Section D - General Assurance, Terms, and Conditions for Participation in Federal and State Programs

The Department of Education has developed a "General Assurances" document that must be signed by all agencies and organizations that receive federal or state funds. This is required by

- 34 CFR 76.301 of the Education Department General Administrative Regulations (EDGAR) which requires local educational agencies to submit a common assurance for participation in federal programs funded by the U. S. Department of Education

- applicable regulations of other Federal agencies

- state laws and regulations pertaining to the expenditure of state funds.

General Assurances for Participation
in Federal and State Programs

Implemented by the Florida Department of Education under the Provisions of the Education Department General Administrative Regulations (EDGAR) of the United States Department of Education

Return to:

Florida Department of Education
Comptroller's Office
325 West Gaines Street
944 Turlington Building
Tallahassee, Florida 32399-0400

Florida Department of Education
General Assurances for Participation in Federal and State Programs

Authority for Data Collection: 20 USC 1232e.

Planned Use of Data: The requirements established in United States Code Annotated, Title 20, Education, Chapter 31, Subchapter III, Section 1232 (e) stipulate that "[e]ach local education agency which participates in an applicable program under which federal funds are made available to such agency through a State agency shall submit, to such an agency, a general application containing the assurances set forth in subsection (b)." The application shall cover the participation by the local education agency in all federal programs administered by the U.S. Department of Education.

Instructions: These general assurances will be in effect for the duration of participation in federal and state programs until such time as the requirements change. The superintendent or other authorized officer must sign the certification and return to the address below. Payment for applications and contracts cannot be made by this agency until the general application is received. For further information, contact the Florida Department of Education, Comptroller's Office at (850) 245-0401, Suncom 205-0401.

Certification:

I, the undersigned authorized official for the named agency of the State of Florida, hereby apply for participation in federally funded and state funded education programs.

Typed Agency Name	Agency Number	Typed Name and Title of Authorized Official (Agency Head)

I certify that the agency will adhere to each of the assurances contained in this set of General Assurances for Participation in Federal and State Programs.

Signature (must be original)	Date	Area Code / Telephone Number

Return original to:
Florida Department of Education
Comptroller's Office
Room 944
Turlington Building
325 West Gaines Street
Tallahassee, Florida 32399-0400

General Assurances

Assurance is hereby given that

- the local educational agency (LEA) will administer each program covered by the application in accordance with all applicable statutes, regulations, program plans, and applications

- the control of funds provided to the LEA under each program and title to property acquired with those funds will be in a public agency and that a public agency will administer those funds and property

- the LEA will use fiscal control and fund accounting procedures that will ensure proper disbursement of and accounting for federal and state funds paid to that agency under each program

- the LEA will make reports to the Florida Department of Education and to the U.S. Secretary of Education as may reasonably be necessary to enable the Florida Department of Education and the U.S. Secretary of Education to perform their duties and that the LEA will maintain such records, including the records required under section 1232 (f) of this title, and provide access to those records, as the Florida Department of Education or the U.S. Secretary of Education deem necessary to perform their duties

- the LEA will provide reasonable opportunities for systematic consultation with and participation of teachers, parents, and other interested agencies, organizations, and individuals, including education-related community groups and non-profit organizations in the planning for and operation of each program

- any application, evaluation, periodic program plan or report relating to each program will be made readily available to parents and other members of the general public

- in the case of any project involving construction

    - the project is not inconsistent with overall State plans for the construction of school facilities

    - in developing plans for construction, due consideration will be given to excellence of architecture and design and to compliance with standards prescribed by the U.S. Secretary of Education under section 794 of Title 29 in order to ensure that facilities constructed with the use of federal funds are accessible to and usable by individuals with disabilities

- the LEA has adopted effective procedures for acquiring and disseminating to teachers and administrators participating in each program significant information from educational research, demonstrations, and similar projects and for adopting, where appro-

priate, promising educational practices developed through such projects, and such procedures shall ensure compliance with the requirements of the No Child Left Behind Act

- none of the funds expended under the applicable program will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization

- the LEA will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain

- The LEA will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency

- the LEA will comply with all federal statutes relating to nondiscrimination (These include but are not limited to Title VI of the Civil Rights Act of 1964 [P.L. 88-352] which prohibits discrimination on the basis of race, color, or national origin; Title IX of the Education Amendments of 1972, as amended [20 U.S.C 1681-1683 and 1685-1686], which prohibits discrimination on the basis of sex; Section 504 of the Rehabilitation Act of 1973, as amended [29 U.S.C 794], which prohibits discrimination on the basis of handicaps; and the Age Discrimination Act of 1975, as amended [42 U.S.C 6101-6107], which prohibits discrimination on the basis of age.)

