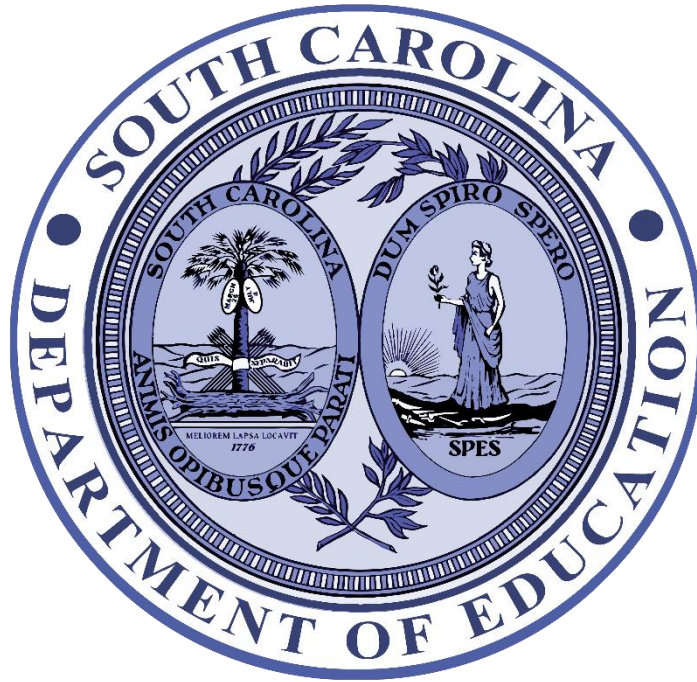




Understanding Federal Regulations

ESSER Academy
March 28, 2022

Audrey H. Shifflett
Grants Program, Division of Legal Services

In addition to death and taxes...



- No avoiding federal regulations
- Understanding required for effective subgrant management
- Failure to comply has consequences



Disclaimer

This presentation is designed to help you understand federal grant requirements and federal regulations, including parts of **2 CFR Part 200**—the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

This presentation is *not a substitute* for reading the regulations and other requirements.



WARNING! ESSER FUND SUBAWARDS



- More federal money than ever!
- Must accurately account for all funds
- Be prepared: not “if,” but “when”
 - Monitoring (desk and visits)
 - Audits



More Money!

- 2022 Consolidated Appropriations Act signed into law March 15, 2022
- Includes
 - \$17.5 billion for Title I grants to school districts (+\$1 billion)
 - \$13.3 billion for special education grants to states
 - \$1.38 billion for career and technical education state grants

EDUCATION APPROPRIATIONS



On March 15, President Biden [signed into law](#) the *Consolidated Appropriations Act, 2022*, providing funding for the activities of the federal government for the fiscal year ending September 30, 2022, and securing historic support for the Ukrainian people ([White House fact sheet](#) and [Secretary Cardona's statement](#)).



Our Direction Today

- I. Terms, Acronyms, Roles and Expectations
- II. Hierarchy of Requirements
- III. Regulations for Subawards of US Dept. of Education Funds
- IV. Tips



Terms, Acronyms, Roles & Expectations

Know where you are



Pass-through Entity

Primary grantee

- Gets grant from federal agency
- Can be State Education Agency (SEA) like South Carolina Department of Education (SCDE)
- Makes subawards to eligible entities (subgrantees)
- Applies state laws/requirements/limits to subawards



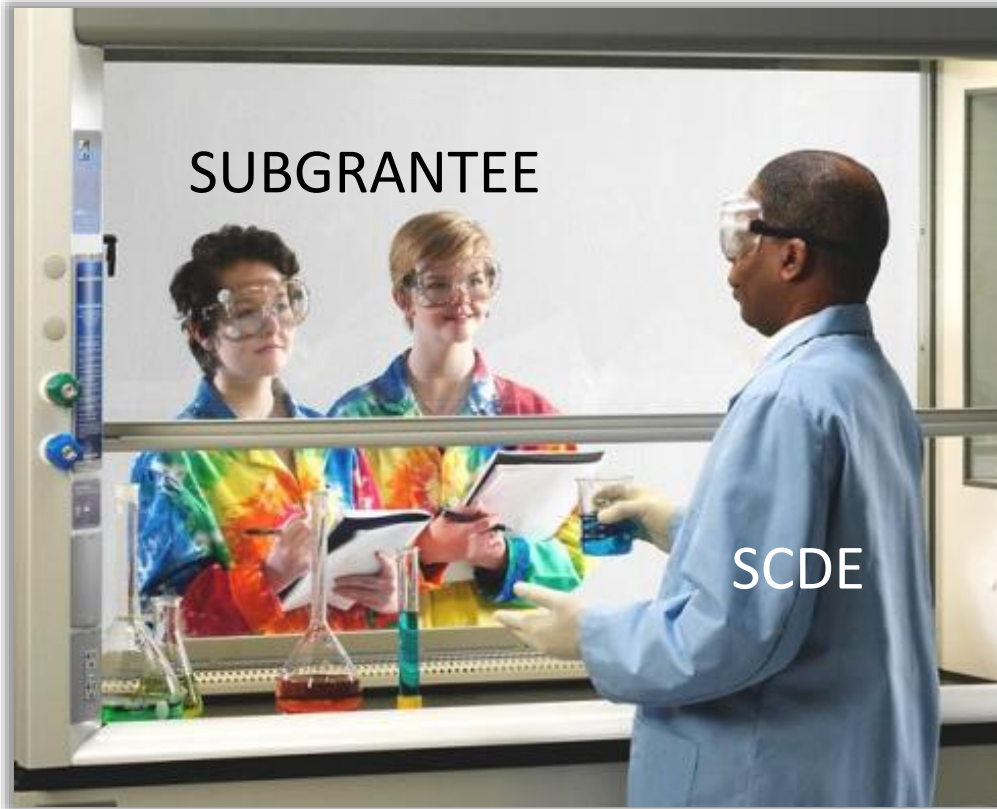
Subgrantee

Secondary grantee

- Gets subaward from primary grantee
- Can be a Local Education Agency (LEA; i.e., school district) or other non-federal entity (NFE)
- Must follow/comply with what is passed-through in subaward



SCDE passes through to Subgrantee



- Federal award requirements
 - Scope of Work, Regulations, etc.
- Assurances and Terms and Conditions for Federal Subawards
 - Audit
 - Recordkeeping
 - Time and Effort
- State Laws, Provisos, Regulations
 - Per diem
 - Procurement



No Such Thing as Free Money!

