

Policy ~~6110~~ 815 – Federal Funds

Revised policy and repeal of Policy 6110.01 (Grant Award), Policy 6111 (Internal Controls), Policy 6112 (Cash Management of Grants), Policy 6114 (Cost Principles – Spending Federal Funds), Policy 6116 (Time and Effort Reporting), and Policy 6325 (Procurement – Federal Grants / Funds) effective upon passage

1st reading September 26, 2019

2nd reading

3rd reading

Statutory authority

Administrative Guidelines

- i. (none)

It is the objective of the Board of Education to provide equal educational opportunities for all students within the ~~District~~ County. Therefore, it is the intent of the Board to study Federal legislation to enhance the educational opportunities, the educational environment, and the physical and mental growth for each student.

The Superintendent shall review new Federal education legislation and prepare proposals for programs s/he deems would be of aid to the students of this ~~District~~ County. The Superintendent shall approve each such proposal prior to its submission, and the Board shall approve all grants resulting from such proposals.

The Board regards available Federal funds of aid to local school districts and communities as a public trust. It forbids the use of Federal monies for partisan political activities and for any use that would not be in accord or accordance with Federal regulations and guidelines. All Federal funds received by the ~~District~~ Board will be used in accordance with the applicable Federal law. The Superintendent shall ensure that each draw of Federal monies is as close as administratively feasible to the related program expenditures.

No Federal fund, received by the Board shall be used to:

- A. develop or distribute materials, or operate programs or courses of instruction directed at youths, that are designed to promote or encourage sexual activity, whether homosexual or heterosexual;
- B. distribute or aid in the distribution by any organization of legally obscene materials to minors on school grounds;
- C. provide sex education or HIV-prevention in schools unless that instruction is age appropriate and includes the health benefits of abstinence; or
- D. operate a program of contraceptive distribution in schools.

Grant Proposal Development

- A. All grant proposals must support at least one (1) ~~District~~ County goal or priority.
- B. For projects where grant funds will not cover the entire cost of project implementation, additional fund sources must be identified, documented, and approved during the internal review process.

Grant Proposal Internal Review

Each grant proposal shall be reviewed and approved by the Superintendent prior to submission to the funding source.

Grant Administration

- A. The administration of grants will adhere to all applicable Federal, State, local and grantor rules and regulations,

including the terms and conditions of the Federal awards, as well as District policies and administrative guidelines.

- B. The Superintendent is responsible for the efficient and effective administration of grant awards through the application of sound management practices.
- C. The Superintendent is responsible for administering grant funds in a manner consistent with underlying agreements, program statutes, regulations and objectives, and the terms and conditions of the grant award.
- D. The ~~District Board~~, in recognition of its unique combination of staff, facilities, and experience, shall employ internal controls, including organizational and management strategies necessary to assure proper and efficient administration of grant awards.
- E. All Federal funds received by the ~~District Board~~ will be used in accordance with the applicable Federal law and regulations and the terms and conditions of the Federal award. The Superintendent shall require that each draw of Federal monies be aligned with the ~~District's Board's~~ payment process (whether reimbursement, cash advance or a combination). If funds are permitted to be drawn in advance, all draws will be as close as administratively feasible to the related program expenditures and that, when restricted, such monies are used to supplement programs and funding and not to supplant or replace existing programming or current funding.
- F. The Superintendent is authorized to sign related documents for grant administration, including documents required for submittal of grant proposals.
- G. Employee positions established through the use of grant funding shall terminate if and when the related grant funding ceases.
- H. Program reports including but not limited to audits, site visits and final reports shall be submitted to the Superintendent for review and distribution to the Board and other appropriate parties.

Financial Management

The financial management of grant funds shall be in compliance with all applicable Federal, State, local and grantor rules, regulations and assurances as well as District policies and administrative guidelines.

The ~~District Board~~ shall provide for the following:

- A. Identification, in ~~District Board~~ accounts, of all grant awards received and expended and the programs under which they were received. For Federal programs and awards, identification shall include the Catalog of Federal Domestic Assistance (CFDA) title and number, Federal award identification number and year, name of the Federal agency and name of the pass-through entity, as applicable.
- B. Accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements of the grant.
- C. Records that identify adequately the source and application of funds provided for Federally-funded activities. These records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation.
- D. Effective control over, and accountability for, all funds, property, and other assets. The district must adequately safeguard all assets and assure that they are used solely for authorized purposes.

