



*EarlyLearn NYC*

**Fiscal Manual**

**ACS Division of Financial Services**



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## **I. INTRODUCTION**



## INTRODUCTION

The EarlyLearn Fiscal Manual for the City of New York Administration for Children’s Services (ACS) is a set of policies and procedures which applies to all organizations under EarlyLearn contracts with the City of New York ACS, Board Members, management and financial staff in the areas of Bookkeeping, Reporting, Budgeting, Cost Allocating, Payment, Audit and Accounting. The objective of the Fiscal Manual is to foster documentation of internal controls in policy and procedure manuals by EarlyLearn contractors and to ensure compliance with all applicable Federal, State and City regulations. All City providers must comply with applicable law, including the Charter of the City of New York (Charter), the rules and regulations of the Procurement Policy Board (PPB) and the Comptroller’s Directives. All Agency transactions are subject to audit by the Office of the Comptroller.

Where specific requirements pertain to Head Start Agencies, i.e., those agencies receiving Head Start funds and operating Head Start programs, these requirements are defined under a Head Start caption. The same methodology applies to agencies funded for Child Care (CC) or Pre-K for All (Pre-K). Where there is no specific definition in the caption, the requirement governs EarlyLearn contracts in general.

On September 28, 2016, the Non-profit Resiliency Committee (NRC) was launched by Mayor Bill de Blasio to offer opportunities for collaboration and to expand lines of communication between the City and nonprofit human service sector. Effective FY 18, the standard human service contract and standard performance contract were revised by the NRC to streamline and clarify provisions, align language with other guidance and regulations (e.g., Federal, State) and respond to feedback from non-profit providers. Discretionary contracts have also been revised.

The Office of Head Start (OHS) issued a comprehensive revision of the Head Start Program Performance Standards (HSPPS) effective November 7, 2016. All applicable financial and administrative requirements have been updated to conform to the latest revision of the HSPPS.

Throughout this manual, and in keeping with consistent terminology, “*Grantee*” is used to refer to ACS as the recipient of the Federal award. “*Delegate Agency*” refers to the sub-recipient of the Federal award to carry out part of a Federal program. (See Key Definitions under Appendix B).



## **II. ACCOUNTING OPERATIONS**

## **A FISCAL OPERATIONS**

All EarlyLearn contractors must implement measures to ensure that their fiscal operations reflect the following:

- Conformance with all applicable City, State and Federal statutes, regulations, and policies;
- Written financial policies and procedures are created and followed;
- Maintenance of an automated accounting and record-keeping system adequate for effective oversight; and
- Conformance with staff qualifications and competency requirements, as outlined below:

HS Performance Standards: §1302.91 Staff qualifications and competency requirements:

*Head Start directors* hired after November 7, 2016, must have, at a minimum, a baccalaureate degree and experience in supervision of staff, fiscal management, and administration.

*Fiscal officer.* A program must assess staffing needs in consideration of the fiscal complexity of the organization and applicable financial management requirements and secure the regularly scheduled or ongoing services of a fiscal officer with sufficient education and experience to meet their needs. A program must ensure a fiscal officer hired after November 7, 2016, is a certified public accountant or has, at a minimum, a baccalaureate degree in accounting, business, fiscal management, or a related field.

## **B GENERALLY ACCEPTED ACCOUNTING PRINCIPLES (GAAP)**

All Agencies are to adhere to Generally Accepted Accounting Principles (GAAP) for Nonprofit Organizations as set by Financial Accounting Standards Board (FASB). The GAAP are uniform minimum standards of and guidelines to financial accounting and reporting. Agencies should follow FASB announcements in order to ensure their accounting systems are up to date with new GAAP requirements Accounting records must be established and maintained in accordance with GAAP. It is essential that the organization maintains accurate, complete and permanent financial records available for inspection by ACS.

## **C ACCRUAL ACCOUNTING FOR EARLYLEARN**

All Agencies must follow the accrual basis of accounting.

## **D FUND ACCOUNTING**

Agencies must establish and maintain one or more separate accounts (fund) for every funding source they obtain from ACS.

There are five categories of funding used by ACS as funding sources: Child Care Development Block Grant (CCBG), Community Development Block Grant (CDBG), Head Start Grant (HS), Pre-K for All, and City Tax Levy (CTL). *See Section V - Funding Sources For EarlyLearn Programs.*

## E ACCOUNTING CALENDAR

All EarlyLearn Agencies must close their books monthly since ACS requires monthly reporting.

## F CHART OF ACCOUNTS

A separate Chart of Accounts must be maintained for each funding stream.

