditions of the award; and that the award performance goals are achieved. 2 CFR § 200.332(e). Monitoring *must* include:

- Reviewing financial and programmatic reports.
- Ensuring that the District takes action on all significant developments that negatively affect the subaward. Significant developments include Single Audit findings related to the subaward, other audit findings, site visits, and written notifications from a subrecipient of adverse conditions which will impact their ability to meet the milestones or the objectives of a subaward. When significant developments negatively impact the subaward, a subrecipient must provide the pass-through entity with information on their plan for corrective action and any assistance needed to resolve the situation.
- Issuing a management decision for applicable audit findings pertaining only to the award.

TEA is responsible for resolving audit findings specifically related to the subaward and not responsible for resolving cross-cutting findings.

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

- Performing desk reviews of certain information;
- Providing the District with training and technical assistance on program-related matters;
- Performing on-site reviews of the District's program operations; and
- Arranging for agreed-upon procedures engagements as described in 2 CFR § 200.425 Audit services.

TEA will also consider taking any enforcement action (i.e., remedies for noncompliance) against the District if it is found to be in noncompliance.

### **Remedies for Noncompliance**

If the District fails to comply with the U.S. Constitution, federal statutes, regulations, or the terms and conditions of the award, the USDE (for direct grants) or TEA (for state-administered grants) may impose one or more of the conditions described in *Special Conditions* (above). In addition, TEA may take one or more of the following actions, as appropriate in the circumstances:

- Temporarily withhold payments until the District takes corrective action.
- Disallow costs for all or part of the activity associated with the noncompliance.
- Initiate suspension or debarment proceedings as authorized under 2 CFR Part 180 and USDE regulations (or in TEA's case, recommend such a proceeding be initiated by the USDE).
- Withhold further federal awards for the project or program.
- Take other remedies that may be legally available.

2 CFR § 200.339

### **C. Subrecipient Monitoring**

In the event that the District awards subgrants to other entities, it is responsible for monitoring those grant subrecipients to ensure compliance with federal, state, and local laws. Monitoring is the regular and systematic examination of all aspects associated with the administration and implementation of a program. Each program office that awards a subgrant must have its own monitoring policy. This policy must ensure that any monitoring findings are corrected.

The District does not award subgrants as a regular course of action.

## **IX. Audits**

### **A. Annual Independent Audit**

Section 44.008 of TEC requires that each school district have its fiscal accounts audited annually *at district expense* by a certified or public accountant (independent of the district) holding a permit from the Texas State Board of Public Accountancy (CPA). No portion of the independent

audit may be paid from state or federal grant funds. The cost to conduct the annual independent audit must be paid from state or local funds.

The audit must meet at least the minimum requirements and be in the format prescribed by the SBOE and the commissioner. Audits must be conducted in accordance with generally accepted auditing standards (GAAS) and Government Auditing Standards (GAS), also referred to as the *Yellow Book*. Audit requirements are also provided in TEA's FASRG, *Module 4 – Auditing*.

The itemized accounts and records of the district must be made available to audit. The independent audit must be completed following the close of each fiscal year and must be submitted to TEA within 150 calendar days of the close of the fiscal year.

During the annual independent audit, the auditor examines whether the district has complied with financial management and reporting requirements and with internal controls. The annual audit is organization-wide and includes an examination of all fund types and account groups.

The audit reports are reviewed by TEA audit staff, and TEA notifies the local board of trustees of any objections, violations of sound accounting practices or law and regulation requirements, or of any recommendations concerning the audit report that the commissioner wants to make. If the audit report reflects that penal laws have been violated, the commissioner must notify the appropriate county or district attorney and the state's attorney general.

TEA must be permitted access to all accounting records, including vouchers, receipts, fiscal and financial records, and other school records TEA considers necessary and appropriate for the review, analysis, and passing on audit reports.

## **B. Single Audit**

In addition to the state-mandated annual audit, federal regulations require that grantees obtain audits in accordance with [2 CFR Part 200, Subpart F – Audit Requirements](#). The audits must be made by an independent auditor in accordance with generally accepted government auditing standards (GAGAS). Awarding agencies, including TEA, are required to determine whether their grantees have met the audit requirements.

State agencies such as TEA are required to follow their own procedures to determine whether the District spent federal funds in accordance with applicable laws and regulations. This includes



reviewing an audit to determine if the District had a single audit conducted in accordance with 2 CFR § 200.514, or through other means if there was no single audit.

