

Archived Information

**Guidance for Managing
Congressionally-directed Grants**

FY 2009

Coordinator: Bette Dow, Ph.D.

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Non-Competitive Discretionary Congressionally-directed Grant Awards

This booklet provides guidance for managing your Congressionally-directed grant award. If the guidance in this booklet conflicts with applicable statutes or regulations, the statutes or regulations are controlling. It is not meant to supplant regulatory authority. If you have any questions about the guidance provided or any other matters relating to your grant, you should discuss those questions with your designated program officer.

Congressionally-directed grant awards are often referred to as *earmarks*. The Office of Management and Budget (OMB) defines these type of grant awards *as funds provided by the Congress for projects or programs where the congressional direction circumvents Executive Branch merit-based or competitive allocation processes, or specifies the location or recipient, or otherwise curtails the ability of the Executive Branch to manage critical aspects of the funds allocation process.*

Congress in the Omnibus Appropriations Act of 2009 (PL 111-08), provided the funds awarded for your project, under the Fund for the Improvement of Postsecondary Education (FIPSE) program administered by the U.S. Department of Education (ED). These grants are regulated and subject to the Education Department General Administrative Regulations (EDGAR) which can be accessed at:

<http://www.ed.gov/policy/fund/reg/edgarReg/edgar.html>

EDGAR provides a framework for administering your grants. Its purpose is to ensure that Federal funds are spent according to the department's mission and to delineate grantees' responsibilities.

The aim of this booklet is to provide practical advice on administering your grant based on EDGAR regulations and to emphasize some specifics you will need to remember during the course of managing your project that will promote project transparency and accountability of project performance and financial expenditures.

The parts of EDGAR that apply to your project are:

- **Part 74.** Provides rules for the administration of grants to institutions of higher education, hospitals, and non-profit organizations. It includes sections on cost-sharing, program income, changes requiring prior approval, annual and final reports, copyright policy, and auditing requirements.
- **Part 75.** Provides more general administrative responsibilities and procedures. It includes regulations on continuations, no-cost extensions, group applications, conflict of interest, allowable costs, indirect costs, record-keeping, and copyright.
- **Part 80.** Less commonly applicable to a Congressionally-directed award. It provides regulations for the administrations of grants to state and local governments.

Other Resources Related to Grants

The Office of Management and Budget (OMB) has also issued regulations and Circulars that provide guidance in the administration of Federal grants. These regulations and Circulars can be accessed at:

<http://www.whitehouse.gov/omb>

- **Cost Principles**
 - ✓ **OMB Circular A-21** - *Cost Principles for Educational Institutions*
 - ✓ **OMB Circular A-122** - *Cost Principles for Nonprofit Organizations*
 - ✓ **OMB Circular A-87** - *Cost Principles for State, Local, and Indian Tribal Governments*
 - ✓ **OMB Circular A-133** - *Audits of States, Local Governments, and Non-Profit Organizations*
 - ✓ **2 CFR Part 180** - *OMB Guidance for Suspension and Debarment (Nonprocurement)*

Grant Award Notification Document (GAN)

The Grant Award Notification (GAN) is an official document issued by ED that officially notifies a grantee of a grant. Two copies are mailed to each institution. One copy is sent to the certifying representative (the person who signed in Block 11 of the GAN at the bottom of the grant application's cover sheet) and the second copy is sent to the person listed as project director (Block 3 of grant application's cover sheet).

Please review the amount of the award (Block 6) and the award period (Block 5).

There is only one budget period for Congressionally-directed grant awards. The term “budget period” is used synonymously with the term “performance period”. It should be noted, and will be reiterated in later sections, that although the project has one budget period, it does not mean that drawdowns can be made all at one time. Budget periods are divided into quarters with drawdowns made accordingly---First quarter - no more than 50% of funds may be drawn down for specified expenditures; Second quarter - no more than 80% of funds may be drawn down for specified expenditures, and Third quarter - the remaining 100% of funds may be drawn down for expenditures. If expended funds **exceed** these thresholds without the program officer's approval, the project will be considered in noncompliance and may be subject to sanctions.