All grants & subgrants
have “strings attached”

- Laws
- Regulations
- Guidance



It's a good thing

- Tools for you to use
- Uniform “rules” & guidance
- Accessible to public/transparent
 - ecfr.gov
 - USA.gov



Grant/Subgrant Manager's Role

- Programmatic activities to achieve goals & objectives
- Financial activities to achieve prudent fiscal management of grant/subgrant funds
- Record keeping activities to ensure accurate documentation
- Compliance activities to fulfill all program requirements, including accurate reporting & close out.



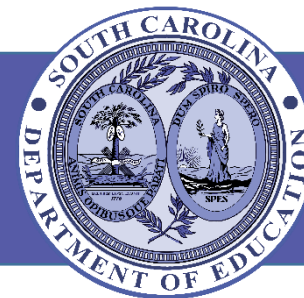
Grant/Subgrant Entities are Expected to

- Adhere to *all* funding requirements
- Have adequate internal control systems
- Comply with state laws, federal laws, and regulations
- Meet performance expectations
- Meet *all* reporting requirements
(i.e., reports are complete, accurate, and on time).



Where do I find that stuff?

So I know what applies



Regulations Dictate SCDE Subaward Contents

2 CFR Part 200.332 Requirements for pass-through entities

SCDE must

- (a) - include specific items in subaward
- (b) - evaluate subrecipient's risk of noncompliance
- (c) - consider imposing specific subaward conditions
- (d) - monitor subrecipient's activities
- (e) - consider appropriate monitoring tools (per risk assessment)
- (f) - verify subrecipient is audited
- (h) - consider taking enforcement actions against noncompliant subrecipients



Read the Subaward Agreement Carefully



STATE OF SOUTH CAROLINA DEPARTMENT OF EDUCATION

MOLLY M. SPEARMAN
STATE SUPERINTENDENT OF EDUCATION

SUBGRANT AWARD NOTIFICATION

Directions: Please read carefully, sign in the appropriate space, and return the original by February 11, 2022, to

Susan Murphy at SMurphy@ed.sc.gov.

Title III Program Office

1429 Senate Street, Suite 501-E

Columbia, SC 29201

Questions? Contact Susan Murphy at
803-734-1601; SMurphy@ed.sc.gov.

Keep a signed copy for your records

1. Name and Address of Subgrantee: Aiken County Public School District 1000 Brookhaven Drive Aiken, SC 29803-2109	2. Subaward Information: Grant Status: Amendment 1 Grant Number: H63010006722 Subaward Name: 22 Title III, Part A-ML Sub Program Number: 01 Award Amount: \$0.00 Total Amount of Funds Obligated to Subgrantee: \$140,625.75 Total Amount of Funds Committed to Subgrantee: \$140,625.75
3. Name of Authorized Official: Mr. King Laurence	
4. Subgrantee Unique Identifier (UEI#): 077996338	



Subaward Agreement

Legally binding contract between
State Superintendent of Education and
Authorized Official of non-federal entity:

- LEA Superintendent
- Executive director of nonprofit
- President/Provost of college/university/technical college



Signed Subaward Commits Recipient to

- Act with integrity when
 - using funds as outlined in subgrant agreement
 - reporting actual use of funds
- Properly track use of funds
- Maintain adequate supporting documentation
 - All expenditures (POs, proof of purchase, journal entries)
 - Inventory control.



Hierarchy of Federal Requirements

What applies, and in what order?



Hierarchy of Requirements:

Federal Laws and Statutes

- Federal Grant and Cooperative Agreement Act
- Programmatic Statutes — a.k.a. authorizing legislation
- Administrative Statutes
 - Single Audit Act
 - General Education Provisions Act (GEPA)
- Appropriations Legislation, such as Consolidated Appropriations Act of 2022



Example from Appropriations Act:

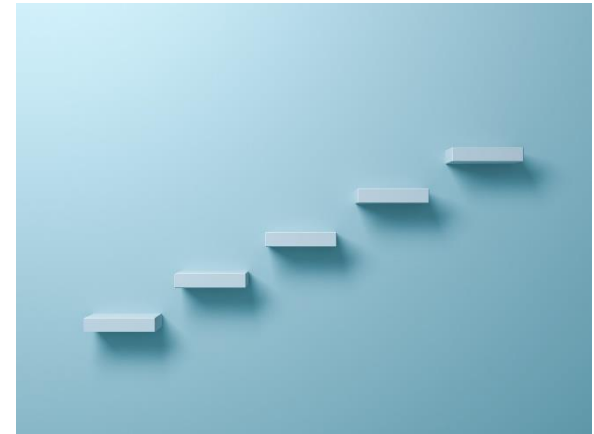
Public Disclosure Requirement

“When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing this project, the subgrantee shall state clearly:

- The dollar amount of the federal funds for the project;
- The percentage of the total cost of the project that will be financed with federal funds; and
- The percentage and dollar amount of the total cost of the project that will be financed by non-governmental sources.”