TEA as a state agency must also:

- ensure that the District takes appropriate corrective action within six months after receiving a report with an instance of noncompliance with federal laws and regulations
- consider whether the audit necessitates an adjustment of TEA's own records

### **Who Is Required to Have a Single Audit?**

School districts that **expend \$1,000,000** or more total in federal awards (i.e., all of the expenditures added together for all of the federal grants) during the fiscal year are required to have a Single Audit conducted *in addition to and in conjunction with* the annual independent audit.

The Single Audit must be completed in accordance with 2 CFR Part 200, Subpart F and the *Audit Compliance Supplement* (see link below), normally updated around March of each year. The *Audit Compliance Supplement* outlines specific requirements and corresponding audit procedures for each major federal program.

For federal programs *not* covered in the *Compliance Supplement*, the auditor is directed to use the *types* of compliance requirements contained in the *Supplement* as guidance for identifying compliance requirements to test, and to determine the requirements governing the federal program by reviewing the provisions of grant agreements and the laws and regulations applicable to those federal programs.

The cost to conduct the Single Audit can be prorated among the federal programs being audited in proportion to the total award amount of each program.

### **What Happens During a Single Audit?**

During a Single Audit, the auditor examines

- the District's financial statements and schedule of expenditures of federal awards
- compliance with laws, regulations, and the provisions of contract or grant agreements that have a direct and material effect on each of the District's federal programs

- the effectiveness of internal control over federal programs in preventing or detecting noncompliance

Auditors are required to classify and select federal programs for audit using a risk-based approach. Where a District receives only one federal program, the auditor may conduct a *program-specific* audit rather than a Single Audit.

Auditors use the suggested audit procedures in the *Audit Compliance Supplement* to test general compliance requirements for each federal program selected for audit during the Single Audit or program-specific audit process. Program and fiscal managers should be aware of the requirements and what the auditor may look for so they can be properly prepared. Auditors may potentially interview program managers and fiscal managers to solicit evidence of compliance with certain requirements.

As the auditor is reviewing the compliance requirements, he or she identifies any significant deficiencies in internal control and any noncompliance with laws, regulations, or grant agreements. The auditor also identifies any known questioned costs which are greater than \$25,000. Auditors must present the findings in a written report in sufficient detail for the District to prepare a corrective action plan and take corrective action, and for TEA or other awarding agency to arrive at a management decision.

The auditor assembles the report in accordance with *2 CFR Part 200, Subpart F* and submits the audit package to the local board of directors for approval. A copy of the full audit report, including the required annual audit, and the Single Audit or program-specific audit, is submitted to TEA as the pass-through entity. The auditor must also complete a data collection form that includes certain prescribed information about the District and the results of the audit. The District must submit the data collection form and a copy of the complete audit package to the [Federal Audit Clearinghouse](#) operated on behalf of OMB.

TEA audit staff review the audit report and issue a management decision within six months of receiving the package. The management decision (written letter) must inform the District whether or not the finding by the auditor is sustained, the reasons for the decision, and the expected action to repay disallowed costs, make financial adjustments, or take other corrective action. The District is responsible for follow-up and must prepare a corrective action plan for all audit findings, along with the anticipated completion date for each action and who is responsible.

TEA is required to follow up to ensure the District resolved the corrective actions. The audit in the subsequent year will include a follow up to ensure the District implemented the corrective actions.

TEA also uses the results of the report as a monitoring tool and may use the results to identify the District as high-risk and impose special conditions on federal awards.

Nederland ISD complies with the audit requirements outlined in **2 CFR § 200 Subpart F**, including the preparation and facilitation of the **Single Audit** when federal expenditures meet or exceed the established threshold.

The **Chief Financial Officer** is the designated official responsible for coordinating the annual audit process. This includes working with external auditors, maintaining required documentation, and ensuring all audit-related deadlines and deliverables are met.

### C. Audits and Special Investigations Conducted by TEA or By Another Regulatory Agency

A review of the annual independent audit report and/or the Single Audit report may prompt TEA to schedule a subsequent desk audit or on-site audit or investigation. Additionally, TEA may schedule an audit or investigation on the basis of legitimate complaints received by TEA about the District's use of federal funds.

Federal regulations require that subgrantees, including school districts, also cooperate with the Secretary of Education and the Comptroller General of the United States or any of their duly authorized representatives in the conduct of audits authorized by federal law. This cooperation includes access without unreasonable restrictions to records and personnel of the District for the purpose of obtaining relevant information.

