

200 GENERAL ADMINISTRATIVE REQUIREMENTS FOR FEDERAL GRANTS

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200.1 GENERAL REQUIREMENTS

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This section discusses the general legal requirements for subgrantees receiving federal assistance. These general requirements are federal policies established by legislative or executive authority, which apply to all federal programs. Auditors review these general requirements during audits of entities which receive federal financial assistance. Subgrantees should adopt policies implementing each of these requirements.

Requirements for each federal program are listed in the **OMB Circular A-133**

Compliance Supplement:

http://www.whitehouse.gov/omb/assets/a133_compliance/pt3.pdf.

Program requirements for U.S. Department of Education programs are found in

Education Department General Administrative Regulations (EDGAR):

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

POLITICAL ACTIVITY

Federal funds cannot be used for partisan political purposes of any kind by any person or organization involved in the administration of federally assisted programs.

[Hatch Act (5 U.S.C. 1501-1508) and Intergovernmental Personnel Act of 1970, as amended by Title VI of Civil Services Reform Act (Public Law 95-454 Section 4728)]:

<http://www.osc.gov/hatchact.htm>

DAVIS-BACON AND RELATED ACTS (DBRA)

The Davis Bacon and Related Acts (DBRA) requires all contractors and subcontractors performing work on federal construction contracts or federally assisted contracts in excess of \$2,000 to pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits for corresponding classes of laborers and mechanics employed on similar projects in the area. The prevailing wage rates and benefits are determined by the Secretary of Labor for inclusion in covered contracts.

[40USC 3141-3144, 3146 and 3147 (formerly 40 U.S.C. 276A-276A); 29 CFR part 29: the A-102 Common Rule (36(i)(5): OMB Circular A-110 (2CFR part 215, Appendix A. Contract Provisions]

Montana Prevailing Wage Information:

<http://erd.dli.mt.gov/labor-standards/state-prevailing-wage-information.html>

or call (406) 444-5600 and ask to speak to a Prevailing Wage Compliance Specialist.

U.S. Department of Labor (DOL) Davis-Bacon and Related Acts Internet page:

<http://www.dol.gov/compliance/laws/comp-dbra.htm>.

CIVIL RIGHTS

No person shall be discriminated against on the grounds of race, color, national origin, age, or handicap in any program or activity funded by federal funds. Discrimination on the basis of sex or religion is also prohibited in some federal programs.

[Age-42 U.S.C. 6101 et seq.; Race-42 U.S.C. 2000d; Handicap-29 U.S.C. 794]

CASH MANAGEMENT

The timing between the transfer of funds from the U.S. Treasury and the disbursement of funds by the receiving subgrantee must be minimized with proper cash management procedures. Subgrantees that in turn sub-grant/transfer federal funds to other subgrantees for final expenditure shall conform to the same standards of timing and amount. Generally, this standard has been interpreted to mean a subgrantee should have the minimum amount of federal cash on hand needed for expenditures. Excess cash on hand must be repaid to the grantor. (See "Cash Requests" in [Section 400](#).)

Investment of Federal Funds—Subgrantees should not have excessive federal cash on hand for investment. If federal funds are invested, interest earnings in excess of \$100 per year must be refunded to the federal government.

[A-102 Common Rule, OMB Circular A-110 (2 CFR section 215.22; 31 CFR part 205]

RELOCATION AND REAL PROPERTY ACQUISITION

[Note: This section is included for reference only. Real property acquisitions using grant funds received from the OPI must be pre-approved and would be extremely unlikely.]

Occasionally, federal aid programs may require the acquisition of property by a subgrantee and the subsequent displacement of households and businesses. Property acquired in the administration of federal aid must follow systematic procedures. For example, property must be appraised in the presence of the owner, appraisals must be reviewed, price set and settlements negotiated.

Similarly, when relocations are involved, the subgrantee must, for example, provide assistance in locating replacement housing, assure that it meets acceptable standards and maintain records on all acquisitions and relocations.

[Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) 49 CFR part 24 Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs:
<http://www.hud.gov/offices/cpd/affordablehousing/training/web/relocation/overview.cfm>.

FEDERAL FINANCIAL REPORTS

Most federal programs require the periodic preparation of financial reports. During an audit, the auditor reviews supporting documentation and the timeliness and accuracy of the reports submitted.

(A-102 Common Rule – Financial reporting, section 42; Performance reporting, section 40(b). and OMB Circular A-110 – Financial reporting, 2 CFR section 215.52; Performance reporting, 2CFR section 215.51.)

200.2 APPLYING FOR GRANTS

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A grant application is a legal agreement between the applicant and the Office of Public Instruction (OPI). Depending on the specific grant regulations, an applicant may be a school district, a special education cooperative, a nonprofit entity, or an institution of higher education. Each grant is specific about the type of entity that is eligible to apply.

Most grants administered by the OPI are managed on E-Grants, the electronic grant management system. E-Grants contains electronic allocation information, applications and approvals of applications and subsequent amendments for approved grant budgets, cash requests, payments tracking, and grant fiscal and program close-out reporting.

