

APPENDIX II

Federal and State Requirements

Federal Requirements

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State Requirements

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TYPE OF COMPLIANCE REQUIREMENT

Indicate which of the 12 types(federal) or 13 (State) of compliance requirements are applicable to this program. More information about these requirements may be found in Part 3 of the OMB Compliance Supplement

Activities Allowed or Unallowed

The specific requirements for activities allowed or unallowed are unique to each Federal or State program and are found in the statutes, regulations, and the terms and conditions (contracts) of the Federal or State award pertaining to the program. For Federal programs listed in the OMB Compliance Supplement, the specific requirements of the governing statutes and regulations are included in Part 4, "Agency Program Requirements." This type of compliance requirement specifies the activities that can or cannot be funded under a specific program. This almost always applies to Federal and State programs.

Allowable Costs/Cost Principles

This almost always applies since most Federal and State programs have charges for goods or services. However, if a program only involves benefits to eligible recipients, with no administrative costs, purchases of goods or services (including salaries and overhead), or allocated costs, then allowable costs may not apply.

[Non-state entities that are subject to NC Administrative Code Title 09, 03M.0201: Expenditures of grants by any recipient or subrecipient shall be in accordance with the cost principles outlined in the Code of Federal Regulations, 2 CFR, Part §200. \(Uniform Guidance, Subpart E, Cost Principles\).](#)

The cost principles in 2 CFR part §200, subpart E (Cost Principles), prescribe the cost accounting requirements associated with the administration of Federal awards by: a) States, local governments and Indian tribes, b) Institutions of higher education (IHEs), and c) Nonprofit organizations. [Refer to OMB Compliance Supplement Part 3, B. Allowable Costs/Cost Principles, Applicability of Cost Principles.](#)

Cash Management

Federal requirements can be found in 2 CFR §200.305 which requires written procedures (2 CFR §200.302(b)(6)). Non-federal entities must minimize the time elapsing between the transfer of funds from the US Treasury or pass-through entity and disbursement by the non-federal entity for direct program or project costs and the proportionate share of allowable indirect costs, whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means (2 CFR §200.305(b)).

What constitutes minimized elapsed time for funds transfer will depend on what payment system/method a non-federal entity uses.

The reimbursement payment method is the preferred payment method if (a) the non-federal entity cannot be paid in advance (2 CFR §200.305(b)(1)), (b) the federal awarding agency sets a specific condition for use of the reimbursement or (c) if requested by the non-federal entity (2 CFR §200.305(b)(3) and §200.208)). The reimbursement payment method also may be used on a federal award for construction or for other construction activity (2 CFR §200.305(b)(3)).

[Refer to 2 CFR §200.302 Financial Management and §200.305 Federal Payment.](#)

Cash management requirements apply to State awards, especially if the State funds are received in advance. State agencies should indicate an authoritative source where allowable costs for a State program can be found.

This almost always applies to Federal and State programs.

Davis-Bacon Act (Wage Rate Determination Act)

This no longer is type of compliance requirement. Any testing for Davis Bacon may be included in M Special Test and Provisions.

Conflict of Interest: (only applies to State awards)

G.S. 14-234 includes a general prohibition against any public official having a personal interest in any contract to which he/she is a party in his/her official capacity. Any other statute or agency policy that applies should be tested as part of this compliance requirement.

Eligibility

The specific requirements for eligibility are unique to each Federal or State program and are found in the laws, regulations, and the provisions of contract or grant agreements pertaining to the program. For Federal programs listed in the Compliance Supplement, these specific requirements are in Part 4 – Agency Program Requirements. This compliance requirement specifies the criteria for determining the individuals, groups of individuals (including area of service delivery), or subrecipients that can participate in the program and the amounts for which they qualify.

Eligibility applies to most federal and State programs which provide benefits to individuals, groups of individuals, or make subawards. For programs with eligibility requirements, the auditor should review the program laws, regulations, and provisions of federal and State awards to determine the specific eligibility requirements. Furthermore, eligibility involves both who is eligible and the amount of benefits provided to those who are eligible.

Equipment and Real Property Management

These requirements apply to Federal and State programs which purchase equipment or real property. This compliance requirement refers to rules governing the vesting, use and disposition to a non-Federal or State entity of a title to equipment or real property acquired by that entity with Federal or State awards.