A step down in Hierarchy: **Federal Regulations**



- Same effect as law
- **Federal agency-specific**
 - US Dept of ED 34 CFR and 2 CFR Parts 34xx
 - US Dept of Agriculture 7 CFR and 2 CFR Parts 4xx
- **cross-cutting: 2 CFR Parts 25, 180, & 200**



What's a CFR?



- Code of Federal Regulations
- Organized by Titles, then parts, then sections
- Use www.ecfr.gov



eCFR is easy to use

- Title 2 Grants and Agreements
 - 2 CFR Parts 25, 170, 180 & 200
- Title 34 US Dept. of Education
 - 34 CFR Parts 75, 76, 77, 79, 81, 82, 84, 97 & 99
 - Also see 2 CFR Parts 3474 and 3485
- Title 7 US Dept. of Agriculture
 - 7 CFR Parts 3, 15 & 16
 - Also see 2 CFR Parts 415-418

www.ecfr.gov

Welcome to the new eCFR! Check out our [Getting Started](#) guide to make the most of the new site.

Home Browse Search Recent Changes Corrections Reader Aids My eCFR Search the eCFR Sign In / Sign Up

 **Code of Federal Regulations** 
A point in time eCFR system

eCFR

READER AIDS

Welcome to the new eCFR! Check out our [Getting Started](#) guide to make the most of the new site.

Go to CFR Reference Go

Titles

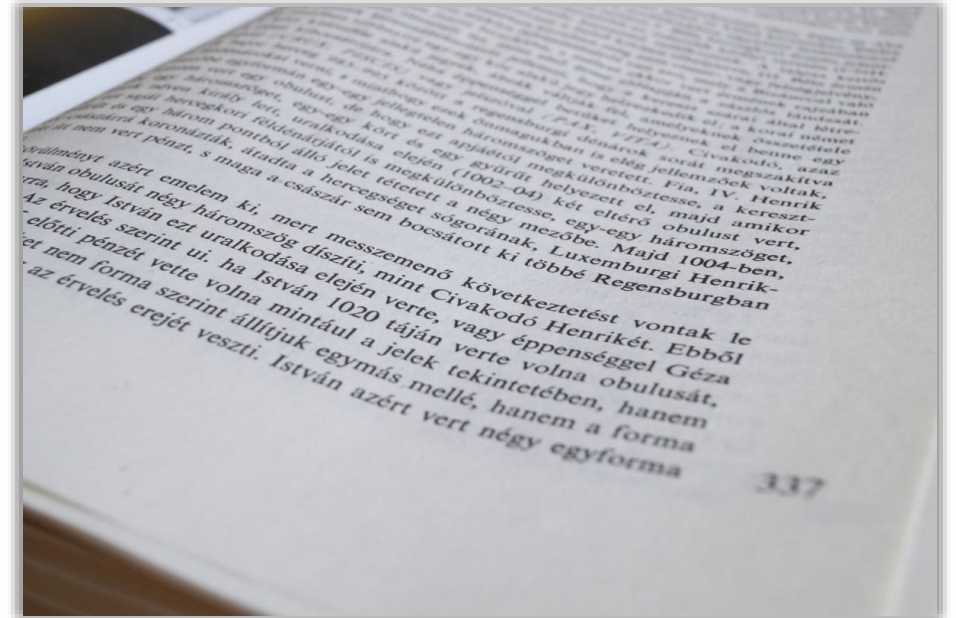
	Last Amended	Recent Changes
Title 1 :: General Provisions	Nov 19, 2021	view changes
Title 2 :: Grants and Agreements	Mar 18, 2022	view changes
Title 3 :: The President	Mar 17, 2015	
Title 4 :: Accounts	May 01, 2018	
Title 5 :: Administrative Personnel	Jan 21, 2022	view changes
Title 6 :: Domestic Security	Feb 04, 2022	view changes
Title 7 :: Agriculture	Mar 16, 2022	view changes



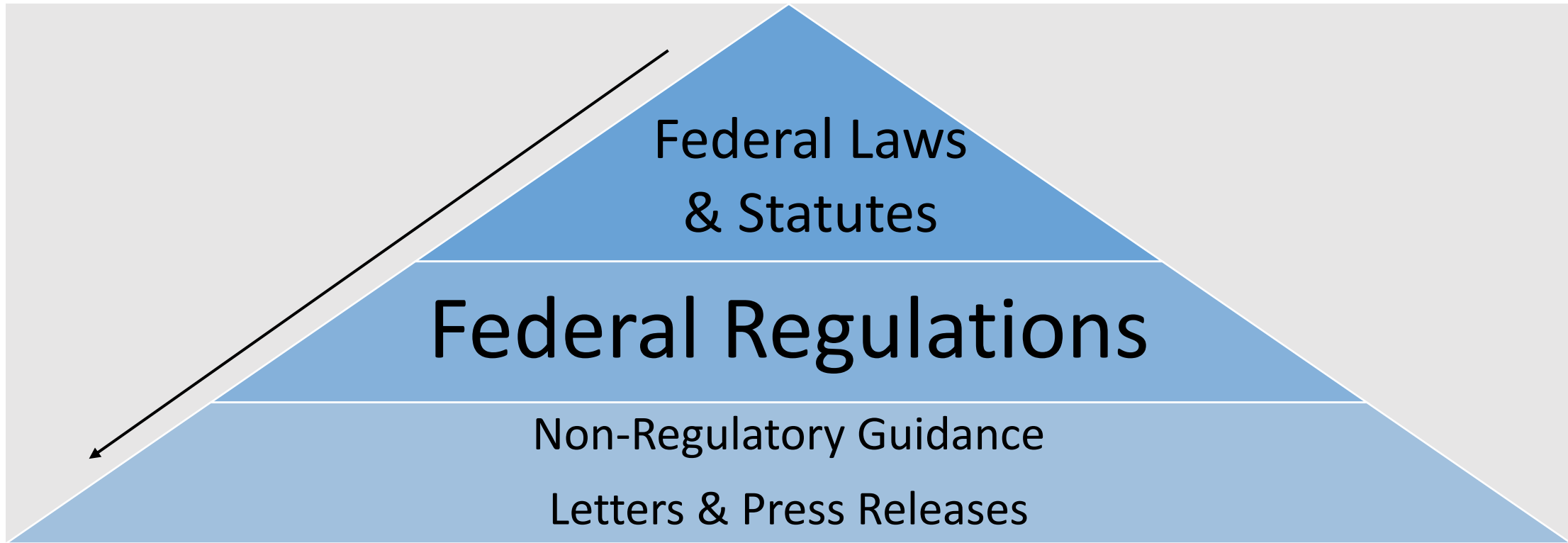
Back to the Hierarchy, another step down: **More Federal**