How Do I Know When to Apply and What Grants are Available? Schedules for grant applications contained in E-Grants are listed in the [OPI Grants Calendar](#) in this handbook. Grant applications that are not on E-Grants are announced and made available on the OPI website. Applicants will find application deadlines, due dates, and professional development opportunities on the OPI website calendar:

[OPI Grants Management Calendar](#)

[OPI Professional Development Calendar](#)

What if We Want to Refuse Funds? An entity may refuse funds allocated under a formula grant, such as ESEA Title I, Part A. Most OPI formula grants are on E-Grants, which allows for online refusal of funds. Contact the OPI program accountant or program specialist for assistance (see [OPI Resources](#) in this handbook).

The OPI requires each subgrantee to electronically or manually sign a “Common Assurances” form (see “[Common and Program Specific Assurances](#)” below) which is the entity’s agreement to follow important state and federal laws and regulations related to the administration of state and federal grant programs. On the Common Assurances form, the subgrantee agrees to the designation of an Authorized Representative (AR). If additional assurances are required specifically by an individual program, OPI includes those assurances in the grant application for the program.

APPLICATION PROCESS – NONCOMPETITIVE GRANTS

1. The OPI makes an application form available on the OPI website or mails the application materials to the AR of eligible entities. Most non-competitive grants administered by the OPI are contained in E-Grants, so the majority of non-competitive grant applications will be made available on the E-Grants system.
2. The AR leads a cooperative effort of administrators, business managers, parents, teachers and other staff in planning the activities of the project and filing the application with the OPI. Applications for E-Grants programs must be submitted on E-Grants. Programs that offer a hardcopy application process or alternative electronic fill-in application process will inform applicants how to submit these application formats to the OPI.
3. The OPI reviews and acts on the application. The application is approved, preliminarily disapproved, or finally disapproved as explained below.

Approval: The OPI approves the application. For E-Grants and other electronic applications, the OPI will notify the AR of the approval by sending an e-mail and posting a Grant Award Notification (GAN) on E-Grants. For hardcopy applications, OPI will send the AR a letter stating the terms of the approval or a containing a GAN.

OR

Preliminary Disapproval: The OPI disapproves the application. If the application is not approved, the OPI will e-mail or mail the AR a written notification of the preliminary disapproval and the reasons for preliminary disapproval, and will provide the applicant an opportunity to correct deficiencies that caused the disapproval. For E-Grant applications, the AR will find the OPI’s comments about necessary corrections in the E-Grant application itself.

OR

Final Disapproval: A preliminary disapproval notice will become final if the applicant does not correct deficiencies in the application or does not request a hearing within the time allowed (see [COMPLAINTS AND HEARINGS PROCESS](#) below).

4. The OPI sends written notice of its action to the AR via mail or e-mail.
5. The AR will share all written notices and program instructional materials with other administrators, the business manager/clerk and other management official(s), local program/project directors, teachers and other instructional or support staff, as appropriate.

Note: The OPI may require additional information or action from an applicant who has been designated as “high-risk” (see RISK CATEGORIES FOR SUBGRANTEES in [Section 600](#) of this handbook).

APPLICATION PROCESS – COMPETITIVE GRANTS

1. The OPI makes an application form available on the OPI website or mails the application materials to the AR of eligible entities. Often, the OPI posts an announcement of the application process, and the AR of an interested party may download forms online or request hardcopy forms, depending on the application process.
2. The AR leads a cooperative effort of administrators, business managers, parents, teachers and other staff in planning the activities of the project and filing the application with the OPI.
3. The OPI reviews and acts on the application. The application is approved or disapproved as explained below.

Approval: The OPI approves the application and sends written notice of approval to the AR by mail or e-mail;

OR

Disapproval: The OPI disapproves the application and sends written notice of disapproval and the reason for disapproval to the AR by mail or e-mail.

4. The AR will share all written notices and program instructional materials with the other administrators, business manager/clerk and other management official(s), local program/project directors, teachers and other instructional or support staff, as appropriate.

Note: The OPI may require additional information or action from an applicant who has been designated as “high-risk” (see RISK CATEGORIES FOR SUBGRANTEES in [Section 600](#) of this handbook).

APPLICATION PROCESS – DISCRETIONARY GRANTS

Some federal grant programs allow the OPI to make discretionary subgrants to eligible entities. Entities eligible to receive discretionary grants may include school districts, education cooperatives and consortia, institutes of higher education, and educational associations, depending on the grant.

1. Eligible entities desiring a discretionary grant must contact the OPI program officer for the federal grant program.
2. The OPI program officer provides the Discretionary Grant Application.
3. Project stakeholders work together to develop the program description and complete the grant application.
4. The AR of the entity submits the completed application to the federal grant program officer at the OPI. The grant application must be submitted and approved prior to the beginning date of the project to be funded.
5. The OPI approves or disapproves the application.

Approval: The OPI approves the application and sends written notification of approval to the applicant;

OR

Disapproval: The OPI disapproves the application and sends written notice of disapproval and the reason for disapproval to the applicant.