Should any information on the Grant Award Notification (GAN) differ from what you think was discussed or agreed upon, please contact your program officer as soon as possible. If you do not have a copy of the GAN, contact your institution's finance or business office.

Z-Attachment

As a condition of this award and as specifically indicated by the marked boxes on the Z-Attachment to the Grant Award Notification (GAN), the grantee must obtain ED approval according to procedures specified in EDGAR (34 CFR §74-86) before undertaking certain administrative actions during the budget period for the award. Prior approval is required for the following actions:

➤ **1) Reimbursement for costs incurred prior to the start of the project**

Reimbursement for pre-award costs incurred *up to 90 days* prior to the beginning of an award period is allowed with *prior approval from the program officer*. To receive reimbursement, the grantee must have had a reasonable expectation that it would receive an award. Pre-award costs are allowable **only** when the costs are consistent with the project's scope of work activities and budget, as approved by the program office. However, funds cannot be drawn down for reimbursement until the budget period begins. The expenditures are incurred at the applicant's own risk and the applicant is not reimbursed if the grant is not awarded.

➤ **2) Project extension**

An extension of the grant's performance period beyond the project's end date specified in the most recent revision of the Grant Award Notification (GAN) is allowed with *prior approval from the program officer*.

➤ **3) Budget Transfers**

For grant awards exceeding \$100,000, *prior approval from the program officer* is required before a grantee may make cumulative transfers among direct-cost budget categories that exceed 10% of the approved budget.

Responsibility for grant payments

To ensure appropriate checks and balances on the disbursement and monitoring of funds, the Department's functions of dealing with program, regulatory, and financial issues are separated from grant disbursements. ED's Financial Payments Group is responsible for grant payments and is located in an office separate from the grant's program officer.

Each new grantee is sent instructions for setting up their payment system. For further information on issues dealing with payments, contact the department's payee hotline telephone number at: 1-888-336-8930

Required Statement for Publications

All Congressionally-directed grants must include reference to the U.S. Department of Education as the funding source in all press releases, publications, and on Web sites. Under EDGAR at 34 CFR §75.620 any publication that contains project materials must include the following notice:

Publications

The contents of this (insert type of publication, such as book report, film) were developed under a Congressionally-directed grant from the U.S. Department of Education. However, those contents do not necessarily represent the policy of the U.S. Department of Education, and you should not assume endorsement by the Federal Government.

The term “project materials” means a copyrightable work developed with funds from a grant from ED. (34 CFR §75.622)

Below is an appropriate example of a press release:

Sample Press Release Format

Contact: *Project Director's Name, Address, Phone Number, E-mail Address*

For Immediate Release

Date

Media Alert

**U.S. Department of Education Awards Noncompetitive Congressionally-directed Grant to *Name of Institution*
For *Name of Project***

WHAT: The U.S. Department of Education has awarded an *amount of the award* grant to the *name of the institution and department* for the *name of the project*. *Name the percentage of federal funds used for the project, e.g., sixty percent* of this *name the total cost of the project, e.g. two million dollar project* funded by *nongovernmental sources*.

WHEN: The *name of the project* activities begin *date* and extend to *end date*.

DETAILS: *Description of the project. Abstract used for submission would be appropriate.*

Work with your organization's public relations staff to send out information on your project to local print and news media. Your organization may have its own template for creating a press release. However, under §506 of Pub.L.110-161 when issuing statements, press releases, requests for proposal, bid solicitations and other documents or announcements describing this project, it must include the following:

- 1) The dollar amount of federal funds for the project;
- 2) The percentage of the total costs of the project to be financed with federal funds; and,
- 3) The percentage and dollar amount of the total costs of the project to be financed by nongovernmental sources.

Grant Administration

Expanded Authorities

There are limits and restrictions to each type of action covered by *Expanded Authorities* because each may impact the scope and scale of the project. Please carefully read the guidance provided below regarding what can be done without prior approval and pay close attention to the list below of changes that still require prior approval. As a condition of this award (see Attachment Z) the grantee is required to obtain ED approval from its assigned program officer for certain administrative actions.