The Comptroller General of the United States is the Director of the U.S. [Government Accountability Office](#) (GAO). GAO is an independent, nonpartisan agency that works with Congress. GAO ensures fiscal and managerial responsibility of the federal government by investigating how the federal government spends taxpayer dollars.

In addition, the [Office of Inspector General \(OIG\) at the USDE](#) may conduct an audit, investigation, or other activities to promote the efficiency, effectiveness, and integrity of the Department's programs and operations. Anyone knowing of fraud, waste, or abuse of federal education funds is able to contact the [OIG Hotline](#) to make a confidential report.

TEA also has a [procedure for reporting fraud, waste, or abuse of state and federal resources](#). In addition, TEA has a procedure for [filing a complaint](#) with regard to federal programs when it cannot be resolved at the local level following district policies and procedures.

### **District Procedures for Reporting Fraud, Waste, or Abuse**

Nederland ISD is committed to the responsible use of public funds and complies with all federal and state requirements for transparency and accountability. Any suspected fraud, waste, or abuse of state, local, or federal resources must be reported in accordance with District procedures and may also be reported directly to the Texas Education Agency (TEA) or the U.S. Department of Education Office of Inspector General (OIG). The District fully cooperates with all authorized audits, investigations, and reviews conducted by TEA, the U.S. Department of Education, or the Government Accountability Office.

## **X. Programmatic Fiscal Requirements**

### **A. Supplement, Not Supplant**

Most federal education grants contain the *supplement, not supplant* provision. In most cases, the expenditure of grant funds for a particular cost or activity must supplement, and not supplant, state or local funds and sometimes other federal funds. Therefore, supplement, not supplant is a crucial factor in determining whether a particular cost is allowable, and it must be understood by program and fiscal managers.

### **What Does Supplement, Not Supplant Mean?**

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

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

- Federal funds may not be used to replace activities normally funded from (other federal) state or local funds.

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

### Rebutting the Presumption of Supplanting

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

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

While the presumptions of supplanting apply to other ESSA programs, the presumptions of supplanting no longer apply to Title I, Part A of ESSA. The USDE provides excellent guidance on supplement, not supplant with regard to Title I, Part A in their [Non-Regulatory Guidance on Supplement Not Supplant Under Title I, Part A of the Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act June 2019](#). In addition, [TEA's Supplement, Not Supplant Handbook](#) (under *Handbooks*) discusses supplement, not supplant as it applies to ESEA programs and other programs, including IDEA-B and Perkins. Both documents contain excellent information and examples as it pertains to rebutting the presumption of supplanting.

### Supplement, Not Supplant Under Title I, Part A of the ESEA

The fiscal requirements for supplement, not supplant under Title I changed with the reauthorization of the Elementary and Secondary Education Act of 1965 by the Every Students Succeeds Act (ESSA) in 2015. ESSA eliminated the cost-by-cost analysis previously required by NCLB and replaced it with a methodology test. ESEA section 1118(b)(3).

Under ESSA, to demonstrate compliance with the supplement not supplant requirement, a district must show that its methodology to allocate state and local funds to schools, results in each Title I school receiving all of the state and local funds it would otherwise receive were it not receiving Title I, Part A funds. ESEA section 1118(b)(2). This means that districts must use a “Title I-neutral” methodology. A Title I-neutral methodology is one that allocates state and local funds to schools without regard for a school’s Title I status.

TEA also provides excellent guidance related to ESEA and other programs in [a \*Supplement, Not Supplant Handbook: A Guide for Grants Administered by the Texas Education Agency\*](#).

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

### **How to Document Compliance for an Auditor**

Any determination about supplanting is specific to the individual situation, and general guidelines cannot be provided to meet the particular details of any situation. Examples of the types of documentation auditors may request from the District to demonstrate that the expenditure is supplemental to other federal and/or non-federal programs include the following:

- Fiscal or programmatic documentation to confirm that, in the absence of federal funds, the District would have eliminated staff or other services in question
- Board minutes/agendas with discussion of elimination of staff due to lack of state funds
- State or local legislative actions
- Itemized budget histories from one year to the next and information
- Planning documents
- Actual reduction in state or local funds
- Decision to eliminate position or services was made without regard to the availability of federal funds, including the reason the decision was made

- Class-size data from previous years and upcoming year
- Specific policies and procedures related to supplement, not supplant requirements

## **Procedures for Complying with Supplement, Not Supplant**

### **1. Per-Pupil Funding Methodology**

Nederland ISD uses a consistent districtwide methodology to allocate state and local funds to each campus based on a **per-pupil amount** that accounts for grade level, student need, and program type. This ensures campuses receive equitable base funding **before** any federal funds are applied.