Note: The OPI may disqualify an applicant who has been designated as “high-risk” (see RISK CATEGORIES FOR SUBGRANTEES in [Section 600](#) of this handbook) or may specify additional conditions as part of the approval process.

200.3 COMMON AND PROGRAM-SPECIFIC ASSURANCES

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Grant programs require applicants to certify they will follow certain laws and regulations as a condition of receiving funds under a certain program. Some required certifications apply to multiple federal programs, and other certifications are specific to one particular program. The OPI has combined the certifications required by more than one OPI-administered program into a single document called the “Common Assurances” (see [Appendix J](#) of this handbook).

Applicants need only submit the Common Assurances certification once, with an annual update, to cover their participation in all OPI-administered programs. Applicants must certify, by signature of the Board Chair or Executive Officer, or by electronic approval by the Authorized Representative on E-Grants, that they will abide by the Common Assurances as a condition for receiving funds under OPI grants.

On the Common Assurances form or online certification, the subgrantee designates authority to an Authorized Representative to make statements and commitments on behalf of the applicant entity under the provisions of each program.

Certifications required by individual programs are contained in individual grant applications and are submitted with the applications.

PROCESS FOR COMMON ASSURANCES

Most subgrantees file the Common Assurances form electronically on the E-Grants system during the annual application process for common OPI-administered grants like Title I, Part A and IDEA special education grants. Every entity applying for a grant on E-Grants must file the Common Assurances certification in order to submit an application.

Applicants who do not file at least one application on E-Grants must submit a signed hardcopy of the Common Assurances to OPI when applying for a grant covered by the assurances. The applicant is responsible for keeping a copy of the Common Assurances on file.

If the assurances required by the federal government are unchanged from one year to the next, the OPI asks the applicant to certify annually that no conditions have changed since the original certification of Common Assurances. OPI will distribute a new Common Assurance form for certification by subgrantees receiving funding whenever the federal requirements for assurances change.

200.4 COMPLAINTS AND HEARINGS

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CAUSE FOR COMPLAINT OR REQUEST FOR HEARING

At times, a subgrantee may disagree with the OPI's action or decision involving a federal or state grant program. In this case, the subgrantee may ask for reconsideration of the action or decision by using the process outlined in this section.

The following are examples of situations in which a subgrantee may want to enter a complaint and/or request a hearing:

- a) The OPI denied a non-competitive grant application submitted by the entity or did not make an award for the application;
- b) The OPI requires certain corrective action on an audit finding or as a result of a site visit or other monitoring effort, and the entity does not agree that corrective action is necessary;
- c) The entity feels the OPI has otherwise violated a specific federal statute or program regulation; or
- d) The OPI terminates an approved project or portion of a project.

OPI NOTICE -- INTENT TO DENY A NON-COMPETITIVE GRANT AWARD

If the OPI proposes to deny, in whole or part, any subgrantee application for a non-competitive federal subgrant, the applicant shall be afforded reasonable notice of:

- a) OPI's intent to deny the application and the reasons for denial; and
- b) The applicant's right to request a hearing before the OPI prior to final denial of the application.

The application may be denied, in whole or part, if the applicant fails to request a hearing.

COMPLAINT PROCESS

This process is used in cases where a subgrantee feels the OPI or another organization has violated a specific law or regulation.

1. Filing a Complaint

Any individual or organization may file a written, signed complaint with the OPI. The complaint must be addressed to the OPI program director.

The complaint must include a statement that the OPI or subgrantee has violated a requirement of a federal statute or regulation or a state statute or administrative rule that applies to the state or federal grant program. The statement must identify:

- a) The specific section of the law, regulation or administrative rule that has been violated; and
- b) The facts upon which the statement is based.

2. OPI's Receipt and Review of Complaint

The OPI will review and act on any complaint within 60 days of the date the complaint was received. The OPI may take one or more of these actions to review and resolve the complaint:

- a) Resolve the complaint based on facts presented;
- b) Request additional data to be used in resolving the complaint; or
- c) Conduct an on-site review to collect data to resolve the complaint.

If an LEA's decision is being appealed, the OPI will resolve the appeal or provide a decision within the 60 days.

If resolution is not possible within 60 days due to exceptional circumstances, the OPI may provide an extension on the time limit for resolution.

The OPI will issue the complainant a written notice of resolution.

3. Appealing the OPI's Decision

If the OPI does not rescind its action, the applicant may file an appeal to the U.S. Secretary of Education within 20 days of the OPI's ruling on the hearing. If supported by substantial evidence, findings of fact of the OPI will be final. The OPI will provide the complainant with the address of the federal contact person at the time the OPI sends the written notice of resolution.

The Secretary may also issue interim orders to the OPI, if necessary, pending appeal or review.

If the Secretary determines that the action was contrary to laws or regulations, the Secretary may issue an order to the OPI to take appropriate action. Failure to comply may cause the loss of all federal assistance to the state.

