

Perkins Grants

Except as provided in 20 U.S.C. 2352(b) and (c) and 20 U.S.C. 2353, each eligible agency, including the Coordinating Board, shall distribute the portion of the funds made available under 20 U.S.C. 2322(a)(1) to carry out 20 U.S.C. 2352 for any fiscal year to eligible institutions or consortia of eligible institutions within the state.

Each eligible institution or consortium of eligible institutions shall be allocated an amount that bears the same relationship to the portion of funds made available under 20 U.S.C. 2322(a)(1) to carry out 20 U.S.C. 2352 for any fiscal year as the sum of the number of individuals who are Federal Pell Grant recipients and recipients of assistance from the Bureau of Indian Affairs enrolled in programs meeting the requirements of 20 U.S.C. 2355 offered by such institution or consortium in the preceding fiscal year bears to the sum of the number of such recipients enrolled in such programs within the state for such year.

20 U.S.C. 2352(a)(1)–(2)

**Retirement
Contributions**

If an employer, including a college district, applies for money provided by the United States or an agency of the United States and if any of the money will pay part or all of any employee's salary, the employer shall apply for any legally available money to pay state contributions required by Government Code 825.404 or 830.201 in accordance with Government Code 825.406.

An employer who fails to comply with Government Code 825.406 may not, after the failure, apply for or spend any money from a federal or private grant. The attorney general shall bring a writ of mandamus against the employer to compel compliance.

A person commits an offense if the person is an administrator of an employer and knowingly fails to comply with Government Code 825.406.

Gov't Code 825.406 [See CAM]

**Requests for Federal
Financial Assistance**

The governing body of a local government, including a college district, by order or resolution may request that the governor or the designated state agency act on behalf of the local government in any matter relating to:

1. A request for federal financial assistance; or
2. An agreement, assurance of compliance, requirement, or enforcement action relating to the request.

A governing body of a local government that has requested that the governor or the designated state agency act on behalf of the local government under Section 742.004(a) shall submit to the governor

or the designated state agency each application for federal financial assistance. The governor or the designated state agency shall approve or disapprove the application.

The governing body of a local government by order or resolution may revoke the request and the authority delegated by the request to the governor or designated state agency.

Gov't Code 742.004–005

**Administration of
Federal Awards**

The U.S. Office of Management and Budget (OMB) establishes uniform administrative requirements, cost principles, and audit requirements for federal awards to non-federal entities, as described in 2 C.F.R. 200.101 (Applicability). Federal awarding agencies must not impose additional or inconsistent requirements, except as provided in 2 C.F.R. 200.102 (Exceptions) and 200.210 (Information contained in a federal award), or unless specifically required by federal statute, regulation, or Executive Order. *2 C.F.R. 200.100(a)(1)*

The non-federal entity is responsible for complying with all requirements of the federal award. For all federal awards, this includes the provisions of the Federal Funding Accountability and Transparency Act (FFATA), which includes requirements on executive compensation, and also requirements implementing the Act for the non-federal entity at 2 C.F.R. Part 25 Financial Assistance Use of Universal Identifier and Central Contractor Registration and 2 C.F.R. Part 170 Reporting Subaward and Executive Compensation Information. [See also statutory requirements for whistleblower protections at 10 U.S.C. 2409, 41 U.S.C. 4712, and 10 U.S.C. 2324, 41 U.S.C. 4304 and 4310] *2 C.F.R. 200.300(b)*

“Non-federal entity” means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a federal award as a recipient or subrecipient. *2 C.F.R. 200.69*

**Financial
Management**

Each state must expend and account for the federal award in accordance with state laws and procedures for expending and accounting for the state's own funds. In addition, the state's and the other non-federal entity's financial management systems, including records documenting compliance with federal statutes, regulations, and the terms and conditions of the federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the federal statutes, regulations, and the terms and conditions of the federal award. [See also 2 C.F.R. 200.450 Lobbying]

