



UNITED STATES DEPARTMENT OF EDUCATION
UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES



The Honorable Beverly Perdue
Office of the Governor, State of North Carolina
20301 Mail Service Center
Raleigh, NC 27699

December 21, 2011

Dear Governor Perdue,

We are very pleased that you have been selected to receive Race to the Top – Early Learning Challenge program grant. The competition was extremely competitive and your application was judged by a panel of five independent peer reviewers as being among the highest quality based on our selection criteria.

This four-year award is designed to support your State in its efforts to improve early learning and development programs around five key areas of reform: establishing successful state systems; defining high-quality, accountable programs; promoting early learning and development outcomes for children; supporting a great early childhood education workforce; and measuring outcomes and progress.

The Department of Education and the Department of Health and Human Services are committed to working together to coordinate resources in order to provide the support you need to successfully implement your proposal. There is so much that States can learn from each other as they work to improve early learning programs and services. Your State will be an example and a resource for States across the nation.

The grant award notification will provide you with detailed information about the award and its conditions and requirements. Our staff will be contacting you after January 2, 2012 to discuss the next steps in the award process. If you have any questions concerning your Race to the Top – Early Learning Challenge award, please contact Deborah Spitz at Deborah.Spitz@ed.gov or 202-260-3793.

We look forward to working with you and the other grantees to ensure that more children enter kindergarten ready to succeed in school and in life.

Sincerely,

Jacqueline Jones
Senior Advisor on Early Learning to the Secretary of
Education
U.S. Department of Education

Linda Smith
Deputy Assistant Secretary for Early Childhood
Development
Administration for Children and Families
U.S. Department of Health and Human Services

Cc: Anne Bryan, Lead Agency Contact



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

Honorable Beverly Perdue
Office of the Governor, State of North Carolina
20301 Mail Service Center
Raleigh, NC 27699

Dear Governor Perdue:

I am pleased to provide the enclosed grant award notification (GAN) for your State's Race to the Top – Early Learning Challenge funds under section 14006 of the American Recovery and Reinvestment Act (ARRA), as amended by section 1832(b) of Division B of Public Law 112-10, the Department of Defense and Full-Year Continuing Appropriations Act, 2011. These funds are being awarded on the basis of your requested budget of \$69,991,121.

This award is subject to the attached grant conditions related to administering the grant, monitoring sub-recipients, and maintaining adequate financial controls. In addition, the grant is subject to all Race to the Top – Early Learning Challenge program requirements as outlined in the application. As part of the conditions of receiving Race to the Top funding, North Carolina may draw down no more than 10 percent of the grant at this time, which equals \$6,999,112. Funds may be drawn down only as they are needed, and their use must be consistent with the implementation of North Carolina's State Plan and in support of accomplishing its proposed milestones.

The remaining balance of the award will be available after the U.S. Department of Education receives and approves (a) the final scopes of work for all of North Carolina's Participating State Agencies, and (b) a detailed scope of work for your entire State Plan that is consistent with the approved application. As noted in the attached conditions, the required scopes of work must be submitted no later than 90 days after the date of this award.

If you have any questions concerning your Race to the Top – Early Learning Challenge award, please contact Deborah Spitz at Deborah.Spitz@ed.gov or 202-260-3793.

Sincerely,

Michael Yudin
Acting Assistant Secretary for Elementary and
Secondary Education

Enclosure: Grant Award Notification with Attachments

Cc: Anne Bryan, Lead Agency Contact

400 MARYLAND AVE. S.W., WASHINGTON, DC 20202
www.ed.gov

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.



**US Department of Education
Washington, D.C. 20202**

GRANT AWARD NOTIFICATION

FUND CODE	FUNDING YEAR	AWARD YEAR	ORG. CODE	CATEGORY	LIMITATION	ACTIVITY	CFDA	OBJECT CLASS	AMOUNT
0204M	2011	2012	ES000000	B	UH2	000	412	4101C	\$69,991,121.00

10

PR/AWARD NUMBER: S412A120027
 RECIPIENT NAME: Office of the Governor, State of North Carolina

TERMS AND CONDITIONS

- (1) By accepting this award, the recipient agrees to notify the relevant program office in the Department and provide a reasonable period of time for the Department to respond, before it can agree to provide any portion of this award to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries. This condition takes into account Division B, Title I, Section 1104, of the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (P. Law No. 112-10), which incorporates the conditions specified in Division E, Section 511 of the Consolidated Appropriations Act, 2010 (P. Law. No. 111-117), and pending litigation on related matters. If you have any questions about this condition or the status of these matters, please contact the program office.
- (2) THE FOLLOWING ITEMS ARE INCORPORATED IN THE GRANT AGREEMENT:
 - (1) THE RECIPIENT'S APPLICATION (BLOCK 2),
 - (2) THE APPLICABLE EDUCATION DEPARTMENT REGULATIONS (BLOCK 8), AND
 - (3) THE SPECIAL TERMS AND CONDITIONS SHOWN AS ATTACHMENTS (BLOCK 8).

IN ACCORDANCE WITH 34 CFR 74.25(c)(2), OR 34 CFR 80.30(d)(3) CHANGES TO KEY PERSONNEL IDENTIFIED IN BLOCK 4 MUST RECEIVE PRIOR APPROVAL FROM THE DEPARTMENT.

THE RECIPIENT IS REQUIRED TO SUBMIT ALL NECESSARY REPORTS TO THE DEPARTMENT OF EDUCATION WITHIN 90 DAYS AFTER THE END OF FEDERAL SUPPORT (BLOCK 6).

- (3) This award is subject to the conditions in Attachments P and T.

Linda G. Hunter

 AUTHORIZING OFFICIAL

12/21/11

 DATE

EXPLANATION OF BLOCKS ON THE GRANT AWARD NOTIFICATION

For Discretionary, Formula and Block Grants (See Block 2 of the Notification)

1. RECIPIENT NAME - The legal name of the recipient, name of the primary organizational unit that

2. AWARD INFORMATION - Unique items of information that identify this notification.

PR/AWARD NUMBER - A unique, identifying number assigned by the Department to each application. On funded applications, this is commonly known as the "grant number" or "document number."

ACTION NUMBER - A numeral that represents the cumulative number of steps taken by the Department to date to establish or modify the award through fiscal or administrative means. Action number "01" will always be "NEW AWARD"

ACTION TYPE - The nature of this notification (e.g., NEW AWARD, CONTINUATION, REVISION, ADMINISTRATIVE)

AWARD TYPE - The particular assistance category in which funding for this award is provided, i.e., DISCRETIONARY, FORMULA, or BLOCK.

3. PROJECT STAFF - This block contains the names and telephone numbers of the U.S. Department of Education and recipient staff who are responsible for project direction and oversight.

***RECIPIENT PROJECT DIRECTOR** - The recipient staff person responsible for administering the project. This person represents the recipient to the U.S. Department of Education.

EDUCATION PROGRAM CONTACT - The U.S. Department of Education staff person responsible for the programmatic, administrative and business management concerns of the Department.

EDUCATION PAYMENT CONTACT - The U.S. Department of Education staff person responsible for payments or questions concerning electronic drawdown and financial expenditure reporting.

4. PROJECT TITLE AND CFDA NUMBER - Identifies the Catalog of Federal Domestic Assistance (CFDA) subprogram title and the associated subprogram number.

5.* KEY PERSONNEL - Name, title and percentage (%) of effort the key personnel identified devotes to the project.

6. AWARD PERIODS - Project activities and funding are approved with respect to three different time periods, described below:

BUDGET PERIOD - A specific interval of time for which Federal funds are being provided from a particular fiscal year to fund a recipient's approved activities and budget. The start and end dates of the budget period are shown.

PERFORMANCE PERIOD - The complete length of time the recipient is proposed to be funded to complete approved activities. A performance period may contain one or more budget periods.

***FUTURE BUDGET PERIODS** - The estimated remaining budget periods for multi-year projects and estimated funds the Department proposes it will award the recipient provided substantial progress is made by the recipient in completing approved activities, the Department determines that continuing the project would be in the best interest of the Government, Congress appropriates sufficient funds under the program, and the recipient has submitted a performance report that provides the most current performance information and the status of budget expenditures.

7. AUTHORIZED FUNDING - The dollar figures in this block refer to the Federal funds provided to a recipient during the award periods.

***THIS ACTION** - The amount of funds obligated (added) or de-obligated (subtracted) by this notification.

***BUDGET PERIOD** - The total amount of funds available for use by the grantee during the stated budget period to this date.

***PERFORMANCE PERIOD** - The amount of funds obligated from the start date of the first budget period to this date.

RECIPIENT COST SHARE - The funds, expressed as a percentage, that the recipient is required to contribute to the project, as defined by the program legislation or regulations and/or terms and conditions of the award.

RECIPIENT NON-FEDERAL AMOUNT - The amount of non-federal funds the recipient must contribute to the project as identified in the recipient's application. When non-federal funds are identified by the recipient where a cost share is not a legislation requirement, the recipient will be required to provide the non-federal funds.

8. ADMINISTRATIVE INFORMATION - This information is provided to assist the recipient in completing the approved activities and managing the project in accordance with U.S. Department of Education procedures and regulations.

DUNS/SSN - A unique, identifying number assigned to each recipient for payment purposes. The number is based on either the recipient's assigned number from Dun and Bradstreet or the individual's social security number.

***REGULATIONS** - The parts of the Education Department General Administrative Regulations (EDGAR) and specific program regulations that govern the award and administration of this grant.

***ATTACHMENTS** - Additional sections of the Grant Award Notification that discuss payment and reporting requirements, explain Department procedures, and add special terms and conditions in addition to those established, and shown as clauses, in Block 10 of the award. Any attachments provided with a notification continue in effect through the project period until modified or rescinded by the Authorizing Official.

9. LEGISLATIVE AND FISCAL DATA - The name of the authorizing legislation for this grant, the CFDA title of the program through which funding is provided, and U.S. Department of Education fiscal information.

FUND CODE, FUNDING YEAR, AWARD YEAR, ORG.CODE, PROJECT CODE, OBJECT CLASS -

The fiscal information recorded by the U.S. Department of Education's Grant Administration and Payment System to track obligations by award.