HEARINGS PROCESS (34 CFR 76.783, 76.401)

This process is used in cases when the subgrantee disagrees with the OPI's actions, such as the resolution of an audit finding, additional monitoring required of the entity as the result of an on-site visit or other monitoring effort, withholding of a portion or all of an award because of failure to maintain effort, failure to provide a match, disapproval of a non-competitive grant application, etc.

1. Requesting a Hearing

The subgrantee or applicant must submit a written request for a hearing to the appropriate OPI program director. If the request for hearing is related to audit resolution problems, the request must be submitted to the OPI School Finance Division Administrator.

When the cause for the request is a controversy over the acceptability of the entity's response to an audit finding, the request must be received within 30 days of the date of the Department of Administration's notice stating the audit response is not acceptable.

2. The OPI's Hearing and Review

Within 30 days of receiving the applicant's request, the OPI will hold a hearing on the record and review its action.

Within 10 days after the hearing, the OPI will issue a written ruling, including findings of fact and reasons for the ruling.

If the OPI determines its action was contrary to law or regulations, the OPI will review its action and change its action to be in compliance with law or regulations.

3. Appealing the OPI's Decision

If the OPI does not rescind its action, the subgrantee or applicant may file an appeal to the U.S. Secretary of Education within 20 days of the OPI's ruling on the hearing. If supported by substantial evidence, findings of fact of the OPI will be final. The OPI will provide the entity with the address of the federal contact person at the time the OPI sends the written notice of resolution.

The Secretary may also issue interim orders to the OPI, if necessary, pending appeal or review.

If the Secretary determines that the action was contrary to laws or regulations, the Secretary may issue an order to the OPI to take appropriate action. Failure to comply may cause the loss of all federal assistance to the state.

200.5 MAINTENANCE OF EFFORT (MOE)

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DEFINITION AND PURPOSE

"Maintenance of Effort" (or "MOE" or "Maintenance of Fiscal Effort") is required by many grant programs to ensure the recipient of federal funds does not spend federal funds in place of state and local dollars. By maintaining fiscal effort, a subgrantee supports activities using state and local money as they would continue to do if federal dollars were not available. Thus, federal programs supplement the normal activities of the entity and do not replace, or supplant, their normal activities.

Subgrantees who do not meet MOE requirements may lose eligibility to a portion or all of the grant funds under the program which requires it.

TYPES OF MAINTENANCE OF EFFORT

The OPI monitors four types of MOE, including: 1) ESEA Title MOE; 2) IDEA MOE; 3) Carl Perkins Career and Technical Education MOE; and 4) Adult Basic and Literacy Education MOE. The applicability, overview of requirements, and calculations are discussed below.

ESEA Title MOE

This MOE level applies to the following grants:

- Title I, Part A, Improving Basic Programs
- Title I, Part C, Migrant Education
- Title I, Part D, Neglected, Delinquent and At-Risk Youth
- Title II, Part A, Improving Teacher Quality
- Title III, Part A, English Language Acquisition and Language Enhancement
- Title IV, Part B, 21st Century Community Learning Centers
- Title VI, Part B, Subpart 2, Rural and Low-Income School (RLIS)

(NOTE: This calculated MOE also applies to Title VII Indian Education and Title VIII Impact Aid programs, which are direct federal grants (not OPI-administered). The OPI submits MOE information to the U.S. Department of Education, which makes reductions at the federal level for those programs if MOE is not met.

Under these programs, a subgrantee may receive its full allocation if either the combined fiscal effort per student or the aggregate of all expenditures of local funds used for providing a free public education for the preceding fiscal year was not less than 90 percent of the combined fiscal effort per student or the aggregate expenditures for the second preceding year.

The MOE for these programs is calculated using data reported on the school district's Trustees' Financial Summary (TFS). See a detailed explanation of the calculation in [Appendix C – Federal Maintenance of Effort \(MOE\) for ESEA Title I and Related Programs](#).

IDEA MOE

This MOE level applies to the Individuals with Disabilities Education Act (IDEA) Part B program.

Under this program, a subgrantee may receive its allocation if the expenditures for special education and related services in the preceding year were at least equal to the expenditures for special education and related services in the second preceding year.

A subgrantee may not reduce its level of expenditures of state or state and local funds below the level of those expenditures for the preceding fiscal year except for those conditions provided for under 34 CFR 300.203 and 300.205 (see [Appendix D – Maintenance of Effort for Idea Programs](#)).

The MOE for members of a special education cooperative is determined for the cooperative as a whole. Expenditures of the member districts and the cooperative itself are combined to calculate MOE.

If a district's Level of Determination under the IDEA is not "meets requirements" the district is not allowed to reduce its level of effort in the ensuing fiscal year. The OPI reviews the MOE amounts for each district that did not meet requirements and requires any district that reduced its effort to provide documentation of an allowed exception for that reduction.

If the subgrantee school district or special education cooperative/consortium fails to maintain effort, the subgrantee is required to repay the OPI an amount equal to the decrease in state and local expenditures for special education. Any repayment of funds must be made from the entity's state and local funds.