Further the ~~District Board~~ must:

- 1. establish and maintain effective internal control over the Federal award that provides reasonable assurance that the ~~District Board~~ is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award;
- 2. comply with Federal statutes, regulations, and the terms and conditions of the Federal award;
- 3. evaluate and monitor the ~~District's Board's~~ compliance with statutes, regulations, and the terms and conditions of the Federal award;
- 4. take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; and
- 5. take reasonable measures to safeguard protected personally identifiable information and other information

the Federal awarding agency or pass-through entity designates as sensitive consistent with applicable Federal, State, local, and tribal laws regarding privacy and obligations of confidentiality.

- E. Comparison of expenditures with budget amounts for each Federal award.
- F. Recordkeeping and written procedures to the extent required by Federal, State, local and grantor rules and regulations pertaining to the grant award and accountability, including, but not limited to, the following areas:
 - 1. cash management;
 - 2. allowability;
 - 3. conflict of interest;
 - 4. procurement;
 - 5. equipment management;
 - 6. conducting technical evaluations of proposals and selecting recipients;
 - 7. compensation and fringe benefits; and
 - 8. travel.

Program Income

Program income means gross income earned by a grant recipient that is directly generated by a supported activity or earned as a result of the Federal award during the grant's period of performance.

It includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under Federal awards, the sale of commodities or items fabricated under a Federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with Federal award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal statutes, regulations or the terms and conditions of the Federal award, program income does not include rebates, credits, discounts and interest earned on any of them. Additionally, taxes, special assessments, levies, fines and other such revenues raised by a recipient are not program income unless the revenues are specifically identified in the Federal award or Federal awarding agency regulations as program income. Finally, proceeds from the sale of real property, equipment or supplies are not program income.

Unless it has received prior approval to use a different method or the terms and conditions of the grant authorize a different method, the District Board uses the deduction method of accounting for program income. Under the deduction method, program income is deducted from total allowable costs to determine the net allowable costs. Program income will only be used for current costs unless the District Board is otherwise directed by the Federal awarding agency or pass-through entity.

~~Compliance Supplement for Single Audits of State and Local Governments~~

~~20 U.S.C. 7906~~

~~West Virginia State Board of Education policy 1224.1~~

~~West Virginia State Board of Education policy 8200~~

Grant Award

Funds received by the Board as grants are to be used by the grantee only for the specified activities delineated in the grant award contract or other grant document and are subject to all accounting procedures required by Federal, State and County board policies and regulations. The approved budget may not be changed without written approval from the grantor. Changing budget line items assigned to the grant account requires submission and approval of a budget transfer request.

Upon receipt of a grant award, the grant document must be provided to the Treasurer / Chief School Business Official for assignment of a project code, initialed and then returned to the Superintendent for his/her signature. The original grant award document must be signed by the appropriate Board official and returned to the grantor with copies to the

Superintendent and Treasurer / Chief School Business Official.

The project director of the grant, in conjunction with the Finance Office, shall set up a project worksheet on WVEIS. It is the responsibility of the project director to record the project code to each purchase orders and invoice. The project director will be provided with a monthly financial report by the Treasurer / Chief School Business Official, with a copy to the Superintendent. The project director may access detailed project information at any time on the WVEIS system.

It is the responsibility of the project director to monitor the obligation period and the date for liquidation, as well as any grantee responsibilities set forth in the grant contract/document. The project director shall report in writing any discrepancies or failures to comply with the requirements of the grant to the Superintendent and the Board President immediately upon his/her having knowledge of the same. As a check and balance, the ~~Finance Office~~ Treasurer / Chief School Business Official shall notify the project director three (3) months prior to the end of the obligation date.

Each grant shall be included in the audit performed on behalf of the Board annually and shall be subjected to any additional audit requirement set forth in the grant contract/document.

Training shall be provided to the project director regarding grant management, compliance with the laws, regulations, policies and appropriate standards of conduct.