### **2. Determination of Allowable Costs – Supplement, Not Supplant Analysis**

Before approving any federal expenditures, the **Federal Programs Coordinator**, in coordination with the **Business Office**, conducts an **allowability and supplement, not supplant analysis**, ensuring that:

- The cost is **not required** to be paid by state/local funds;
- The cost **exceeds** what is provided through the district's per-pupil allocation;
- The service or resource is **not replacing** something previously funded with state/local sources.

All requests for federally funded purchases must include justification documentation that includes this analysis.

### **3. Monitoring and Documentation**

- The **Federal Programs Coordinator** tracks all federally funded services and personnel against baseline state/local provisions.
- Documentation of the district's funding methodology and cost analysis is maintained for all federal programs.
- This documentation is reviewed annually and made available for audit and compliance monitoring.

### **4. Supplanting Discovery and Immediate Remediation**

If a potential **supplanting issue is identified**, either through internal monitoring or departmental review:

- The **Federal Programs Coordinator** immediately investigates the expenditure and determines corrective steps.
- If confirmed, the cost is **removed from the federal fund** and reclassified under a local or state funding source within the same fiscal year.
- The **Business Office** supports reallocation and ensures documentation reflects the change.
- The issue is addressed and resolved **immediately**, not deferred until audit discovery.

## 5. Annual Review and Training

The **Federal Programs Coordinator** and **Business Office** conduct an **annual review** of all supplement, not supplant procedures, update guidance based on federal or TEA updates, and provide **training to campus and department staff** involved in federal programs or budget planning.

### B. Maintenance of Effort (MOE)

MOE is one of the fiscal requirements, similar to supplement, not supplant, that ensures that federal funds are used to provide services that are in addition to the regular services normally provided by a District. If MOE is a requirement, it will be included in the authorizing program statute.

MOE means the District must maintain its expenditures for public education from state and local funds from year to year. A district cannot reduce its own state and local spending for public education and replace those funds with federal funds.

For most federal programs for which MOE applies, such as Title I, Part A, the District's combined fiscal effort per student, or the aggregate expenditures of the District with the respect to the provision of a free public education for the fiscal year preceding the fiscal year for which the determination is made, must be not less than 90% of the combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made. (Note: The MOE requirements are different for some grant programs, such as IDEA-B [Individuals with Disabilities Education Act, Part B]).

MOE is based on *actual* expenditures from State and local funds, not on budgeted amounts. The District is responsible for maintaining effort and for documenting compliance with MOE. TEA will verify the District's MOE using fiscal information obtained through the Public Education Information Management System (PEIMS) database.



## Expenditures Included in the Determination of MOE

In determining whether the District has maintained fiscal effort, TEA must consider the District's expenditures from State and local funds for free public education. These include expenditures for

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

[34 CFR § 299.5\(d\)\(1\)](#)

TEA calculates MOE for school districts and open-enrollment charter schools. TEA includes expenditures for the following functions (specified in [TEA MOE Guidance Handbook](#)) in determining whether the District has met the MOE requirement:

Category	Function
Instruction	11
Instructional Leadership (previously Administration)	21
Instructional Leadership (previously Administration)	12
Curriculum Development and Instructional Staff Development	13
School Leadership	23
Guidance and Counseling Services	31
Social Work Services	32
Health Services	33
Student (Pupil) Transportation	34
<b>Deficits</b> for Cocurricular/Extracurricular Student Body Activities	36
<b>Deficits</b> for Food Services	35
General Administration	41
Plant Maintenance and Operation	51
Data Processing Services	53

## Expenditures Excluded from the Determination of MOE

The following expenditures are *excluded* from the determination of MOE:

- community services
  - capital outlay
  - debt service
  - supplemental expenses made as a result of a Presidentially declared disaster
  - any expenditures made from federal funds
- [34 CFR § 299.5\(d\)\(2\)](#)

### **“Preceding Fiscal Year” Defined**

For purposes of determining MOE, regulations specify that the “preceding fiscal year” is the federal fiscal year, or the 12-month fiscal period most commonly used in a State for official reporting purposes, prior to the beginning of the federal fiscal year in which funds are available. TEA calculates MOE using State and local expenditures for the **state** fiscal year, or September 1 through August 31. [34 CFR § 299.5\(c\)](#)

### **Failure to Meet MOE**

If the District fails to meet MOE for any given fiscal year, the award amount is reduced in the exact proportion by which the District did not meet MOE. The Secretary of Education may waive the requirements for one year due to exceptional or uncontrollable circumstances, such as natural disaster, or a precipitous decline in the financial resources of the District.