Exceptions to the Expanded Authorities

There are three (3) types of administrative actions covered under *Expanded Authorities* that *now require ED approval*:

- Transferring funds among budget categories;
- Extending the project period for up to one year; and,
- Incurring pre-award costs up to 90 days before the budget period begins.

You should call your program officer if you have any doubt as to what may be permitted without getting official approval.

EXPANDED AUTHORITIES

[Listed for Informational Purposes Only;
See Attachment Z]

Pre-Award Costs

[34 CFR § 74.25(e) and 34 CFR § 75.263]

- No prior approval is required for pre-award costs incurred up to 90 days before the budget period begins;
- Includes both new and non-competing continuation awards;
- Applicant should have some reasonable expectation that it will receive an ED grant;
- Expenditures are incurred at the applicant's own risk;
- ED funds are not available for drawdown until the budget period begins;
- Cannot be used to pay for cost over-runs from the previous year;
- Prior approval is required for pre-award **costs incurred more than 90 days before** start of the budget period.

Time Extensions

[34 CFR § 74.25(e)(2) and 34 CFR § 75.261]

- One-time extension of the project period for up to one year without prior approval;
- Grantee must send written notification of planned extension to assigned ED Program officer **no later than 10 days before end of project period**. Notice includes:
 - ✓ Supporting reasons for the extension
 - ✓ Revised expiration date
 - ✓ Budget information
- Cannot be merely for the purpose of exhausting unexpended funds;
- Cannot require the need for additional Federal funds;
- Cannot change the scope or objectives of the project.

Budget Transfers

[34 CFR § 74.25 and 34 CFR §75.264]

- Provisions in 34 CFR §74.23 regarding budget transfers apply to all type of grantees;
- Approval will not be permitted for a transfer that would cause any Federal appropriation or part thereof to be used for purposes other than those consistent with the original intent of the appropriation;
- Check OMB Cost Principle Circulars A-21 and A-122 for specific expenditures requiring prior approval (see following Attachment of Actions);
- Changes in the grant that require prior approval:
 - ✓ Changes in project scope or objectives;
 - ✓ Changes in a key person specified in the award document;
 - ✓ The absence for more than 3 months or 25% reduction in time of the approved project director;
 - ✓ In research projects, a change in project director or principal investigator;
 - ✓ The transfer of funds allotted for training allowances to other categories;
 - ✓ Transfer or contracting out of any work (doesn't apply to supplies, material, equipment or general support services)

Carryover

[34 CFR § 74.25(e)(3) and 34 CFR §75.253(c)(1)]

- Unexpended funds may be carried over from one budget period to the next without prior approval;
- The Program Office may require a written statement describing how unexpended funds will be used:
 - ✓ When: At the time of funding decision
 - ✓ New funds may be reduced under certain circumstances
- Unexpended funds may be used for any allowable cost that falls within the approved project scope;

Prior Approvals

As a condition of this award, as specified in the GAN (Z-Attachment), the grantee must obtain ED's approval before undertaking any one or more of the following actions during the budget period specified for this award.

➤ Reimbursement of Pre-Award Costs

Expending grant funds provided for the budget period funded for this award *before* the budget period start date specified in the most recent revision of the Grant Award Notification (GAN) is allowed at the grantees' own risk, but prior approval is required by an ED program officer.

➤ Programmatic or Budget Changes

Generally, small changes in the budget, such as shifting a few hundred dollars between *approved* budget line items are acceptable, as long as these changes do not affect the scope or objectives of the project. These do not have to be first discussed with a program officer. However, pursuant to 34 CFR § 74.25(f) there are restrictions on the transfer of funds among direct cost categories or programs, functions and activities for awards in which the Federal share of the project exceeds \$100,000 and the cumulative amount of the transfers exceeds or is expected to exceed 10 percent (10%) of the total budget as originally approved. For these transfers prior approval is required from an ED program officer.

➤ No-Cost Extensions

Congressionally-directed grant projects that are not completed within the originally specified performance period may be extended *with* prior approval. The extension of time needs to be approved and processed by an ED program officer before it takes effect.