The financial management system of each non-federal entity must provide for the following [see also 2 C.F.R. 200.333 (Retention requirements for records), 200.334 (Requests for transfer of records), 200.335 (Methods for collection, transmission and storage of information), 200.336 (Access to records, and 200.337 (Restrictions on public access to records)]:

1. Identification, in its accounts, of all federal awards received and expended and the federal programs under which they were received. Federal program and federal award identification must include, as applicable, 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, if any.
2. Accurate, current, and complete disclosure of the financial results of each federal award or program in accordance with the reporting requirements set forth in 2 C.F.R. 200.327 (Financial reporting) and 200.328 (Monitoring and reporting program performance).
3. Records that identify adequately the source and application of funds 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.
4. Effective control over, and accountability for, all funds, property, and other assets. The non-federal entity must adequately safeguard all assets and assure that they are used solely for authorized purposes. [See 2 C.F.R. 200.303 (Internal controls)]
5. Comparison of expenditures with budget amounts for each federal award.
6. Written procedures to implement the requirements of 2 C.F.R. 200.305 (Payment).
7. Written procedures for determining the allowability of costs in accordance with 2 C.F.R. Part 200, Subpart E—(Cost principles of this part and the terms and conditions of the federal award).

2 C.F.R. 200.302

Internal Controls

The non-federal entity must:

1. Establish and maintain effective internal control over the federal award that provides reasonable assurance that the non-federal entity is managing the federal award in compliance with federal statutes, regulations, and the terms and conditions of the federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework," issued by the Committee of Sponsoring Organizations (COSO) of the Treadway Commission.
2. Comply with federal statutes, regulations, and the terms and conditions of the federal awards.
3. Evaluate and monitor the non-federal entity's compliance with statutes, regulations, and the terms and conditions of federal awards.
4. Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.
5. Take reasonable measures to safeguard protected personally identifiable information and other information the federal awarding agency or pass-through entity designates as sensitive or the non-federal entity considers sensitive consistent with applicable federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

2 C.F.R. 200.303

Advanced Payment

The non-federal entity must be paid in advance, provided it maintains or demonstrates the willingness to maintain both written procedures that minimize the time elapsing between the transfer of funds and disbursement by the non-federal entity, and financial management systems that meet the standards for fund control and accountability as established in this part. Advance payments to a non-federal entity must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the non-federal entity in carrying out the purpose of the approved program or project. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the non-federal entity for direct program or project costs and the proportionate share of any allowable indirect costs. The non-federal entity must make timely payment to contractors in accordance with the contract provisions.

Standards governing the use of banks and other institutions as depositories of advance payments under federal awards are as follows:

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1. The federal awarding agency and pass-through entity must not require separate depository accounts for funds provided to a non-federal entity or establish any eligibility requirements for depositories for funds provided to the non-federal entity. However, the non-federal entity must be able to account for the receipt, obligation, and expenditure of funds.
2. Advance payments of federal funds must be deposited and maintained in insured accounts whenever possible.

The non-federal entity must maintain advance payments of federal awards in interest-bearing accounts, unless the following apply:

1. The non-federal entity 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.

Interest earned amounts up to \$500 per year may be retained by the non-federal entity for administrative expense. Any additional interest earned on federal advance payments deposited in interest-bearing accounts must be remitted as described by 2 C.F.R. 200.305(b)(9).

2 C.F.R. 200.305(b)(1), (7)–(9)

Budgets and
Program Plans

Recipients are required to report deviations from budget or project scope or objective, and request prior approvals from federal awarding agencies for budget and program plan revisions, in accordance with 2 C.F.R. 200.308. *2 C.F.R. 200.308(b)*

Cost Principles

The cost principles described by 2 C.F.R. Part 200, Subpart E must be used in determining the allowable costs of work performed by the non-federal entity under federal awards. These principles also must be used by the non-federal entity as a guide in the pricing of fixed-price contracts and subcontracts where costs are used in determining the appropriate price. The principles do not apply to:

1. Arrangements under which federal financing is in the form of loans, scholarships, fellowships, traineeships, or other fixed amounts based on such items as education allowance or published tuition rates and fees.