### **Procedures for Complying with MOE**

The District complies with guidance provided by TEA pertaining to MOE.

### **Key Responsibilities:**

- **Finance Department:**
  - Tracks, documents, and reports local/state expenditures for special education.
  - Submits MOE data to TEA using approved tools.
  - Reviews year-end expenditures for compliance.
- **Special Education Department:**
  - Coordinates with Finance to align budgets with program needs.
  - Identifies and documents allowable MOE exceptions.
- **Federal Programs Department:**
  - Monitors MOE for other federally funded programs (e.g., Title I).
  - Supports cross-departmental compliance efforts.

**Budgeting & Eligibility:**

- Prior to adoption, budgets are reviewed to ensure proposed local/state funding meets or exceeds the previous compliant year.
- Reductions are flagged and reviewed against allowable exceptions (34 CFR §300.204).

**Year-End Compliance:**

- Finance verifies actual expenditures using all four MOE methods.
- Exceptions (e.g., staff retirement, reduced enrollment) are documented and retained.
- If MOE is not met and no exceptions apply, noncompliance is addressed in coordination with TEA.

**Documentation & Reporting:**

- MOE records are maintained for a minimum of **5 years**.
- All reports are submitted through TEA's designated systems and updated as required.

**Annual Review:**

- MOE procedures are reviewed and revised annually by Finance, Special Education, and Federal Programs.

## **XI. Programmatic Requirements**

### **A. Private Nonprofit School Participation**

If the authorizing federal program statute provides for private nonprofit school participation, the District must comply with certain requirements. Before completing and submitting the application, the District must contact the private nonprofit schools located within the District's boundaries, notifying them of the opportunity to participate in the program. The *Private Nonprofit School Participation* schedule in the applicable federal grant application must be completed and submitted with the application.

Generally, in accordance with the specific program statute, private nonprofit schools must be consulted in the planning and development of the project. Both children and teachers from private nonprofit schools must be assured equitable participation in all services, materials, equipment, and teacher training.

Prior to completing any federal grant application, the District ensures that private nonprofit schools have been consulted in accordance with the provisions of the statute and in accordance with the guidelines specified in TEA's [General and Fiscal Guidelines](#) and Program Guidelines. The program manager/director assigned to the federal program is responsible for ensuring that all requirements with regard to the participation of private nonprofit schools are carried out.

## **B. Equitable Access and Participation**

In compliance with the General Education Provisions Act (GEPA), Section 427, and in accordance with the requirements established by the U.S. Department of Education for all federally funded grants, the District is committed to ensuring *equitable access to and equitable participation in* all programs and activities supported by federal funds.

Equitable Access and Participation is a mandatory component of every federally funded grant application submitted by the District. Applications will not be approved in the absence of this required schedule.

The District recognizes that barriers to equitable participation may exist based on gender, race, color, national origin, disability, or age. As such, the District implements procedures to identify, address, and eliminate these barriers during the needs assessment phase of each program's planning and development.

### **Procedures for Ensuring Equitable Access and Participation:**

#### **1. Barrier Analysis:**

The District uses a comprehensive needs assessment tool to evaluate potential barriers to participation for all students, teachers, and program beneficiaries. This assessment is conducted in collaboration with school leaders, special education staff, English learner coordinators, and equity and compliance officers.

*Responsible Position: Assistant Superintendent of Curriculum*

#### **2. Strategy Development:**

Based on the identified barriers, the District develops targeted strategies and accommodations to address and overcome inequities. These strategies may include providing translation services, adaptive technologies, facility access modifications, differentiated instruction, and targeted outreach to underrepresented populations.

*Responsible Position: Assistant Superintendent of Curriculum*

### 3. **Monitoring and Evaluation:**

The District monitors the implementation of strategies to ensure their effectiveness and to confirm that identified barriers have been eliminated. Ongoing feedback is collected from stakeholders, and modifications are made as needed to support continuous improvement.

*Responsible Position: State and Federal Programs Coordinator*

The District affirms its commitment to promoting access, equity, and opportunity for all program participants and ensuring full compliance with federal requirements for Equitable Access and Participation in every grant-funded initiative.