The MOE for these programs is calculated using data reported on the school district's Trustees' Financial Summary (TFS). See a detailed explanation of calculations and exceptions in [Appendix D – Maintenance of Effort for Idea Programs](#)).

Carl Perkins Career and Technical Education MOE

The MOE requirement for the Carl Perkins program applies at the state level and does not affect individual subgrantees. The OPI is responsible for ensuring the state as a whole meets the required MOE level with statewide expenditures of state funding for the covered programs.

The state must continue to provide funding for career and technical education programs at least at the level of support of the previous year. The U.S. Secretary of Education may grant a waiver of up to 5 percent for exceptional or uncontrollable circumstances (such as a natural disaster or a dramatic financial decline) that affect the state's ability to continue funding at the prior year's levels.

Adult Basic and Literacy Education MOE

The MOE requirement applies at the state level rather than the individual subgrantee level.

The state is required to match, with non-federal funds, 25 percent of the total amount of federal money expended for adult education and literacy activities. The statute retains the typical "supplement, not supplant" provision. If the state fails to maintain effort from the prior year, the U.S. Secretary of Education is authorized to apply pro rata reductions in federal funding rather than a total cutoff.

HOW THE OPI MONITORS MAINTENANCE OF EFFORT

As a subgrantor, the OPI is required to monitor and verify that each of its subgrantees maintained effort. The Prime Applicant for each grant project is responsible for ensuring the subgrantee maintains effort.

The OPI calculates MOE levels for school districts and special education cooperatives using data reported on the districts' or cooperatives' annual Trustees' Financial Summary (TFS) reports submitted to the OPI each September. For subgrantees who do not submit TFS reports because they are not public school districts, cooperatives or consortiums, the OPI requests other data to verify their MOE.

TIMELINE FOR MAINTENANCE OF EFFORT

September 15 -- The OPI receives annual Trustees' Financial Summary (TFS) reports from each school district and special education cooperative (MCA 20-3-209).

November 20 -- The OPI calculates preliminary MOE and notifies subgrantees of their status.

By December 10 -- School districts and special education cooperatives must submit any changes or corrections to data reported on their TFS reports to the OPI or submit an application for an exception. Changes after this date will only be accepted through the hearings process.

December 20 -- The TFS reports are locked. School districts or special education cooperatives which have not maintained effort despite TFS changes or approved exceptions are notified and provided an opportunity to request a hearing.

In the Spring -- The OPI reports final MOE status to subgrantees as part of the application process for the next year.

200.6 MATCHING REQUIREMENTS

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A small number of the grants administered by the OPI require the subgrantee to "match" the grant funds using local dollars. When a match is required, the recipient must spend the required amount of state and local dollars in order to be eligible to spend the grant funds. If a subgrantee does not meet the matching requirements of a particular grant, the OPI must disallow the grant expenditures and may require repayment of grant funds used without providing the necessary match.

MONEY USED FOR MATCHING

Grant regulations specify the type and amount of required match. Depending on the program, the match may include cash outlay and/or in-kind contributions. Generally, matching requirements state the recipient must spend state and/or local dollars to provide the match.

"Cash outlay" is the subgrantee's cash spending. The cash may have come to the subgrantee from individuals, public agencies, institutions, private organizations, etc. Although not common, other federal grants may be used as cash outlay to meet matching requirements when authorized by the program's regulations.

"In-kind contributions" are the non-cash contributions made by the subgrantee, individuals, public agencies, institutions, private organizations, etc. Examples include the value of the usage of office space and equipment or the value of goods and services provided toward the grant activities by the subgrantee using non-grant funds. In-kind contributions must directly benefit and be specifically identifiable to the grant program. Although not common, property purchased with other federal grants may be used as in-kind contributions to meet matching requirements when authorized by the program's regulations.

ACCOUNTING FOR THE MATCH

A subgrantee is responsible for demonstrating the appropriate matching funds were spent. To do that, a recipient must record expenditures of the grant and the matching expenditures in enough detail to track the match.

Usually, the clerk/business manager tracks matching funds by using the same expenditure program number to record the expenditure of matching funds as is used for expenditure of the grant funds themselves. For example, charges to the Title I, Part B, Subpart 3, Even Start grant are recorded using expenditure program 424, so matching funds spent in the general fund would also be charged to expenditure program 424. See the Chart of Accounts in [Section 3-0600](#) of the [School Accounting Manual](#) for expenditure program code identifiers.

MATCHING REQUIREMENTS BY PROGRAM

Adult Basic and Literacy Education (ABLE)

The state as a whole is required to meet the higher of: 1) the matching (25 percent); or 2) the maintenance of effort requirement during a particular fiscal year. This includes a combination of all non-federal local and state funds. Individual subgrantees are not required to meet matching requirements on a stand-alone basis.

Gifted and Talented

Gifted and talented grants require 100 percent or more in cash match. In-kind match is not allowed by state statute (section [20-7-903\(3\)](#), MCA).

200.7 SUPPLEMENT NOT SUPPLANT

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An LEA may use program funds only to supplement and, to the extent practical, increase the level of funds that would, in the absence of the federal funds, be made available from non-federal sources for the education of participating students. In no case may an LEA use federal program funds to supplant funds from non-federal sources.