AMOUNT - The amount of funds provided from a particular appropriation and project code. Some notifications authorize more than one amount from separate appropriations and/or project codes. The total of all amounts in this block equals the amount shown on the line, "THIS ACTION" (See "AUTHORIZED FUNDING" above (Block 7)).

10. TERMS AND CONDITIONS - Requirements of the award that are binding on the recipient.

***AUTHORIZING OFFICIAL** - The U.S. Department of Education official authorized to award Federal funds to the recipient, establish or change the terms and conditions of the award, and authorize modifications to the award

FOR FORMULA AND BLOCK GRANTS ONLY:

(See also Blocks 1, 2, 4, 6, 8, 9 and 10 above)

3. PROJECT STAFF - The U.S. Department of Education staff persons to be contacted for programmatic and payment questions.

7. AUTHORIZED FUNDING

CURRENT AWARD AMOUNT - The amount of funds that are obligated (added) or de-obligated (subtracted) by this action.

PREVIOUS CUMULATIVE AMOUNT - The total amount of funds awarded under the grant before this action.

CUMULATIVE AMOUNT - The total amount of funds awarded under the grant, this action included.

* This item differs or does not appear on formula and block grants.

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE CHIEF FINANCIAL OFFICER
& CHIEF INFORMATION OFFICER

Anne Bryan
Office of the Governor, State of North Carolina
20301 Mail Service Center

Raleigh, NC 27699

SUBJECT: Payee Verification for Grant Award S412A120027

This is to inform you of the payee for the above listed grant award issued by the United States Department of Education

Grantee DUNS/SSN: 003553190
Grantee Name: GOVERNOR'S OFFICE

Payee DUNS/SSN: 003553190
Payee Name: GOVERNOR'S OFFICE

If any of the above information is not correct, please contact a Payee Customer Support Representative at 1-888-336-8930. Please send all the correspondence relating to the payee or bank information changes to the following address:

U.S. Department of Education
550 12th Street, SW
Room 6087
Washington, DC 20202

Attn: Stephanie Barnes
Phone: 202-245-8006

SPECIAL GRANT CONDITIONS FOR PAYMENTS

THE G5 PAYMENTS MODULE

Payments under this award will be made through the G5-Payments module of, the U.S. Department of Education's (Department) electronic payments. The G5 payment module and other web-based grant systems (e-Application, e-Reader, e-Reports,) (modules) within the Education Central Automated Processing Systems (EDCAPS) are administered by the Office of the Chief Information Officer, Financial Systems Services.

The internet address for G5 is <https://www.g5.gov>. To access the G5 Payments module, you must first have a G5 User Id and Password. You'll need to request a G5 User Id and Password from the Department of Education by submitting an **External Access Security Form**. This form is electronically available during online registration under "Not Registered? Sign Up", when you access the website. The Department will issue G5 User Ids and Passwords to those individuals authorized by the payee to access G5 to request funds and report expenditures. User Ids and Passwords cannot be faxed or given over the phone, and may not be shared by multiple users. The External User Access Request Form must be completed and mailed to the following address:

U.S. Department of Education
Office of the Chief Information Officer
Mail Stop - 4110
Attn: G5 Functional Application Team
400 Maryland Avenue, SW
Washington, DC 20202

New grantees will be requested to provide pertinent information before they may begin requesting funds. Information to be provided includes:

- Designation of payee
- Payee contacts and mailing addresses
- Depositor account information
- Individuals authorized by the payee to access G5 to request funds - these individuals will be provided User Ids and passwords to access G5

The payee is the entity identified by the grantee to handle the financial aspects of the grant -- e.g., request payments, report expenditures (the grantee and payee may be the same entity). Payees may begin requesting funds for the grantee once their award authorization is entered into G5 and the award start date is reached.

A copy of the Department of Education G5 Training Guide (*Guide*), is available on the G5 website under "Help". The guide provides detailed instructions on all electronic payment processes. If you are not Internet capable, please contact the G5/EDCAPS Payee Hotline at toll free 1 (888) 336-8930 to request a hard copy of the Guide.

REQUESTING FUNDS USING THE G5 MODULE

Payees can access the G5-Payments Module on-line to request funds. To access, payees need a Web browser (such as Microsoft Internet Explorer or Netscape Navigator) and Internet connectivity. Payees will request funds by award using the **PR/Award Number** found in **Block 5** of the **Grant Award Notification**. Instructions for navigating through the G5-Payments screens to make a payment request are given in the G5 Training Guide and the G5 OnDemand training located under "Help". Instructions for modifying payment requests, adjusting drawdown amounts, and viewing award and authorization histories are also included in the Guide.

Those payees who do not have the technology to access G5-Payments on-line may request funds by calling ED's G5/GAPS Payee Hotline by calling 1-888-336-8930.

AWARD INFORMATION

Payees can get information on this award (1) on-line or (2) by calling ED's G5/GAPS Payee Hotline Staff at 1-888-336-8930.

➤ On-Line:

Payees may access G5 via the Internet (<https://www.G5.gov>) to retrieve and view information on their awards, such as:

- Net authorization and authorization history
- Net draws
- Available balance
- History of pending and completed payments
- Award status
- Award history - including detailed transactions on drawdowns, returns, refunds, and adjustments

➤ ED's GAPS Payee Hotline Staff:

Payees can contact a G5/GAPS Payee Hotline Staff for information on any award. Because award information is organized in G5 by a unique identifier - the Dun & Bradstreet Number (DUNS Number) - payees should have their DUNS number, identified in **Block 8** of the **Grant Award Notification**, available when contacting a G5/GAPS Payee Hotline Staff Representative.

FINANCIAL REPORTS:

When a Payee requests a drawdown of funds by grant award, the Department records this as an expenditure against the specific grant award. This method of identifying expenditures, at the time of drawdown, and the capability to make adjustments on-line eliminates the need for the submission of the Federal Cash Transactions Report Form 272. Therefore, no additional financial reporting will be required unless required by a specific program.

(10/2009)

**An Overview of Single Audit Requirements of States,
Local Governments, and Non-Profit Organizations**

To meet audit requirements of U.S. Office of Management and Budget (OMB) Circular A-133, grantees must use the version published by OMB in the Federal Register on June 30, 1997 (62 F.R. 35278) amended June 27, 2003 (68 F.R. 38401). Grantees must submit all documents required by OMB Circular A-133, including Form SF-SAC: Data Collection Form, to:

Federal Audit Clearinghouse
1201 East 10th Street
Jeffersonville, Indiana 47132
(301) 763-1551 (voice)
(800) 253-0696 (toll free)
(301) 457-1540 (fax)

Below is a summary of the single audit requirements:

- (1) Non-Federal entities that expend \$500,000 or more in a year in Federal Awards are required to have a single audit conducted for that year except when they elect under paragraph (2) to have a program specific audit conducted for that year (A-133 § __.200 (a & b)).
- (2) When an auditee expends Federal awards under only one Federal program (excluding R&D) and the Federal programs laws, regulations, or grant agreements do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the case of a subrecipient, approves in advance a program-specific audit (A-133 § __.200 (c)).
- (3) Non-Federal entities that expend less than \$500,000 a year in Federal awards are exempt from Federal audit requirements under A-133 for that year, except where noted in the circular, but records must be available for review or audit by the appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO). If a program statute requires audits of grants under that program, either at a lower threshold or in all cases, grantees must comply with the program statute (A-133 § __.200 (d)).
- (4) A grantee must submit the audit results to the audit clearinghouse within the earlier of 30 days after the receipt of the auditors report(s), or within nine months after end of the audit period, unless a longer period is agreed to in advance by the Federal agency that provided the funding or a different period is specified in a program-specific audit guide (A-133 § __.320 (a)).

Grantees are strongly urged to obtain the "OMB Circular A-133 Compliance Supplement" and to contact their cognizant agency for single audit technical assistance.

The designated cognizant agency for single audit purposes is "the Federal awarding agency that provides the predominant amount of direct funding to the recipient." Grantees should obtain a copy of the OMB Circular A-133 Compliance supplement. This supplement will be instructive to both grantees and their auditors. Appendix III of the supplement provides a list of Federal Agency Contacts for A-133 Audits, including addresses, phone numbers, fax numbers, and e-mail addresses for technical assistance.

If the U.S. Department of Education is the cognizant agency, grantees should contact the Non-Federal Audit Team in the Department's Office of Inspector General, at the address, phone, or fax number provided in page 2 of this attachment.

Grantees can obtain information on single audits from:

The OMB Publications Service, (202) 395-7332. (To obtain OMB Circular A-133, Circular A-133 Compliance Supplement, and Form SF-SAC: Data Collection Form)

The OMB web site. Look under OMB Documents, then OMB Circulars. (To obtain OMB Circular A-133, Circular A-133 Compliance Supplement, and Form SF-SAC: Data Collection Form)

The Federal Audit Clearinghouse, 1-888-222-9907. (to obtain Form SF-SAC: Data Collection Form), or The American Institute of Certified Public Accountants (AICPA). AICPA has illustrative OMB Circular A-133 report examples that might be of interest to accountants, auditors, or financial staff. The examples can be obtained by their fax hotline: (202) 938-3797, request document number 311; or from their Internet page. The Internet address is <http://www.aicpa>.

If the U.S. Department of Education is the cognizant agency for the grantee organization, the following chart shows, according to the location of the grantee entity, which location of the Office of Inspector General to contact for single audit-related questions. For programmatic questions, grantees should contact the Education Program Contact shown on the Department's Grant Award Notification

U.S. Department of Education Non-Federal Audit Teams

Director, Non-Federal Audits
Office of Inspector General

U.S. Department of Education
Wanamaker Building
100 Penn Square East, Suite 502
Philadelphia, PA 19107
Phone: Voice (215) 656-6900

FAX (215) 656-6397 NATIONAL OFFICE CONTACT and audits in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Puerto Rico, and the Virgin Islands.

National Office Contact

Web page:

Non-Federal Audit Team
Office of Inspector General
U.S. Department of Education
1999 Bryan St., Suite 2630
Dallas, TX 75201-6817
Phone: Voice (214) 880-3031

FAX (214) 880-2492 For audits in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas.