### C. Civil Rights and Prohibition of Discrimination

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

The four primary civil rights laws are as follows:

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

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

compliance with any of these four civil rights laws. *Title 20 USC, Chapter 31 – General Provisions Concerning Education, § 1231e.*

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

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

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

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

Specific discriminatory actions that are prohibited include

- denying an individual any service or other benefit provided under the program
- providing any service or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program
- subjecting an individual to segregation or separate treatment in any matter related to his or her receipt of any service or other benefit under the program
- restricting an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or other benefit under the program
- treating an individual differently from others in determining whether he or she satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service or other benefit provided under the program

- denying an individual an opportunity to participate in the program through the provision of services or otherwise or afford him or her an opportunity to do so which is different from that afforded others under the program
- denying a person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program

Every federal grant application includes an assurance that the District complies with these provisions. The assurance is included in the TEA [General Provisions and Assurances](#).

The District may be required to submit to the USDE OCR records that demonstrate compliance with the provisions. The District must also permit on-site access to records by USDE OCR staff to verify compliance.

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

The regulations that implement Title VI of the Civil Rights Act for educational institutions are in [34 CFR Part 100](#). 34 CFR §§ 75.500 and 76.500 and [Title VI of the Civil Rights Act of 1964](#)

The Assistant Superintendent of Human Resources and Operations is responsible for coordinating and ensuring compliance with this Act.

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

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

The regulations in [34 CFR Part 106](#) implement the provisions of Title IX. These regulations require that

- The District designates at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX, including investigating any complaint

communicated to the District alleging its noncompliance with Title IX. The District must notify all its students and employees of the name, office address, and telephone number of the employee or employees appointed to carry out the requirements of Title IX.

- The District adopts and publishes grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action which would be prohibited by Title IX.
- The District implement specific and continuing steps to notify students, parents and employees that it does not discriminate on the basis of sex in the educational programs or activities which it operates, and that it is required by Title IX and 34 CFR Part 106 not to discriminate in such a manner. The District must publish in any document used to recruit students or employees the policy that states that the District does not discriminate on the basis of sex.

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

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

Every federal application includes an assurance that the District complies with these provisions. The assurance is included in the TEA [General Provisions and Assurances](#), [Title IX of the Education Amendments of 1972](#); [34 CFR Part 106](#); and [34 CFR §§ 75.500 and 76.500](#)

The Assistant Superintendent of Human Resources and Operations is responsible for coordinating and ensuring compliance with this Act.

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

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

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. The District may not, in any program or activity receiving federal



financial assistance, directly or through contractual, licensing, or other arrangements, use age distinctions or take any other actions that have the effect, on the basis of age, of

- (1) excluding individuals from, denying them the benefits of, or subjecting them to discrimination under a program or activity receiving federal financial assistance
- (2) denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance

These regulations do not apply to

- (1) an age distinction contained in that part of a federal, state, or local statute or ordinance adopted by an elected, general purpose legislative body that
  - (i) provides any benefits or assistance to persons based on age
  - (ii) establishes criteria for participation in age-related terms
  - (iii) describes intended beneficiaries or target groups in age-related terms
- (2) any employment practice of any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program, except any program or activity receiving federal financial assistance for employment under the Job Training Partnership Act (29 U.S.C. 1501 *et seq.*).

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

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

The District must take steps to comply and maintain records demonstrating compliance. The District may be required to submit to the USDE OCR records that demonstrate compliance with the provisions and must also permit on-site access to records by USDE OCR staff to verify compliance. The District must

- Designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under the *Age Discrimination Act*, including investigating any complaint communicated to the recipient alleging its noncompliance with the Act. The District must notify all its students of the name, office address, and telephone number of the employee or employees appointed to carry out the requirements of the Act.
- Adopt and publish grievance procedures providing for prompt and equitable resolution of student complaints alleging any action which would be prohibited by the Age Discrimination Act.

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

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

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

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

An assurance that the District complies with these provisions is included in the TEA [General Provisions and Assurances](#). [Age Discrimination Act of 1975](#); [34 CFR Part 110](#); and *34 CFR §§ 75.500 and 76.500*

The Assistant Superintendent of Human Resources and Operations is responsible for coordinating and ensuring compliance with this Act.

### **Prohibition of Discrimination on the Basis of Disability**

In addition to the [Individuals with Disabilities in Education Act](#) (IDEA), there are two other laws pertaining to non-discrimination on the basis of disability:

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

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

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

### ***Section 504***

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

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

*Physical or mental impairment* means, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory,

circulatory, endocrine, and reproductive functions. It includes any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, as well as any mental or psychological disorder.