2. For institutions of higher education, capitation awards, which are awards based on case counts or number of beneficiaries according to the terms and conditions of the federal award.
3. Fixed amount awards. [See also Subpart A—(Acronyms and definitions), 200.45 (Fixed amount awards) and 200.201 (Use of grant agreements) (including fixed amount awards), cooperative agreements, and contracts]
4. Federal awards to hospitals [see Appendix IX to Part 200—Hospital Cost Principles].
5. Other awards under which the non-federal entity is not required to account to the federal government for actual costs incurred.

The application of these cost principles is based on the fundamental premises that:

1. The non-federal entity is responsible for the efficient and effective administration of the federal award through the application of sound management practices.
2. The non-federal entity assumes responsibility for administering federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the federal award.
3. The non-federal entity, in recognition of its own unique combination of staff, facilities, and experience, has the primary responsibility for employing whatever form of sound organization and management techniques may be necessary in order to assure proper and efficient administration of the federal award.
4. The application of these cost principles should require no significant changes in the internal accounting policies and practices of the non-federal entity. However, the accounting practices of the non-federal entity must be consistent with these cost principles and support the accumulation of costs as required by the principles and must provide for adequate documentation to support costs charged to the federal award.
5. In reviewing, negotiating, and approving cost allocation plans or indirect cost proposals, the cognizant agency for indirect costs should generally assure that the non-federal entity is applying these cost accounting principles on a consistent basis during their review and negotiation of indirect cost proposals. Where wide variations exist in the treatment of a given cost item by the non-federal entity, the reasonableness and

equity of such treatments should be fully considered. [See 2 C.F.R. 200.56 Indirect (facilities & administrative (F&A)) costs]

6. For non-federal entities that educate and engage students in research, the dual role of students as both trainees and employees, including pre- and post-doctoral staff, contributing to the completion of federal awards for research must be recognized in the application of these principles.
7. The non-federal entity may not earn or keep any profit resulting from federal financial assistance, unless explicitly authorized by the terms and conditions of the federal award. [See also 2 C.F.R. 200.307 (Program income)]

2 C.F.R. 200.400-401

Cost Sharing	Cost sharing related to federal awards is subject to 2 C.F.R. 200.306. <i>2 C.F.R. 200.306</i>
Program Income	Non-federal entities are encouraged to earn income to defray program costs where appropriate. Such income is subject to 2 C.F.R. 200.307. <i>2 C.F.R. 200.307</i>
Period of Performance	A non-federal entity may charge to the federal award only allowable costs incurred during the period of performance (except as described in 2 C.F.R. 200.461 (Publication and Printing Costs)) and any costs incurred before the federal awarding agency or pass-through entity made the federal award that were authorized by the federal awarding agency or pass-through entity. <i>2 C.F.R. 200.309</i>
Conflict of Interest	The non-federal entity must disclose in writing any potential conflict of interest to the federal awarding agency or pass-through entity in accordance with applicable federal awarding agency policy. <i>2 C.F.R. 200.112</i>
<i>Procurement</i>	The non-federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However,