Non-Federal Audit Team

Office of Inspector General

U.S. Department of Education
8930 Ward Parkway, Suite 2401
Kansas City, MO 64114-3302
Phone: Voice (816) 268-0502

FAX (816) 823-1398 For audits in Alaska, Arizona, California, Colorado, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oregon, South Dakota, Utah, Washington, Wisconsin, Wyoming, and the Pacific Islands.

ENCLOSURE 1

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

FROM: Philip A. Maestri
Director, Risk Management Service

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

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

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

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

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

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

<http://edocket.access.gpo.gov/2007/pdf/E7-23817.pdf>

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

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

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

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

Attachment

Selected Topics in Administering ED Discretionary Grants

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

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

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

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

II. Payment (§74.22, 80.21)

Under parts 74 and 80,--

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

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

The Department has recently encountered situations where grantees failed to request funds until long after the grantee actually expended its own funds for the costs of its

grant. Grantees need to be aware that, by law, Federal funds are available for grantees to draw down for only a limited period of time, after which the funds revert to the U.S. Treasury. In some cases grantees have requested funds too late for the Department to be able to pay the grantees for legitimate costs incurred during their project periods. The Department urges financial managers to regularly monitor requests for payment under their grants to assure that Federal funds are drawn from the ED G5 Payment System at the time those funds are needed for payments to vendors and employees.

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

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

IV. Cost Principles (§74.27, §80.22)

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

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

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

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

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

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

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

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

Under §80.36, States are required to follow the procurement rules the States have established for purchases funded by non-Federal sources. Under both parts 74 and 80, when procuring goods and services for a grant purposes, all other grantees may follow their own procurement procedures, but only to the extent that those procedures meet the minimum requirements for procurement specified in the regulations. These requirements include written competition procedures and codes of conduct for grantee staff, as well as requirements for cost and price analysis, record-keeping and contractor compliance with certain Federal laws and regulations. These regulations also require grantees to include certain conditions in contracts and subcontracts, as mandated by the regulations and statutes.

VI. Indirect Costs (§§75.560-564)

A. A grantee must have a current indirect cost rate agreement to charge indirect costs to a grant. However, if a grantee does not have a federally recognized indirect cost rate agreement on the date ED awards its grant, ED generally will authorize the grantee to use a temporary rate, of 10% of budgeted salaries and wages subject to the following limitations:

1. The grantee must submit an indirect cost proposal to its cognizant agency within 90 days after ED issues the GAN.

i. The cognizant agency is generally the Federal department or agency providing the grantee with the most direct Federal funding subject to indirect cost support (or an agency otherwise designated by OMB).

ii. If an organization receives most of its Federal funding indirectly as a sub-recipient via another entity (for example, a State Education Agency [SEA]), the conduit organization that provides the most pass-through Federal funding is responsible for establishing indirect cost rates for the sub-recipient.

2. If after the 90-day period, the grantee has not submitted an indirect cost proposal to its cognizant agency, the grantee may not charge its grant for indirect costs until it has negotiated an indirect cost rate agreement with its cognizant agency. However, under exceptional circumstances, ED may allow the grantee to continue using the temporary indirect cost after the end of the 90-day period even though the grantee did not submit an indirect cost proposal within the 90-day period. Before ED approves continued use of the temporary rate, the grantee must provide documentation satisfactory to ED that exceptional circumstances exist.

3. Once a grantee that has used a temporary rate obtains a federally recognized cost rate, the grantee may use the federally recognized rate to claim indirect costs reimbursement. The recovery is subject to the following limitations:

i. The grantee may only recover indirect costs incurred on or after the date it submitted its indirect cost rate proposal to its cognizant agency or at the start of the of the project period, whichever of the two occurs later.

ii. The total amount of funds recovered by the grantee under the federally recognized indirect cost rate is reduced by the amount of indirect costs previously recovered under the temporary indirect cost rate on or after the date specified in subparagraph 3 (i).

iii. The grantee must obtain prior approval from the Secretary to shift direct costs to indirect costs in order to recover indirect costs at a higher negotiated indirect cost rate.

iv. The grantee may not request additional funds to recover indirect costs that it cannot recover by shifting direct costs to indirect costs.

4. If an organization receives a combination of direct Federal funding and pass-through funding as a sub-recipient, and the entity does not have a rate established by some other cognizant agency, the Federal agency providing the most direct funding (or otherwise designated by OMB) is the cognizant agency for cost negotiation.

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

B. ED imposes limitations on indirect cost rates for certain types of grants, depending on the nature of the grant or the program under which the grant was funded. For example, grantees in specific programs with legislation containing "supplement-not-supplant" provisions are subject to a "restricted" indirect cost rate. Restricted indirect cost rates are lower than the negotiated indirect cost rates because the restricted rate excludes certain general management and fixed costs that would otherwise be included in the standard indirect cost rate calculation. Sections 75.563 and 76.564-569 in EDGAR describe how to calculate restricted rates in more detail. The ED program officer for any grant program can verify whether that program is covered by restricted rate requirements. See Attachment D of this GAN for more specific information.

C. Section 75.562 of EDGAR limits the indirect cost rate to 8% for training grants, regardless of the rate negotiated with the cognizant agency. (This 8% limitation does not apply to federally recognized Indian tribes or agencies of States or local governments.) The difference between the 8% limit and the grantee's negotiated rate may not be used for cost sharing or matching purposes, charged to direct cost categories, or charged to another Federal award.

D. Some programs contain prohibitions against recovery of any indirect costs. Under grants received from one of these programs, a grantee may not charge to a direct cost category in its budget a cost that would be treated as an indirect cost in other situations, nor may those unrecovered indirect costs be charged to other Federal awards.

E. In connection with reporting indirect costs under a grant, grantees will need to review the cover sheet of the ED Grant Performance Report (ED 524B). The section, "Indirect Costs," contains four questions related to claiming indirect costs under a grant.

Grantee personnel should be sure to answer these questions accurately so that the Department can exercise properly its responsibility for fiscal oversight of its grant awards.

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

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

VII. Audit Requirements (§74.26, §80.26)

The Single Audit Act requires that grantees obtain a non-Federal audit of their expenditures under their Federal grants if the grantee expends more than \$500,000 in Federal funds in one fiscal year. OMB Circular A-133 contains the requirements imposed on grantees for audits done in connection with the law. The full text of the most recent version of the circular can be found at:

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

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

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

OTHER CONSIDERATIONS

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

11/08

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

UNITED STATES DEPARTMENT OF EDUCATION
Office of the Chief Financial Officer

MEMORANDUM to ED DISCRETIONARY GRANTEES

You are receiving this memorandum to remind you of Federal requirements, found in Parts 74 and 80 of the Education Department General Administrative Regulations (EDGAR), regarding cash drawdowns under your grant account.

For any cash that you draw from your Department of Education grant account, you must:

- draw down only as much cash as is necessary to meet the immediate needs of the grant project;
- keep to the minimum the time between drawing down the funds and paying them out for grant activities; and
- return to the Government the interest earned on grant funds deposited in interest-bearing bank accounts except for a small amount of interest earned each year that your entity is allowed to keep to reimburse itself for administrative expenses).

In order to meet these requirements, you are urged to:

- take into account the need to coordinate the timing of drawdowns with prior internal clearances (e.g., by boards, directors, or other officials) when projecting immediate cash needs so that funds drawn down from ED do not stay in a bank account for extended periods of time while waiting for approval;
- monitor the fiscal activity (drawdowns and payments) under your grant on a continuous basis;
- plan carefully for cash flow in your grant project during the budget period and review project cash requirements before each drawdown; and
- pay out grant funds for project activities as soon as it is practical to do so after receiving cash from the Department.

Keep in mind that the Department monitors cash drawdown activity for all grants on a weekly basis. Department staff will contact grantees who appear to have drawn down excessive amounts of cash under one or more grants during the fiscal quarter to discuss the particular situation. For the purposes of drawdown monitoring, the Department will contact grantees who have drawn down 50% or more of the grant in the first quarter, 80% or more in the second quarter, and/or 100% of the cash in the third quarter of the budget period. However, even amounts less than these thresholds could still represent excessive drawdowns for your particular grant activities in any particular quarter. Grantees determined to have drawn down excessive cash will be required to return the excess funds to the Department, along with any associated earned interest, until such time as the money is legitimately needed to pay for grant activities. If you need assistance with returning funds and interest, please contact ED's GS/GAPS Payee Hotline by calling 1-888-336-8930.

Grantees that do not follow Federal cash management requirements and/or consistently appear on the Department's reports of excessive drawdowns could be:

- designated "high-risk" grantees [EDGAR 74.14, 80.12], which could mean being placed on a "cash-reimbursement" payment method (i.e., a grantee would experience the inconvenience of having to pay for grant activities with its own money and waiting to be reimbursed by the Department afterwards);
- subject to further corrective action;
- denied selection for funding on future ED grant applications [EDGAR 75.217(d)(3)(11)]; and/or
- debarred or suspended from receiving future Federal awards from any executive agency of the Federal government.

Depending on which type of entity your organization is, you are urged to read either §74.22 or §80.21 of EDGAR to learn more about Federal requirements related to grant payments. If you are a state or local educational agency with a grant covered by Part 80, please check with the ED staff person named in Block 3 of your Grant Award Notification to determine how to apply these requirements to any subgrantees. You are urged to make copies of this memorandum and share it with all affected individuals within your organization.

MEMORANDUM

ENCLOSURE 4
June 15, 2010

To: Recipients of grants and cooperative agreements

From: Thomas Skelly, Delegated to Perform Functions of Chief Financial Officer

Subject: Department of Education Cash Management Policies for Grants and Cooperative Agreements

The purpose of this memorandum is to remind the Department of Education's (the Department's) grant and cooperative agreement recipients (recipients) of existing cash management requirements regarding payments. The Department expects that recipients will ensure that subrecipients are also aware of these policies by forwarding a copy of this memorandum to them.