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

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

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

Determining whether a child is a *qualified disabled student* under Section 504 begins with the evaluation process. Section 504 requires the use of evaluation procedures that ensure that children are not misclassified, unnecessarily labeled as having a disability, or incorrectly placed, based on inappropriate selection, administration, or interpretation of evaluation materials.

School districts must establish standards and procedures for initial evaluations and periodic re-evaluations of students who need or are believed to need special education and/or related services because of disability. The Section 504 regulations require districts to individually evaluate a student before classifying the student as having a disability or providing the student with special education. In addition, evaluation and the provision of appropriate accommodations are required regardless of any methods the student might be using to mitigate the impairment.

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

***Title II of ADA***

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

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

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

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

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

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

The USDE OCR enforces the provisions of *Section 504* and the provisions of *Title II of ADA* as it applies to LEAs. An assurance that the grantee complies with these provisions is included in the TEA [General Provisions and Assurances](#).

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

The Director of Student Services coordinates and ensures compliance with the requirements under Section 504. The Director of Student Services coordinates and ensures compliance with the requirements of Title II of ADA.

[Section 504 of the Rehabilitation Act of 1973](#); [34 CFR Part 104](#); 34 CFR §§ 75.500 and 76.500; [Title II of the Americans with Disabilities Act of 1990](#); [Americans with Disabilities Act Amendments Act of 2008](#); and *28 CFR Part 35*

**Prohibition of Discrimination of Groups Affiliated with Boy Scouts of America**

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

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

[34 CFR Part 108](#) implements the provisions of the Act. The District shall not deny access or opportunity or discriminate for reasons including the membership or leadership criteria or oath of allegiance to God and country of the Boy Scouts or of a similar patriotic youth society.

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

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

The USDE OCR enforces the requirements of the Act.

*ESEA, as Amended by the No Child Left Behind Act of 2001, § 9525, Equal Access to Public School Facilities; [Boy Scouts of America Equal Access Act](#); and [34 CFR Part 108](#)*

### **School Prayer**

A related provision applies to constitutionally protected prayer in public schools. As a condition of receiving ESEA funds, the District must certify in writing that no policy of the District prevents, or otherwise denied participation in, constitutionally protected prayer in public elementary and secondary schools. Per statute, the certification must be provided to TEA by October 1 of each

year. However, TEA includes the certification in the Consolidated Application each year thus eliminating the need for LEAs to submit a separate certification.

The provision also requires the Secretary to provide guidance to Districts and to publish the guidance on the Internet. A link to the guidance is provided below. *ESEA, as Amended by the No Child Left Behind Act of 2001, § 9524*

[USDE Guidance on Constitutionally Protected Prayer in Public Schools](#)

The Superintendent coordinates and ensures compliance with the requirements of this Act.

#### D. Program Reporting

Federal regulations require that grantees cooperate in any evaluation of the program. 34 CFR § 76.591. States may require subgrantees to furnish reports that the state needs to carry out its evaluation and performance reporting duties. 34 CFR § 76.722. Evaluation reports must include

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

Federal regulations also require that grantees, in this case, TEA, submit, at a minimum, annual performance reports to the federal awarding agency. 2 CFR § 200.329. The federal awarding agency may also require quarterly or semi-annual reports. Performance reports must contain, for each grant, brief information on the following:

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

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

In addition, events may occur between the scheduled performance reporting dates which have significant impact upon the grant activities. 2 CFR § 200.329(e). In such cases, the regulations require the District to inform TEA, and TEA to inform the USDE or other federal awarding agency, if appropriate, as soon as either of the following conditions become known:

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

The USDE or TEA may make site visits as warranted by program needs.

Program reporting requirements are specified in the *Program Guidelines* accompanying each RFA published by TEA. The program manager/director assigned to the program is responsible for ensuring mechanisms and systems are in place or collecting and analyzing any and all required data and/or information and for reporting such data and/or information in accordance with TEA's requirements.

## **XII. Emergency Policies and Procedures**

In accordance with the Education Department General Administrative Regulations (EDGAR) and guidance for federally funded grant compliance, the District maintains emergency policies and procedures to ensure operational continuity, financial integrity, and regulatory compliance in the event of a natural disaster, global pandemic, or other extraordinary emergencies—including, but not limited to, a zombie apocalypse. In accordance with 2 CFR § 200.102(e), the District may request and apply exceptions to certain federal requirements during federally declared emergencies or disasters. Any such exceptions must be documented, applied consistently, and retained in the District's grant compliance records.