Specific federal agency

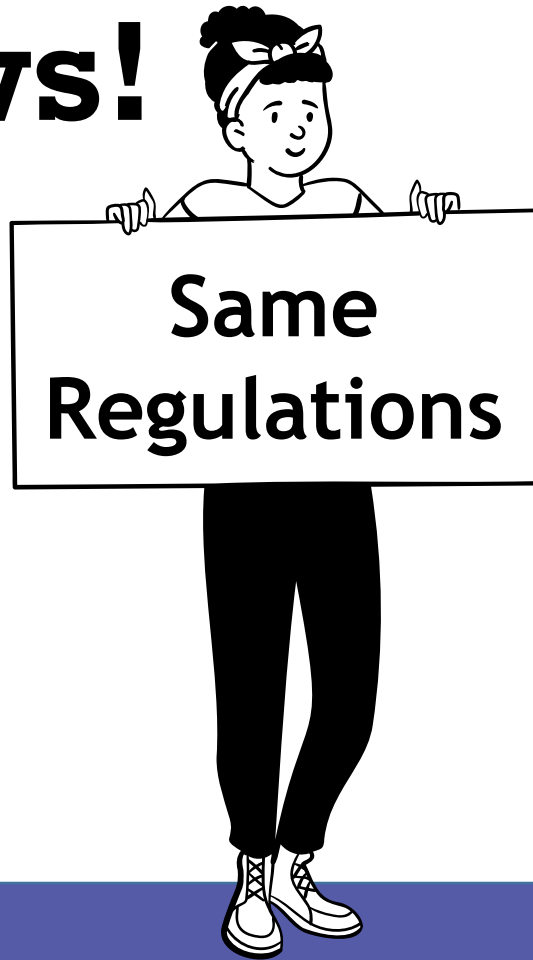
- Non-Regulatory Guidance
- Letters and Press Releases



Hierarchy of Requirements



Good News!



Subawards of U.S. Dept of Education (USED) funds have the same regulations (for the most part)

- 34 CFR Parts 75, 76, 77, 70, 81, 82, 84, 86, 97, 98, 99 and 2 CFR Part 200
- a.k.a “EDGAR” - Education Department General Administrative Regulations
- USED’s EDGAR web site
<http://www2.ed.gov/policy/fund/reg/edgarReg/edgar.html>

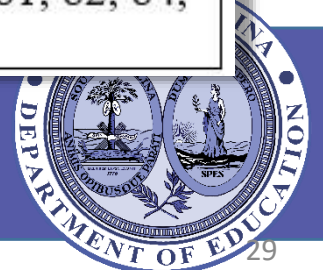


***check subaward section 12**

Applicable Regulations

12. Applicable Regulations (continuation from page 1 and continued on page 3):

- 2 CFR Part 170 Reporting Subaward and Executive Compensation Information.
- 2 CFR Part 175 Award Term for Trafficking in Persons. The grant condition specified in 2 CFR 175.15(b) is incorporated into this subgrant with Paragraphs a.2.ii.B and b.2. ii. revised as follows:
“a.2.ii.B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 34 CFR part 85.”
“b.2. ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 34 CFR part 85.”
Under this condition, the SCDE may terminate this subgrant without penalty for any violation of these provisions by the subgrantee or its employees.
- 2 CFR Part 180 Nonprocurement Debarment and Suspension as adopted at 2 CFR 3485.
- 2 CFR Part 200, Uniform Grant Guidance Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, as adopted at 2 CFR Part 3474.
- Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 76, 77, 81, 82, 84, 97, 98 and 99.



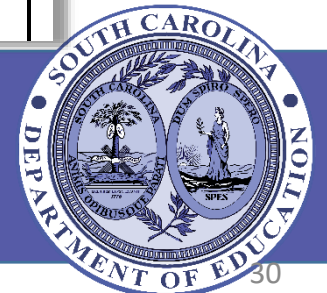
Scope of Work/Special Conditions

11. Scope of Work and Special Conditions (continuation from pages 1 and 2 and continued on page 4):

- C. The authorized official for this subgrant must not have a financial interest in any contracts that will or may be awarded pursuant to use of these funds.
- D. ESSER II quarterly reports must be submitted to the SCDE's Office of Finance via grantsaccounting@ed.sc.gov by the following quarterly due dates:

Reporting Period	Report Due Date
January 5, 2021–March 30, 2021	April 5, 2021
April 1–June 30	July 5
July 1–September 30	October 5
October 1–December 31	January 5
January 1–March 31	April 5