	<p>non-federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-federal entity. <i>2 C.F.R. 200.318(c)(1)</i></p>
Property Standards	<p>Real property, equipment, intangible property, and other property acquired or improved under a federal award are subject to the standards described by 2 C.F.R. 200.310–316.</p>
<i>Insurance Coverage</i>	<p>The non-federal entity must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with federal funds as provided to property owned by the non-federal entity. Federally owned property need not be insured unless required by the terms and conditions of the federal award. <i>2 C.F.R. 200.310</i></p>
Procurement <i>Generally</i>	<p>The non-federal entity must use its own documented procurement procedures, which reflect applicable state, local, and tribal laws and regulations, provided that the procurements conform to applicable federal law and the standards identified in this 2 C.F.R. Part 200. <i>2 C.F.R. 200.318(a)</i></p>
<i>Eligible Contractors</i>	<p>The non-federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. [See also 2 C.F.R. 200.213 (Suspension and Debarment)] <i>2 C.F.R. 200.318(h)</i></p>
Contracting with Certain Businesses	<p>The non-federal entity must take all necessary affirmative steps, including those described by 2 C.F.R. 200.321, to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. <i>2 C.F.R. 200.321(a)</i></p>
<i>Competition</i>	<p>All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of 2 C.F.R. 200.319. <i>2 C.F.R. 200.319(a)</i></p>
<i>Methods of Procurement</i>	<p>The non-federal entity must use one of the methods of procurement described by 2 C.F.R. 200.320, including procurement by micro-purchases, procurement by small purchase procedures, procurement by sealed bids, procurement by competitive proposals, and procurement by noncompetitive proposals. <i>2 C.F.R. 200.320</i></p>
<i>Contract Provisions</i>	<p>The non-federal entity's contracts must contain the applicable provisions described in Appendix II to 200 C.F.R. Part 200—Contract</p>

Provisions for non-federal Entity Contracts Under Federal Awards.
2 C.F.R. 200.326

*Time and
Materials
Contracts*

The non-federal entity may use a time and materials type contract only after a determination that no other contract is suitable and 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 a non-federal entity is the sum of:

1. The actual cost of materials; and
2. 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, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

2 C.F.R. 200.318(j)

*Contract Cost
and Price*

The non-federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-federal entity must make independent estimates before receiving bids or proposals.

The non-federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be 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.

Costs or prices based on estimated costs for contracts under the federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-federal entity under Subpart E—Cost Principles of this part. The non-federal entity may reference its own cost principles that comply with the federal cost principles.

The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

2 C.F.R. 200.323

Cost
Effectiveness

The non-federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the federal government, the non-federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

The non-federal entity is encouraged to use federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

The non-federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

2 C.F.R. 200.318(d)–(g)

*Procurement of
Recovered
Materials*

A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. *2 C.F.R. 200.322*

<i>Bonding Requirements</i>	For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-federal entity in accordance with 2 C.F.R. 200.325. <i>2 C.F.R. 200.325</i>
<i>Oversight</i> By Non-federal Entities	Non-federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. <i>2 C.F.R. 200.318(b)</i>
By Other Governmental Entities	<p>The non-federal entity must make available, upon request of the federal awarding agency or pass-through entity, technical specifications on proposed procurements where the federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-federal entity desires to have the review accomplished after a solicitation has been developed, the federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.</p> <p>The non-federal entity must make available upon request, for the federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:</p> <ol style="list-style-type: none">1. The non-federal entity's procurement procedures or operation fails to comply with the procurement standards in 2 C.F.R. Part 200;2. The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;3. The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;4. The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or5. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold. <p>The non-federal entity is exempt from the pre-procurement review if the federal awarding agency or pass-through entity determines</p>

that its procurement systems comply with the standards of 2 C.F.R. Part 200.

The non-federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third-party contracts are awarded on a regular basis.

