

Outline of Provisions for IDEA-Funded Contracts

The following provisions should be addressed, as applicable, in local educational agency (LEA) contracts funded wholly or in part by Individuals with Disabilities Education Act (IDEA) grants. This list is not intended to be a comprehensive list of all provisions for such contracts.

Personal Services

A description of the service, estimate of time required, rate of compensation, and termination provisions. (When the contract is for personal services)
[2 CFR Part 225 (OMB Circular A-87), Appendix B, § 32(b)(8)]

Invoices and Statements

Administrative costs (expenses incurred in controlling and directing the organization related to the provision of services or commodities under the contract, (e.g., accounting, contracting), will be invoiced. The amount may be stated in aggregate and not detailed. (When the contract is for the administration of IDEA grants)

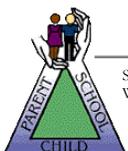
Invoices and statements for other services provided will contain sufficient detail to allow the LEA to determine the services billed have been provided (e.g., the provider, number of hours of service; dates of service.)
[2 CFR Part 225 (OMB Circular A-87), Appendix A, § C.1(j)]

Invoices and statements for commodities will contain sufficient detail to allow the LEA to determine the commodities billed have been provided (e.g., per unit cost, number of units delivered, delivery date, and the number back ordered.)
[2 CFR Part 225 (OMB Circular A-87), Appendix A, § C.1(j)]

Invoices and statements will be supported by evidence a retained service is available and may be rendered when necessary. (When the contract includes retainer fees)
[2 CFR Part 225 (OMB Circular A-87), Appendix B, § 32(c)]

Breach and Termination

Administrative, contractual, or legal remedies if a party violates or breaches contract terms, and sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold, currently \$100,000)
[34 CFR § 80.36(i)(1)]



Termination of the contract for cause and for convenience, including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)
[34 CFR § 80.36(i)(2)]

Equal Employment Opportunity

Compliance with Executive Order 11246 of September 24, 1965, *Equal Employment Opportunity*, as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Chapter 60). (All construction contracts awarded in excess of \$10,000)
<http://www.dol.gov/compliance/laws/comp-eeo.htm> <http://www.archives.gov/federal-register/codification/executive-order/11246.html>

[34 CFR § 80.36(i)(3)]

Copeland “Anti-Kickback” Act

Compliance with the *Copeland Anti-Kickback Act* (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). (All contracts for construction or repair)
<http://www.dol.gov/compliance/laws/comp-copeland.htm>
<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=99c9a20e960f56be66f17ae91b52c888&rgn=div5&view=text&node=29:1.1.1.1.4&idno=29>

[34 CFR § 80.36(i)(4)]

Davis-Bacon Act

Compliance with the *Davis-Bacon Act* (40 U.S.C. 276a to 276a–7) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts in excess of \$2000)
<http://www.dol.gov/compliance/laws/comp-dbra.htm>

[34 CFR § 80.36(i)(5)]

Contract Work Hours and Safety Standards Act

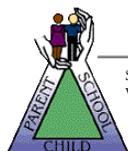
Compliance with sections 103 and 107 of the *Contract Work Hours and Safety Standards Act* (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers) <http://www.dol.gov/compliance/laws/comp-cwhssa.htm>

[34 CFR § 80.36(i)(6)]

Environmental Protection

Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the *Clean Water Act* (33 U.S.C. 1368), Executive Order 11738, <http://www.epa.gov/isdc/eo11738.htm> and Environmental Protection Agency regulations <http://www.epa.gov/lawsregs/search/40cfr.html>. (Contracts in excess of \$100,000)

[34 CFR § 80.36(i)(12)]



Mandatory standards and policies relating to energy efficiency contained in the State of Wisconsin's energy conservation plan issued in compliance with the *Energy Policy and Conservation Act* (Pub. L. 94-163, 89 Stat. 871) See Chapter Comm 63, Wis. Admin Code, *Energy Conservation*, governing the design and construction of buildings for the effective use of energy.

<http://www.legis.state.wi.us/rsb/code/comm/comm063.pdf>

[34 CFR § 80.36(i)(13)]

Allowable Costs

Ensure grant funds are only used for allowable costs of the contractor.

For each type of organization, there is a set of federal principles for determining allowable costs.

- For the costs of a state, local, or Indian tribal government use White House Office of Management and Budget (OMB) Circular A-87.

http://www.whitehouse.gov/sites/default/files/omb/assets/agencyinformation_circulars_pdf/a87_2004.pdf

- For the costs of a private non-profit organization other than an institution of higher education, a hospital, or an organization named in OMB Circular A-122 as not subject to OMB A-122 use OMB Circular A-122.

http://www.whitehouse.gov/sites/default/files/omb/assets/omb/circulars/a122/a122_2004.pdf

- For the costs of an educational institution, use OMB Circular A-21.

http://www.whitehouse.gov/sites/default/files/omb/assets/omb/circulars/a021/a21_2004.pdf

- For the costs of a for-profit organization, other than a hospital, use the principles in 48 CFR § 31.2, *Contracts with Commercial Organizations*.