- E. The subgrantee must have procedures for determining the allowability of costs for their award.
- F. In accordance with generally accepted accounting principles (GAAP), all expenditure claims for funds spent by June 30, each year are due to the SCDE by August 15, that year. No exceptions.
- G. All expenditures must be made with all goods and services received by the performance end date of September 30, 2023. The final fiscal report is due to the SCDE by October 5, 2023. The final expenditure report in GAPS is due by November 15, 2023. No exceptions.
- H. The subgrantee is not required to provide equitable services to non-public schools.
- I. The subgrantee must to the greatest extent practicable, continue to compensate its employees and contractors during the period of any disruptions or closures related to COVID-19 in compliance with



Regulations for Subawards of US Department of Education Funds

Understand what applies



EDGAR

- 34 CFR Part 76 State-Administered Programs (some programs have exception for §§ 76.650-662)
- 34 CFR Part 77 Definitions
- 34 CFR Part 81 General Education Provisions Act-Enforcement
- 34 CFR Part 82 Restrictions on Lobbying
- 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (a.k.a. UGG).



34 CFR Part 76—State-Administered

9 Subparts

Subpart A - General

Subpart B - How a State Applies for a Grant

Subpart C - How a Grant is Made to a State

Subpart D - How to Apply to the State for a Subgrant

Subpart E - How a Subgrant is Made to an Applicant.



34 CFR Part 76—State-Administered, continued

Subpart F—What Conditions Must Be Met by the State and Its Subgrantees?

Subpart G—What Are the Administrative Responsibilities of the State and Its Subgrantees?

Subpart H—How Does a State or LEA Allocate Funds to Charter Schools?

Subpart I—What Procedures Does the Secretary Use to Get Compliance?

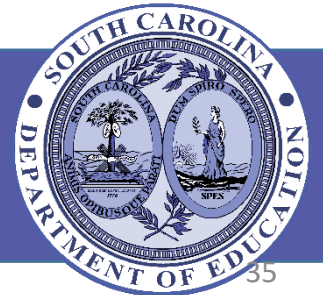


In Subpart G—General Administrative Responsibilities

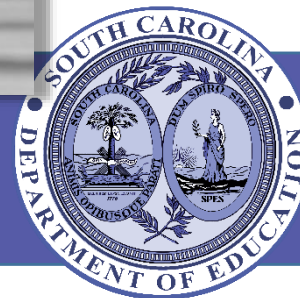
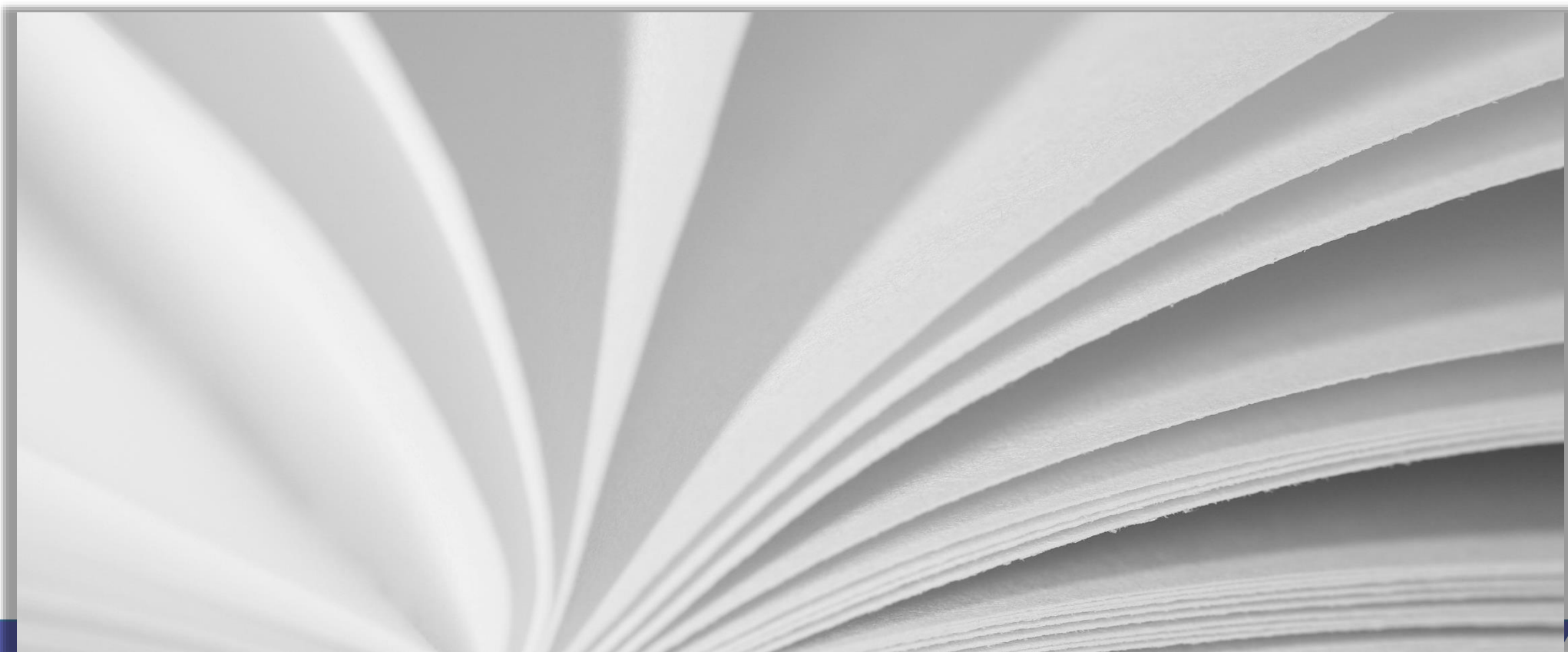
34 CFR Part 76.707 - When Obligations Are Made

If the obligation is for—	The obligation is made—
(b) Personal services by employee of state/subgrantee	When the services are performed.
(c) Personal services by contractor who is not employee of state/subgrantee	On date on which state/subgrantee makes binding written commitment to obtain services.
(f) Travel	When the travel is taken.*

*SCDE Guidance: Reimbursement of Airfare and Registration Fees with Federal Funds



Take a moment...