There are two different sets of payment requirements that apply to the draw of funds from recipient accounts at the Department. Payments to a State under programs covered by a State's Treasury State Agreement (TSA) are subject to the requirements of the *Cash Management Improvement Act of 1990 (CMIA)* as published in 31 United States Code 6503.

All other payments to States and all payments to other types of recipients are subject to the requirements in either 34 Code of Federal Regulation (CFR) Part 74, applicable to nongovernmental entities, or 34 CFR Part 80, applicable to State, local, and Indian tribal governments. These regulations are part of the Education Department General Administrative Regulations (EDGAR) and are available on the Web at http://www.access.gpo.gov/nara/cfr/waisidx_08/34cfrv1_08.html.

CMIA Requirements

States that draw funds under programs subject to the *CMIA* must draw funds as required under the TSA for the State. If a State draws funds under one of these programs to make payments to a subrecipient, the payment request to the Department should only be made at the request of the subrecipient, which must make draw requests to the State as required under the requirements in EDGAR, as described below.

EDGAR Requirements

Payments to States under programs not covered by the State's TSA and payments to other governments are subject to the requirements in Part 80 of EDGAR. These payment requirements also apply to all other types of recipients under Part 74 of EDGAR, which applies to nonprofit organizations, institutions of higher education, hospitals, and commercial organizations. States that draw funds on behalf of subrecipients under programs not covered by a TSA should remind subrecipients that they may only request funds from the State under the payment standards in Part 74 or Part 80, as applicable.

For any cash drawn from your program or project account at the Department:

- Recipients must minimize the time between the recipient's draw down of funds from its grant account at the Department and the time the recipient disburses those funds to payees via

electronic transfer, check redemption or other means of transfer. See 34 CFR 74.22(a) and 80.21(b). Specifically, recipients may only draw funds to meet the immediate cash needs of the grant or cooperative agreement.

- For recipients subject to Part 74 of EDGAR, unless the conditions described in 34 CFR Part 74 Section 22(k) exist, these recipients must deposit advances of Federal funds in interest bearing accounts.
- Recipients subject to Part 74 of EDGAR must return to the U.S. Department of Health and Human Services (HHS) the interest earned on advances of grant funds except that the recipient may retain up to \$250 of interest earned on the account each year to pay for the costs of maintaining the account. These requirements also apply to subrecipients subject to Part 74 Section 22 (l) which requires these recipients and subrecipients to annually remit interest earned on advances of funds. The address for interest remittances to HHS is:

U.S. Department of Health and Human Services
P.O. Box 6120
Suite 1133
Rockville, MD 20852

The remittance should be accompanied by a letter stating that the remittance is for "interest earned on Federal funds" and should include the DUNS number.

- Recipients subject to Part 80 of EDGAR must return to the Department the interest earned on advances of grant funds except that the recipient may retain up to \$100 of interest earned on the account each year to pay for the costs of maintaining the account. Section 80.21(i) requires these recipients to promptly (at least quarterly) remit interest earned on advances to the Department. These requirements also apply to subrecipients subject to Part 80. The address for interest remittances to the Department is:

U.S. Department of Education
P.O. Box 979053
St. Louis, MO 63197-9000

The remittance should be accompanied by a letter stating that the remittance is for "interest earned on Federal funds" and should include the DUNS number.

- Recipients must use grant funds only for obligations incurred during the funding period.
- Recipients must distribute Federal funds to subrecipients only when requested by the subrecipient and as needed to pay program costs.

Recipients have other responsibilities regarding the use of Federal funds. We highlight the following practices related to the draw of Federal funds that are either required by EDGAR or will assist recipients in meeting their responsibilities under EDGAR.

- Recipients must regularly monitor the payment requests made by their subrecipients to ensure that those requests conform to the same payment requirements that apply to the recipient. See 34 CFR Part 80 Section 20(b)(7);
- Recipients must regularly monitor the fiscal activity of their subrecipients on a continuous basis and ensure that their subrecipients return interest earned;
- If expenditures under the program or project require the recipient's board or specified officials to approve expenditures, the recipient should obtain that approval before making the payment request for any expenditure, thus minimizing the period of time that funds remain in the recipient's bank account pending disbursement of the funds for expenditures under the program or project. See 34 CFR 74.21(b)(5) and 80.22(a); and
- Plan carefully for cash flows for your grant project and review projected cash requirements before each drawdown. See 34 CFR 74.21 and 74.22 or 80.20 and 80.21, as applicable.

Recipients that do not follow the cash management requirements applicable to their grants could be:

- Placed on a "cash-reimbursement" payment method, i.e., a recipient would have to pay for grant activities with its own money and submit documentation of the expenditures to the Department before receiving reimbursement from the Department;
- Designated a "high-risk" recipient under 34 CFR 74.14 or 80.12, as applicable, which may involve the imposition of conditions in addition to that of being placed on a reimbursement payment system;
- Subjected to further corrective action, including withholding of funds, suspension, and termination of the award. See 34 CFR 74.62 or 80.43, as applicable;
- Denied funding under future Department discretionary grant competitions. See 34 CFR Part 75 Section 217(d)(3)(ii); and
- Debarred or suspended under 34 CFR Part 85 from receiving future Federal awards from any executive agency of the Federal government.

A small number of ED grant programs have program-specific cash management and payment requirements based on the authorizing legislation or program regulations. These program-specific requirements may supplement or override the general EDGAR cash management or payment requirements. If you have any questions about your specific grant, please contact the program officer, whose contact information is on your Grant Award Notification (GAN).

ED's Office of the Chief Financial Officer will provide ongoing outreach efforts regarding cash management and payment requirements, including supplementary webinars, URL links and Frequently Asked Question sheets.

Thank you for your attention to this matter. If you have any questions, please contact Cynthia Heath at (202) 245-8043 or cynthia.heath@ed.gov

ENCLOSURE 5

Recipients of ED Grants and Cooperative Agreements
Frequently Asked Questions

Q What are the Federal Laws and Regulations on cash management?

A The Cash Management Improvement Act of 1990 (CMIA) is the overriding public law for cash management. It was enacted by Public Law 101-453, 31 U.S.C. 3335 and 6503. The implementing regulations are in Title 31 of the Code of Federal Regulations (CFR), Part 205, <http://www.fms.treas.gov/fedreg/31cfr205final.pdf>. In addition, the Education Department General Administrative Regulations (EDGAR) defines the CFR specific to administering the U.S. Department of Education's (the Department's) grants in 34 CFR, Part 74 and Part 80, http://www.access.gpo.gov/nara/cfr/waisidx_08/34cfrv1_08.html.

Q What are the CMIA requirements?

A States that draw funds under programs subject to the CMIA must draw funds as required under the Treasury-State Agreement (TSA) for the State. If a State draws funds under one of these programs to make payments to a subrecipient, the payment request to the Department should only be made at the request of the subrecipient, which must make draw requests to the State as required under the requirements in EDGAR.

Q What are the Education Department General Administrative Regulations (EDGAR) requirements?

A Payments to States and other governments under programs not covered by the State's TSA and payments to other governments are subject to the requirements in Part 80 of EDGAR. These payment requirements also apply to all other types of recipients under Part 74 of EDGAR, which applies to nonprofit organizations, institutions of higher education, hospitals, and commercial organizations. States that draw funds on behalf of subrecipients under programs not covered by a TSA should remind subrecipients that they may only request funds from the State under the payment standards in Part 74 or Part 80, as applicable. The EDGAR is available on the Web at http://www.access.gpo.gov/nara/cfr/waisidx_08/34cfrv1_08.html.

Q What is a Treasury-State Agreement (TSA)?

A A TSA documents the accepted funding techniques and methods for calculating interest agreed upon by the U.S. Department of the Treasury (Treasury) and a State. It also identifies the Federal assistance programs. The CMIA's implementing regulations at 31 CFR 205 will govern if there are any inconsistencies. A TSA will be effective until terminated, unless Treasury and a State agree to a specific termination date. Treasury or a State may terminate a TSA with 30 days written notice.

Q What if there is no TSA?

A When a State does not have a TSA in effect, default procedures will be prescribed to implement 34 CFR, subpart A. The default procedures will prescribe efficient funds transfer procedures consistent with State and Federal law and identify the covered Federal assistance programs and designated funding techniques. When the Department and a State reach agreement on some but not all Federal assistance programs administered by the State, the Department and the State may enter into a TSA for all programs on which we are in agreement and we may prescribe default procedures governing those programs on which we are unable to reach agreement.

Q What is a Federal-State Agreement?

A A Federal-State Agreement is an agreement between a State and a Federal Program Agency specifying terms and conditions for carrying out a Federal assistance program or group of programs. This is different from a TSA.

Q Who is responsible for Cash Management?

A The Department's grant and cooperative agreement recipients (recipients) are charged with the administration of Federal funds. In addition, recipients are responsible for ensuring that subrecipients are aware of cash management policies. For more information, see the recently issued Memorandum from the Chief Financial Officer on Cash Management which is posted on the ed.gov "ED Memoranda to Grantees" page at <http://www2.ed.gov/policy/fund/guid/gposbul/gposbul.html>.

Q Who is responsible for monitoring cash drawdowns to ensure compliance with cash management policies?

A Recipients must monitor their cash drawdowns and their subrecipients to assure substantial compliance to the standards of timing and amount of advances. Additionally, when considered necessary and feasible by the Federal agency, recipients may be required to report the amount of cash advances in excess of three days' needs in their hands and of their subrecipients and to provide short narrative explanations of actions taken by the recipient to reduce the excess balances.

Q How soon may I draw down funds from the G5 grants management system (G5 replaced E-Payments in December 2007)?

A Grantees are required to minimize the amount of time between the drawdown and the use of funds from their bank accounts. (See EDCAR §74.21-22 and §80.20-21.) Funds must be drawn only to meet a grantee's immediate cash needs for each individual grant. Each time you use the G5 system to draw down a payment you check a box certifying that you are adhering to cash management requirements and that the funds will be spent within 3 days. The G5 screen displays the following message: I certify, by processing this payment request and/or re-allocation, that the funds are being expended within three business days of receipt for the purpose and condition of the agreement.

Q How may I use Federal funds?

A Federal funds must be used as specified in the Grant Award Notification (GAN).