Consequently, to request approval of a no-cost extension, contact your assigned program officer by e-mail, or phone no later than 45 days before the end of the performance period. Typically, it is best to contact your program officer 45-60 days prior to the end of your grant in case there may be issues that need to be addressed prior to an administrative action being completed. Forms for requesting approval of a no-cost extension can be accessed online at:

<http://www.directedgrants.aed.org/>

The following information must be included with the request to facilitate the processing of a no-cost extension:

- ✓ The new performance end date;
- ✓ Reasons for the extension---what has caused the delay in completing the activities of the project?

- ✓ The objectives already completed and those needing to be completed during the extension period; and
- ✓ The original budget, expenditures already incurred, and the remaining funds.

Time extensions are NOT authorized:

- ✓ If additional Federal funds are also needed (i.e., grant supplements);
- ✓ When the scope or objectives of the project change;
- ✓ Merely for the purpose of exhausting unexpended federal funds; or
- ✓ When the change is contrary to federal statute, regulation, or grant conditions.

➤ **Additional Prior Approvals Required from Program Officer**

Prior approval from your assigned program officer must be received for the following programmatic or budget revisions:

- ✓ A change to the scope of work or objectives of the project, even if there are no associated budget revisions requiring prior approval. Please note that as all of these grants were mandated by Congress for specific purposes, no such changes will be approved that are not compatible or aligned with the Congressional language authorizing the award;
- ✓ Change of key personnel (e.g., project director) specified in the application or award document. A written justification will be required for such a request, as well submission of the qualifications for the proposed personnel replacement;
- ✓ Reduction of the amount of time the project director will spend on the project;
- ✓ Administrating a project for more than three (3) months without an approved project director;
- ✓ Revisions that would result in the need for additional federal funding;
- ✓ Providing grant funds to a third party (i.e., contracting out work), unless stipulated and described in the originally approved grant application;
- ✓ Transfer of substantial programmatic responsibility for the grant to a third party;
- ✓ Addition of international travel that was not approved in the original grant application;
- ✓ Additional purchases of equipment not approved in the original grant application; and,
- ✓ Transfer of funds between line item categories that were not previously approved for expenditures.

When in doubt, contact your assigned program officer for assistance.

Requesting and Using Grant Funds (Drawdowns)

In December 2007, the U.S. Department of Education implemented Phase I of the new G5 system, which replaces the existing e-Payments Web site. This new system replaces the former Grants Administration and Payment System (GAPS).

The project director does not usually become involved with the payment system. Unless an institution has never received federal funds, an institution's Finance Officer will be the one who is most familiar with the system and who will be responsible for drawing down funds for the grant award.

Information about the Webinar and the G5-Phase I application can be accessed at the following link: <http://www.g5.gov/G5Webinar.doc>.

Please contact the G5 Hot Line at 1-888-336-8930 if you need assistance.

Timely Expenditure of Funds

A drawdown of funds may be made to meet immediate needs or expenditures. The Department's regulations **forbid** the earning of interest on grant payments. Funds, therefore, must be expended within three (3) days after the drawdown. To avoid problems in meeting the three-day expenditure requirement, many financial offices draw down funds as reimbursements rather than making the drawdown in advance of expenditures.

The Department strictly monitors cash drawdowns by grantees and pays particular attention to grantees that appear to have drawn down excessive amounts of cash. 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. **For the purposes of drawdown monitoring, grantees will be contacted who have drawn down 50% or more of the grant funds in the first quarter, 80% or more in the second quarter, and/or 100% of the cash in the third and fourth quarter of the project's budget period.**

Grantees are urged to read either 34 CFR §74.22 or §80.21, as applicable, to learn about federal requirements related to grant payments.

Grantees who 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 (34 CFR §§74.14 and 80.12), which could mean being placed on a *cash-reimbursement payment method* (i.e., a grantee would have to pay for grant activities with its own money and wait to be reimbursed by the Department afterwards);
- Subject to further corrective action;

- Denied selection for funding on future ED grant applications (34 CFR § 75.21(d)(3)(ii); and/or
- Debarred or suspended from receiving awards from the federal government.

Unallowable Expenses

Acquisition of real property; Construction (34 CFR § 75.533)

- ✓ Congressionally-directed grantees may not use any portion of their awards to purchase real property or for construction unless Congress specifically stated that the funds can be used for that purpose. *Construction* includes both design (e.g., architectural or engineering design fees) and actual construction or remodeling. The Department makes no distinction between “major” and “minor” construction or remodeling---both are considered unallowable costs.