For example, each account number may be preceded by a two-digit department number and a three-digit project/function code. An Agency receiving multiple types of funding from ACS for its EarlyLearn program can differentiate the salaries expense account from the different funding sources by assigning a different funding code to the various programs as follows:

*Note: Alternatively, the chart of accounts may be numbered based on a structure to clearly identify accounts, especially if the Agency has multiple sources of funding and needs to report a general ledger by funding source. The following may be used to create account numbers using numeric and alpha characters:*

Fund	Program	Account Number	Account Description	Final Account Name
001	Child Care	500001	Salaries	001-500001 Salaries
002	Child Care/Pre-K for All	500001	Salaries	002-500001 Salaries
003	Head Start	500001	Salaries	003-500001 Salaries
004	Head Start/Pre-K for All	500001	Salaries	004-500001 Salaries

## G GENERAL LEDGER

EarlyLearn contractors receiving Head Start funds must maintain a separate GL for each funding source or have the ability to run GL reports at the individual funding level. Effective February 1, 2016, ACS instituted a requirement for all Head Start Agencies to provide an explanation, additional supporting schedules and/or reconciliation documents that match the submitted ACS-HS-01 Reports. This report captures a monthly summary of Head Start expenses for each Agency, including Non-Federal Share, CACFP and any applicable indirect cost rate.

## H CASH TRANSACTIONS

Some transactions may be most easily handled with cash. For EarlyLearn agencies, a Petty Cash account may be used for day-to-day expenses. Policies and procedures regarding the use of a Petty Cash account must be documented and approved by the agency's governing board.

### **501 (C) (3) Tax Exempt Certificate**

**Sales Tax:** Purchases above \$110 are subject to a **4.5%** NYC Sales Tax and a **4%** NY State Sales Tax. The City Sales Tax rate is **4.5%**, NY State Sales and Use Tax is **4%** and the Metropolitan Commuter Transportation District surcharge of 0.375% for a total Sales and Use Tax of **8.875 percent**.

Upon approval by the IRS of the Application for Recognition of Tax Exemption, non-profit organizations are granted tax exempt status. This certificate exempts qualifying non-profit organizations from payment of sales tax on purchases. It is the responsibility of the Agency to have this certificate available.

## **I BANK ACCOUNTS FOR EARLYLEARN DELEGATE AGENCIES**

EarlyLearn contractors must establish and maintain bank accounts in a New York Charter Bank located in New York City and/or a bank authorized to do business in New York State which must be used solely in connection with funds received from ACS. Each EL agency should establish one bank account to receive all ACS payments. A waiver of this requirement can be requested in writing to the respective ACS Budget Analyst and the waiver must be approved by the ACS Associate Commissioner of Finance. If approved, the Agency may use a general bank account or a set of accounts for deposits and disbursements.

EL contractors must notify ACS of the names, locations and account numbers of all bank accounts in which any funds are maintained, or any change in the names, locations, or account numbers of such accounts within five (5) days of such establishment or change. The respective banks must have branches located in New York City unless otherwise approved by ACS Financial Services.

EL contractors must notify ACS Financial Services of the names, titles, and business addresses of those persons authorized to receive, handle or disburse monies under ACS contracts, including the names and addresses of companies where such persons are not employees of the Agencies. Such notification must be in writing and furnished to the ACS Finance within five (5) days from the execution of the contract, and within five (5) days of subsequent change or substitution of authorized signatories.

### **Bank Reconciliation**

Bank reconciliation of all accounts must be prepared on a monthly basis, reviewed and approved by the appropriate staff and kept on file for examination by ACS, when requested.

## **J CHECKS AND SIGNING AUTHORITY FOR EARLYLEARN DELEGATE AGENCIES**

In order to reduce the risk of forgery, all blank checks should be kept in a secure location. ACS requires all Agencies to develop policies and procedures which identify persons authorized to write and approve checks, including the names of at least two (2) authorized signers (a waiver must be requested from ACS for a single signatory on check issuance). All rules with regard to checks should be followed for accounting and bank transactions. Signature stamps must not be used on checks.

## **K CREDIT/DEBIT CARD FOR EARLYLEARN DELEGATE AGENCIES**

It is the responsibility of the Governing Board to determine if the Agency needs a credit card or debit card. Only authorized individuals can utilize the card. There must be written policies and procedures which are implemented and updated. The card must only be used for official purposes

related to the needs of the Agency and not used for personal matters or loaned/shared. The card must have a pre-set limit that may not be exceeded unless approved by an authorized officer. It cannot be used for purchases from any business in which a member of the agency has an interest. All credit card transactions must conform to accounting rules and Agencies must report all credit/debit card expenditures monthly to the Governing Board and Policy Council.

The Board must ensure that adequate guidelines are in place. The Board must be notified of major transactions which will require sufficient cash set aside for payments. All credit/debit card transactions must be supported by documentation. Credit cards are to be kept secure.

## **L PETTY CASH**

Petty cash is a small amount of cash available to an Agency to facilitate payment for small purchases that would not normally be handled by check. Petty cash must be managed in the same way as other assets of the Agency and is subject to the same regulations as expenses paid by check. It is the Agency's responsibility to set up policies for use of petty cash and to monitor transactions. The Agency can set a specified dollar limit; any transaction over the specified amount must be processed by check payment or a purchase order, and must not be taken from petty cash. All petty cash transactions should include the date, amount and a general description and must be reconciled to the general ledger monthly. The timing of replenishment will differ and will be dependent on the Agency's flow of business. The same regulations regarding cash transactions should be followed for petty cash with regard to security.