Q What if I used Federal funds for other than the specific purpose for which it was given?

A This will be deemed a disallowed expenditure, and funds (including any earned interest) must be returned to the Department.

Q What are excess cash balances?

A Excess cash balances are funds maintained at the recipient/subrecipient's level in excess of immediate (usually 3 days) needs. Excess cash balances must be promptly withdrawn from account and returned to the Department.

Q What are the consequences to recipients/subrecipients for not complying with terms of the grant award?

A If a recipient or subrecipient materially fails to comply with any term of an award, whether stated in a Federal statute or regulation, EDGAR, an assurance, a cooperative agreement, a TSA, an application, a notice of award, or elsewhere, the awarding agency may take one or more of the following actions:

(1) Temporarily withhold cash payments pending correction of the deficiency by the recipient or subrecipient or more severe enforcement action by the awarding agency,

(2) Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance,

(3) Wholly or partly suspend or terminate the current award for the recipient's or subrecipient's program,

(4) Withhold further awards for the program, or

(5) Take other remedies that may be legally available.

Q Who is responsible for determining the amount of interest owed to the Department?

A As set forth in 31 CFR 205.9, a TSA must include the method a State uses to calculate and document interest liabilities. A State must calculate and report interest liabilities on the basis of its fiscal year. A State must ensure that its interest calculations are auditable and retain a record of the calculations. A non-State entity must keep track of any interest earned on Federal funds and promptly remit it to the government. Also, see the June 15, 2010, memorandum from the Department's Chief Financial Officer on Department of Education Cash Management Policies for Grants and Cooperative Agreements posted at <http://www2.ed.gov/policy/fund/guid/gposbul/gposbul.html>.

Q How is interest earned on Federal funds calculated?

A If you earn interest on Federal funds, you must return the actual amount earned to the Department. If the disbursement arrangement is subject to a TSA, then the recipient must adhere to the interest calculation method specified in the TSA. Recipients that are not subject to a TSA (non-TSA recipients), along with subrecipients, must return actual interest earned on cash balances to the Department. In some cases, non-TSA recipients or subrecipients may not be able to readily identify the actual amount and must calculate the interest earned on Federal cash balances. For these cases, here are some guiding principles for non-TSA recipients and subrecipients to consider when performing interest calculations:

- Non-TSA recipients and subrecipients should calculate interest earned on Federal cash balances using the same method that was used to determine their interest earnings on cash balances from all sources. For example, Federal interest should be calculated using the average daily balance method if this method was used to calculate interest on Federal and non-Federal cash balances (all sources).
- Federal interest should be calculated using the same interest rate at which the non-TSA recipient or subrecipient earned interest on cash balances from all sources. Because interest earned on Federal cash balances must be calculated and remitted quarterly, the rate used in these calculations should be the applicable rate for that quarter.
- The amount of interest earnings remitted to the Department should not be reduced in order to compensate for the temporary use of other non-Federal cash resources to pay Federal program costs. This is true whether the non-TSA recipient or subrecipient normally receives Federal funds through an advance or reimbursement funding method.

Q May we keep interest earned on Federal funds?

A A recipient/subrecipient subject to EDGAR 34 CFR Part 74 may keep up to \$250/year of interest earned on excess Federal fund advances to cover administrative costs. All other amounts must be returned to the Department of Health and Human Services.

A recipient/subrecipient subject to EDGAR 34 Part 80 may keep up to \$100/year of interest earned on excess Federal fund advances to cover administrative costs. All other amounts must be returned to the Department of Education.

Q Where should I return interest earned on Federal funds?

A Recipients subject to Part 74 of EDGAR must return to the U.S. Department of Health and Human Services (HHS) the interest earned on advances of grant funds except that the recipient may retain up to \$250 of interest earned on the account each year to pay for the costs of maintaining the account. These requirements also apply to subrecipients subject to Part 74 Section 22 (1), which requires these recipients and subrecipients to annually remit interest earned on advances of funds.

The address for interest remittances to HHS is:

U.S. Department of Health and Human Services
P.O. Box 6120, Suite 1133
Rockville, MD 20852

Recipients subject to Part 80 of EDGAR must return to the Department the interest earned on advances of grant funds except that the recipient may retain up to \$100 of interest earned on the account each year to pay for the costs of maintaining the account. Section 80.21(i) requires these recipients to promptly (at least quarterly) remit interest earned on advances to the Department. These requirements also apply to subrecipients subject to Part 80.

The address for interest remittances to the Department is:

U.S. Department of Education
P.O. Box 979053
St. Louis, MO 63197-9000

Q What information should accompany my interest payment?

A Recipient/subrecipient should note their DUNS number as well as any other identifiable information specific to the award and the recipient/subrecipient.

Q Are grant recipients/subrecipients automatically permitted to draw funds in advance of the time they need to disburse funds in order to liquidate obligations?

A No. Section 80.21 of the EDGAR prescribes several methods a recipient may use to make payments to subrecipients. The State educational agency as the recipient, however, has the authority to determine which method it will use to make payments to its subrecipients within the State.

Q For formula grant programs such as ESEA Title I, for which States distribute funds to LEAs, may States choose to pay LEAs on a reimbursement basis?

A Yes. Section 80.21 of the EDGAR authorizes States to implement a payment system in which LEAs are reimbursed monthly; quarterly; or, in some cases, semi-annually. A reimbursement process is a State choice and not mandated by ED. Section 80.21 of EDGAR also allows recipients and subrecipients to be paid in advance, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and their disbursement by the recipient or subrecipient.

Q What are the exceptions to adhering to cash management requirements?

A A small number of ED grant programs have program-specific cash management and payment requirements based on the authorizing legislation or program regulations. These program-specific requirements may supplement or override the general EDGAR cash management or payment requirements. If you have any questions about your specific grant, please contact the program officer, whose

contact information is on your Grant Award Notification (GAN).

Q Will the Department issue special procedures in advance if G5 plans to shut down for 3 days or more?

A Yes, the Department will issue special guidance for drawing down funds during a G5 shut down period of 3 days or more. The guidance will include cash management improvement act procedures for States and certain State institutions of higher education and procedures for grants (including Pell grants) that are not subject to CMIA. Early notice is provided to all grantees to plan accordingly.

**Recipients of ED Grants and Cooperative Agreements
Frequently Asked Questions**

- Q What are the Federal Laws and Regulations on cash management?**
- A** The *Cash Management Improvement Act of 1990 (CMIA)* is the overriding public law for cash management. It was enacted by Public Law 101-453, 31 U.S.C. 3335 and 6503. The implementing regulations are in Title 31 of the Code of Federal Regulations (CFR), Part 205, <http://www.fins.treas.gov/fedreg/31cfr205final.pdf>. In addition, the Education Department General Administrative Regulations (EDGAR) defines the CFR specific to administering the U.S. Department of Education's (the Department's) grants in 34 CFR, Part 74 and Part 80, http://www.access.gpo.gov/nara/cfr/waisidx_08/34cfrv1_08.html.
- Q What are the CMIA requirements?**
- A** States that draw funds under programs subject to the *CMIA* must draw funds as required under the Treasury-State Agreement (TSA) for the State. If a State draws funds under one of these programs to make payments to a subrecipient, the payment request to the Department should only be made at the request of the subrecipient, which must make draw requests to the State as required under the requirements in EDGAR.
- Q What are the Education Department General Administrative Regulations (EDGAR) requirements?**
- A** Payments to States and other governments under programs not covered by the State's TSA and payments to other governments are subject to the requirements in Part 80 of EDGAR. These payment requirements also apply to all other types of recipients under Part 74 of EDGAR, which applies to nonprofit organizations, institutions of higher education, hospitals, and commercial organizations. States that draw funds on behalf of subrecipients under programs not covered by a TSA should remind subrecipients that they may only request funds from the State under the payment standards in Part 74 or Part 80, as applicable. The EDGAR is available on the Web at http://www.access.gpo.gov/nara/cfr/waisidx_08/34cfrv1_08.html.
- Q What is a Treasury-State Agreement (TSA)?**
- A** A TSA documents the accepted funding techniques and methods for calculating interest agreed upon by the U.S. Department of the Treasury (Treasury) and a State. It also identifies the Federal assistance programs. The *CMIA*'s implementing regulations at 31 CFR 205 will govern if there are any inconsistencies. A TSA will be effective until terminated, unless Treasury and a State agree to a specific termination date. Treasury or a State may terminate a TSA with 30 days written notice.
- Q What if there is no TSA?**
- A** When a State does not have a TSA in effect, default procedures will be prescribed to implement 34 CFR, subpart A. The default procedures will prescribe efficient funds transfer procedures consistent with State and Federal law and identify the covered Federal assistance programs and designated funding techniques. When the Department and a State reach agreement on some but not all Federal assistance programs administered by the State, the Department and the State may enter into a TSA for all programs on which we are in agreement and we may prescribe default procedures governing those programs on which we are unable to reach agreement.
- Q What is a Federal-State Agreement?**
- A** A Federal-State Agreement is an agreement between a State and a Federal Program Agency specifying terms and conditions for carrying out a Federal assistance program or group of programs. This is different from a TSA.

Q Who is responsible for Cash Management?

A The Department's grant and cooperative agreement recipients (recipients) are charged with the administration of Federal funds. In addition, recipients are responsible for ensuring that subrecipients are aware of cash management policies. For more information, see the recently issued Memorandum from the Chief Financial Officer on Cash Management which is posted on the ed.gov "ED Memoranda to Grantees" page at <http://www2.ed.gov/policy/fund/guid/gposbul/gposbul.html>.

Q Who is responsible for monitoring cash drawdowns to ensure compliance with cash management policies?

A Recipients must monitor their cash drawdowns and their subrecipients to assure substantial compliance to the standards of timing and amount of advances. Additionally, when considered necessary and feasible by the Federal agency, recipients may be required to report the amount of cash advances in excess of three days' needs in their hands and of their subrecipients and to provide short narrative explanations of actions taken by the recipient to reduce the excess balances.

Q How soon may I draw down funds from the G5 grants management system (G5 replaced E-Payments in December 2007)?