- the LEA will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance

- the LEA will comply with the requirements of the Gun-Free Schools Act of 1994

- the LEA will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations” or section 215.97, Florida Statutes

- no federal appropriated funds have been paid or will be paid by or on behalf of the LEA to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant; the entering into of any cooperative agreement; and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement

- the LEA certifies that neither it nor its officers is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency

- the LEA certifies that it will maintain a drug-free workplace and will comply with the requirements of the Drug-Free Workplace Act of 1988

- the LEA will comply with all applicable requirements of all other federal laws, executive orders, regulations, and policies governing each of these federal programs

- the LEA will conduct assessments that are consistent with section 1111 (b)(3) of the No Child Left Behind Act

- the LEA will annually assess in English children who have been in the United States for three or more consecutive years; the LEA will annually assess the English proficiency of all limited English proficient children participating in a federally funded program, consistent with section 1111 (b)(7) of the No Child Left Behind Act

- after timely and meaningful consultation, the LEA will provide the opportunity for children enrolled in private, nonprofit schools and the educational personnel of such schools equitable participation in the activities and services provided by these federal funds and that the officials of the private schools have been so notified (Educational services or other benefits provided, including materials and equipment, shall be secular, neutral, and non-ideological. Expenditures for such services or other benefits shall be equal [consistent with the number of children to be served] to expenditures for programs of children enrolled in the public schools of the local educational agency.)

Terms

Applicant—a school district or other agency seeking a project award from the Florida Department of Education

Budget—the applicant's financial plan, in terms of accounts and amounts, showing use of funds for carrying out project objectives, services, or activities as found on the applicable budget narrative form (DOE 101, 102) or the budget description form (DOE 103), and on other budget documents required by the Florida Department of Education

Budget Period —the interval of time into which a project period is divided for budgetary purposes
(34 CFR, Part 77.1)

Capital Outlay—equipment, fixtures, and other tangible personal property of a nonconsumable and nonexpendable nature, the value or cost of which is $1,000 or more and the normal expected life of which is 1 year or more (sections 216.011 and 273.02, Florida Statutes)

Disbursement—payment made in cash or by check

Equipment—a material item of a nonexpendable nature, such as a built-in facility, a movable or fixed unit of furniture or furnishings, an instrument or apparatus, a machine (including attachments), instructional skill-training device, or a set of small articles whose parts are replaceable or repairable, the whole retaining its identity and utility over a period of time which is characteristic for items of its class (section V of Financial and Program Cost Accounting and Reporting for Florida Schools).

Monitoring—Florida Department of Education activities which determine that funds are used and programs are operated in accordance with applicable federal and state statutes, rules, and regulations

More Restrictive Conditions—special requirements or restrictions imposed on a project recipient as a condition of project approval by the Florida Department of Education

Obligations—the amounts for orders placed, contracts awarded, services received, or for similar transactions during the stipulated project period, which will require payment during the same or a future period

Private, Nonprofit Organization—an agency, organization, or institution not under federal or public supervision or control, which is owned by one or more corporations or associations whose net earnings do not benefit and cannot lawfully benefit any private shareholder or entity

Private, For Profit Organization—an agency, organization, or institution not under federal or public supervision or control, which is owned by one or more individuals, partnerships, corporations, or associations whose net earnings do or can benefit any private shareholder or entity

Project—the services or activities which an entity agrees to provide for a specified period of time utilizing state or federal funds awarded to a project recipient

Project Application—an entity's request for a project award under State or Federal education programs administered by the Florida Department of Education

Project Award—the approval of a project and of funding as stated in the project award notification sent to project recipients which specifies the amount of funds awarded, the project period, and any special requirements or restrictions to be imposed by the Florida Department of Education

Project Period—the length of time for which a project has been authorized

Project Recipient—the school district, public agency, or non-public agency which has been awarded a project to provide services or activities described in a project application approved by the Florida Department of Education

Roll-Forward—unobligated balances of an award or project that are allowed to be continued in subsequent funding periods.