The following are instances where it is presumed that supplanting has occurred:

- a. The LEA used federal funds to provide services that the LEA was required to make available under other federal, State or local laws.
- b. The LEA used federal funds to provide services that the LEA provided with non-federal funds in the prior year.
- c. The LEA used Title I, Part A or Migrant education Program funds to provide services for participating children that the LEA provided with non-federal funds for nonparticipating children.

These presumptions are rebuttable if the LEA can demonstrate that it would not have provided the services in question with non-federal funds had the federal funds not been available.

“Supplement not supplant” provisions apply to the following OPI-administered programs:

- Adult Basic Literacy Education
- Carl Perkins Basic Grants
- Gaining Early Awareness & Readiness for Undergraduate Programs (GEAR UP)
- IDEA, Part B
- IDEA, Preschool
- ESEA Title I, Part A, Improving Basic Programs
- ESEA Title I, Part C, Migrant Education
- ESEA Title I, Part D, Neglected and Delinquent
- ESEA Title II, Part A, Improving Teacher Quality
- ESEA Title III, Part A, English Language Acquisition and Language Enhancement
- ESEA Title IV, Part B, 21st Century Community Learning Centers
- ESEA Title VI, Part B, Subpart 2, Rural and Low-Income School (RLIS)

NOTE: The ESEA Title VI, Part B, Subpart 1, Small, Rural School Achievement (SRSA) Program is also subject to supplement-not-supplant requirements, but it is funded directly by the U.S. Department of Education, not administered by the OPI.

200.8 CARRYOVER FUNDS

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BASIC CARRYOVER PROVISIONS

“Carryover” funds are grant funds which, if not obligated by the end of the project period, remain available to the subgrantee for one additional project period.

Grant project periods for most of the grants administered by the OPI begin July 1 and end on either June 30 or September 30. For some grants, funds that remain unobligated at the end of the project period are considered for inclusion in the ensuing year’s project as carryover. That is, a portion or all of the unobligated funds are added to the amount awarded for the following year. The percentages and amounts of carryover differ by program, depending on program regulations (see [PROGRAM PROVISIONS AND RESRICTIONS FOR CARRYOVER](#) below).

Subgrantees must request cash for obligations incurred in one project period by the time the projects’ fiscal close out report is due. If cash is not requested by that deadline, the subgrantee is typically eligible to carryover the amount, but it becomes part of the next project period. Consequently, any obligations for which the subgrantee fails to request cash reimbursement by the project’s close-out deadline must be funded using other available funds of the district and cannot be charged to the grant.

The carryover provision, however, would make an equal amount of funding available to fund grant activities during the next project period by adding the amount to the following project year's grant award.

Carryover funds are subject to the same spending requirements as all other funding under that particular federal program. A recipient must spend the carryover funds in compliance with the same regulations and terms as other program funds in the current year's award.

PROGRAM PROVISIONS AND RESRICTIONS FOR CARRYOVER

Limitations are applied at the end of the project period based on information submitted on the Final Expenditure Report for the previous project. The carryover provisions applicable to OPI-administered programs are explained below.

ESEA Title I, Part A - Improving Basic Programs

If the district received an allocation of \$50,000 or more, the carryover amount for ESEA Title I, Part A is limited to 15 percent of the allocation. The \$50,000 allocation level applies to each separate district in a school system (elementary and high school) combined application. That is, if an elementary district and a high school district share a combined ESEA Title I, Part A application and only one district generated an allocation of \$50,000 or more, then the carryover limitation would be applied only to that district's portion of the allocation. Districts with allocations less than \$50,000 may carryover 100 percent of their remaining balance to the next grant period.

All carryover funds stay with the prime applicant on the Consolidated Application for ESEA/NCLB. The prime applicant is responsible for submitting amendments to build carryover into the approved grant application; member districts do not take any action.

Applicants that received reallocated funds may not carry forward any remaining balance (see [Appendix F – Title I Reallocation and Comparability Policies](#)).

A district may submit a written request for a waiver to one or more of the ESEA carryover limitations by June 1. In the case of ESEA Title I, a request may be granted only once every three years. Criteria for approval of such requests and detailed directions on submission are available from the OPI program specialists for each program.

Programs Allowing 100% Carryover

The following programs' regulations do not limit the amount of carryover:

ESEA Title II, Part A - Improving Teacher Quality
ESEA Title III, Part A - English Language Acquisition
ESEA Title VI, Part B, Subpart 2 - Rural and Low-Income School (RLIS)
ESEA Title X, Part C - Education of Homeless Children and Youth
IDEA, Part B - Education of Children with Disabilities
IDEA Preschool

Therefore, any "current-year" funds in an applicant's project which were not expended during the project year will be automatically provided to the applicant in the next school year as carryover funds.

All carryover funds stay with the prime applicant on the Consolidated Application for ESEA/NCLB or for IDEA. The prime applicant is responsible for submitting amendments to build carryover into the approved grant application; member districts do not take any action.