The non-federal entity may self-certify its procurement system. Such self-certification must not limit the federal awarding agency's right to survey the system. Under a self-certification procedure, the federal awarding agency may rely on written assurances from the non-federal entity that it is complying with these standards. The non-federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

2 C.F.R. 200.324

*Settlement of
Contractual and
Administrative
Issues*

The non-federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-federal entity of any contractual responsibilities under its contracts. The federal awarding agency will not substitute its judgment for that of the non-federal entity unless the matter is primarily a federal concern. Violations of law will be referred to the local, state, or federal authority having proper jurisdiction. *2 C.F.R. 200.318(k)*

Records
*Records
Retention*
Generally

Financial records, supporting documents, statistical records, and all other non-federal entity records pertinent to a federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the federal awarding agency or pass-through entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-federal entities with the exception of those situations described by 2 C.F.R. 200.333. *2 C.F.R. 200.333*

Procurement

The non-federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not nec-

essarily 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. *2 C.F.R. 200.318(i)*

*Methods for
Collection,
Transmission,
and Storage of
Information*

In accordance with the May 2013 Executive Order on Making Open and Machine Readable the New Default for Government Information, the federal awarding agency and the non-federal entity should, whenever practicable, collect, transmit, and store federal award-related information in open and machine readable formats rather than in closed formats or on paper. The federal awarding agency or pass-through entity must always provide or accept paper versions of federal award-related information to and from the non-federal entity upon request. If paper copies are submitted, the federal awarding agency or pass-through entity must not require more than an original and two copies. When original records are electronic and cannot be altered, there is no need to create and retain paper copies. When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided that they are subject to periodic quality control reviews, provide reasonable safeguards against alteration, and remain readable. *2 C.F.R. 200.335*

*Access to
Records*

By
Governmental
Entities

The federal awarding agency, Inspector General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives, must have the right of access to any documents, papers, or other records of the non-federal entity which are pertinent to the federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the non-federal entity's personnel for the purpose of interview and discussion related to such documents. The rights of access are not limited to the required retention period but last as long as the records are retained. *2 C.F.R. 200.336(a), (c)*

By the Public

No federal awarding agency may place restrictions on the non-federal entity that limit public access to the records of the non-federal entity pertinent to a federal award, except for protected personally identifiable information (PII) or when the federal awarding agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act, 5 U.S.C. 552, or controlled unclassified information pursuant to Executive Order 13556 if the records had belonged to the federal awarding agency. The Freedom of Information Act (FOIA), 5 U.S.C. 552, does not apply to those records that remain under a non-federal entity's control except as required under 2 C.F.R. 200.315 (Intangible property). Unless required by federal, state, and local statute, non-federal entities are

not required to permit public access to their records. The non-federal entity's records provided to a federal agency generally will be subject to FOIA and applicable exemptions. 2 C.F.R. 200.337

Performance
Reports

*Monitoring
Required*

The non-federal entity is responsible for oversight of the operations of the federal award supported activities. The non-federal entity must monitor its activities under federal awards to assure compliance with applicable federal requirements and performance expectations are being achieved. Monitoring by the non-federal entity must cover each program, function, or activity. [See also 2 C.F.R. 200.331 Requirements for Pass-through entities] 2 C.F.R. 200.328(a)

Nonconstruction
Performance
Reports

The federal awarding agency must use standard, OMB-approved data elements for collection of performance information, including performance progress reports, Research Performance Progress Report, or such future collections as may be approved by OMB and listed on the OMB website.

The non-federal entity must submit performance reports at the interval required by the federal awarding agency or pass-through entity to best inform improvements in program outcomes and productivity. Intervals must be no less frequent than annually nor more frequent than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the federal award or could significantly affect program outcomes. Annual reports must be due 90 calendar days after the reporting period; quarterly or semiannual reports must be due 30 calendar days after the reporting period. Alternatively, the federal awarding agency or pass-through entity may require annual reports before the anniversary dates of multiple year federal awards. The final performance report will be due 90 calendar days after the period of performance end date. If a justified request is submitted by a non-federal entity, the federal agency may extend the due date for any performance report.

The non-federal entity must submit performance reports using OMB-approved governmentwide standard information collections when providing performance information. As appropriate in accordance with above-mentioned information collections, these reports will contain, for each federal award, brief information on the following unless other collections are approved by OMB:

1. A comparison of actual accomplishments to the objectives of the federal award established for the period. Where the accomplishments of the federal award can be quantified, a computation of the cost (for example, related to units of accomplishment) may be required if that information will be useful.