Supplies—items of expendable nature that are consumed, worn out, or deteriorated in use or that loses their identity through fabrication or incorporation into a different or more complex unit or substance (section V of Financial and Program Cost Accounting and Reporting for Florida Schools)

Explanation of Federal Grants Management Requirements

The following section elaborates on certain requirements contained in legislation or regulations referred to in the "General Assurances" section. This section also explains the broad requirements that apply to federal program funds.

Accounts and Records
The recipient shall maintain all accounts, records, and other supporting documentation pertaining to all costs incurred and revenues or other applicable credits acquired under each approved project as specified in General Records Schedule for Florida School Districts (http://dlis.dos.state.fl.us/barm/recordsmgmt.html) or as prescribed by the Florida Department of Education.

Allowable Costs
Expenditures of the recipient may be charged to the project only if they are in payment of an obligation incurred during the project period, conform to the approved project, and comply with minimum requirements of federal and state statutes, rules, and regulations.

Amendments
Unless otherwise stated, all project recipients shall utilize the project amendment requirements and procedures described in the Project Application and Amendment Procedure for Federal and State Programs Administered by the Florida Department of Education (Green Book), section B.

Debarment, Suspension, and Other Responsibility Matters
As a required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Section 85.105 and 85.110

- The applicant certifies that it and its principals
    - are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency
    - have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property

- are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in this certification

- have not within a three-year period preceding this application had one or more public transactions (federal, state, or local) terminated for cause or default.

- Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

Drug-Free Workplace (Grantees Other Than Individual)
As required by the Drug-Free Workplace Act of 1988 and implemented at 34 CFR Part 85, Sections 85.605 and 85.610

- The applicant certifies that it will continue to provide a drug-free workplace by

  - publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition

  - establishing an on-going drug-free awareness program to inform employees about

    - the dangers of drug abuse in the workplace

    - the grantee's policy of maintaining a drug-free workplace

    - any available drug counseling, rehabilitation, and employee assistance programs

    - the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

  - making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the required statement mentioned above.

  - notifying the employee in the required statement mentioned above that as a condition of employment under the grant, the employee will

    - abide by the terms of the statement

    - notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction

- notifying the agency in writing within 10 calendar days after receiving notice under subparagraph (4)(b) from an employee or otherwise receiving actual notice of such conviction (Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. [Room 3124, GSA - Regional Office Building No. 3], Washington, D.C. 20202-4571. Notice shall include the identification number[s] of each affected grant.)

- taking one of the following actions within 30 calendar days of receiving the required notice with respect to any employee who is so convicted

  - taking appropriate personnel action against such an employee, up to and including termination consistent with the requirements of the Rehabilitation Act of 1973, as amended

  - requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency;

- making a good faith effort to continue to maintain a drug-free workplace through implementation of requirements stated above

- The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant.

  Place of Performance (street address, city, county, state, zip code)

  _____

  _____

  _____

  Mark ❑ if there are workplaces on file that are not identified here.

Section 215.97, Florida Statutes—Florida Single Audit Act

- The purposes of the section are to

  - establish uniform state audit requirements for state financial assistance provided by state agencies to nonstate entities to carry out state projects

  - promote sound financial management, including effective internal controls, with respect to state financial assistance administered by nonstate entities

  - promote audit economy and efficiency by relying to the extent possible on already required audits of federal financial assistance provided to nonstate entities

- provide for identification of state financial assistance transactions in the appropriations act, state accounting records, and recipient organization records

- promote improved coordination and cooperation within and between affected state agencies providing state financial assistance and nonstate entities receiving state assistance

- ensure to the maximum extent possible that state agencies monitor, use, and follow-up on audits of state financial assistance provided to nonstate entities.

- As a condition of receiving state financial assistance, each recipient that provides state financial assistance to a subrecipient shall

  - provide to a subrecipient information needed by the subrecipient to comply with the requirements of this section, including

    - identification of the state awarding agency

    - the audit and accountability requirements for state projects as stated in this section and applicable rules of the Executive Office of the Governor, rules of the Comptroller, and rules of the Auditor General

    - information from the Catalog of State Financial Assistance, including the standard state project number identifier; official title; legal authorization; and description of the state project, including objectives, restrictions, and other relevant information

    - information from the State Projects Compliance Supplement including the significant compliance requirements, eligibility requirements, matching requirements, and suggested audit procedures, and other relevant information determined necessary.