Updates to Regulations in 2020 added

- 2 CFR Part 183 Never Contract with the Enemy
- 2 CFR Part 200.216 Prohibition on certain telecommunications and video surveillance services or equipment



Updates in 2020 included changes

- 2 CFR Part 25 Universal Identifier and System of Award Management
- 2 CFR Part 170 Reporting Subaward and Executive Compensation Information
- 2 CFR Part 200 UGG



2 CFR Part 200 (UGG) Overview

5 Subparts and 12 Appendices

- Subpart A - Acronyms and Definitions
- Subpart B - General Provisions
- Subpart C - Pre-Award Requirements and Contents of Federal Awards
- Subpart D - Post-Award Requirements
- Subpart E - Cost Principles
- Subpart F - Audit Requirements



UGG – Appendices, I-VI

- I. Full Text Notice of Funding Opportunity
- II. Contract Provisions for Nonfederal Entity Contracts
- III. Indirect Cost Information for IHEs
- IV. Indirect Cost Information for nonprofits
- V. State/local/tribal Government Cost Allocation Plans
- VI. Public Assistance Cost Allocation Plans



UGG – Appendices, continued

- VII. State/local/tribal Government Indirect Cost Proposals
- VIII. Nonprofits Exempted from Subpart E-Cost Principles
- IX. Hospital Cost Principles
- X. Data Collection Form (Form SF-SAC)
- XI. Compliance Supplement
- XII. Award Term and Condition for Recipient Integrity and Performance Matters



“As Adopted at”

Cross-cutting regulation made “agency-specific”

For example, US Dept. of Education (USED) regulations:

- 2 CFR Part 180 Debarment and Suspension as adopted at 2 CFR Part 3485
- 2 CFR Part 200 (UGG) as adopted at 2 CFR Part 3474.



Understand...

If federal program statute/federal agency regulation conflicts with UGG, statute/regulation governs

Yes, you must read both. 😊 Ask your Program Office contact if you have questions.



New Terms in 2 CFR Part 200.1 Definitions

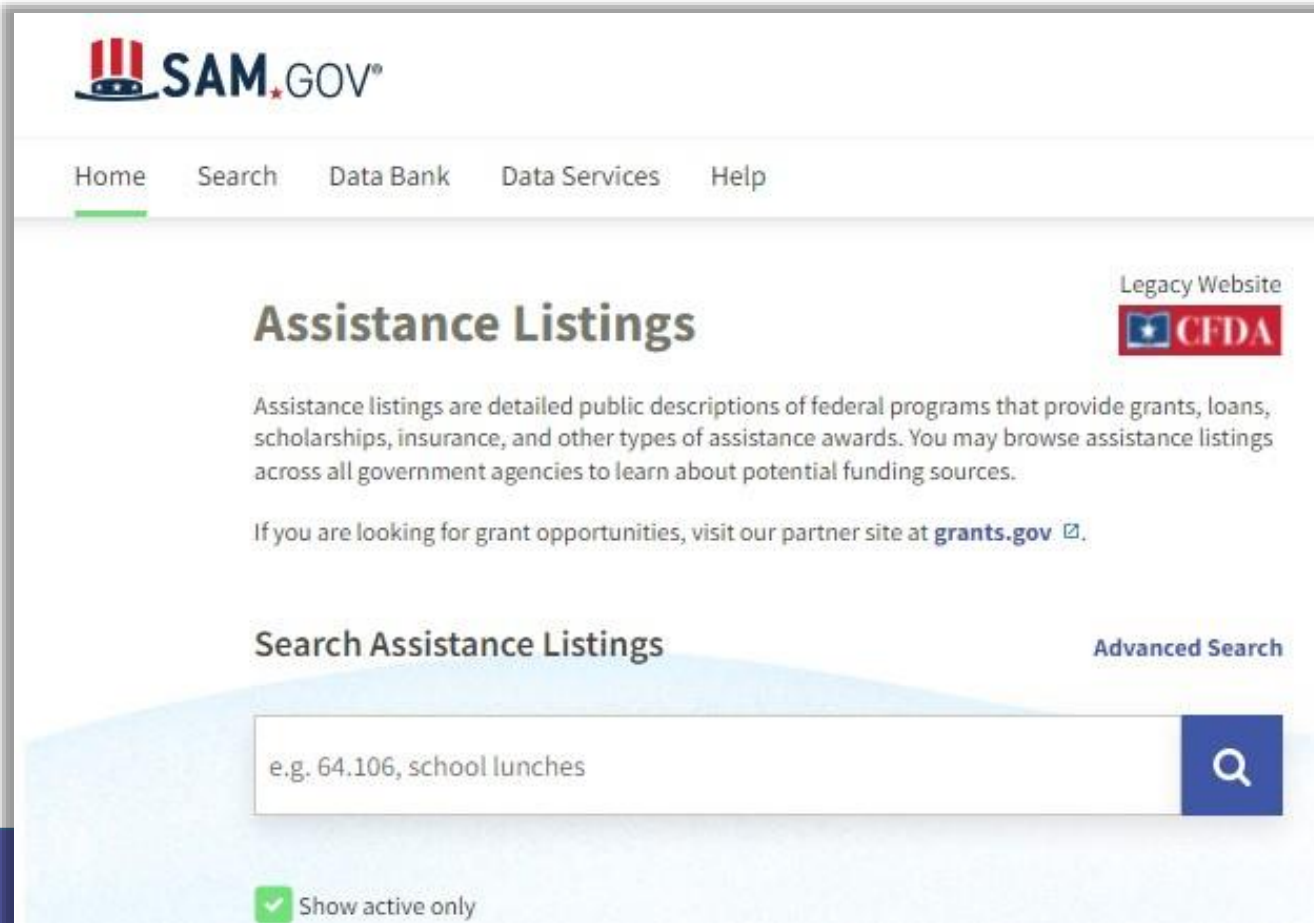
- Assistance listings
- Assistance listing number
- Assistance listing program title