Programs With No Carryover

1. Carl Perkins Career and Technical Education does not allow carryover. All funds must be spent within the original award period.
2. ESEA Title I, Part C, Migrant Education does not allow carryover.

CARRYOVER PROCESS

The OPI automatically allows subgrantees to carryover the funds which are subject to the allowable carryover provisions.

To do this, the OPI verifies final carryover amounts for all programs after receiving final expenditure reports and refunds. The OPI determines final carryover amounts and then adds the final carryover amount (up to any percentage limitation as explained above) into the application.

E-Grants automatically brings eligible unexpended funds forward to the districts' current year grant application budget as carryover and generates an automatic e-mail to the district AR and other staff persons who are entered on the respective application's Contact Information page. This is the district's notice that there may be carryover funds to include in the current-year budget. If the prior year final expenditure report is approved *after* the creation of the current year application and carryover amounts are available, the subgrantee must submit an amendment to the current year grant budget on E-Grants. Carryover affects the funding page and the budget page on the E-Grants application.

If an indirect cost rate was included on the proposed and first-approved budgets, the OPI also recalculates the maximum amount allowed for indirect cost recovery on the amended award. Indirect cost rates are automatically calculated for the E-Grants application, but the LEA needs to create an amendment to budget the additional indirect cost recovery funds if they choose to use them.

200.9 PRIVATE/NONPUBLIC SCHOOL PARTICIPATION

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Federal statutes require that public school districts have meaningful and timely consultation with private/nonpublic schools within their boundaries concerning the availability of the various federal programs in which private/nonpublic schools may participate, whether individually or in a consortium or cooperative. All districts must offer the opportunity for a free and appropriate public education for students with disabilities residing within their boundaries.

PRIVATE/NONPUBLIC SCHOOL PARTICIPATION NOTIFICATION

Annually, public school districts will consult with all private/nonpublic schools within their boundaries, informing them of opportunities to participate in federal education programs and designing programs that will benefit the participating public and private/nonpublic school students.

Public school officials must annually contact home school parents and officials of private schools within the district boundaries to determine whether those schools wish to participate in federal programs, regardless of whether the home school parents or private school officials have recently participated or not and regardless of whether they indicated they prefer not to be contacted regarding participation.

For more information, see the OPI's Private Nonpublic Schools web page:
<http://www.opi.mt.gov/Programs/TitlePrgms/NonPublic/index.html>

PROCESS FOR NOTIFICATION

In March, the OPI provides districts with forms to use for private/nonpublic school participation notification, lists of private/nonpublic schools reported in October and program descriptions.

Between March and late April, districts will notify all private/nonpublic schools within their boundaries of a general meeting to explain the federal programs for which private/nonpublic students are eligible and invite them to participate. Districts will contact all private/nonpublic schools who are unable to attend the meeting to explain services available.

Districts should maintain records of schools contacted and the method of notification (some use registered mail). Following distribution of the information and timely and meaningful consultation with private/nonpublic schools, districts return the Private/Nonpublic Participation in Federally Funded Programs to the OPI in April,

informing the OPI that they have had meaningful consultation with the private/nonpublic schools within their boundaries and listing which private/nonpublic school students will participate in the federal programs with the public school district. For ESEA programs this information is entered into the E-Grants system.

BASIC PROVISIONS

The authorizing statutes for most federal programs administered by the OPI require that the state and subgrantee provide for participation by students enrolled in private/nonpublic schools. Some programs also allow participation by private/nonpublic school staff.

Subgrantees sign a "Common Assurances" certification form which indicates their intention to provide equitable services to eligible private/nonpublic school students under the various programs. Copies of forms are kept on file at the OPI and must be retained by each subgrantee recipient for audit purposes.

ADMINISTRATIVE RESPONSIBILITY FOR PRIVATE/NONPUBLIC SCHOOL PARTICIPATION

Subgrantees must fulfill these general administrative responsibilities: (34 CFR 76.651 662)

1. Provide eligible private/nonpublic school students a genuine opportunity for equitable participation in accordance with federal laws and regulations for a program;
2. Provide private/nonpublic school students the opportunity to participate consistent with the number of private/nonpublic school students and their needs;
3. Maintain administrative control over federal funds and federal property used for students enrolled in private/nonpublic schools;
4. Ensure timely and meaningful consultation with appropriate private/nonpublic officials during the design and development of the district's programs under this part;

TIMING—Such consultation shall include meetings of district and private/nonpublic school officials and shall occur before the LEA makes any decision that affects the opportunities of eligible private/nonpublic school children to participate in programs under this part. Such meetings shall continue throughout implementation and assessment of services provided under this section.

DISCUSSION—Such consultation shall include a discussion of service delivery mechanisms an LEA can use to provide equitable services to eligible private/nonpublic school children.