  - review the subrecipient audit reports, including the management letters, to the extent necessary to determine whether timely and appropriate corrective action has been taken with respect to audit findings and recommendations pertaining to state financial assistance provided by the state agency

  - perform such other procedures as specified in terms and conditions of the written agreement with the state awarding agency including any required monitoring of the subrecipient's use of state financial assistance through onsite visits, limited scope audits, or other specified procedures

  - require subrecipients as a condition of receiving state financial assistance to permit the independent auditor of the recipient, the state awarding agency, the

Comptroller, and the Auditor General access to the subrecipient's records and the subrecipient's independent auditor's working papers as necessary to comply with the requirements of this section

- Each recipient or subrecipient of state financial assistance shall comply with the following:

  - Each nonstate entity that receives state financial assistance and meets audit threshold requirements, in any fiscal year of the nonstate entity as stated in the rules of the Auditor General shall have a state single audit conducted for such fiscal year in accordance with the requirements of this act and with additional requirements established in rules of the Executive Office of the Governor, rules of the Comptroller, and rules of the Auditor General. If only one state project is involved in a nonstate entity's fiscal year, the nonstate entity may elect to have only a state project-specific audit of the state project for that fiscal year.

  - Each nonstate entity that receives state financial assistance and does not meet the threshold requirements, in any fiscal year of the nonstate entity, as stated in this law or the rules of the Auditor General is exempt for such fiscal year from the state single audit requirements of this section. However, such nonstate entity must meet terms and conditions specified in the written agreement with the state awarding agency.

  - Regardless of the amount of the state financial assistance, the provisions of this section do not exempt a nonstate entity from compliance with provisions of law relating to maintaining records concerning state financial assistance to such nonstate entity or allowing access and examination of those records by the state awarding agency, the Comptroller, or the Auditor General.

- Audits conducted pursuant to this section shall be performed annually.

- Audits conducted pursuant to this section shall be conducted by independent auditors in accordance with auditing standards as stated in rules of the Auditor General.

- Upon completion of the audit as required by this section, a copy of the recipient's financial reporting package shall be filed with the state awarding agency and the Auditor General. Upon completion of the audit as required by this section, a copy of the subrecipient's financial reporting package shall be filed with the recipient that provided the state financial assistance. The financial reporting package shall be filed in accordance with the rules of the Auditor General.

- All financial reporting packages prepared pursuant to the requirements of this section shall be available for public inspection.

- If an audit conducted pursuant to this section discloses any significant audit findings relating to state financial assistance, including material noncompliance with individual state project compliance requirements or reportable conditions in internal controls of the nonstate entity, the nonstate entity shall submit as part of the audit package to the state awarding agency a plan for corrective action to eliminate such audit findings or a statement describing the reasons that corrective action is not necessary.

- An audit conducted in accordance with this section is in addition to any audit of federal awards required by the federal Single Audit Act and other federal laws and regulations. To the extent that such federally required audits provide the state awarding agency with information it requires to carry out its responsibilities under state law or other guidance, a state agency shall rely upon and use that information

- Unless prohibited by law, the cost of audits pursuant to this section is allowable charges to state projects. However, any charges to state projects should be limited to those incremental costs incurred as a result of the audit requirements of this section in relation to other audit requirements. The nonstate entity should allocate such incremental costs to all state projects for which it expended state financial assistance.

- Audit costs may not be charged to state projects when audits required by this section have not been made or have been made but not in accordance with this section. If a nonstate entity fails to have an audit conducted consistent with this section, state awarding agencies may take appropriate corrective action to enforce compliance.

- This section does not prohibit the state awarding agency from including terms and conditions in the written agreement which require additional assurances that state financial assistance meets the applicable requirements of laws, regulations, and other compliance rules.

- A state awarding agency that provides state financial assistance to nonstate entities and conducts or arranges for audits of state financial assistance that are in addition to the audits conducted under this act shall, consistent with other applicable law, arrange for funding the full cost of such additional audits.