Food and Entertainment (OMB Circular A-21, Circular A-122, Circular A-87)

- ✓ Food and entertainment costs generally may not be paid from grant funds. Only in rare circumstances may grant funds be used to cover the costs of lunches at a conference in which teachers or other professionals are in attendance. Please contact your grant officer before spending grant funds for entertainment purposes. Spending grant monies for alcoholic beverages is never allowed.

Use of Funds for Religion Prohibited (34 CFR §75.532)

- ✓ Grant funds may not be used to pay for any of the following:
 - Religious worship, instruction, or proselytization;
 - Equipment or supplies to be used for any of those activities;
 - Construction, remodeling, repair, operation, or maintenance of any facility or part of a facility to be used for any of those activities;
 - An activity of a school or department of divinity;
- ✓ School or department of divinity means an institution or a component of an institution whose program is specifically for the education of students to:
 - Prepare them to enter into a religious vocation; or
 - Prepare them to teach theological subjects.

Fund-Raising and Lobbying (OMB Circular A-21, Circular A-122, Circular A-87 and 34 CFR § 82.100)

- ✓ Costs of organized fund raising incurred to raise capital or obtain contributions are not allowable.
- ✓ No portion of a Congressionally-directed grant may be used to pay anyone for *influencing or attempting to influence* a member of Congress or the Executive Branch to award funds for this project or any other project.
- ✓ This prohibition includes, not only paid outside lobbyists, but also employees of the recipient institution. Examples: No project funds may be used for lobbyists' fees or travel costs incurred in seeking this or a successor Congressionally-directed grant, or in other fund raising activities.
- ✓ A person whose salary is 100% supported by the Congressionally-directed award may not spend *any* time on lobbying activities or fund-raising.
- ✓ A person whose salary is 75% supported by the Congressional award may spend 25% of their time that is not supported with federal grant funds on lobbying activities or fund raising.

Other Regulatory Prohibitions

- ✓ International travel is prohibited unless the appropriations language specifically notes an international emphasis to the award.
- ✓ Sub-grants are not allowed unless specifically included in the appropriations language authorizing the award.
- ✓ If another agency or person(s) are to work on grant activities, these activities must be established through a contract in accordance with 34 CFR §§ 74.40- 74.48.

Indirect Cost Rates

Indirect costs represent the expenses of doing business that are not readily identified with a particular grant, contract, project function, or activity, but are necessary for the general operation of the organization and the conduct of activities it performs. Cost allocation plans or indirect cost rates are used to distribute those costs to benefiting revenue sources.

Indirect costs are those costs that are not classified as direct costs. Direct costs are identified specifically with particular cost objectives such as a grant, contract, project, function, or activity. Direct costs generally include:

- ✓ Salaries or wages (including vacations, holidays, sick leave, and other excused absences of employees working specifically on objectives of a grant or contract, i.e., direct labor costs);
- ✓ Employee fringe benefits allocable to direct labor employees;
- ✓ Consultant services contracted to accomplish specific grant/contract objectives;
- ✓ Travel of (direct labor) employees;
- ✓ Materials, supplies and equipment purchased directly for use on a specific grant or contract;
- ✓ Communications costs such as long distance telephone calls or telegrams identifiable with a specific award or activity.

Temporary Indirect Cost Rate

Please refer to 34 CFR §75.560(b)-(d) for use of a temporary indirect cost rate. A temporary rate may be permitted while the grantee submits an indirect cost rate proposal to its cognizant agency. The temporary rate allows a grantee to charge a rate of 10% of direct salaries and wages for a 90-day period. The grantee must submit its indirect cost rate proposal within 90 days.