Internal Controls

The Superintendent shall establish and maintain effective internal controls over Federal awards that provide reasonable assurance that the District Board is managing all awards in compliance with applicable statutes, regulations and the terms and conditions of the awards. The District Board will have a process that provides reasonable assurance regarding the achievement of the following objectives:

- A. effectiveness and efficiency of operations
- B. reliability of reporting for internal and external use
- C. compliance with applicable laws and regulations

The internal controls must provide reasonable assurance that transactions are properly recorded and accounted for in order to permit the preparation of reliable financial statements and Federal reports; maintain accountability over assets; and demonstrate compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. The internal controls must also provide reasonable assurance that these transactions are executed in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award that could have a direct and material effect on a Federal award, as well as any other Federal statutes and regulations that are identified in the Compliance Supplement. Finally, the District's Board's internal controls must provide reasonable assurance that all Federal funds, property, and other assets are safeguarded against loss from unauthorized use or disposition.

The District Board shall:

- A. comply with Federal statutes, regulations, and the terms and conditions of the Federal awards;
- B. evaluate and monitor its compliance with statutes, regulations, and the terms and conditions of the award;
- C. take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; and
- D. take reasonable measures to safeguard protected "personally identifiable information" (PII) and other information the awarding agency or pass-through entity designated as sensitive or the District Board considers sensitive consistent with applicable Federal, State, local, and tribal laws and District Board policies regarding privacy and obligations of confidentiality

PII is defined at 2 C.F.R. 200.79 as "information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual."

However, the definition of PII is not anchored to any single category of information or technology. Rather, it requires a case-by-case assessment of the specific risk that an individual can be identified.

~~2 C.F.R. 200.61-61, 200.79, 200.303~~

- ~~A. "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States;~~
- ~~B. "Internal Control Integrated Framework" (commonly referred to as the Green Book) issued by the Committee of Sponsoring Organizations of the Treadway Commission;~~
- ~~C. "Compliance Supplement" issued by the U.S. Office of Management and Budget; and~~
- ~~D. Internal control guidance issued by the U.S. Department of Education.~~

~~West Virginia State Board of Education policy 1224.1~~

~~West Virginia State Board of Education policy 8200~~

Cash Management of Grants

In order to provide reasonable assurance that all assets, including Federal, State, and local funds, are safeguarded against waste, loss, unauthorized use, or misappropriation, the Superintendent shall implement internal controls in the area of cash management.

The ~~District's~~ Board's payment methods shall minimize the time elapsing between the transfer of funds from the United States Treasury or the West Virginia Department of Education (~~WVDE~~) (pass-through entity) and disbursement by the ~~District Board~~, regardless of whether the payment is made by electronic fund transfer, or issuance or redemption of checks, warrants, or payment by other means.

The ~~District Board~~ shall use forms and procedures required by the grantor agency or pass-through entity to request payment. The ~~District Board~~ shall request grant fund payments in accordance with the provisions of the grant. Additionally, the ~~District's Board's~~ financial management systems shall meet the standards for fund control and accountability as established by the awarding agency.

The Superintendent is authorized to submit requests for advance payments and reimbursements at least monthly when electronic fund transfers are not used, and as often as deemed appropriate when electronic transfers are used, in accordance with the provisions of the Electronic Fund Transfer Act (15 U.S.C. 1693-1693r).

When the ~~District Board~~ uses a cash advance payment method, the following standards shall apply:

- A. The timing and amount of the advance payment requested will be as close as is administratively feasible to the actual disbursement for direct program or project costs and the proportionate share of any allowable indirect costs.
- B. The ~~District Board~~ shall make timely payment to contractors in accordance with contract provisions.
- C. To the extent available, the District shall disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional cash payments.
- D. The ~~District Board~~ shall account for the receipt, obligation and expenditure of funds.
- E. Advance payments will be deposited and maintained in insured accounts whenever possible.
- F. Advance payments will be maintained in interest bearing accounts unless the following apply:
 - 1. The ~~District Board~~ receives less than \$120,000 in Federal awards per year.
 - 2. The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances.
 - 3. The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.
 - 4. A foreign government or banking system prohibits or precludes interest bearing accounts.
- G. Pursuant to Federal law and regulations, the ~~District Board~~ may retain interest earned in an amount up to \$500