Gun Possession

As required by Title XIV, Part F, Sec 14601-3 (Gun-Free Schools Act of 1994), of the Improving America's Schools Act

- the applicant certifies that in compliance with section 1006.13(2)(a) Florida Statutes, any student who is determined to have brought a firearm, as defined in 18 U.S.C. s. 921, to school, any school function, or on any school-sponsored transportation will be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year and referred for criminal prosecution

- school boards may assign the student to a disciplinary program or second chance school for the purpose of continuing educational services during the period of expulsion

- superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the school board to modify the requirement if determined to be in the best interest of the student and the school system

Indirect Cost

School District Indirect Cost—The Florida Department of Education has been given the authority by the U. S. Department of Education to negotiate indirect cost proposals and to approve indirect cost rates for school districts. School districts are not required to develop an indirect cost proposal, and if they fail to do so, they will not be allowed to recover any indirect costs. Amounts from zero to the maximum negotiated rate may be approved for a program or project by the Department of Education Comptroller. Indirect costs shall only apply to federal projects.

Other Agency Indirect Cost—To be allowed to recover indirect costs, agencies other than school districts must furnish to the Comptroller's Office a copy of their current negotiated indirect cost plan that has been approved by the appropriate cognizant agency. Amounts from zero to the maximum negotiated rate may be approved for a program or project by the Department of Education Comptroller. Indirect costs shall only apply to federal projects.

State Agencies, Universities and Community Colleges Indirect Cost—State agencies, state universities and state community colleges must comply with section 216.346, Florida Statutes, which states, ". . . in any contract between state agencies, including any contract involving the State University System or the Florida Community College System, the agency receiving the contract or grant moneys shall charge no more than 5 percent of the total cost of the contract or grant for overhead or indirect costs or any other costs not required for the payment of direct costs."

Restrictions on Indirect Cost—Restrictions to the amount or percentage that can be charged to a project's administration (which includes indirect cost) will be reflected in the approved Project Award notification or amendment where applicable.

Lobbying

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82.105 and 82.110, the applicant certifies that

- no federal appropriated funds have been paid or will be paid by or on behalf of the undersigned to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress,

or an employee of a Member of Congress in connection with the making of any federal grant; the entering into of any cooperative agreement; and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement

- if any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions

- the undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

Section 216.347 -- Disbursements of grants and aids appropriations for lobbying prohibited. *—A state agency, water management district, or the judicial branch may not authorize or make any disbursement of grants and aids appropriations pursuant to a contract or grant to any person or organization unless the terms of the grant or contract prohibit the expenditure of funds for the purpose of lobbying the Legislature, the judicial branch, or a state agency. The provisions of this section are supplemental to the provisions of s. 11.062 and any other law prohibiting the use of state funds for lobbying purposes. However, for the purposes of this section and s. 11.062, the payment of funds for the purpose of registering as a lobbyist shall not be considered a lobbying purpose.*

For agencies not audited by the Auditor General, this information is due in the Comptroller's Office within one year after the end of the agency's fiscal period. An audit or attestation statement as applicable is required for each fiscal year which contains a Department of Education's program fiscal activity.

More Restrictive Conditions

Project recipients found to be in noncompliance with fund source requirements shall be subject to the imposition of more restrictive conditions.

Obligations By Project Recipients

Obligations will be considered to have been incurred by project recipients on the basis of documentary evidence of binding commitments for the acquisition of goods or property or for the performance of work, except that funds for personal services, for services performed by public utilities, for travel, and for the rental of facilities shall be considered to have been obligated as of the time such services were rendered, such travel was performed, and/or rented facilities were used, respectively.

Ownership of Products—Intellectual Property

The ownership of products resulting from a project, which are subject to intellectual property rights shall remain with the Department unless such ownership is explicitly waived. The following terms and conditions apply to all grants and grant recipients, unless explicitly waived:

- With respect to all products created by the grantee for this project, said materials will be the property of the Department.

- To the extent that any product constitutes a "work" within the meaning of U.S. copy right laws, 17 U.S.C.S. 101,et seq., it shall be a "work for hire." In the event that a court of competent jurisdiction determines that a product or material is not a work for hire as a matter of law the contractor shall assign and convey to the Department all right, title, and interest in the product or material and require its employees and subcontractors to do the same.

- The grantee agrees that its employees will not assert any ownership of the product produced under the grant. The grantee shall be responsible for acquiring necessary releases or establishing appropriate contract provisions in its dealings with employees and subcontractors in order to secure the Department's rights.

- Any claim by the grantee of ownership of pre-existing copyrights should be explicitly stated in the grant documentation.