Formerly CFDA listing, number, program title

- Budget period



Assistance Listings now in [SAM](#)



- Search by Assistance listing number
- for example, 84.010 is Title I Grants to Local Education Agencies

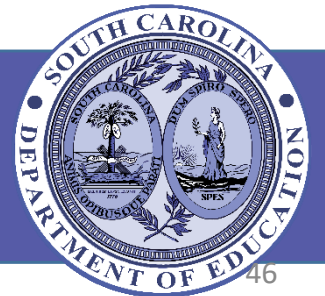


Change in 2 CFR Part 25: UEI

Unique Entity Identifier (UEI)

- 12-digit alpha-numeric code
- Assigned to all active SAM registrants
- SAM no longer using DUNS

SAM registration *must be updated annually* for NFE to receive federal funds (set reminder/internal control)



UGG Post-Award—Financial

2 CFR Part 200.302 - Financial Management

Written policies/procedures for

- Cash Management § 200.302(b)(6) and § 200.305
- Allowability of Cost Procedures § 200.302 (b)(7),
Cost Principles in Subpart E, and 34 CFR Part 76.707
When Obligations are Made



UGG Post-Award—Procurement Standards

- 2 CFR Part 200.318 - General Procurement Standards
 - **Must oversee** contactors (b)
 - **Written standards of conduct** covering Conflicts of Interest (c)
 - **Must maintain records** of history of the procurement (i)
- 2 CFR Part 200.319 - Competition
 - Written procedures** for procurement transactions (c).



Procedures define...

- Who performs the procedure?
- What steps are performed?
- When are the steps performed?
- How are the steps are performed?



State Laws also apply



- General Appropriations Act (annual)
Proviso 117.20 GP: Travel - Subsistence Expenses & Mileage
- Ethics, Government Accountability, and Campaign Reform Act (S.C. Code Ann. § 2-17-10 *et seq.* and § 8-13-100 *et seq.* (Supp. 2021))
- South Carolina Drug Free Workplace Act (S.C. Code Ann. § 44-107-10 *et seq.* (Supp. 2021))
- Charter Schools Act (S.C. Code Ann. § 59-40-10 *et seq.* (Supp. 2021 and as amended by H.3241)).



SCDE's Assurances and Terms and Conditions for Federal Subawards

- Legally binding
- “Promises” district (LEA) makes
- Updated annually

Assurances and Terms and Conditions for Federal Subawards

Assurances

As the duly authorized representative of _____,
I certify that this applicant (Please print or type name of applicant.)

- A. Has the legal authority to apply for federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay the nonstate share of project costs) to ensure proper planning, management, and completion of the project described in this application.



Assurance C School District has

Accounting system with

- Sufficient internal controls
- Clear audit trail
- Written cost-allocation procedures



Assurance C, continued

School District has

Financial management system that

- Distinguishes expenditures
- Identifies costs by programmatic year/budget line item
- Differentiates direct, indirect, administrative costs.



Guidance from SCDE

Office of Finance

- [Reimbursement of Airfare and Registration Fees with Federal Funds](#)
- [Guidance on Time and Effort Reporting and Internal Controls during COVID-19 \(April 24, 2020\)](#)
- [Time and Effort Reporting - Procedures and Standards](#)

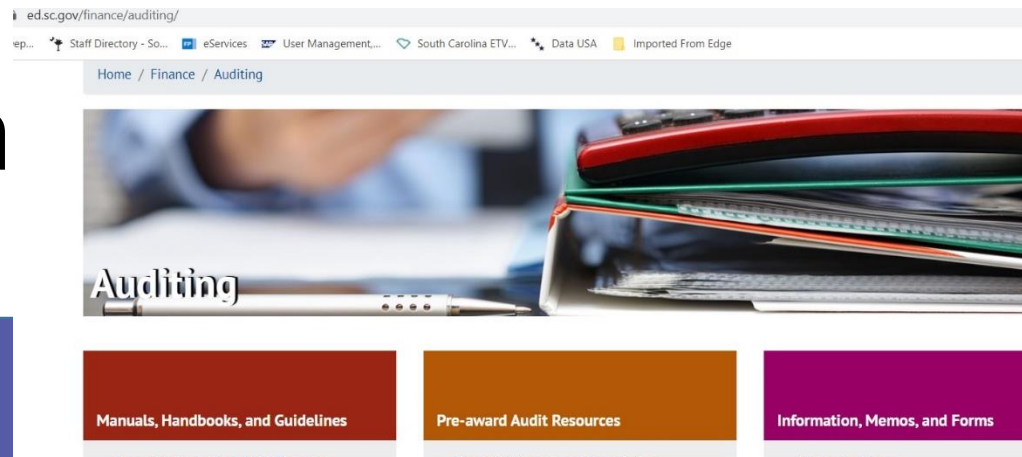


More Guidance from SCDE

Office of Auditing Services

- [Financial Accounting Handbook](#)
- [Financial Management Expectations](#)
- [Guidelines for Retaining Documentation to Support Expenditures](#)

And guidance from
Program Offices!