per year for administrative costs. Any additional interest earned on Federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services Payment Management System ("PMS") through an electronic medium using either Automated Clearing House ("ACH") network or a Fedwire Funds Service payment. Remittances shall include pertinent information of the payee and nature of payment in the memo area (often referred to as "addenda records" by Financial Institutions) as that will assist in the timely posting of interest earned on Federal funds. Pertinent details include the Payee Account Number ("PAN") if the payment originated from PMS, or Agency information if the payment originated from Automated Standard Application for Payment ("ASAP"), National Science Foundation ("NSF") or another Federal agency payment system.

~~2 C.F.R. 200.305~~

~~West Virginia State Board of Education policy 1224.1~~

~~West Virginia State Board of Education policy 8200~~

Cost Principles – Spending Federal Funds

The Superintendent is responsible for the efficient and effective administration of grant funds through the application of sound management practices. Such funds shall be administered in a manner consistent with all applicable Federal, State and local laws, the associated agreements/assurances, program objectives and the specific terms and conditions of the grant award.

Cost Principles

Except where otherwise authorized by statute, costs shall meet the following general criteria in order to be allowable under Federal awards:

- A. Be necessary and reasonable for proper and efficient performance and administration of the Federal award and be allocable thereto under these principles.

To determine whether a cost is reasonable, consideration shall be given to:

1. Whether a cost is a type generally recognized as ordinary and necessary for the operation of the District or the proper and efficient performance of the Federal award;
2. The restraints or requirements imposed by such factors as sound business practices, arm's length bargaining, Federal, State, local, tribal and other laws and regulations;
3. Market prices for comparable goods or services for the geographic area;
4. Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities;
5. Whether the cost does not represent any significant deviation from the established practices or Board policy which may increase the expense;

While Federal regulations do not provide specific descriptions of what satisfies the "necessary" element beyond its inclusion in the reasonableness analysis above, necessary is determined based on the needs of the program. Specifically, the expenditure must be necessary to achieve an important program objective. A key aspect in determining whether a cost is necessary is whether the District can demonstrate that the cost addresses an existing need, and can prove it.

When determining whether a cost is necessary, consideration may be given to:

1. Whether the cost is needed for the proper and efficient performance of the grant program.
2. Whether the cost is identified in the approved budget or application.
3. Whether there is an educational benefit associated with the cost.
4. Whether the cost aligns with identified needs based on results and findings from a needs assessment.

5. Whether the cost addresses program goals and objectives and is based on program data.

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

- B. Conform to any limitations or exclusions set forth as cost principles in Part 200 or in the terms and conditions of the Federal award.
- C. Be consistent with policies and procedures that apply uniformly to both Federally-financed and other activities of the District Board.
- D. Be afforded consistent treatment. A cost cannot be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been assigned as an indirect cost under another award.
- E. Be determined in accordance with generally accepted accounting principles;
- F. Be representative of actual cost, net of all applicable credits or offsets;

The term "applicable credits" refers to those receipts or reductions of expenditures that operate to offset or reduce expense items allocable to the Federal award. Typical examples of such transactions are: purchase discounts; rebates or allowances; recoveries or indemnities on losses; and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to or received by the State relate to the Federal award, they shall be credited to the Federal award, either as a cost reduction or a cash refund, as appropriate.

- G. Be not included as a match or cost-share, unless the specific Federal program authorizes Federal costs to be treated as such.
- H. Be adequately documented:
 - 1. in the case of personal services, the Superintendent shall implement a system for District Board personnel to account for time and efforts expended on grant funded programs to assure that only permissible personnel expenses are allocated;
 - 2. in the case of other costs, all receipts and other invoice materials shall be retained, along with any documentation identifying the need and purpose for such expenditure if not otherwise clear.

Selected Items of Cost

The District Board shall follow the rules for selected items of cost at 2 C.F.R. Part 200, Subpart E when charging these specific expenditures to a Federal grant. When applicable, District Board staff shall check costs against the selected items of cost requirements to ensure the cost is allowable. In addition, State, District County and program-specific rules, including the terms and conditions of the award, may deem a cost as unallowable and District Board personnel shall follow those rules as well.