A Grantees are required to minimize the amount of time between the drawdown and the use of funds from their bank accounts. (See EDGAR §74.21-22 and §80.20-21.) Funds must be drawn only to meet a grantee's immediate cash needs for each individual grant. Each time you use the G5 system to draw down a payment you check a box certifying that you are adhering to cash management requirements and that the funds will be spent within 3 days. The G5 screen displays the following message: *I certify, by processing this payment request and/or re-allocation, that the funds are being expended within three business days of receipt for the purpose and condition of the agreement.*

Q How may I use Federal funds?

A Federal funds must be used as specified in the Grant Award Notification (GAN).

Q What if I used Federal funds for other (than the specific purpose for which it was given)?

A This will be deemed a disallowed expenditure, and funds (including any earned interest) must be returned to the Department.

Q What are excess cash balances?

A Excess cash balances are funds maintained at the recipient/subrecipient's level in excess of immediate (usually 3 days) needs. Excess cash balances must be promptly withdrawn from account and returned to the Department.

Q What are the consequences to recipients/subrecipients for not complying with terms of the grant award?

A If a recipient or subrecipient materially fails to comply with any term of an award, whether stated in a Federal statute or regulation, EDGAR, an assurance, a cooperative agreement, a TSA, an application, a notice of award, or elsewhere, the awarding agency may take one or more of the following actions:

- (1) Temporarily withhold cash payments pending correction of the deficiency by the recipient or subrecipient or more severe enforcement action by the awarding agency,
- (2) Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance,
- (3) Wholly or partly suspend or terminate the current award for the recipient's or subrecipient's program,
- (4) Withhold further awards for the program, or
- (5) Take other remedies that may be legally available.

Q Who is responsible for determining the amount of interest owed to the Department?

A As set forth in 31 CFR 205.9, a TSA must include the method a State uses to calculate and document interest liabilities. A State must calculate and report interest liabilities on the basis of its fiscal year. A State must ensure that its interest calculations are auditable and retain a record of the calculations. A non-State entity must keep track of any interest earned on Federal funds and promptly remit it to the government. Also, see the June 15, 2010, memorandum from the Department's Chief Financial Officer on *Department of Education Cash Management Policies for Grants and Cooperative Agreements* posted at <http://www2.ed.gov/policy/fund/guid/gposbul/gposbul.html>.

Q How is interest earned on Federal funds calculated?

A If you earn interest on Federal funds, you must return the actual amount earned to the Department. If the disbursement arrangement is subject to a TSA, then the recipient must adhere to the interest calculation method specified in the TSA. Recipients that are not subject to a TSA (non-TSA recipients), along with subrecipients, must return actual interest earned on cash balances to the Department.

In some cases, non-TSA recipients or subrecipients may not be able to readily identify the actual amount and must calculate the interest earned on Federal cash balances. For these cases, here are some guiding principles for non-TSA recipients and subrecipients to consider when performing interest calculations:

- Non-TSA recipients and subrecipients should calculate interest earned on Federal cash balances using the same method that was used to determine their interest earnings on cash balances from all sources. For example, Federal interest should be calculated using the average daily balance method if this method was used to calculate interest on Federal and non-Federal cash balances (all sources).
- Federal interest should be calculated using the same interest rate at which the non-TSA recipient or subrecipient earned interest on cash balances from all sources. Because interest earned on Federal cash balances must be calculated and remitted quarterly, the rate used in these calculations should be the applicable rate for that quarter.
- The amount of interest earnings remitted to the Department should not be reduced in order to compensate for the temporary use of other non-Federal cash resources to pay Federal program costs. This is true whether the non-TSA recipient or subrecipient normally receives Federal funds through an advance or reimbursement funding method.

Q May we keep interest earned on Federal funds?

A A recipient/subrecipient subject to EDGAR 34 CFR Part 74 may keep up to \$250/year of interest earned on excess Federal fund advances to cover administrative costs. All other amounts must be returned to the Department of Health and Human Services.

A recipient/subrecipient subject to EDGAR 34 Part 80 may keep up to \$100/year of interest earned on excess Federal fund advances to cover administrative costs. All other amounts must be returned to the Department of Education.

Q Where should I return interest earned on Federal funds?

A Recipients subject to Part 74 of EDGAR must return to the U.S. Department of Health and Human Services (HHS) the interest earned on advances of grant funds except that the recipient may retain up to \$250 of interest earned on the account each year to pay for the costs of maintaining the account. These requirements also apply to subrecipients subject to Part 74 Section 22 (I), which requires these recipients and subrecipients to annually remit interest earned on advances of funds. The address for interest remittances to HHS is:

U.S. Department of Health and Human Services

P.O. Box 6120, Suite 1133
Rockville, MD 20852

Recipients subject to Part 80 of EDGAR must return to the Department the interest earned on advances of grant funds except that the recipient may retain up to \$100 of interest earned on the account each year to pay for the costs of maintaining the account. Section 80.21(i) requires these recipients to promptly (at least quarterly) remit interest earned on advances to the Department. These requirements also apply to subrecipients subject to Part 80. The address for interest remittances to the Department is:

U.S. Department of Education
P.O. Box 979053
St. Louis, MO 63197-9000

- Q What information should accompany my interest payment?**
A Recipient/subrecipient should note their DUNS number as well as any other identifiable information specific to the award and the recipient/subrecipient.
- Q Are grant recipients/subrecipients automatically permitted to draw funds in advance of the time they need to disburse funds in order to liquidate obligations?**
A No. Section 80.21 of the EDGAR prescribes several methods a recipient may use to make payments to subrecipients. The State educational agency as the recipient, however, has the authority to determine which method it will use to make payments to its subrecipients within the State.
- Q For formula grant programs such as ESEA Title I, for which States distribute funds to LEAs, may States choose to pay LEAs on a reimbursement basis?**
A Yes. Section 80.21 of the EDGAR authorizes States to implement a payment system in which LEAs are reimbursed monthly; quarterly; or, in some cases, semi-annually. A reimbursement process is a State choice and not mandated by ED. Section 80.21 of EDGAR also allows recipients and subrecipients to be paid in advance, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and their disbursement by the recipient or subrecipient.
- Q What are the exceptions to adhering to cash management requirements?**
A A small number of ED grant programs have program-specific cash management and payment requirements based on the authorizing legislation or program regulations. These program-specific requirements may supplement or override the general EDGAR cash management or payment requirements. If you have any questions about your specific grant, please contact the program officer, whose contact information is on your Grant Award Notification (GAN).
- Q Will the Department issue special procedures in advance if GS plans to shut down for 3 days or more?**
A Yes, the Department will issue special guidance for drawing down funds during a GS shut down period of 3 days or more. The guidance will include cash management improvement act procedures for States and certain State institutions of higher education and procedures for grants (including Pell grants) that are not subject to CMIA. Early notice is provided to all grantees to plan accordingly.

Attachment F

Request for Approval of Program Income

In projects that generate program income ¹⁰⁾, the recipient calculates the amount of program income according to the guidance given in:

- 34 CFR 74.20(f) [institutions of higher education, nonprofit organizations, and hospitals]; or
- 34 CFR 80.25(c) [State and local governments and Federally recognized Indian tribes].

Unless checked below as NOT ALLOWED, the recipient may exercise any of the options or combination of options, as provided in EDGAR ¹¹⁾, for using program income generated in the course of the recipient's authorized project activities:

Not Allowed Adding program income to funds committed to the project by the Secretary and recipient and using it to further eligible project or program objectives;

Not Allowed Using program income to finance the non-Federal share of the project or program; and

Not Allowed Deducting program income from the total project or program allowable cost in determining the net allowable costs on which the Federal share of costs is based.

¹⁰⁾ As defined in §74.2 and §80.25(b) of the Education Department General Administrative Regulations (EDGAR)

¹¹⁾ 34 CFR 74.24(a)-(h) [Institutions of higher education, nonprofit organizations, and hospitals]; or 34 CFR 80.25(a)-(h) [State and local governments and Federally-recognized Indian tribes]

12/13/2005

Trafficking In Persons

The Department of Education adopts the requirements in the Code of Federal Regulations at 2 CFR 175 and incorporates those requirements into this grant through this condition. The grant condition specified in 2 CFR 175.15(b) is incorporated into this grant with the following changes. Paragraphs a.2.ii.B and b.2.ii. are revised to read 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 Secretary may terminate this grant without penalty for any violation of these provisions by the grantees, its employees, or its subrecipients.

Reporting Prime Awardee Executive Compensation Data

The Federal Funding Accountability and Transparency Act (FFATA) is designed to increase transparency and improve the public's access to Federal government information. To this end, FFATA requires that executive compensation data be reported for all new Federal grants funded at \$25,000 or more with an award date on or after October 1, 2010. As such, grants awarded by the U.S. Department of Education are required to report executive compensation data as addressed in this grant award term:

a. Reporting Total Compensation of Recipient Executives:

1. *Applicability and what to report.* You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—

i. the total Federal funding authorized to date under this award is \$25,000 or more;

ii. in the preceding fiscal year, you received--

(A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/exccomp.htm>.)

2. *Where and when to report.* You must report executive total compensation described in paragraph b.1. of this award term as part of your registration profile at <http://www.ccr.gov>.

A. If this is the first award you have received that is subject to the reporting requirements in paragraph b.1., you must report by the end of the month following the month in which this award is made, and on each anniversary of this award.

B. If you have already received an award this year that is subject to the reporting requirements in paragraph b.1., you must report executive compensation on the anniversary of the first award you received that was subject to the reporting requirement in paragraph b.1. of this condition.

b. Definitions. For purposes of this award term:

1. *Entity* means all of the following, as defined in 2 CFR part 25:

Attachment O

- i. A Governmental organization, which is a State, local government, or Indian tribe;
 - ii. A foreign public entity;
 - iii. A domestic or foreign nonprofit organization;
 - iv. A domestic or foreign for-profit organization;
 - v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
- 2. Executive** means officers, managing partners, or any other employees in management positions.
- 3. Total compensation** means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
- i. Salary and bonus.
 - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
 - iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
 - v. Above-market earnings on deferred compensation which is not tax-qualified.
 - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

Reporting Subaward Data and Executive Compensation Data for Subrecipients

The Federal Funding Accountability and Transparency Act (FFATA) is designed to increase transparency and improve the public's access to Federal government information. To this end, FFATA requires that subaward data be reported for all new Federal grants funded at \$25,000 or more with an award date on or after October 1, 2010. As such, grants awarded by the U.S. Department of Education are required to report subaward data as addressed in this grant award term:

a. Reporting of first-tier subawards:

1. **Applicability.** Unless you are exempt as provided in paragraph c. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e. of this award term).

