

ENSURING COSTS ARE ALLOWABLE

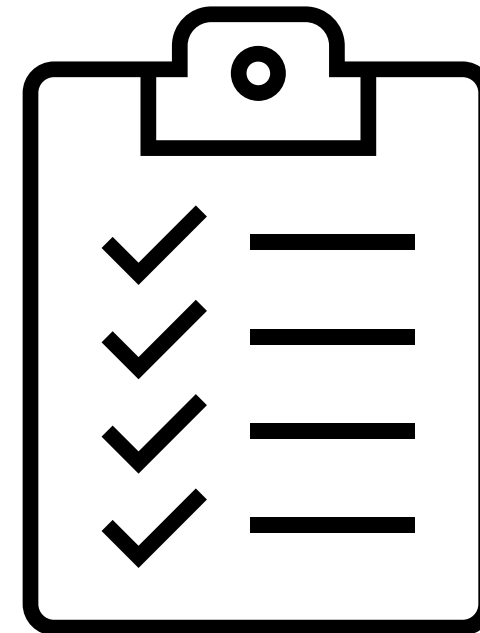
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AGENDA

- EDGAR
- ALLOWABILITY
- TIMELINESS
- FINANCIAL MANAGEMENT, PROCUREMENT, INVENTORY
- DOCUMENTATION
- CHECKLIST



RECENT OIG INVESTIGATIONS

OFFICE OF INSPECTOR GENERAL IN THE US DEPARTMENT OF EDUCATION



FORMER PRESIDENT OF MADISON DISTRICT PUBLIC SCHOOLS BOARD AND LOCAL CONTRACTOR

- Indictment of bribery scheme in which contractor paid \$560,000 in bribes to school board president in exchange for \$3.1 million in school contracts
 - Bribery payments covered vacations to FL, boat slip
- Contracts were for maintenance and construction projects in the district; “pay to play” policy
- Faces up to 10 years prison for each of 3 bribery charges; restitution payment

FORMER ATHENS CITY SCHOOLS ADMINISTRATOR – ALABAMA VIRTUAL EDUCATION FRAUD SCHEME

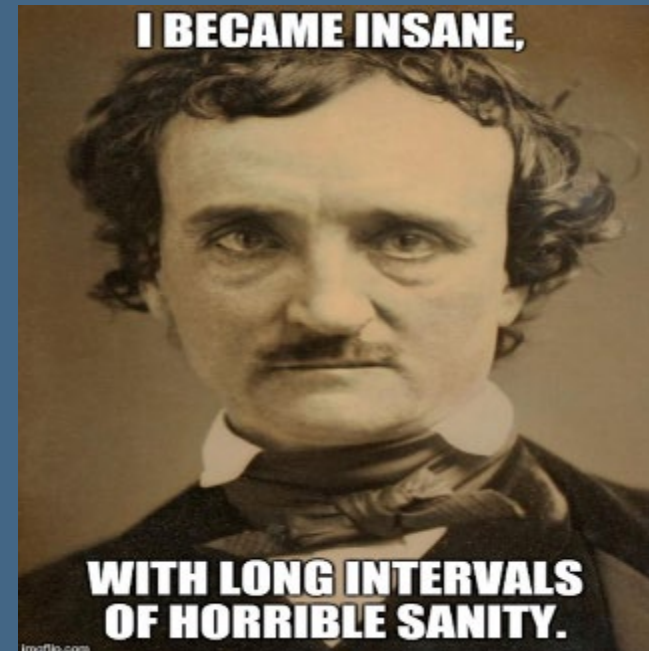
- Fraudulently enrolled students in virtual public education school; reported students to AL State Dept of Ed
- Ordered to pay restitution in the amount of \$1,303,514
- Sentenced to 66 months in federal prison

WHAT IS EDGAR?



EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE
REGULATIONS

[HTTPS://WWW2.ED.GOV/POLICY/FUND/REG/EDGARREG/
EDGAR.HTML](https://www2.ed.gov/policy/fund/reg/edgarreg/edgar.html)

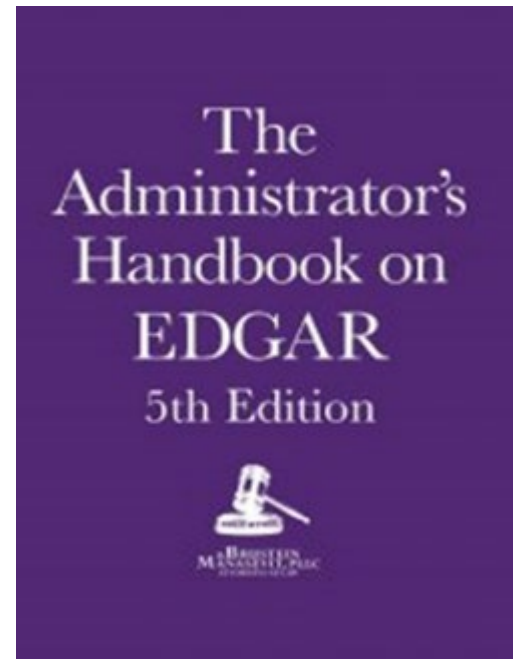


EDGAR AND THE UGG

- The Education Department General Administrative Regulations (EDGAR) includes various grants management rules applicable to all federal awards issued by the U.S. Department of Education (ED).
- The Uniform Grant Guidance (UGG) are federal grants management rules that apply to all awards issued by all federal awarding agencies.
 - Created and amended by the Office of Management and Budget (OMB)
- EDGAR incorporated the UGG in 2014
 - Parts 74 and 80 of EDGAR were replaced with 2 CFR Part 200

KEY SECTIONS OF EDGAR

- Title 34
 - Part 75 – Direct Grant Programs
 - Part 76 – State-Administered Programs
 - Part 77 – Definitions
 - Part 81 – General Education Provisions Act (GEPA)
- Title 2
 - Part 200 – Cost/Administrative/Audit Rules
 - Part 3474 – USDE Exceptions – Officially Adopts Part 200
 - Part 3485 – Nonprocurement Debarment and Suspension
 - Incorporates 2 CFR Part 180, OMB's Guidelines on Debarment and Suspension



ALLOWABILITY

2 CFR 200.403



BASIC FACTORS OF ALLOWABILITY

To be allowable, a cost *must*:

- **Be necessary, reasonable and allocable**
- Comply with the cost principles and federal award
- Be consistent with policies and procedures applying uniformly to federal and nonfederal activities and costs
- Be consistently treated as either direct or indirect costs
- Be determined in accordance with GAAP
- Not be included or used to meet cost sharing / match requirements
- Be adequately **documented**

NECESSARY – REASONABLE – ALLOCABLE



Is the cost included in your plan/grant application?



Is it aligned with the goals of the program/grant?



Does your agency have the capacity to use what you are purchasing?



Is the staff knowledgeable regarding the program?

NECESSARY – REASONABLE – ALLOCABLE

Consideration must be given to:

- Whether cost is a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award
 - Arms length bargaining (hint: procurement processes)
 - Federal, state and local laws
 - Terms of the grant award
- Market Prices for comparable goods or services in the geographical area
- Whether the individuals acted with prudence under the circumstances
- No significant deviation from established prices

NECESSARY – REASONABLE – ALLOCABLE

A cost is allocable to a Federal award or cost objective if the goods or services involved are chargeable or assignable in accordance with relative benefits received.

- Incurred specifically for the award;
- Benefits both award and other work and can be distributed in proportions that may be approximated using reasonable methods; and
- Necessary to the overall operation of the entity and assignable to the award in accordance with this Part.

Can only charge in proportion to the value received by the program

- *Example:* Agency purchases a computer to use 50% on the Federal grant program and 50% on a state program – can only charge half the cost to the grant.

NECESSARY – REASONABLE – ALLOCABLE

 Do you have enough time to implement the cost?



 Is the program sharing the use of the item(s)?



How is the use being documented?

PRACTICAL QUESTIONS TO CONSIDER

Do I really need
this?

Is the expense
targeted to valid
programmatic/
administrative
need?

spend to meet my
need?

Do I have the
capacity to use what
I am purchasing?

Did I pay a fair rate?

If I were asked to
defend this
purchase, would I
be able to?

APPLICABLE CREDITS

2 CFR 200.406

Those receipts or reduction-of-expenditure type transaction that offset or reduce expense items – must be credited to the Federal award as either cost reduction or cash refund, as appropriate.