- ✓ *A grantee must have obtained a current indirect cost rate agreement from its cognizant agency, to charge indirect costs to a grant. To obtain an indirect cost rate, a grantee must submit an indirect cost proposal to its cognizant agency within 90 days after the date the Department issues the Grant Award Notification (GAN).*
- ✓ *If a grantee does not have a federally recognized indirect cost rate agreement, the Secretary may permit the grantee to charge its grant for indirect costs at a temporary rate of 10 percent of budgeted direct salaries and wages.*
- ✓ *If a grantee fails to submit an indirect cost rate proposal to its cognizant agency within the required 90 days, the grantee may not charge indirect costs to its grant from the end of the 90-day period until it obtains a federally recognized indirect cost rate agreement applicable to the grant.*

- *If the Secretary determines that exceptional circumstances warrant continuation of a temporary indirect cost rate, the Secretary may authorize the grantee to continue charging indirect costs to its grant at the temporary rate specified in paragraph (c) of the section even though the grantee has not submitted its indirect cost rate proposal within the 90-day period.*
 - *Once the grantee obtains a federally recognized indirect cost rate that is applicable to the affected grant, the grantee may use that indirect cost rate to claim indirect cost reimbursement for expenditures made on or after the date the grantee submitted its indirect cost proposal to its cognizant agency or the start of the project period, whichever is later. However, the authority is subject to the following limitations:*
 - *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.*
 - *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.*
 - *the grantee may not request additional funds to recover indirect costs that it cannot recover by shifting direct cost to indirect costs.*
- ✓ *The Secretary accepts an indirect cost rate negotiated by a grantee's cognizant agency, but may establish a restricted indirect cost rate for a grantee to satisfy the statutory requirements of certain programs administered by the Department.*

Not Allowable for Indirect Cost Reimbursement

The following expenses may not be included as indirect cost reimbursement calculations under 34 CFR § 75.564:

- ✓ Fellowships and similar awards if federal financing is exclusively in the form of fixed amounts such as scholarships, stipend allowances, or the tuition and fees of an institution;
- ✓ Construction grants;
- ✓ Grants to individuals;
- ✓ Grants to organizations located outside the territorial limits of the United States;
- ✓ Grants to Federal organizations; and,
- ✓ Grants made exclusively to support conferences.

Educational Training Grants

34 CFR § 75.562 states:

“Educational training grants provide funding for training or other educational services. Examples of the work supported by training grants are summer institutes, training programs for selected participants, the introduction of new or expanded courses, and similar instructional undertakings that are separately budgeted and accounted for by the sponsoring institution. These grants do not usually support activities involving research, development and dissemination of new educational materials and methods. Training grants largely implement previously developed materials and methods and require no significant adaptation of techniques or instructional services to fit different circumstances.”

Indirect cost reimbursement on these types of educational grants is limited to the grantee's actual indirect costs, as determined by its negotiated indirect cost rate agreement, or eight percent of a modified total direct cost base, whichever is less. For regulatory purposes, a modified total direct cost base consists of total direct costs minus the amount of each sub-award in excess of \$25,000; stipends; tuition and related fees; and equipment. The indirect cost reimbursement limit also applies to sub-awards that fund training.

Reporting Requirements

➤ Final Performance Report

A final performance report is to be completed within 90 days after the performance end date stated in the GAN. For example, if a project starts July 30, 2009 and ends July 30, 2010 (performance end date), a final report is due within 90 days thereafter, but no later than October 30, 2010. The project director and institution are responsible for ensuring that the report is submitted in a timely fashion. **If a final report is not received, the grant may be closed in noncompliance, which might affect future federal funding decisions.**

If a grant received a no-cost extension, then the performance report is due within 90 days of the revised performance end date.

Contents of Final Report

A final performance report must be aligned with the original application and will be assessed accordingly. It should specify the goals and objectives of the project, what occurred, the results, and how the grant results achieved its purpose as specified in the original Congressional-language.

Also included in the final performance report is a *Budget and Budget Narrative*. The Budget should contain items delineated in the original budget, what was expended, and any funds remaining. The narrative should describe expenditures within the categories, how they were calculated and/or any modifications to budget items that may have occurred.

➤ Annual Performance Reports *(required if grant's performance period is longer than one-year on October 1st)*

If a grant's performance period *extends beyond a one-year* period, then an Annual Performance Report is required by October 1st of the following year [34 CFR § 74.51(b)]. This report should specify the progress made on achieving the specified goals and objectives; and, a Budget and Budget Narrative that details the original budget and what has been expended thus far and what remains.