Cost Compliance

The Superintendent shall require that grant program funds are expended and are accounted for consistent with the requirements of the specific program and as identified in the grant application. Compliance monitoring includes accounting for direct or indirect costs and reporting them as permitted or required by each grant.

Determining Whether a Cost is Direct or Indirect:

- A. Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a Federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy.

These costs may include: salaries and fringe benefits of employees working directly on a grant-funded project; purchased services contracted for performance under the grant; travel of employees working directly on a grant-funded project; materials, supplies, and equipment purchased for use on a specific grant; and infrastructure costs directly attributable to the program (such as long distance telephone calls specific to the program, etc.).

- B. Indirect costs are those that have been incurred for a common or joint purpose benefitting more than one (1) cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. Costs incurred for the same purpose in like circumstances shall be treated consistently as either direct or indirect costs.

These costs may include: general data processing, human resources, utility costs, maintenance, accounting, etc.

Federal education programs with supplement not supplant provisions must use a restricted indirect cost rate. In a restricted rate, indirect costs are limited to general management costs. General management costs do not include divisional administration that is limited to one (1) component of the ~~District~~ Board, the governing body of the ~~District~~ Board, compensation of the Superintendent, compensation of the chief executive officer of any component of the ~~District~~ Board, and operation of the immediate offices of these officers.

The salaries of administrative and clerical staff should normally be treated as indirect costs. Direct charging of these costs may be appropriate only if all of the following conditions are met:

1. Administrative or clerical services are integral to a project or activity.
2. Individuals involved can be specifically identified with the project or activity.
3. Such costs are explicitly included in the budget or have the prior written approval of the Federal awarding agency.
4. The costs are not also recovered as indirect costs.

Where a Federal program has a specific cap on the percentage of administrative costs that may be charged to a grant, that cap shall include all direct administrative charges as well as any recovered indirect charges.

Effort should be given to identify costs as direct costs whenever practical, but allocation of indirect costs may be used where not prohibited and where indirect cost allocation is approved ahead of time by the Ohio Department of Education ("ODE") or the pass-through entity (Federal funds subject to 2 C.F.R. Part 200 pertaining to determining indirect cost allocation).

Timely Obligation of Funds

Obligations are orders placed for property and services, contracts and sub-awards made, and similar transactions during a given period that require payment by the non-Federal entity during the same or a future period.

The following table illustrates when funds are determined to be obligated under the U.S. Department of Education regulations:

If the obligation is for:

- A. Acquisition of property - on the date which the ~~District~~ Board makes a binding written commitment to acquire the property.
- B. Personal services by an employee of the ~~District~~ Board - when the services are performed.
- C. Personal services by a contractor who is not an employee of the District - on the date which the District makes a binding written commitment to obtain the services.
- D. Public utility services - when the ~~District~~ Board receives the services.
- E. Travel - when the travel is taken.
- F. Rental of property - when the ~~District~~ Board uses the property.
- G. A pre-agreement cost that was properly approved by the Secretary under the cost principles in 2 C.F.R. Part 200, Subpart E - Cost Principles - on the first day of the project period.

Period of Performance

All obligations must occur on or between the beginning and ending dates of the grant project. This period of time is known as the period of performance. The period of performance is dictated by statute and will be indicated in the Grant

Award Notification ("GAN"). As a general rule, State-administered Federal funds are available for obligation within the year that Congress appropriates the funds for. However, given the unique nature of educational institutions, for many Federal education grants, the period of performance is twenty-seven (27) months. This maximum period includes a fifteen (15) month period of initial availability, plus a twelve (12) month period for carryover. For direct grants, the period of performance is generally identified in the GAN.

In the case of a State-administered grant, obligations under a grant may not be made until the grant funding period begins or all necessary materials are submitted to the granting agency, whichever is later. In the case of a direct grant, obligations may begin when the grant is approved, unless an agreement exists with ODE or the pass-through entity to reimburse for pre-approval expenses.

