

APPENDIX II

Federal and State Requirements

Federal Requirements

- A. Activities Allowed or Unallowed
- B. Allowable Costs/Costs Principles
- C. Cash Management
- D. Reserved
- E. Eligibility
- F. Equipment & Real Property Management
- G. Matching, Level of Effort, Earmarking
- H. Period of Availability of Federal Funds
- I. Procurement & Suspension & Debarment
- J. Program Income
- K. Reserved
- L. Reporting
- M. Subrecipient Monitoring
- N. Special Tests & Provisions

State Requirements

- 1. Activities Allowed or Unallowed
- 2. Allowable Costs/Costs Principles
- 3. Cash Management
- 4. Conflict of Interest
- 5. Eligibility
- 6. Equipment & Real Property Management
- 7. Matching, Level of Effort, Earmarking
- 8. Period of Availability of State Funds
- 9. Procurement & Suspension & Debarment
- 10. Program Income
- 11. Reserved
- 12. Reporting
- 13. Subrecipient Monitoring
- 14. Special Tests & Provisions

TYPE OF COMPLIANCE REQUIREMENT
<p>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 (http://www.whitehouse.gov/OMB/grants)</p>
<p>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 Federal and State 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 <u>almost always applies</u> to Federal and State programs.</p>
<p>Allowable Costs/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.</p> <p>2 CFR subpart E applies to federal awards received directly or indirectly from a federal agency. State agencies should indicate an authoritative source where allowable costs for a State program can be found.</p> <p>As provided in 2 CFR section 200.101, the cost principles requirements apply to all Federal awards with the exception of grant agreements and cooperative agreements providing food commodities; agreements for loans, loan guarantees, interest subsidies, insurance; and programs listed in 2 CFR section 200.101(d) (see Appendix I of OMB Compliance Supplement). Federal awards administered by publicly owned hospitals and other providers of medical care are exempt from 2 CFR part 200, subpart E, but are subject to the requirements 45 CFR part 75, Appendix IX of OMB Compliance Supplement, the Department of Health and Human Services (HHS) implementation of 2 CFR part 200. The cost principles applicable to a non-Federal entity apply to all Federal awards received by the entity, regardless of whether the awards are received directly from the Federal awarding agency or indirectly through a pass-through entity.</p> <p>This <u>almost always applies</u> since most Federal 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.</p>
<p>Cash Management When entities are funded on a reimbursement basis, program costs must be paid for by entity funds before reimbursement is requested from the Federal Government. When funds are advanced to recipients, they must follow procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and State Treasurer disbursement. When advance payment procedures are used to pay subrecipients, recipients must establish similar procedures for subrecipients. The requirements for cash management are contained Treasury regulations at 31 CFR part 205, Federal awarding agency regulations, and the terms and conditions of the award.</p> <p>When funds are provided on a reimbursement basis, program costs must be paid for with the entity's funds before the entity requests payment from the federal awarding agency or pass-through agency. 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.</p> <p>This <u>almost always applies</u> to Federal and State programs.</p>
<p>Davis-Bacon Act This no longer is type of compliance requirement. Any testing for Davis Bacon may be included in M Special Test and Provisions.</p> <p>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.</p>

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.

Equipment and Real Property Management

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. These requirements apply to Federal and State programs which purchase equipment or real property.

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 \$5,000 (2 CFR section 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)).

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.

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 requirements for the period of performance are contained in 2 CFR section 200.71 (definition of "obligations"), 2 CFR section 200.77 (definition of "period of performance"), 2 CFR section 200.309 (period of performance), 2 CFR section 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.