2. **Where to report.**

You must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.

3. **What to report.** You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

b. Reporting of Total Compensation of Subrecipient Executives:

1. **Applicability and what to report.** Unless you are exempt as provided in paragraph c of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—

i. in the subrecipient's preceding fiscal year, the subrecipient received--

(A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

Attachment P

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)

2. **When to report.** You must report subrecipient executive total compensation described in paragraph b.1., by the end of the month following the month during which you make the subaward. For example, if you obligate a subaward on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

3. **Conditions imposed on recipients of subawards.** You must include a condition that requires the subgrantee to timely report to you the information required under paragraph b.1. of this condition in every subaward that meets the standards for subaward reporting under paragraph b.1.i. and ii. of this condition.

c. **Exemptions:**

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

i. Subawards, and

ii. The total compensation of the five most highly compensated executives of any subrecipient.

d. **Definitions. For purposes of this award term:**

1. **Entity** means all of the following, as defined in 2 CFR part 25:

i. A Governmental organization, which is a State, local government, or Indian tribe;

ii. A foreign public entity;

iii. A domestic or foreign nonprofit organization;

iv. A domestic or foreign for-profit organization;

v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

2. **Executive** means officers, managing partners, or any other employees in management positions.

3. **Subaward:**

i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.

ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. ---- .210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").

iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

4. **Subrecipient** means an entity that:

i. Receives a subaward from you (the recipient) under this award; and

ii. Is accountable to you for the use of the Federal funds provided by the subaward.

5. **Total compensation** means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

i. Salary and bonus.

ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS-123R), Shared Based Payments.

iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

v. Above-market earnings on deferred compensation which is not tax-qualified.

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vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

ATTACHMENT S

SPECIAL CONDITIONS FOR DISCLOSING FEDERAL FUNDING IN PUBLIC ANNOUNCEMENTS

When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in this Act, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state —

- (1) the percentage of the total costs of the program or project which will be financed with Federal money;
- (2) the dollar amount of Federal funds for the project or program; and
- (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

Recipients must comply with these conditions under Public Law 111-117, the "Omnibus Appropriations Act, 2010", DIVISION D—DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2010, Title V—General Provisions, Sec. 506, December 16, 2009.

Attachment T
Race to the Top-Early Learning Challenge
Grant Conditions

- A. All commitments contained in the Grantee's (or State) Application, including the structure of its Race to the Top – Early Learning Challenge Program Grant Project (Grant Project) and the proposed uses of Race to the Top – Early Learning Challenge Grant (Grant) funds, are and will remain fully binding on the Grantee and its Participating State Agencies (PSAs). Grant Funds may only be used for activities proposed in the State's approved Grant application, unless otherwise approved by the Grantor. The Grantee and its PSAs are responsible for implementing and adhering to the Scopes of Work, including the Timelines, and Budgets, referenced in condition B below. The Grantee may request a revision of its approved Grant Project, including goals, activities, timelines, budget, or annual targets, provided that:
- 1) Such revisions do not result in the Grantee's failure to comply with the terms and conditions of this Grant award or the Program's statutory and regulatory provisions; and
 - 2) The Grantor and the Grantee mutually agree in writing to any such revisions or modifications and that the Grantor shall have the sole discretion to determine whether or not to agree to such revisions or modifications.

In the event that the Grantee is not meeting its Grant goals, activities, timelines, budget, or annual targets or is not fulfilling other applicable Grant requirements, or in the event that the Grantee determines that one or more of its PSAs are not meeting their Grant goals, activities, timelines, budgets, or annual targets or are not fulfilling other applicable Grant requirements, the Grantor (or in the event that a failure is on the part of a PSA the Grantee, in consultation with the Grantor) will take appropriate enforcement action(s), which could include initiating a collaborative process between the Grantor and the Grantee, the Grantee and a PSA, or any of the enforcement measures that are set forth in 34 CFR section 80.43 in the Education Department General Administrative Regulations (EDGAR), including putting the Grantee on reimbursement payment status, withholding Grant funds, disallowing costs, or exercising any other available legal remedy.

- B. As soon as possible, but no later than 90 calendar days from the date of the Grant award, the Grantee must submit:
- 1) Detailed final scopes of work for all of its PSAs (including the Lead Agency), which must contain work plans that are consistent with the preliminary scopes of work and with the Grantee's application, and must include each PSA's specific goals, activities, timelines, detailed budgets, key personnel, and annual targets for key performance measures. If final scopes of work are not submitted for all PSAs that are included in the State's approved application

and/or all of the agencies that administer the State programs listed in the definition of Participating State Agency, as included in the Notice Inviting Applications (76 FR 53564 at 53570), the Grantor may pursue available enforcement remedies, as set forth in 34 CFR section 80.43 in EDGAR, including full or partial termination of the grant award.

The Grantee's PSA Memoranda of Understanding (MOU) or other binding agreements may be amended only by written agreement signed by each of the parties involved, and in consultation with the Grantor.

- 2) A detailed scope of work for the entire State Plan that is consistent with the Grantee's application. This scope of work should also include the State Grantee's specific goals, activities, timelines, detailed budgets, key personnel, and annual targets for key performance measures.

Through the scope of work process, the Grantee will work with the Grantor to clarify and finalize any areas where additional information is needed to determine cost allowability in the budget, including by providing clarification on funds to be distributed to localities, Early Learning Intermediary Organizations, Participating Programs, and other partners through MOUs, interagency agreements, contracts, or other mechanisms authorized by State procurement laws.

- C. The Grantee may draw down no more than 10 percent of the Grant until all of the required State and PSA scopes of work, including PSA information, detailed timelines, and budgets referenced in condition B, are submitted to and approved by the Grantor.
- D. All Grant funds must be used in accordance with the Grantee's approved application and any revisions approved by the Grantor; the detailed final scopes of work, including timelines and budgets, referenced in condition B; the Notice Inviting Applications (76 FR 53564) (Program NIA); the requirements of section 14005 and 14006 of the American Recovery and Reinvestment Act (ARRA), as authorized under P.L. 111-5, as amended by section 1832(b) of the Department of Defense and Full-Year Continuing Appropriations Act, 2011; and applicable regulations including 34 CFR Parts 75, 77, 80 (except section 80.30 (c)), 81, 82, 84, 85, 97, 98, and 99.

Consistent with the Program NIA's absolute priority and eligibility requirements, all States receiving RTT-ELC grants must design and implement a common, statewide Tiered Quality Rating and Improvement System (TQRIS).

- E. The Grantee and its PSAs must comply with all the assurances and certifications that the Grantee submitted with its Grant application, including OMB Standard Form 424B (Assurances for Non-Construction Programs) and the certifications in ED Form 80-0013 Certification regarding Lobbying.

- F. With respect to 34 CFR section 80.30(c) "Budget changes" provisions, the Grantee and PSAs must obtain prior written approval from the Grantor for any Grant fund transfers among direct cost categories and among separately budgeted programs, projects, functions, or activities that exceed \$500,000 of the current total approved budget.
- G. The Grantee and its PSAs must conduct all procurement transactions for services or goods with Grant funds in a manner providing full and open competition, consistent with the standards in 34 CFR section 80.36. This section of EDGAR requires Grantees to use their own procurement procedures (which reflect State and local laws and regulations) to select contractors, provided that those procedures meet certain standards described in EDGAR.

In addition, the Grantee must maintain and enforce its State procurement laws and procedures regarding standards of conduct governing the performance of its employees, officers, directors, trustees, and agents engaged in the selection, award, and administration of contracts or agreements related to the Grant. The standards of conduct must, at a minimum, be consistent with the requirements in 34 CFR section 75.525.

- H. Consistent with 34 CFR 80.20(a), the Grantee must expend and account for grant funds in accordance with State laws and procedures and, among other things, provide fiscal control and accounting procedures sufficient to permit the tracing of Grant funds to a level of expenditures adequate to establish that such funds have been used for allowable costs. As such, the Grantee will not commingle Grant funds with other funds under control of the Grantee, even if such other funds are used for similar purposes. Similarly, the Grantee will ensure that its PSAs adhere to this same standard and that all Grant and PSA costs incurred using Grant funds are necessary and reasonable. The burden of proof is upon the Grantee to establish that any Grant costs incurred are necessary and reasonable.

In addition, consistent with 34 CFR section 80.20, the Grantee and its PSAs are required to establish procedures to minimize the time elapsing between the receipt of Federal funds and their actual disbursement. When advances are made by letter-of-credit or electronic transfer of funds methods, the Grantee must make drawdowns of Grant funds as close as possible to the time of disbursement and must ensure that PSAs adhere to a similar standard. Additionally, as required by 34 CFR section 80.20 and applicable OMB Cost Circular A-87, the Grantee must keep adequate records of all salaries and wages charged to the Grant.

- I. The Grantee agrees to cooperate with and to assist the Grantor in performing any financial, performance or compliance reviews or audits conducted of the Grant Project, as the Grantor may determine to be necessary, and to comply with all program reporting requirements.

Specifically, the Grantee will cooperate with the Grantor by providing information relative to this program, including information on the steps that the Grantee is taking to ensure accountability for the use of Grant funds by all entities. Consistent with 34 CFR section 80.40, Grant performance reports will contain, at a minimum, information on the following:

- 1) A comparison of actual Grant Project accomplishments to the objectives established for the period;
- 2) The reasons for any established objectives not being met; and
- 3) Additional pertinent information including, when appropriate, analysis and explanation of any cost overruns or high unit costs. Consistent with 34 CFR section 80.41, grant financial reports must be in the form and at the frequency that the Grantor prescribes for each fiscal year that the Grantee's obligation to the Grantor remains in effect.