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=0d10ccee77acb384d4d67b3b20ad2d15&rgn=div5&view=text&node=48:1.0.1.5.30&idno=48#48:1.0.1.5.30.2>

[34 CFR § 80.22]

Purchased materials and supplies are charged at their actual prices, net of applicable credits. Withdrawals from general stores or stockrooms are charged at their actual net cost under any recognized method of pricing inventory withdrawals, consistently applied. Incoming transportation charges are a proper part of materials and supplies costs.

[2 CFR Part 225 (OMB Circular A-87), Appendix B, § 26(b)]

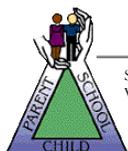
Only materials and supplies actually used for the performance of the contract are charged.

[2 CFR Part 225 (OMB Circular A-87), Appendix B, § 26(c)]

Third-Party Grant Administrator of IDEA Grants

When the contract is for administration of IDEA grants, the third-party administrator will:

- Submit to the Wisconsin Department of Public Instruction (WDPI) and the LEA budgets detailing commodities and services the third-party administrator will provide during the project year; and



- Establish separate accounts for each project and all project receipts and record disbursements in this account; and
- Make disbursements to the LEA only after receiving adequate supporting documentation for LEA expenditures; and
- At the end of the project year, send the LEA a final statement of cumulative costs incurred.

The third-party administrator is responsible for timely financial and program reporting including submitting:

- All required financial and program data to the WDPI in accordance with WDPI's procedures.
- IDEA financial claims on a schedule established by the WDPI.
- A final IDEA financial claim to the WDPI within 90 days of the end of the project year.

[34 CFR § 80.36(i)(7)]

The LEA will provide fiscal and program information to the third-party administrator timely to allow preparation of the required reports.

[34 CFR § 80.36(i)(7)]

Patent Rights

With respect to any discovery or invention which arises or is developed in the course of or under the contract, the standard patent rights clause specified in 37 CFR § 401.14 under *Patent Rights (Small Business Firms and Nonprofit Organizations)*. <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=37&PART=401&SECTION=14&YEAR=1999&TYPE=PDF>

[34 CFR § 80.36(i)(8)]

Copyrights and Rights in Data

The U.S. Department of Education and the WDPI reserve royalty-free, nonexclusive, and irrevocable licenses to reproduce, publish or otherwise use, and to authorize others to use, for their purposes:

- (a) The copyright in any work developed under the contract; and
- (b) Any rights of copyright to which the contractor purchases ownership with grant support.

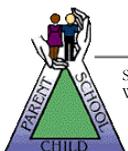
[34 CFR § 80.36(i)(9)]

Contractor Records

Access by the WDPI, the LEA, the U.S. Department of Education, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to the contract for the purpose of making audit, examination, excerpts, and transcriptions.

[34 CFR § 80.36(i)(10)]

Retention by the contractor of all required grant records for at least three years after the end of the project year and all other pending matters are closed. [34 CFR § 80.36(i)(11)]



Lobbying

The language of *Certification Regarding Lobbying*, U.S. Department of Education form ED 80-0013. The contractor will ensure this provision is in subcontracts at all tiers and a provision that all subrecipients certify and disclose as required in 34 CFR Part 82, *New Restrictions on Lobbying*.

<http://www2.ed.gov/programs/8003/assurancesed80013.doc>

http://www.access.gpo.gov/nara/cfr/waisidx_08/34cfr82_08.html

[31 USC §§ 1352(a) and (b)(5)]

Debarred and Suspended Parties

When entering into a covered transaction with a person at the next lower tier, verify the party is not excluded or disqualified.

[34 CFR § 85.300]

Before entering into a covered transaction with a participant at the next lowest tier, require that participant to:

- comply with 34 CFR part 85, subpart C, *Responsibilities of Party Regarding Transactions* as a condition of participation in the transaction; and
- pass to each person with whom the participant enters into a covered transaction at the next lowest tier the requirement to comply with 34 CFR part 85, subpart C.

[34 CFR § 80.35.330]

Publications

A publication that contains project materials (a copyrightable work developed with funds from this grant [34 CFR 75.622]) will also contain:

- “The contents of this (publication) were developed under a grant from the Department of Education. However those contents do not necessarily represent the policy of the Department of Education, and you should not assume endorsement by the federal Government.”

[34 CFR § 75.620(b)]

- The CFDA number of the grant under which the publication was developed.

Religious Activities and Religious Discrimination

Funds paid under the contract may not be used to pay for religious worship, instruction, or proselytization or equipment or supplies to be used for these activities, except when the faith-based organization is selected as a result of the genuine and independent private choices of individual beneficiaries of the program and provided the organization otherwise satisfies program requirements. (Contract with a faith-based organization)

[34 CFR § 80.36(j)(2)]

Inherently religious activities, (e.g., religious worship, instruction, proselytization), must be offered at a separate time or location from any programs or services supported by the contract, except when the faith-based organization is selected as a result of the genuine and independent private choices of



individual beneficiaries of the program and provided the organization otherwise satisfies program requirements. (Contract with a faith-based organization)
[34 CFR § 80.36(j)(3)]

The contractor will not discriminate against a beneficiary or prospective beneficiary in the provision of program services on the basis of religion or religious belief. (Contract with a faith-based organization)
[34 CFR § 80.36(j)(5)]

Pupil Records

Comply with the confidentiality requirements of § 118.125, Wis. Stats., Pupil records and 34 CFR part 99, Family Educational Rights and Privacy Act (When pupil records are used or maintained by the contractor)

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