For both State-administered and direct grants, regardless of the period of availability, the ~~District~~ Board shall liquidate all obligations incurred under the award not later than ninety (90) days after the end of the funding period unless an extension is authorized. Any funds not obligated within the period of performance or liquidated within the appropriate timeframe are said to lapse and shall be returned to the awarding agency. Consequently, the ~~District~~ Board shall closely monitor grant spending throughout the grant cycle.

~~2 C.F.R. 200.403-406, 200.413(a)-(c), 200.430(a), 200.431(a), 200.458~~

~~C.F.R. 200.474(b)~~

~~West Virginia State Board of Education policy 1224.1~~

~~West Virginia State Board of Education policy 8200~~

Time and Effort Reporting

As a recipient of Federal funds, the ~~District~~ Board shall comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Section 200.430 of the Code of Federal Regulations requires certification of effort to document salary expenses charged directly or indirectly against Federally-sponsored projects. This process is intended to verify that compensation for employment services, including salaries and wages, is allocable and properly expended, and that any variances from the budget are reconciled.

Compensation for employment services includes all remuneration, paid currently or accrued, for services of employees rendered during the period of performance under the Federal award, including but not necessarily limited to wages and salaries. Compensation for personal services may also include fringe benefits, which are addressed in 2 C.F.R. 200.431 Compensation—fringe benefits. Costs of compensation are allowable to the extent that they satisfy the specific requirements of these regulations, and that the total compensation for individual employees:

- A. Is reasonable for the services rendered, conforms to the ~~District's~~ Board's established written policy, and is consistently applied to both Federal and non-Federal activities; and
- B. Follows an appointment made in accordance with the ~~District's~~ Board's written policies and meets the requirements of Federal statute, where applicable.

Time and Effort Reports

Unless specifically authorized by the West Virginia Department of Education (~~WVDE~~) (pass-through entity) all salaries and wages charged to Federally sponsored projects must be based on records (time and effort reports) that accurately reflect the work performed by the employee. A time and effort report is required regardless of whether such time is paid by a Federally sponsored agreement, a private foundation, or is an unpaid contribution, i.e. cost share match. Committed cost sharing, either voluntary or mandatory, must be included in effort reports.

The reports:

- A. are supported by a system of internal controls which provide reasonable assurance that the charges are accurate, allowable, and properly allocated;
- B. are incorporated into the official records of the District Board;
- C. reasonably reflect the total activity for which the employee is compensated by the District Board, not exceeding 100% of the compensated activities;
- D. encompass both Federally assisted and other activities compensated by the District Board on an integrated basis;
- E. comply with the District's Board's established accounting policies and practices;
- F. support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one (1) Federal award; a Federal award and non-Federal award, an indirect cost activity and a direct cost activity, two (2) or more indirect activities which are allocated using different allocation bases, or an unallowable activity and a direct or indirect cost activity.

The District Board will also follow any time and effort requirements imposed by the pass-through entity to the extent that they are more restrictive than the Federal requirements. The Payroll Office is responsible for the distribution, collection, and retention of all employee effort reports. Individually reported data will be made available only to authorized auditors.

Reconciliations

Budget estimates are not used as support for charges to Federal awards. However, the District Board may use budget estimates for interim accounting purposes. The system used by the District Board to establish budget estimates produces reasonable approximations of the activity actually performed. Any significant changes in the corresponding work activity are identified by the District Board and entered into the District's Board's records in a timely manner.

The District's Board's internal controls include a process to review after-the-fact interim charges made to a Federal award based on budget estimates and ensure that all necessary adjustments are made so that the final amount charged to the Federal award is accurate, allowable, and properly allocated.

~~2 C.F.R. 200.430, 200.431~~

~~West Virginia State Board of Education policy 1224.1~~

~~West Virginia State Board of Education policy 8200~~

Procurement – Federal Grants / Funds

Procurement of all supplies, materials, equipment, and services paid for from Federal funds or District County matching funds shall be made in accordance with all applicable Federal, State, and local statutes and/or regulations, the terms and conditions of the Federal grant, Board of Education policies, and administrative procedures.

The Superintendent shall maintain a procurement and contract administration system in accordance with the USDOE requirements (2 CFR 200.317-.326) for the administration and management of Federal grants and Federally-funded programs. The District Board shall maintain a contract administration system that requires contractors to perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. Except as otherwise noted, procurement transactions shall conform to the provisions of the District's Board's documented general purchasing Policy ~~6320 and AG 6320A~~ 830.