Where performance trend data and analysis would be informative to the federal awarding agency program, the federal awarding agency should include this as a performance reporting requirement.

2. The reasons why established goals were not met, if appropriate.
3. Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

2 C.F.R. 200.328(b)

Reporting

For the most part, onsite technical inspections and certified percentage of completion data are relied on heavily by federal awarding agencies and pass-through entities to monitor progress under federal awards and subawards for construction. The federal awarding agency may require additional performance reports only when considered necessary. *2 C.F.R. 200.328(c)*

*Significant
Developments*

Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, the non-federal entity must inform the federal awarding agency or pass-through entity as soon as the following types of conditions become known:

1. Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the federal award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.
2. Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

2 C.F.R. 200.328(d)

Site Visits

The federal awarding agency may make site visits as warranted by program needs. *2 C.F.R. 200.328(e)*

Waiver

The federal awarding agency may waive any performance report required by 2 C.F.R. Part 200 if not needed. *2 C.F.R. 200.328(f)*

Audits

A non-federal entity that expends \$750,000 or more during the non-federal entity's fiscal year in federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of 2 C.F.R. Part 200, Subpart F. A non-federal entity that expends less than \$750,000 during the non-federal enti-

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ty's fiscal year in federal awards is exempt from federal audit requirements for that year, except as noted in 200.503 Relation to Other Audit Requirements, but records must be available for review or audit by appropriate officials of the federal agency, pass-through entity, and Government Accountability Office (GAO). *2 C.F.R. 200.501(a), (d)*

Collection of
Amounts Due

Any funds paid to the non-federal entity in excess of the amount to which the non-federal entity is finally determined to be entitled under the terms of the federal award constitute a debt to the federal government. If not paid within 90 calendar days after demand, the federal awarding agency may reduce the debt by:

1. Making an administrative offset against other requests for reimbursements;
2. Withholding advance payments otherwise due to the non-federal entity; or
3. Other action permitted by federal statute.

Except where otherwise provided by statutes or regulations, the federal awarding agency will charge interest on an overdue debt in accordance with the Federal Claims Collection Standards, 31 C.F.R. Parts 900 through 999. The date from which interest is computed is not extended by litigation or the filing of any form of appeal.

2 C.F.R. 200.345

Mandatory
Disclosure

The non-federal entity or applicant for a federal award must disclose, in a timely manner, in writing to the federal awarding agency or pass-through entity all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Failure to make required disclosures can result in any of the remedies described in 2 C.F.R. 200.338 (Remedies for noncompliance), including suspension or debarment. [See also 2 C.F.R. Part 180 and 31 U.S.C. 3321] *2 C.F.R. 200.113*

Noncompliance

If a non-federal entity fails to comply with federal statutes, regulations, or the terms and conditions of a federal award, the federal awarding agency or pass-through entity may impose additional conditions, as described in 2 C.F.R. 200.207 (Specific conditions). If the federal awarding agency or pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, the federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

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1. Temporarily withhold cash payments pending correction of the deficiency by the non-federal entity or more severe enforcement action by the federal awarding agency or pass-through entity.
2. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
3. Wholly or partly suspend or terminate the federal award.
4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and federal awarding agency regulations, or in the case of a pass-through entity, recommend such a proceeding be initiated by a federal awarding agency.
5. Withhold further federal awards for the project or program.
6. Take other remedies that may be legally available.