- The grantee agrees that if it hires any third party to perform any work on the grant project, the work shall be on a "work for hire" basis and shall not in any way infringe upon the Department's ownership of the product.

- The grantee agrees not to convey any rights in the product to a third party.

- If the grantee hires a third party to perform any work that involves the use of pre-existing intellectual content owned by the third party, the third party shall expressly assert its ownership of the content and shall grant the grantee and the Department the non-exclusive license to use the product.

- A licensing agreement or other agreement regarding the use of intellectual property developed under the grant may be developed between the Department and grantee in order to further the use of the products in the educational community.

Participation of Private School Students and Staff In Federal Grants

Students and staff of nonpublic schools shall be given an opportunity for equitable participation in activities or services conducted by school districts utilizing federal funds. Check for program specific guidelines.

Payment Method

There are four methods of payment.

- Federal cash advances will be made by state warrant or electronic funds transfer (EFT) to a recipient for disbursements. For federally funded projects, requests for federal cash advance must be made on the Electronic Federal Cash Advance Request System. If at times it is determined that disbursements are going to exceed the amount of cash on hand plus cash in transit, an on-line amendment can be made prior to the due date of the next Federal Cash Advance distribution on the Electronic Federal Cash Advance Request System.

- Quarterly payments of state funds will be made in accordance with the project award notification.

- Reimbursements will be made by state warrant after disbursements are made by the recipient. Requests for reimbursement with the appropriate back-up documentation should be submitted in accordance with applicable program requirements and instructions on the project award notification.

- Performance-based payments will be distributed upon receipt of a properly prepared invoice and acceptance of units of deliverables by the program administrator.

Personnel Costs – Time Distribution

Charges to federal projects for personnel costs, whether treated as direct or indirect costs, will be based on payrolls documented in accordance with generally accepted practice of the local educational agency (LEA) and approved by a responsible official(s) of the LEA.

As required by OMB Circular A-87, when employees work solely on a single federal award or cost objective, charges for their salaries and wages must be supported by periodic certifications (at least semi-annually) that the employees worked solely on that program for the period covered by the certification. These certifications must be signed by the employee or a supervisory official having first hand knowledge of the work performed by the employee.

When employees work on multiple activities or cost objectives (e.g., more than one federal project, a federal project and a non-federal project, an indirect cost activity, and a direct cost activity), the distribution of their salaries or wages will be supported by personnel activity reports or equivalent documents which meet the following standards:

- reflect an after-the-fact distribution of the actual activity of each employee

- account for the total activity for which each employee is compensated

- be prepared at least monthly and must coincide with one or more pay periods

- signed by the employee.

The U.S. Department of Education has approved for use in Florida a substitute system for allocating salaries to federal projects. This substitute system, the Personnel Activity Reporting System (PARS), may be implemented by school districts so long as it is implemented as described in the June, 1996 *Implementation Memorandum and the Personnel Activity Reporting Handbook*.* When school districts choose to use the substitute system (PARS), no variations are allowable without specific authorization from the Florida Department of Education. School districts choosing not to use the approved substitute system must implement a system that meets all of the OMB Circular A-87 standards specified above. School districts choosing to use the DOE substitute system must inform the DOE Comptroller's Office and specify the reporting months.

Protected Prayer in Public Elementary and Secondary Schools

As required in Section 9524 of the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the No Child Left Behind Act of 2001, school districts and other local education agencies must certify that they have no policy that prevents or otherwise denies participation in constitutionally protected prayer in public elementary and secondary schools.

Project Effective Dates

- For federal programs, funds shall be obligated no earlier than the date the project application was received by the Department in substantially acceptable form or the effective date of the federal grant award, whichever is later.

- For state programs, funds shall be obligated no earlier than the effective date of the legislative appropriation.

All project award notifications reflect the beginning and ending date of the project period and the date for submission of the final expenditure report. All conditions stated in the award notification are considered binding on the project recipient.

Property

Property purchased, in whole or in part, with federal funds shall be used for the purpose of that federal program and accounted for in accordance with applicable federal and state statutes, rules and regulations, as follows.

* This does not authorize school districts to consolidate administrative funds except as otherwise stated in the project award notification or to utilize "teams" as a basis for allocating personnel costs. these methods apply only to the Florida Department of Education.