Additionally, the Grantee agrees to cooperate with audits conducted by the General Accountability Office (GAO), and will arrange for non-federal audits, as required by 34 CFR section 80.26.

- J. Grant funds may be used for construction or major renovation if it is detailed in the Grantee's approved grant application. Any laborers and mechanics employed by contractors or subcontractors on minor remodeling (as defined in 34 CFR section 77.1) projects over \$2,000 assisted with these funds must be paid in accordance with prevailing wage requirements in the Davis-Bacon Act. If the Grantee or a PSA plans to use Grant funds for any of these types of projects, the Grantee must first consult with the Grantor before proceeding.
- K. Consistent with 34 CFR section 80.40, the Grantee is responsible for managing the day-to-day operations of grant-supported tasks and activities, including ensuring compliance with all Grant program requirements (attached to this document for reference purposes).
- L. The Grantee must monitor Grant-supported activities to assure compliance with applicable Federal requirements and to assure that Grant performance goals are being achieved throughout the whole Grant Project period. This includes ensuring that:
 - 1) PSA personnel work together with all applicable Grantee personnel to determine appropriate timelines for Grant Project updates and status reporting throughout the whole Grant Project period; and
 - 2) Grantee and PSA personnel negotiate in good faith to continue to achieve the overall goals of the Grantee's Grant Project, even when the State Plan requires modifications that affect PSAs, or when the PSAs' scopes of work require modifications.

As soon as possible, but no later than 180 calendar days from the grant award, the Grantee must submit in writing a plan, protocols, and a schedule for monitoring localities, Early Learning Intermediary Organizations, Participating Programs, or other partners, including faith-based organizations that receive grant funds (see FAQ G-1 for additional information on distributing funds), including both programmatic and fiscal issues.

- M. The Grantee State may choose either to allow each PSA to use its own approved indirect cost rate or may use the same approved indirect cost rate for all of its PSAs. If the State chooses to use a single indirect cost rate, the State must ensure that it is using the lowest approved rate from among the rates of its PSAs. If the State chooses to use different approved indirect cost rates for different PSAs, the State must provide copies of the indirect cost rate agreements for each PSA within 90 days of receipt of Grant award.

If the Grantee indicated in its Grant application that it does not have an approved indirect cost rate: (a) The Grantee may charge the 10 percent provisional rate for up to 90 days; (b) The Grantee must submit an indirect cost proposal to its cognizant agency within 90 days after the Grant award notification is issued and, if it does so, may continue charging the 10 percent provisional rate until the cognizant agency has provided the Grantee with a negotiated indirect cost rate; and (c) If after the 90-day period, the Grantee has not submitted an indirect cost proposal to its cognizant agency, the Grantee may not charge its Grant for indirect costs until it has negotiated an indirect cost rate agreement with its cognizant agency.

The Grantee may apply its approved indirect cost rate only against the first \$25,000 of each contract on a yearly basis, and not against the full amount of each contract.

XI. RTT-ELC PROGRAM REQUIREMENTS

(Attached for reference from the RTT-ELC NIA published in the *Federal Register* on August 26, 2011, 76 FR 53564 at page 53568)

A State that receives a grant must meet the following requirements:

(a) The State must continue to participate in the programs authorized under section 619 of part B of IDEA and part C of IDEA; in the CCDF program; and in the Maternal, Infant, and Early Childhood Home Visiting (MIECHV) program (pursuant to section 511 of Title V of the Social Security Act, as added by section 2951 of the Affordable Care Act of 2010 (P.L. 111-148)) for the duration of the grant.

(b) The State is prohibited from spending funds from the grant on the direct delivery of health services.

(c) The State must participate in RTT-ELC grantee technical assistance activities facilitated by ED or HHS, individually or in collaboration with other State grantees in order to share effective program practices and solutions and collaboratively solve problems, and must set aside at least \$400,000 from its grant funds for this purpose.

(d) The State must--

(1) Comply with the requirements of any evaluation sponsored by ED or HHS of any of the State's activities carried out with the grant;

(2) Comply with the requirements of any cross-State evaluation--as part of a consortium of States--of any of the State's proposed reforms, if that evaluation is coordinated or funded by ED or HHS, including by using common measures and data collection instruments and collecting data necessary to the evaluation;

(3) Together with its independent evaluator, if any, cooperate with any technical assistance regarding evaluations provided by ED or HHS. The purpose of this technical assistance will be to ensure that the validation of the State's Tiered Quality Rating and Improvement System and any other evaluations conducted by States or their independent evaluators, if any, are of the highest quality and to encourage commonality in approaches where such commonality is feasible and useful;

(4) Submit to ED and HHS for review and comment its design for the validation of its Tiered Quality Rating and Improvement System (as described in selection criteria (B)(5)) and any other evaluations of activities included in the State Plan, including any activities that are part of the State's Focused Investment Areas, as applicable; and

(5) Make widely available through formal (e.g., peer-reviewed journals) or informal (e.g., newsletters) mechanisms, and in print or electronically, the results of any evaluations it conducts of its funded activities.

(e) The State must have a longitudinal data system that includes the 12 elements described in section 6401(e)(2)(D) of the America COMPETES Act by the date required under the State Fiscal Stabilization Fund (SFSF) grant and in accordance with Indicator (b)(1) of its approved SFSF plan.

(f) The State must comply with the requirements of all applicable Federal, State, and local privacy laws, including the requirements of the Family Educational Rights and Privacy Act, the Health Insurance Portability Accountability Act, and the privacy requirements in IDEA, and their applicable regulations.

(g) The State must ensure that the grant activities are implemented in accordance with all applicable Federal, State, and local laws.

(h) The State must provide researchers with access, consistent with the requirements of all applicable Federal, State, and local privacy laws, to data from its Tiered Quality Rating and Improvement System and from the Statewide Longitudinal Data System and the State's coordinated early learning data system (if applicable) so that they can analyze the State's quality improvement efforts and answer key policy and practice questions.

(i) Unless otherwise protected as proprietary information by Federal or State law or a specific written agreement, the State must make any work (e.g., materials, tools, processes, systems) developed under its grant freely available to the public, including by posting the work on a Web site identified or sponsored by ED or HHS. Any Web sites developed under this grant must meet government or industry-recognized standards for accessibility.

(j) Funds made available under an RTT-BLC grant must be used to supplement, not supplant, any Federal, State, or local funds that, in the absence of the funds awarded under this grant, would be available for increasing access to and improving the quality of Early Learning and Development Programs.

(k) For a State that is awarded an RTT-BLC grant, the State will have up to 90 days from the grant award notification date to complete final scopes of work for each Participating State Agency. These final scopes of work must contain detailed work plans that are consistent with their corresponding preliminary scopes of work and with the State's grant application, and must include the Participating State Agency's specific goals, activities, timelines, budgets, key personnel, and annual targets for key performance measures for the portions of the State's proposed plans that the Participating State Agency is agreeing to implement.

**PROHIBITION OF TEXT MESSAGING AND EMAILING
WHILE DRIVING DURING OFFICIAL FEDERAL
GRANT BUSINESS**

Federal grant recipients, sub recipients and their grant personnel are prohibited from text messaging while driving a government owned vehicle, or while driving their own privately owned vehicle during official grant business, or from using government supplied electronic equipment to text message or email when driving.

Recipients must comply with these conditions under Executive Order 13513, "Federal Leadership On Reducing Text Messaging While Driving," October 1, 2009.

12/09

ATTACHMENT V

Registration of Data Universal Numbering System (DUNS) Number and Taxpayer Identification Number (TIN) in the Central Contractor Registration (CCR)

The U.S. Department of Education (Education) Grants Management System (G5) will begin disbursing payments via the U.S. Department of Treasury (Treasury) rather than directly through the Federal Reserve as in the past. The U.S. Treasury requires that we include your Tax Payer Identification Number (TIN) with each payment. Therefore, in order to do business with Education you must have a registered DUNS and TIN number with the CCR, the U.S. Federal Government's primary registrant database. If the payee DUNS number is different than your grantee DUNS number, both numbers must be registered in the CCR. Failure to do so will delay the receipt of payments from Education.

A TIN is an identification number used by the Internal Revenue Service (IRS) in the administration of tax laws. It is issued either by the Social Security Administration (SSA) or by the IRS. A Social Security number (SSN) is issued by the SSA whereas all other TINs are issued by the IRS.

The following are all considered TINs according to the IRS.

- Social Security Number "SSN"
- Employer Identification Number "EIN"
- Individual Taxpayer Identification Number "ITIN"
- Taxpayer Identification Number for Pending U.S. Adoptions "ATIN"
- Preparer Taxpayer Identification Number "PTIN"

If your DUNS number is not currently registered with the CCR, you can easily register by going to www.ccr.gov. Please allow 3-5 business days to complete the registration process. If you need a new TIN, please allow 2-5 weeks for your TIN to become active. If you need assistance during the registration process, you may contact the CCR Federal Service Desk at 866-606-8220.

If you are currently registered with CCR, you may not have to make any changes. However, please take the time to validate that the TIN associated with your DUNS is correct.

If you have any questions or concerns, please contact the G5 Hotline at 888-336-8930.

Central Contractor Registration and Universal Identifier Requirements

A. Requirement for Central Contractor Registration (CCR)

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

B. Requirement for Data Universal Numbering System (DUNS) Numbers

If you are authorized to make subawards under this award, you:

1. Must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its DUNS number to you.
2. May not make a subaward to an entity unless the entity has provided its DUNS number to you.

C. Definitions

For purposes of this award term:

1. Central Contractor Registration (CCR) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the CCR Internet site (currently at <http://www.ccr.gov>).
2. Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).
3. Entity, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:
 - a. A Governmental organization, which is a State, local government, or Indian Tribe;
 - b. A foreign public entity;
 - c. A domestic or foreign nonprofit organization;
 - d. A domestic or foreign for-profit organization; and
 - e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
4. Subaward:
 - a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
 - b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. II.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
 - c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.
5. Subrecipient means an entity that:
 - a. Receives a subaward from you under this award; and
 - b. Is accountable to you for the use of the Federal funds provided by the subaward.