For federal awards, equipment means tangible personal property, including information technology systems, having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or \$10,000 (2 CFR §200.33). Title to equipment acquired by a non-Federal entity under grants and cooperative agreements vests in the non-Federal entity subject to certain obligations and conditions (2 CFR section §200.313(a)). Refer to 2 CFR §200.311 Real Property and §200.313 Equipment.

For State Awards, refer to laws, rules, and the provisions in the contract or grant agreement pertaining to the project.

Matching, Level of Effort, Earmarking

This compliance requirement is unique to every program and is defined, respectively as, (1) *matching* or cost sharing includes requirements to provide contributions (usually non-Federal) of a specified amount or percentage to match Federal and State awards; (2) *level of effort* includes requirements for (a) a specified level of service to be provided from period to period, (b) a specified level of expenditures from non-Federal or Federal/State sources for specified activities to be maintained from period to period, and (c) Federal or State funds to supplement and not supplant non-Federal or State funding of services; (3) *earmarking* includes requirements that specify the minimum and/or maximum amount or percentage of the program's funding that must/may be used for specified activities, including funds provided to subrecipients. Earmarking may also be specified in relation to the types of participants covered.

The requirements for matching are contained in 2 CFR section §200.306, program legislation, Federal awarding agency regulations, and the terms and conditions of the award. The requirements for level of effort and earmarking are contained in program legislation, Federal awarding agency regulations, and the terms and conditions of the award.

For State Awards, this requirement specifies the acceptable contribution of a stated amount or percentage. Refer to laws, rules, and the provisions in the contract or grant agreement pertaining to the project.

Period of Performance

This compliance requirement refers to the period during which an entity may use the Federal or State funds. A non-Federal entity may charge to the Federal award only allowable costs incurred during the period of performance 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 (2 CFR section §200.309). This almost always applies to Federal programs.

The federal requirements for the period of performance are contained in 2 CFR §200.71 (definition of "obligations"), 2 CFR §200.77 (definition of "period of performance"), 2 CFR §200.309 (period of performance), 2 CFR §200.343 (closeout), program legislation, Federal awarding agency regulations; and the terms and conditions of the award.

Procurement and Suspension and Debarment

Non-Federal entities other than States, including those operating Federal programs as subrecipients of States, must follow the procurement standards set out at 2 CFR sections §200.318 through §200.326. They must use their own documented procurement procedures, which reflect applicable state and local laws and regulations, provided that the procurements conform to applicable Federal statutes and the procurement requirements identified in 2 CFR part §200.

Non-Federal entities are prohibited from contracting with or making subawards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. Procurement and Suspension and Debarment applies any time the non-Federal entity procures goods or services. Suspension and debarment applies to both procurements and subawards.

2 CFR sections §200.318 through §200.326 apply to federal awards received directly or indirectly from a federal agency. State entities that expend State awards are subject to the NC procurement laws, which are more restrictive than federal procurement laws.

Program Income

This compliance requirement refers to gross income received that is directly generated by the Federally funded or State funded project during the grant period. Program income includes, but is not limited to, income from: fees for services performed the use or rental of real or personal property acquired with grant funds, the sale of commodities or items fabricated under a grant agreement, and payments of principal and interest on loans made with grant funds. Generally, it does not include interest on grant funds (covered under Cash Management), rebates, credits, discounts, refunds, etc. (covered under Allowable Costs/Cost Principles), or interest earned on any of them (covered under Cash Management). Program income does not include the proceeds from the sale of equipment or real property.

Real Property Acquisition/Relocation Assistance

This no longer is type of compliance requirement. Any testing for Davis Bacon may be included in M Special Test and Provisions.

Reporting

This compliance requirement refers to financial, performance of other unique reporting required of the non-Federal entity. For federal awards, all reports required must have valid OMB control numbers. Reporting almost always applies.

Subrecipient Monitoring

This refers to the requirement that a pass-through entity perform various monitoring activities, such as reviewing reports submitted by the subrecipient, performing site visits to the subrecipient to review financial and programmatic records and observe operations, arranging for agreed-upon procedures engagements for certain aspects of subrecipient activities, such as eligibility determinations, reviewing the subrecipient's single audit or program-specific audit results and evaluating audit findings and the subrecipient's corrective action plan. This applies when awards are passed through to a subrecipient. If the entity is not a pass-through entity, this requirement does not apply.

Special Tests and Provisions

This requirement refers to specific requirements that are unique to each Federal or State program and are found in the laws, regulations, and the provisions of contract or grant agreements pertaining to the program, and do not fall within one of the above requirements.