Disposition of Equipment

EDGAR 80.32(e) states that when original or replacement equipment acquired under a grant or subgrant is no longer needed for the original project or program or for other activities currently or previously supported by a federal agency, disposition of the equipment will be made as follows:

- Items of equipment with a current per unit fair market value of less than $5,000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency. Income received from these sales will not be reported to Florida Department of Education.

- Items of equipment with a current per unit fair market value in excess of $5,000 may be retained or sold and the awarding agency shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the awarding agency's share of the equipment.

- In cases where a grantee or subgrantee fails to take appropriate disposition actions, the awarding agency may direct the grantee or subgrantee to take excess and disposition actions.

The Florida Department of Education's policy concerning proceeds received from the sale of property costing over $5,000 is that the net amount received from such sales will remain at the subgrantee level to be used in the same ongoing program. Funds from such sales will be treated as other program income in the same ongoing program(s). This type income should be amended into a current year's project in which the sale occurred. It should then be reported on line 11 of the Project Disbursement Report (form DOE-399) as a total for the fiscal year in which the sale(s) occurred. This identification of income is necessary to meet reporting requirements of the United States Department of Education. Complete documentation for this type income and expenditures should be maintained for monitoring and auditing purposes. Income from the sale of this type property should be recorded in the agency's special revenue account as other income and identified as such for the federal cash advance reconciliation at the end of each fiscal year. If the agency is no longer receiving funds for the particular project or program, the income from such equipment sales will be returned to the Florida Department of Education to be forwarded to the United States Department of Education.

Disposition of Real Property

Disposition of real property will be handled on an individual basis in accordance with EDGAR 80.31(c)(1)(2)(3). The local educational agency will also coordinate real property dispositions with the program coordinator responsible for the particular project or program from which the real property was purchased.

Property purchased entirely with state funds shall meet the minimum requirements of the Auditor General as defined in the County and District Tangible Personal Property publication in addition to local procedures.

Purchasing

Recipients may use their own procurement policies provided that they meet the minimum requirements of federal and state statutes, rules, and regulations.

Reporting Requirements—Financial Disbursements

Federal project recipients on cash advance are required to report disbursements utilizing the On-Line Disbursement Reporting Application and by submitting a project budget summary and Disbursement Report (DOE-399, 499 or 599) on a annual basis for each active project. This report is to be received in the Comptroller's Office by the 20th of the month succeeding the final month in which the disbursements were made. Failure to submit the report in a timely manner may result in a decrease or possible delay in the monthly cash advance or possible loss of funds. Other federal project recipients are required to report in accordance with instructions stated in the project award notification. State project recipients shall submit reports as required by the Florida Department of Education.

Retention of Records and Access

Retention and access requirements for records apply unless otherwise stated in the program application. The following are excerpts from 34 CFR 80.42.

(a) Applicability. (1) This section applies to all financial and programmatic records, supporting documents, statistical records, and other records of grantees or subgrantees which are:

(i) Required to be maintained by the terms of this part, program regulations or the grant agreement, or

(ii) Otherwise reasonably considered as pertinent to program regulations or the grant agreement.

(2)(b) Length of retention period. (1) Except as otherwise provided, records must be retained for three years from the starting date specified in paragraph (c) of this section.

(2) If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, which ever is later.

(c) Starting date of retention period—(1) General. When grant support is continued or renewed at annual or other intervals, the retention period for the records of each funding period starts on the day the grantee or subgrantee submits to the awarding agency its single or last expenditure report for that period. However, if grant support is continued or renewed quarterly, the retention period for each years records starts on the day the grantee submits its expenditure report for the last quarter of the Federal fiscal year. In all other cases, the retention period starts on the day the grantee submits its final expenditure report. If an expenditure report has been waived, the retention period starts on the day the report would have been due.

(e) Access to records—(1) Records of grantees and subgrantees. The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.

(2) Expiration of right of access. The right of access in this section must not be limited to the required retention period but shall last as long as the records are retained.