All District Board employees, officers, and agents who have purchasing authority shall abide by the standards of conduct covering conflicts of interest and governing the actions of its employees, officers, and agents engaged in the selection, award, and administration of contracts as established in Policy ~~1130, Policy 3113 and Policy 4113~~ Conflict of Interest 541.

The ~~District~~ Board will avoid acquisition of unnecessary or duplicative items. Additionally, consideration shall be given to consolidating or breaking out procurements to obtain a more economical purchase. And, where appropriate, an analysis shall be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach. These considerations are given as part of the process to determine the allowability of each purchase made with Federal funds.

To foster greater economy and efficiency, the ~~District~~ Board may enter into State and local intergovernmental agreements where appropriate for procurement or use of common or shared goods and services.

Competition

All procurement transactions shall be conducted in a manner that encourages full and open competition and that is in accordance with good administrative practice and sound business judgment. In order to promote objective contractor performance and eliminate unfair competitive advantage, the ~~District~~ Board shall exclude any contractor that has developed or drafted specifications, requirements, statements of work, or invitations for bids or requests for proposals from competition for such procurements.

Some of the situations considered to be restrictive of competition include, but are not limited to, the following:

- A. unreasonable requirements on firms in order for them to qualify to do business
- B. unnecessary experience and excessive bonding requirements
- C. noncompetitive contracts to consultants that are on retainer contracts
- D. organizational conflicts of interest
- E. specification of only a "brand name" product instead of allowing for an "or equal" product to be offered and describing the performance or other relevant requirements of the procurement
- F. any arbitrary action in the procurement process

Further, the ~~District~~ Board does not use statutorily or administratively imposed State, local, or tribal geographical preferences in the evaluation of bids or proposals, unless 1) an applicable Federal statute expressly mandates or encourages a geographic preference; or 2) the ~~District~~ Board is contracting for architectural and engineering services, in which case geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

To the extent that the ~~District~~ Board uses a pre-qualified list of persons, firms or products to acquire goods and services, the pre-qualified list includes enough qualified sources as to ensure maximum open and free competition. The ~~District~~ Board allows vendors to apply for consideration to be placed on the list at any time.

Solicitation Language

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

When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which shall be met by offers shall be clearly stated; and identify all requirements which the offerors shall fulfill and all other factors to be used in evaluating bids or proposals.

The Board will not approve any expenditure for an unauthorized purchase or contract.

Procurement Methods

The ~~District~~ Board shall utilize the following methods of procurement:

A. Small Purchases

Small purchase procedures provide for relatively simple and informal procurement methods for securing services, supplies, and other property that does not exceed the competitive bid threshold of \$5,000. Small purchase procedures require that price or rate quotations shall be obtained from at least 1 qualified sources, although competitive bidding is always encouraged.

B. Sealed Bids

Sealed, competitive bids shall be obtained when the purchase of, and contract for, single items of supplies, materials, or equipment which amounts to \$50,000 and when the Board determines to build, repair, enlarge, improve, or demolish a school building/facility the cost of which will exceed \$25,000.

In order for sealed bidding to be feasible, the following conditions shall be present:

1. a complete, adequate, and realistic specification or purchase description is available;
2. two (2) or more responsible bidders are willing and able to compete effectively for the business; and
3. the procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

When sealed bids are used, the following requirements apply:

1. Bids shall be solicited in accordance with the provisions of State law and Policy ~~6320~~ 830. Bids shall be solicited from an adequate number of qualified suppliers, providing sufficient response time prior to the date set for the opening of bids. The invitation to bid shall be publicly advertised.
2. The invitation for bids will include product/contract specifications and pertinent attachments and shall define the items and/or services required in order for the bidder to properly respond.
3. All bids will be opened at the time and place prescribed in the invitation for bids; bids will be opened publicly.
4. A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine the low bid when prior experience indicates that such discounts are usually taken.
5. The Board reserves the right to reject any or all bids for sound documented reason.