Final and Annual reports are to be uploaded to the following online database:

<http://www.directedgrants.aed.org/>

Enforcement

Please Remember: If a grant recipient materially fails to comply with the terms and conditions of an award, whether stated in a Federal statute, regulation, assurance, application, or notice of

award, the Secretary may, in addition to imposing special conditions outlined in §74.12, take additional actions as stated in §74.62(a)(1-5).

Closeout of the Award Project

After completion of project activities, the project director's responsibilities are only partially completed. Please review **34 CFR § 74.72** regarding *adjustment and continuing responsibilities* after the closeout of an award.

The project director must ensure the Final Performance report is submitted, along with a Budget and Budget Narrative. To reiterate, Final Reports are due within 90 days after the performance end date.

Open, Liquidation, Suspension, Manual Closeout Status

- *Open Status* - This is the time a project is in its performance period and the institution is able to draw down funds for expenditures. Once the performance end date occurs, the grant goes into *liquidation status*.
- *Liquidation Status* - This is the first closeout phase and occurs immediately after the grant's performance period has ended. This period lasts for 90 days and enables the grantee to submit reports and *draw down funds for obligations incurred no later than* the performance end date. No new expenditures may be incurred during this period. No action is required by a grantee's program officer during this period.
- *Suspension Status* - This is the second phase of the closeout phase and provides an additional six (6) month period following the Liquidation Period to complete grant closeout activities. A grant in *Suspension Status* has either unexpended funds remaining in the account or a required report was not received and recorded, or both. While in this status, a grantee may make online adjustments to their financial data, but **cannot draw down any funds** remaining in the account without a program officer's approval. This is a period of reconciling payment issues and making any adjustments.
- *Manual Closeout Status* - At the end of the six (6) month *Suspension Status*, if a grant has any unexpended funds remaining in the account *or* if a required report has not been received and recorded, the grant will automatically revert to a *Manual Closeout Status*. This means that someone will manually have to go into the payment system and closeout the account. This may result in closing the account in noncompliance if the required reports have not been received; however, if *Manual Closeout Status* is due to unexpended funds remaining in the account, the monies will be *deobligated* and the grant closed in compliance.

Maintaining Grant Records

Under the General Education Provisions Act, grant records must be retained for three (3) years after the completion of activities for which grant funds were used. Grant closeout does not affect the legal requirements to retain all records for a grant project, nor does it affect the rights of a federal agency to have access to those records to facilitate effective audits.

Need to Know Issues

Program Income

[34 CFR § 74.24]

(d) In the event that the Secretary does not specify in program regulations or the terms and conditions of the award how program income is to be used, paragraph (b)(3) of this section applies automatically to all projects or programs except research.

(b)(3)...program income earned during the project period must be retained by the recipient and, in accordance with ED regulations or the terms and conditions of the award, must be used in the following way:

- *Deducted from the total project or program allowable cost in determining the net allowable costs on which the Federal shares of costs is based.*

Copyright

[34 CFR §74.36]

(a) The recipient may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under an award. ED and any other Federal awarding agency reserve a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

Procurement Standards

[34 CFR §74.40]

Sections 74.41 through 74.48 contain standards for use by recipients in establishing procedures for the procurement of supplies and other expendable property, equipment, real property, and other services with Federal funds. These standards are designed to ensure that these materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal statutes and executive orders. The Secretary does not impose additional procurement standards or requirements upon recipients, unless specifically required by Federal statute or executive order.

Equipment and Disposition

[34 CFR §74.34]

Section 74.34 contains standards regarding title to equipment acquired with Federal funds and the disposition of the equipment when the recipient no longer needs it.

Site Visits

Staff from the U.S. Department of Education may choose to visit your project site during the course of the grant performance period. These reviews are normally arranged between the project director and the program officer. This visit may be multipurpose: verifying and documenting that grant project activities are progressing according to established timelines; providing technical assistance with any problems/concerns a project may be having; determining whether monies are being expended appropriately according to budget forecasts; and, ascertaining that there is no evidence of waste, fraud, or grant mismanagement.