### **1. Leadership and Coordination**

In the event of an emergency, the **Superintendent's Office** will assume lead responsibility for coordinating all district-wide decisions, including those affecting federally funded programs.

The **District Emergency Management Team (DEMT)**, composed of senior leadership and relevant department heads, will be activated immediately upon identification of a significant disruption. This team will assess the situation, determine the appropriate response level, and issue action steps to departments and campuses.



*Lead                      Coordination                      Office:                      Superintendent's                      Office*  
*Support Offices: DEMA, Risk Management, Facilities, Technology Services*

## **2. Employee and Stakeholder Communication**

The **Office of Communications** will serve as the centralized point for all emergency-related messaging. This office is responsible for distributing timely and accurate information to employees, students, families, and the community through multiple channels, including email, SMS alerts, robocalls, the district website, and social media.

*Responsible Office: Office of Communications*

## **3. Employee Pay and Contracts**

During any disruption caused by an emergency:

- The District will continue to pay employees to the greatest extent allowable under federal and state guidance and within grant terms.
- For federally funded employees, payroll will be tracked and documented to ensure allocability and allowability.
- Contractual obligations will be reviewed by the **Finance and Procurement Offices** to determine the feasibility of payment, renegotiation, or suspension of services.

*Responsible Office: Finance Department, in coordination with Human Resources and Procurement Services*

## **4. Inventory of Property Purchased with Federal Funds**

In the event of a closure or disruption:

- The **District Property and Asset Management Office** will conduct a rapid review of all federally funded equipment and assets.
- Appropriate inventory procedures will be followed, including securing, relocating, or monitoring items to prevent loss, damage, or misuse.
- Documentation and reports will be updated in the inventory system and shared with grant oversight personnel as required.

*Responsible Office: Property and Asset Management*

## **5. Recuperation of Prepaid Travel Costs**

If a federally funded trip is canceled due to an emergency:

- The **Business Services Office** will initiate procedures to recover prepaid travel expenses (e.g., through refunds, credits, or insurance claims).
- Documentation of attempts to recoup costs, along with proof of cancellation and original receipts, will be maintained to ensure federal compliance.

*Responsible Office: Business Services and Travel Reimbursement Team*

## 6. Program Continuity and Flexibility

When possible, the District will shift instruction and programmatic operations to virtual platforms to maintain continuity of federally funded services. The **Instructional Technology Office** and **Federal Programs Department** will collaborate to ensure all grant-funded activities continue, are modified appropriately, or are paused with proper documentation and approval.

## 7. Contingency Planning

The District will regularly review and revise its emergency response protocols. Annual simulations and tabletop exercises will be conducted to prepare leadership and staff for all-hazards scenarios, including highly unlikely but imaginative contingencies such as a zombie outbreak.

### Final

### Authority:

The **Superintendent**, in consultation with legal counsel and federal compliance officers, retains final authority over emergency responses, financial decisions, and adjustments to federally funded operations under EDGAR guidelines.

## XIII. Legal Authorities and Helpful Resources

The following documents contain relevant grants management requirements. Staff should be familiar with these materials and consult them when making decisions related to the federal grant.

- Education Department General Administrative Regulations (EDGAR)
  - <http://www2.ed.gov/policy/fund/reg/edgarReg/edgar.html>
- [Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards \(2 CFR Part 200\)](#)

- <http://www.ecfr.gov/cgi-bin/text-idx?SID=ccccf77e01c9e6d4b3a377815f411704&node=pt2.1.200&rgn=div5>
- [USDE’s Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards \(2 CFR Part 3474\)](#)
  - [http://www.ecfr.gov/cgi-bin/text-idx?SID=ccccf77e01c9e6d4b3a377815f411704&tpl=/ecfrbrowse/Title02/2cfr3474\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?SID=ccccf77e01c9e6d4b3a377815f411704&tpl=/ecfrbrowse/Title02/2cfr3474_main_02.tpl)
- Federal education program statutes, regulations, and guidance
  - <http://www.ed.gov/>

## Appendices

### Appendix 1 – Organization Chart of the District

[District Organizational Chart](#)

### Appendix 2 – NISD EDGAR & Purchasing Requirements Chart

[EDGAR & Purchasing Requirements Chart](#)