C. Competitive Proposals

Procurement by competitive proposal, normally conducted with more than one source submitting an offer, is generally used when conditions are not appropriate for the use of sealed bids or in the case of a recognized exception to the sealed bid method.

If this method is used, the following requirements apply:

1. Requests for proposals shall be publicized and identify all evaluation factors and their relative importance. Any response to the publicized requests for proposals shall be considered to the maximum extent practical.
2. Proposals shall be solicited from an adequate number of sources.
3. The ~~District~~ Board shall use its written method for conducting technical evaluations of the proposals received and for selecting recipients.
4. Contracts shall be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

The District Board may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

D. Noncompetitive Proposals

Procurement by noncompetitive proposals allows for solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

1. the item is available only from a single source
2. the public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation
3. the Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the District Board
4. after solicitation of a number of sources, competition is determined to be inadequate

Contract/Price Analysis

The District Board shall perform a cost or price analysis in connection with every procurement action in excess of \$150,000, including contract modifications. A cost analysis generally means evaluating the separate cost elements that make up the total price, while a price analysis means evaluating the total price, without looking at the individual cost elements.

The method and degree of analysis is dependent on the facts surrounding the particular procurement situation; however, the District Board shall come to an independent estimate prior to receiving bids or proposals.

When performing a cost analysis, the District Board shall negotiate profit as a separate element of the price. To establish a fair and reasonable profit, consideration is given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

Time and Materials Contracts

The District Board uses a time and materials type contract only 1) after a determination that no other contract is suitable; and 2) if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to the District Board is the sum of the actual costs of materials, and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, the District Board sets a ceiling price for each contract that the contractor exceeds at its own risk. Further, the District Board shall assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

Suspension and Debarment

The District Board will award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. All purchasing decisions shall be made in the best interests of the District Board and shall seek to obtain the maximum value for each dollar expended. When making a purchasing decision, the District Board shall consider such factors as 1) contractor integrity; 2) compliance with public policy; 3) record of past performance; and 4) financial and technical resources.

The Superintendent shall have the authority to suspend or debar a person/corporation, for cause, from consideration or award of further contracts. The District Board is subject to and shall abide by the nonprocurement debarment and

suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR Part 180.

Suspension is an action taken by the ~~District Board~~ District Board that immediately prohibits a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR Chapter 1) for a temporary period, pending completion of an agency investigation and any judicial or administrative proceedings that may ensue. A person so excluded is suspended. (2 CFR Part 180 Subpart G)

Debarment is an action taken by the Superintendent to exclude a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR Chapter 1). A person so excluded is debarred. (2 CFR Part 180 Subpart H)

The ~~District Board~~ District Board shall not subcontract with or award subgrants to any person or company who is debarred or suspended. For contracts over \$25,000, the ~~District Board~~ District Board shall confirm that the vendor is not debarred or suspended by either checking the Federal government's System for Award Management, which maintains a list of such debarred or suspended vendors at www.sam.gov; collecting a certification from the vendor; or adding a clause or condition to the covered transaction with that vendor. (2 CFR Part 180 Subpart C)

Bid Protest

The ~~District Board~~ District Board maintains the following protest procedures to handle and resolve disputes relating to procurements and, in all instances, discloses information regarding the protest to the awarding agency.

A bidder who wishes to file a bid protest shall file such notice and follow procedures prescribed by the Request For Proposals (RFPs) or the individual bid specifications package, for resolution. Bid protests shall be filed in writing with the Superintendent within seventy-two (72) hours of the opening of the bids in protest.

Within five (5) days of receipt of a protest, the Superintendent shall review the protest as submitted and render a decision regarding the merits of the protest and any impact on the acceptance and rejection of bids submitted. Notice of the filing of a bid protest shall be communicated to the Board and shall be so noted in any subsequent recommendation for the acceptance of bids and awarding of contracts.

Failure to file a notice of intent to protest, or failure to file a formal written protest within the time prescribed, shall constitute a waiver of proceedings.

Maintenance of Procurement Records

The ~~District Board~~ District Board maintains records sufficient to detail the history of all procurements. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price (including a cost or price analysis).

~~2 C.F.R. 200.317.326~~

~~West Virginia State Board of Education policy 1224.1~~

~~West Virginia State Board of Education policy 8200~~