Federal Recipient Single Audit Act of 1984 and Amendments of 1996

Audit requirements for state and local governmental recipients of federal grants were implemented by the Office of Management and Budget (OMB) to comply with the Single Audit Act of 1984, P. L. 98-502, and Single Audit Act Amendments of 1996, P.L.104-156. OMB Circular No. A-133 "Audits of Institutions of Higher Education and Other Non-Profit Institutions" further clarified the public law. These requirements are found in an appendix to 34 CFR Part 80 of the Education Department General Administrative Regulations (EDGAR), and proposed amendments to these circulars, based on the 1996 Amendments, are found in the Federal Register, November 5, 1996. Part 80 of EDGAR sets forth the uniform administrative requirements for grants and cooperative agreements to state and local governments, and Part 74 of EDGAR sets forth the administrative requirements for institutions of higher education and nonprofit institutions. The 1996 amendments require that non-federal entities expending $300,000 or more in a year in federal awards must obtain an audit. Any non-federal entity expending less than $300,000 in a year will be subject to monitoring by the Florida Department of Education, as provided in proposed revisions to OMB Circular A-133.

To be in compliance, one of the following actions must be taken:

- If the total amount of all federal funds expended during the agency's most recently completed fiscal year equaled or exceeded $300,000.00, a copy of the audit completed in accordance with federal regulations must be submitted to each funding agency.

- If the total amount of federal funds expended during the agency's most recently completed fiscal year was less than $300,000.00, a statement to that effect must be submitted to each funding agency.

Please note that in calculating the total amount of federal funds expended, the amount must include all federal funds received from the Department of Education and all other state or federal agencies. The period of time to be considered is the agency's most recently completed fiscal year rather than the effective period(s) of the award(s) received.

Audit reports shall be sent in accordance with the revised OMB Circular A-133 to:

Florida Department of Education
Comptroller's Office
325 West Gaines Street
944 Turlington Bldg.
Tallahassee, Florida 32399-0400

State Recipient Florida Single Audit Act (s. 215.97, F.S.)

The Florida Single Audit Act was enacted to parallel federal audit requirements to the extent possible. The objectives of the Act were

- to establish uniform state audit requirements for state financial assistance
- to promote sound financial management, including effective internal controls
- to promote audit economy and efficiency.

The Single Audit Act applies to non-state entities, which include local governments (excluding community colleges and district school boards), nonprofit entities, and for profit entities whose fiscal year begins on or after July 1, 2000, and expends state financial assistance of $300,000 or greater within the entities fiscal year.

State financial assistance excludes

- federal or state matching
- procurement contracts
- contracts for state-owned and contractor-operated facilities.

Procurement contracts used to buy goods and services from vendors are outside the scope of this Act.

Each non-state agency that expends a total amount of state financial assistance in excess of $300,000 in any fiscal year is required to have a state single audit for that fiscal year. Those expending less than $300,000 are exempt from the state single audit requirements.

Each non-state agency, as a condition of receiving state financial assistance, must allow the Department of Education, the Comptroller, and the Auditor General access to the recipient's records and the recipient's independent auditor's working papers as necessary.

The non-state agency is required to deliver copies of their financial reporting packages to the Department of Education and the Auditor General within 45 days after delivery of the audit

package but no later than 9 months after the end of the fiscal year. The date that the audit report package was delivered must be indicated in correspondence accompanying the package submitted to the Auditor General. Each financial reporting package shall contain, in part, the auditor's opinion, schedule of state financial assistance, audit findings, and proposed plan of corrective actions. Agencies are responsible for ensuring timely and effective corrective actions have been taken.

Audit reports shall be sent in accordance with s. 215.97, F. S. to

Florida Department of Education
Comptroller's Office
325 West Gaines Street
944 Turlington Bldg.
Tallahassee, Florida 32399-0400

Supplement, Not Supplant

In accordance with program-specific authorizing laws and regulations implementing those laws, federal funds must generally be used to increase to the extent practical the level of nonfederal funds that would be available in the absence of federal funds and in no case replace these nonfederal funds

The Stevens' Amendment

All federally funded projects must comply with The Stevens' Amendment of the Department of Defense Appropriation Act, found in section 8136, which provides

> When issuing statements, press releases, request for proposals, bid solicitations, and other documents describing this project, the recipient shall clearly state: (1) the dollar amount of federal funds for the project; (2) the percentages of the total cost of the project that will be financed with Federal funds, and (3) the percentage and dollar amount of the total cost of the project that will be financed by nongovernmental sources.

Travel

All travel performed in connection with approved project activities must be in compliance with section 112.061, Florida Statutes, which covers per diem and travel expenses, and the procedures for subgrantees (see section H of this publication).