CHECKLIST---Consultation shall include discussions on issues such as:

- a) How the children's needs will be identified;
- b) What services will be offered;
- c) How, where, and by whom the services will be provided;
- d) How the services will be assessed (academically assessed in Title I, Part A) and how the results of that assessment will be used to improve those services;
- e) The size and scope of the equitable services to be provided to the eligible private/nonpublic school children, and the amount of funds available for those services;
- f) How and when the district will make decisions about the delivery of services to such children including a thorough consideration and analysis of the views of the private/nonpublic school officials on the provision of services through a contract with potential third-party providers; and
- g) How, if the district disagrees with the views of the private/nonpublic school officials on the provision of services through a contract, the LEA will provide in writing to such private/nonpublic school officials an analysis of the reasons why the LEA has chosen not to use a contractor.

CONSULTATION REQUIREMENTS UNDER IDEA, Part B---To ensure equitable participation of private/nonpublic school children with disabilities who are parentally enrolled in private/nonpublic schools, the school district must consult with private/nonpublic school representatives during the design and development of special education and related services for the children, including:

- a) The child find process and how private/nonpublic school children suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process;
- b) The determination of the proportionate amount of federal funds available to serve private/nonpublic school children with disabilities, including the determination of how the amount was calculated;
- c) The consultation process among the school district, private/nonpublic school officials, and representatives of parents of parentally placed private/nonpublic school children with disabilities, including how such process will operate throughout the school year to ensure that parentally placed private school children with disabilities identified through the child find process can meaningfully participate in special education and related services;
- d) How, where, and by whom special education and related services will be provided for private/nonpublic school children with disabilities, including a discussion of types of services, including direct services and alternate service delivery mechanisms, how such services will be apportioned if funds are insufficient to serve all children, and how and when these decisions will be made; and
- e) How, if the school district disagrees with the view of the private/nonpublic school officials on the provision of services or the types of services,

whether provided directly or through a contract, the school district shall provide to the private/nonpublic school officials a written explanation of the reasons why the school district chose not to provide services directly or through a contract.

5. Assure that program benefits provided for private/nonpublic school students are comparable in quality, scope, and opportunity to participate as are benefits provided to students in public schools;
6. Assure that if needs of students in private/nonpublic schools are different than in public schools, the benefits provided are different;
7. Assure that equitable opportunities are provided for students in private/nonpublic schools as provided to students with the same needs in public schools;
8. Assure the program funds are not used to finance the existing level of instruction or otherwise benefit the private/nonpublic school;
9. Assure the same average amount of program funds are spent for benefits to private/nonpublic and public schools, or that the average cost is different because the needs differ from needs of students in public schools;
10. Keep title and control over equipment purchased for use in a private/nonpublic school;
11. Place equipment and supplies in a private/nonpublic school for the time needed for the project;
12. Assure that equipment or supplies placed in a private/nonpublic school are used only for the project and are removable without remodeling at the end of the project;
13. Remove equipment or supplies from a private/nonpublic school if they are no longer used for the project or if necessary to avoid use on a different project;
14. Assure that program funds are not used for construction of private/nonpublic school facilities;
15. Use program funds to pay services of an employee of a private/nonpublic school if the services are performed outside the regular workday and if the employee performs the services under the control and supervision of the public school; and
16. Report private/nonpublic school fiscal and evaluation data by program to the OPI as required by various program regulations.

SPECIFIC PROGRAM ELIGIBILITY

NOTE: For all ESEA programs, the private/nonpublic equitable share is calculated in the E-Grants system and must be reserved in the program before public share can be REAP-Flexed or transferred.

ESEA Title I, Part A - Improving Basic Programs

Private/nonpublic school students with academic needs who reside in ESEA Title I attendance areas may receive equitable services to the extent possible with funds generated by low-income private/nonpublic school students.

ESEA Title II, Part A - Improving Teacher Quality

Professional development for core teachers is the only ESEA Title II, Part A activity available to private/nonpublic schools. If there are participating private/nonpublic schools within a district boundary, the public district must design a professional development program that meets the needs of the private/nonpublic core teachers. The private/nonpublic teachers may be included in the public school ESEA Title II, Part A program or attend different professional development that meets their needs. Local education agencies shall consult with appropriate private/nonpublic school officials during the design and development of the district ESEA Title II program.

ESEA Title III, Part A - English Language Acquisition and Language Enhancement

Students identified as limited English proficient and/or immigrant under the Immigration and Nationality Act and who are enrolled in a private/nonpublic school may be eligible.

ESEA Title IV, Part B - 21st Century Community Learning Centers

Eligible applicants include public schools, community-based organizations, other public or private entities, or a consortium of two or more of such agencies or entities. Award priority is given to eligible entities that serve a high percentage of students from low-income families.

IDEA Part B

Public schools are obligated to establish a service agreement for students with disabilities attending private/nonpublic schools in accordance with the requirements of 34 CFR 300.130 through 300.144. This agreement must be established with input from the private/nonpublic school. For those private/nonpublic schools who indicate a desire to participate in IDEA services, the public school is obligated to make special education services available consistent with its service agreement, but may limit the services provided to an amount calculated under the provisions of IDEA regulations.

Carl Perkins

Private/nonpublic schools may participate through a public school. Private/nonpublic schools cannot apply for funds directly.