Help and Assistance

A specific program officer is assigned to your project. The program officer is available for approving any administrative actions needed, and providing technical assistance on project activities and annual/final reports. If you are unsure who is assigned to your project, please telephone 202-502-7500 for assistance.

Audit Information

Audit Responsibilities

Grantees that expend \$500,000 or more annually of federal financial assistance must have a single audit or program-specific audit performed as stipulated in the Single Audit Act Amendments of 1996 and in OMB Circular A-133, *Audits of States, Local Governments, and Nonprofit Organizations*.

The single audit determines whether the financial position is presented fairly in the grantee's financial statements; whether internal controls and other control systems are in place to provide reasonable assurance that the grantee is in compliance with relevant laws, regulations, and agreements; and, whether the grantee has complied with laws, regulations, and the provisions of contracts or grant agreements that may have a direct and material effect on each of its major programs.

Grantees' responsibilities include providing access to records and financial statements, as well as taking appropriate and timely corrective actions to resolve audit findings. Grantees are also responsible for submitting the SF-SAC Form and audit report the Federal Audit Clearinghouse within 30 days of receipt of the auditor's report, but no later than nine (9) months after the end of the grantee's fiscal year.

The following are laws, circulars and regulations governing audit reports.

The General Education Provisions Act (GEPA), as amended

- Section 443 of GEPA, 20 U.S.C. 1232(f), establishes recordkeeping requirements applicable to recipients of federal education funds and authorizes the Secretary and his/her representatives access to those records during an audit examination. Part D (Sections 451 – 460) of GEPA, 20 U.S.C. 1234 – 1234(i), sets forth the enforcement provisions applicable to most grant programs administered by the Secretary and provides for audit appeals and other enforcement proceedings arising under those programs.

Single Audit Act Amendments of 1996

- The Single Audit Act Amendments of 1996 establish uniform audit requirements for state and local governments, Indian tribal governments and non-profit organizations.

OMB Circular A-21, Cost Principles for Educational Institutions

- OMB Circular A-21 establishes principles for determining allowable costs applicable to federal grants, contracts, and other agreements with educational institutions. The principles are designed to provide that the Federal Government bear its fair share of total costs, determined in accordance with generally accepted accounting principles, except where restricted or prohibited by law.

OMB Circular A-87, Cost Principles for State, Local and Indian Tribal Governments

- This circular sets forth cost principles and standards that generally apply to grants and sub-grants awarded to governments.

OMB Circular A-102, Uniform Requirements for Grants and Cooperative Agreements with State and Local Governments

- This circular enables federal agencies to provide uniform administrative requirements for state and local government recipients and sub-recipients of federal financial assistance.

OMB Circular A-110, Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations

- This circular establishes uniform administrative requirements for federal grants and agreements awarded to institutions of higher education, hospitals and other non-profits. Circular A-110 also provides:
 - ✓ Guidance for conducting audits of these institutions.
 - ✓ Consistency and uniformity among federal agencies in the administration of grants and other agreements with public and private institutions of higher education, public and private hospitals, and other quasi-public and private nonprofit organizations.
 - ✓ A set of uniform administrative requirements for educational institutions.

Note: It should be noted that Circular A-133 supersedes the audit requirements set forth in Attachment F 2(h) of Circular A-110.

OMB Circular A-122, Cost Principles for Nonprofit Organizations

- This circular establishes principles for determining costs of federal grants, contracts and other agreements with nonprofit organizations. The circular does not apply to colleges and universities.

OMB Circular A-133, Audits of States, Local Governments and Nonprofit Organizations

- This circular establishes audit requirements for states, local governments, Indian tribal governments and other nonprofit organizations. In addition, it defines federal responsibilities for implementing and monitoring these audit requirements.

OMB Compliance Supplement for Audits of States, Local Governments and Nonprofit Organizations

- The compliance supplement is updated annually. It is intended to assist auditors in planning and performing audits in accordance with the requirements of the 1996 Single Audit Act Amendments and OMB Circular A-133. It sets forth the major compliance requirements that should be considered in an organization-wide audit of states, local governments, Indian tribal governments, and other nonprofit institutions that receive federal assistance.