Tips

Make grant management life easier



TIP: Most Stringent Rule/Threshold Applies

When a rule or threshold in regulation differs from state requirement/local policy, typically MOST Stringent or MOST Restrictive applies



Example: travel threshold allowable

Federal Regulation says:

Travel costs are allowable “...consistent with those normally allowed in like circumstances in the non-Federal entity’s non-federally-funded activities **and** in accordance with [the] non-Federal entity’s written travel reimbursement policies.”

2 CFR Part 200.475



But SCDE passes-through most stringent

State of South Carolina says:

“The employee shall also be reimbursed for the actual expenses incurred in the obtaining of meals *except* that such *costs shall not exceed* \$35 per day within the State of South Carolina. For travel outside of South Carolina the maximum daily reimbursement for meals *shall not exceed* \$50.”

Proviso 117.20 of Annual Appropriations Act



Don't Start...

Staff can still get their district-policy-set *per diem*.

But subgrant funds *cannot be used for* more than

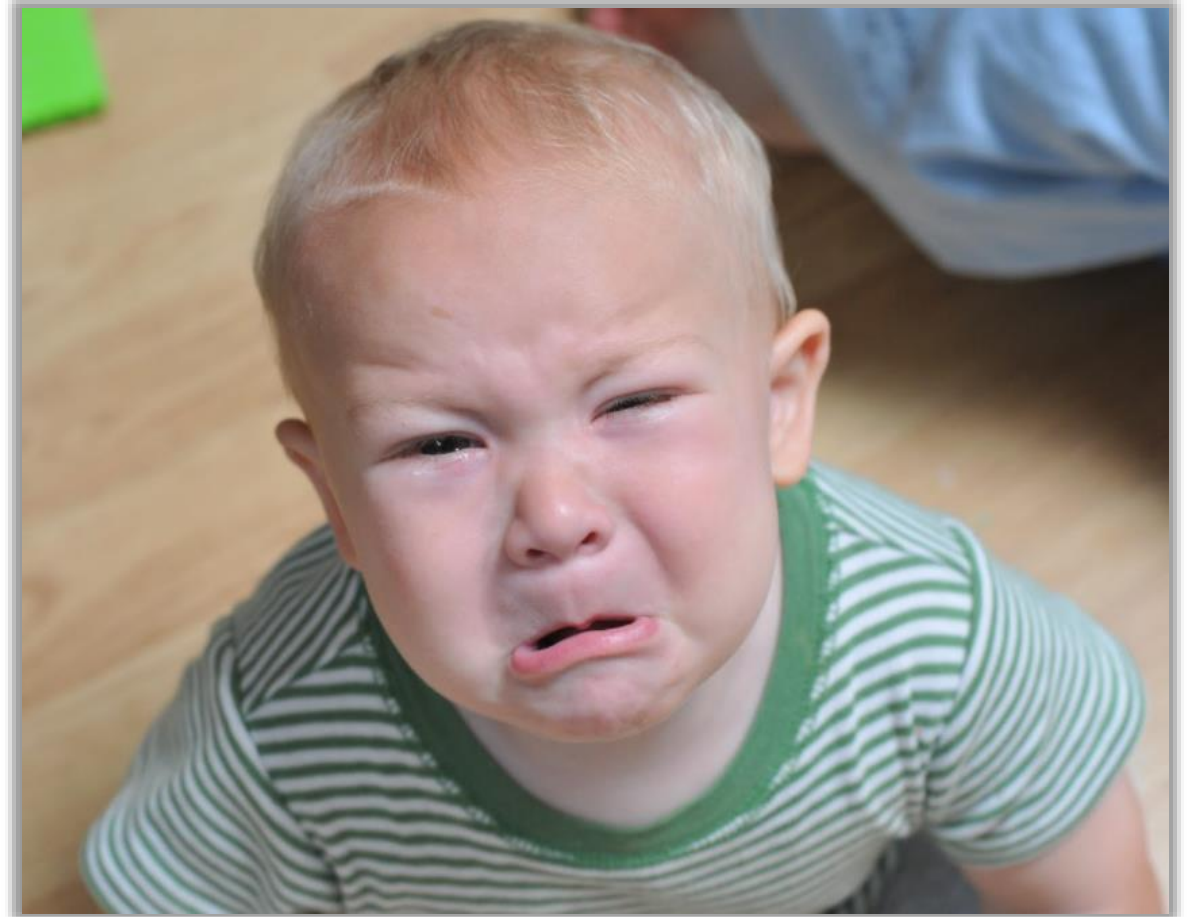
- \$35/day in-state and
- \$50/day out-of-state

Example (hypothetical in broad terms):

District *per diem* is \$45/day in-state

Subaward funds \$35/day *only*

Remaining \$10/day from
non-federal/non-state funds



Tip: Have Routines

Set routines to complete required tasks, such as

- Reconciling budget estimates to actual expenditures
- Monitoring project and contract activities
- Preparing and submitting reports
- Reviewing and updating procedures/internal controls



Tip: Communicate Regularly

Within your organization/NFE

- Program office talking with Finance office
- Finance office talking with Program office
- Other offices that interact with program & activities
- External Stakeholders

With SCDE Program Office

- Reports (make all deadlines)
- Participate in all technical assistance
- Ask questions & request clarification



TIP: Read Everything

- Subaward agreement
- SCDE's Assurances and Terms and Conditions for Federal Subawards
- Regulations
- Guidance from federal agency and SCDE offices



Questions?



Contact Us

SCDE Grants Program

Grants@ed.sc.gov

(803) 734-5810

Audrey Shifflett, Grants Director
Stephen Stokes, Grants Coordinator
Julie Hicks, Program Coordinator