- *Examples:* purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds or rebates, adjustments of overpayments



SELECTED ITEMS OF COST

56 Selected Items of Cost

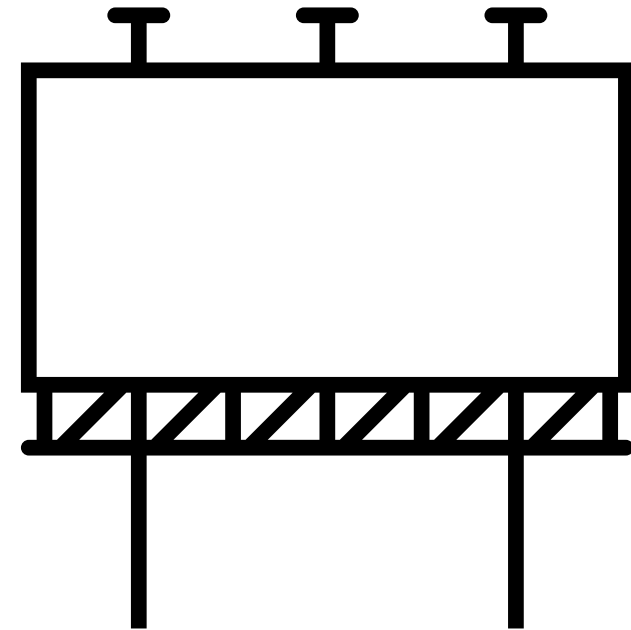
- Allowable
 - E.g., collection of improper payments (200.428); training and education costs (200.472)
- Allowable with special conditions
 - E.g., only as an indirect charge (leave payout, 200.431; advisory councils, 200.422); only with necessary documentation (compensation – personal services, 200.430)
- Allowable with prior approval
 - E.g., equipment and capital expenditures (200.438); entertainment (200.439); participant support costs (200.456)
- Unallowable
 - E.g., alcohol (200.423); bad debts (200.426)

ADVERTISING/PUBLIC RELATIONS

Allowable for programmatic purposes including:

- Recruitment
- Procurement of goods
- Disposal of materials
- Program outreach
- Public relations (in limited circumstances)

2 CFR 200.421



MAINTENANCE AND REPAIR COSTS



Generally allowable and encouraged!

- BUT...Can't permanently increase the value of the whole property

2 CFR 200.452

MEMBERSHIPS AND SUBSCRIPTIONS

Generally allowable

- Must be an institutional subscription and not an individual one
 - What if employee leaves?

2 CFR 200.454



TELECOMMUNICATION AND VIDEO SURVEILLANCE

- New in the 2020 revisions!
- If you renew any contracts, make sure companies are not barred by federal rules
 - Check sam.gov
 - Add language to new contract
 - Signed statement

2 CFR 200.471



PARTICIPANT SUPPORT COSTS

- Participant support costs are “...direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences, or training projects.”
 - Direct costs in connection with conferences or training projects paid on behalf of participants or trainees (but not employees)
- Allowable, but only with prior approval
- ED has approved participant support costs of \$5,000 or less per participant per event, when such costs are associated with formula grant programs
 - SEA may set additional required approvals
 - <https://oese.ed.gov/files/2022/12/oese-pac-psc-prior-approval-dear-colleague-letter-to-post.pdf>

2 CFR 200. 456

CONFERENCES

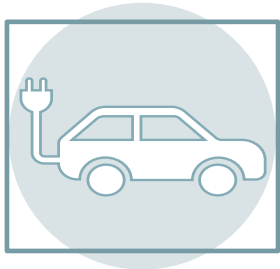
Generally Allowable

- To be a conference, must disseminate technical information beyond the non-federal entity
- Allowable conference costs include rental of facilities, costs of meals and refreshments, transportation, unless restricted by the federal award
- Costs related to identifying, but not providing, locally available dependent-care resources
- Conference hosts must exercise discretion in ensuring costs are appropriate, necessary and managed in manner that minimizes costs to federal award

2 CFR 200.432

TRAVEL COSTS

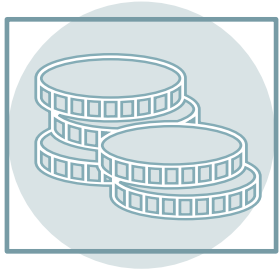
2 CFR 200.475



Travel costs may be charged on actual, per diem, or mileage basis



Travel charges must be consistent with entity's **written** travel reimbursement policies



Allows costs for “above and beyond regular dependent care”