2 C.F.R. 200.338

Opportunities to Object

Upon taking any remedy for non-compliance, the federal awarding agency must provide the non-federal entity an opportunity to object and provide information and documentation challenging the suspension or termination action, in accordance with written processes and procedures published by the federal awarding agency. The federal awarding agency or pass-through entity must comply with any requirements for hearings, appeals, or other administrative proceedings to which the non-federal entity is entitled under any statute or regulation applicable to the action involved. *2 C.F.R. 200.341*

Suspension and Debarment

Non-federal entities are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 C.F.R. Part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities. *2 C.F.R. 200.213*

Termination of Federal Award

The federal award may be terminated in whole or in part as follows:

1. By the federal awarding agency or pass-through entity, if a non-federal entity fails to comply with the terms and conditions of a federal award;
2. By the federal awarding agency or pass-through entity for cause;
3. By the federal awarding agency or pass-through entity with the consent of the non-federal entity, in which case the two

parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated; or

4. By the non-federal entity upon sending to the federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the federal awarding agency or pass-through entity determines in the case of partial termination that the reduced or modified portion of the federal award or subaward will not accomplish the purposes for which the federal award was made, the federal awarding agency or pass-through entity may terminate the federal award in its entirety.

2 C.F.R. 200.339(a)

U.S. Education
Department
General
Administrative
Regulations

The U.S. Department of Education adopts the OMB Guidance in 2 C.F.R. Part 200, except for 2 C.F.R. 200.102(a) and 2 C.F.R. 200.207(a). Thus, 2 C.F.R. Part 3474 gives regulatory effect to the OMB guidance and supplements the guidance as needed for the Department. *2 C.F.R. 3474.1(a)*

*Direct Grant
Programs*

The regulations in 34 C.F.R. Part 75 apply to each direct grant program of the U.S. Department of Education. *34 C.F.R. 75.1(a)*

*State-
administered
Programs*

The regulations in 34 C.F.R. Part 76 apply to each state-administered program of the U.S. Department of Education. *34 C.F.R. 76.1(a)*

*General
Education
Provision Act*

The regulations in 34 C.F.R. Part 81 govern the enforcement of legal requirements under applicable programs administered by the U.S. Department of Education and implement Part E of the General Education Provisions Act (GEPA). *34 C.F.R. 81.1*

U.S. Department of
Agriculture

Title 2 C.F.R. Part 400 adopts the OMB guidance in 2 C.F.R. Part 200, Subparts A–F, as supplemented by 2 C.F.R. Part 400, as U.S. Department of Agriculture (USDA) policies and procedures for uniform administrative requirements, cost principles, and audit requirements for federal awards. It thereby gives regulatory effect for the USDA to the OMB guidance, as supplemented by 2 C.F.R. Part 400. *2 C.F.R. 400.1*

U.S. Department of
Health and Human
Services

The U.S. Department of Health and Human Services (HHS) adopts the OMB Guidance in 2 C.F.R. Part 200, and has codified the text, with HHS-specific amendments in 45 C.F.R. Part 75. Thus, 2 C.F.R. Part 300 gives regulatory effect to the OMB guidance and supplements the guidance as needed for HHS. *2 C.F.R. 300.1*

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- U.S. Department of Justice The U.S. Department of Justice adopts the OMB Guidance in 2 C.F.R. Part 200, except as otherwise may be provided by 2 C.F.R. Part 2800. Unless expressly provided otherwise, any reference in 2 C.F.R. Part 2800 to any provision of law not in 2 C.F.R. Part 2800 shall be understood to constitute a general reference and thus to include any subsequent changes to the provision. *2 C.F.R. 2800.101*
- U.S. Department of Labor The U.S. Department of Labor (DOL) adopts the OMB Guidance in the uniform administrative requirements, cost principles, and audit requirements for federal awards to non-federal entities, 2 C.F.R. Part 200, Subparts A–F, as supplemented by 2 C.F.R. Part 2900, as the DOL policies and procedures for financial assistance administration. Part 2900 satisfies the requirements of 2 C.F.R. 200.110(a) and gives regulatory effect to the OMB guidance as supplemented by Part 2900. The DOL also has programmatic and administrative regulations located in 20 and 29 C.F.R. *2 C.F.R. 2900.4*