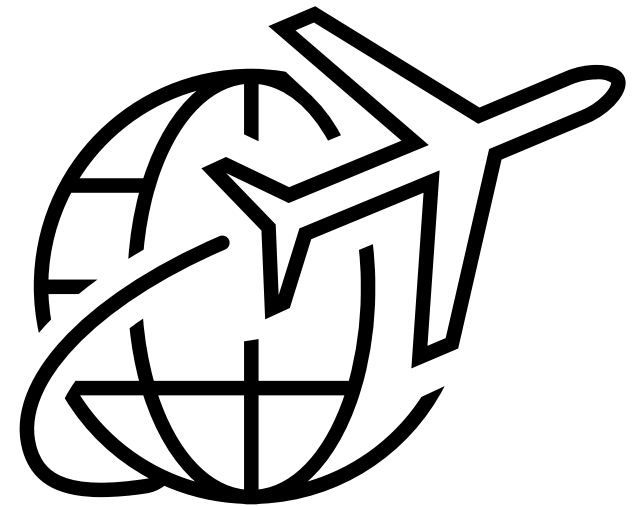


Grantee must retain documentation that participation of individual is necessary for the project

ENTERTAINMENT

2 CFR 200.438

- Not allowable UNLESS Prior Written Approval of Federal Awarding Agency.
- Field Trips & Holiday Parties are common examples
- Field trips may be allowed where:
 - They have a clear programmatic purpose
 - And are authorized by the federal awarding agency



FOOD

It depends...

- ED Guidance (2014):
 - “Generally, there is a very high burden of proof to show that paying for food and beverages [...] is **necessary to meet the goals and objectives of a Federal grant.**”
 - BUT “a ‘working lunch’ may be allowable if in order to carry out a conference or meeting agenda within the time available, it is necessary to work through lunch.”
 - ASK: Is a working lunch necessary? Is there a genuine time constraint that requires the working lunch? Is the cost reasonable?



TIMELINESS

PERIOD OF PERFORMANCE

- The total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions, or budget periods. Identification of the period of performance in the Federal award ... does not commit the awarding agency to fund the award beyond the currently approved budget period.
- Funds must be obligated within the period of performance.
- What does it mean to obligate funds?
 - “Financial obligations, when referencing a recipient’s or subrecipient’s use of funds under a Federal award, means orders placed for property and services, contracts and subawards made, and similar transactions that require payment.” 2 CFR 200.1
 - When funds obligate depends on the type of cost.
 - Obligate ≠ liquidate

WHEN OBLIGATIONS ARE MADE

Type of Obligation	When Obligation Occurs
Acquisition of Property	Date of binding written commitment
Personal Services by Employee	When services are performed
Personal Services by Contractor	Date of binding written commitment
Travel	When travel is taken
Approved Pre-Agreement Cost	On the first day of the grant or subgrant performance period

CARRYOVER (TYDINGS AMENDMENT)

- Program restrictions, ESSA Sec. 1126(c) (limits TI-A carryover to 15%); Perkins V, Sec. 133(b) (requires states to redistribute unobligated balances at the end of academic year; no carryover at local level)
- Tydings does not apply at local level if funding distributed by competition (1999 OGC Memo)
 - 21st CCLC; Adult Ed

GEPA Sec. 421(b); 34 CFR 76.709; 76.710

CLOSEOUT AND LIQUIDATION

- Subrecipients have up to 90 days
- SEA must liquidate within 120 days.

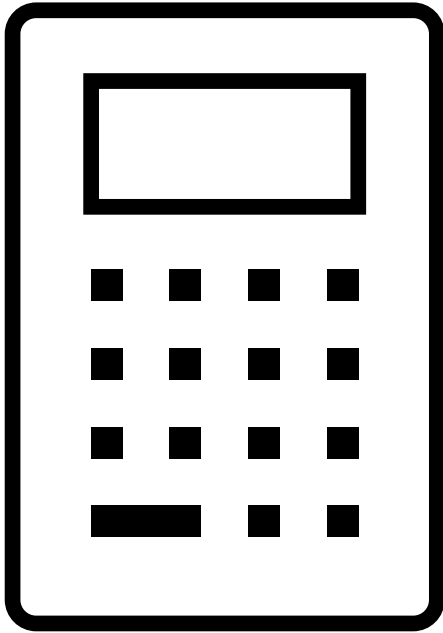
2 CFR 200.344





FINANCIAL MANAGEMENT

FINANCIAL MANAGEMENT



States – follow their own rules!

Everyone else – seven standards:

1. Identification in accounts
2. Financial reporting
3. Accounting records (financial obligations)
4. Internal controls, internal controls, internal controls
5. Budget control
6. Written procedures for cash management (reimbursement v. cash advance)
7. Written procedures for determining allowability

2 CFR 200.302 / 200.305



PROCUREMENT

OTHER NON-FEDERAL ENTITIES

PROCUREMENT STANDARDS 200.318

All nonfederal entities must have documented procurement procedures which reflect applicable Federal, State, and local laws and regulations.

- Open and Full Competition (Maximum Extent Possible)
- Specific Thresholds for Purchasing
- Prohibited In-State and Local Preferences
- Contract Administration System
- Conflict of Interest Rules
- Mandatory Disclosures

CONTRACT ADMINISTRATION 200.318(B)

- Nonfederal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of the contract



METHODS OF PROCUREMENT

Grantee must have and use documented procurement procedures for the following methods:

- **Informal procurement methods**

- Micro-purchase
- Small purchase procedures

- **Formal procurement methods**

- Competitive sealed bids
- Competitive proposals

- **Noncompetitive proposals**

2 CFR 200. 320

CONFLICT OF INTEREST

Must maintain written standard of conduct, including conflict of interest policy.

- A conflict of interest arises when any of the following has a financial or other interest in the firm selected for award:
 - Employee, officer or agent
 - Any member of that person's immediate family
 - That person's partner
 - An organization which employs, or is about to employ, any of the above or has a financial interest in the firm selected for award
- Organizational Conflict (applies to non-gov entities)

2 CFR 200.318



INVENTORY

DEFINITIONS



Equipment: Equipment: tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.



Supplies: All tangible personal property other than equipment



Computing Devices: If less than \$5,000, defined as supplies

INVENTORY PROCEDURES

- Property records
 - Description, serial number or other ID, source of funding, title, acquisition date and cost, percent of federal participation, location, use and condition, and ultimate disposition date including sale price
- Physical inventory at least every two years
- Control system to prevent loss, damage, theft
 - All incidents must be investigated
- Adequate maintenance procedures
- If authorized or required to sell property, proper sales procedures to ensure highest possible return.



DOCUMENTATION

ALLOWABILITY DOCUMENTATION

UGG - 2 CFR 200.403(g)

- To meet allowability requirements... costs must be adequately documented.

EDGAR – 34 CFR 76.730 and 76.731

- Shall keep records to show compliance with program requirements.
- The amount of funds;
- How funds were used;
- Total cost of the project;
- Share of the cost provided from other sources; and
- Other records to facilitate an effective audit.

HOW LONG?

Retention Requirements For Records 2 CFR 200.334

- Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report.
- BUT, need to keep records for 5 years because...

GEPA - STATUTE OF LIMITATIONS



20 USC 1234a

- No recipient under an applicable program shall be liable to return funds which were expended in a manner not authorized by law more than 5 years before the recipient received written notice of a preliminary departmental decision.
- Case law established that the 5-year statute of limitations period ran from the date of obligation

KNOW WHERE YOUR DOCUMENTS ARE!

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**"I am not disorganized — I know *exactly* where everything is!
The newer stuff is on top and the older stuff is on the bottom."**

HOW TO MAINTAIN DOCUMENTATION

- When original records are electronic and cannot be altered, there is no need to create and retain paper copies. (2 CFR 200.336)
- When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided they:
 - Are subject to periodic quality control reviews;
 - Provide reasonable safeguards against alteration; and
 - Remain readable.

DOCUMENTATION QUESTIONS TO ASK

Are records kept
by school, grant,
fiscal year?

Do you backup
documentation?
Where and how
often?

What happens
when staff retire
or voluntarily
leave?

What happens
when staff are
fired?

What happens
when a school
closes?

Do staff keep
documentation
at home?

CHECKLIST

- ☐ Is the cost allowable?
 - ☐ Is it necessary, reasonable, and allocable?
 - ☐ Check the 56 Selected Items of Cost in 2 CFR § 200.421-200.476
 - ☐ Is it an indirect cost?
- ☐ Do you have documentation to show that it is allowable?
 - ☐ Is the documentation easily accessible?
 - ☐ How are you going to maintain that documentation?
- ☐ Do you have policies and procedures in place that reflect current practices?

QUESTIONS?



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