## **M TRAVEL COSTS FOR EARLYLEARN**

Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees travelling on official business. All EarlyLearn contractors must follow travel policies and procedures to ensure that all travel costs are pre-authorized and documented. Head Start agencies should follow 45 CFR Part §75.474.

## **N JOURNAL ENTRIES**

EarlyLearn agencies must follow accounting guidelines for developing internal policies and procedures for journal entries.

## **O ALLOWABLE COST**

Allowable costs shall be determined in accordance with the applicable cost principles. In general, EarlyLearn contractors, including CDBG sub-recipients, must be guided by 2 CFR Part 200. However, All Head Start Agencies are governed by 45 CFR Part §75. EL agencies must follow guidelines in their financial policies and accounting procedures and contractual agreement which indicate what costs are considered allowable and unallowable under the terms and conditions of the appropriate funding source; what and how direct and indirect costs are allocated; who approves these costs; and what is the procurement method to obtain goods and services.

Costs considered allowable may be disallowed if they are not specifically defined in financial policies and written accounting procedures. When allowable costs have been articulated in

financial policies, they should also be codified in the chart of account. The total cost is the sum of the allowable direct and allocable indirect costs, less any applicable credits. When a list of items which are considered allowable and unallowable has been established and allocated, an approval process should also be articulated regarding the purchase of goods and services. Set dollar thresholds and appropriate levels of approval should be defined before goods and services are purchased.

A procurement method should also be defined that outlines the various methods that can be used to purchase goods and services and the dollar threshold in which certain purchases would follow. All costs charged must meet the following requirements: (1) be approved by authorized personnel (director, supervisor, etc.); (2) determined as reasonable; (3) allocable to the program for which the grant was awarded; (4) permitted under the appropriate cost principles prescribed in 45 CFR §75.404 through §75.408 for Head Start and 200.474 for non-Head Start programs, including CDBG; (5) not restricted or prohibited by the terms and conditions of the grant; (6) be in accordance with generally accepted accounting principles (GAAP); (7) be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the organization; (8) not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period; and (9) be accorded consistent treatment and adequately documented.

### **Prior Written Approval**

In order to avoid subsequent disallowance or dispute based on not being reasonable or allocable, the Agency may seek the prior written approval for indirect costs from ACS in advance of the incurrence of special or unusual costs. Prior written approval should include the timeframe or scope of the agreement. The absence of prior written approval on any element of cost will not, in itself, affect the reasonableness or whether or not that element is allocable, unless prior approval is specifically required for allowable costs, as described under certain circumstances.

## **P LIMITATION ON ALLOWANCE OF COSTS**

The Head Start grant may be subject to statutory requirements that limit allowable costs. When the maximum amount allowable under a limitation is less than the total amount determined in accordance with the principles, the unrecoverable amount under the grant may not be charged to the grant.

## **Q DISALLOWED COSTS**

Any cost found by ACS to be improperly incurred by the Agency shall not be subject to reimbursement.

### **Common Reasons for Disallowing Costs:**

- Purchase disallowed under Federal, State or City laws and regulations
- Lack of documentation.
- Credit not handled correctly.
- Non-compliance with procurement requirements.

- Improper dispersal of Cost of Living Adjustments (COLA).
- Claiming a cost as both direct and indirect.
- Charging a federal grant differently than other funds.
- Written cost allocation plan and/or indirect/direct plan not updated or on file.
- Cost not allocated or allocated properly.
- Year-end spending issues.
- No formal system for recording obligations.

## **R FINANCIAL MANAGEMENT SYSTEMS**

The financial management system of each Agency must provide for the following:

1. Identification, in its accounts, of all City, State and Federal grants received and expended and the programs under which they were received. All Federal award identification must include, as applicable, the Catalog of Federal Domestic Assistance (CFDA) title and number, Federal Award Identification Number (FAIN) and year, name of the HHS awarding agency and name of pass-through entity, if any.
2. Maintenance of an automated accounting and record-keeping system adequate for effective oversight
3. Accurate, current and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements. If an HHS awarding agency requires reporting on an accrual basis from a recipient that maintains its records on other than an accrual basis, the recipient must not be required to establish an accrual accounting system.
4. Records that identify adequately the source and application of funds for federally-funded activities.
5. Effective control over, and accountability for, all funds, property and other assets
6. Comparison expenditures with budget amounts for each Federal award;
7. Written procedures to implement payment requirements;
8. Written procedures for determining allowable costs in accordance with Subpart E [Cost Principles] and the terms and conditions of the grant.

## **S HEAD START REPORTING REQUIREMENTS**

All HS Agencies must establish and maintain efficient and effective reporting systems that generate official reports for Federal, State, and local authorities, as required by applicable law.

**HS Act: 642(d) (2) (A)-(1)** - Each Agency must ensure the sharing of accurate and regular information for use by the Governing Body and the Policy Committee about program planning, policies, and Agency operations.

**HS Act: 642(c) (1) (E)-(IV) (IV)** - The Governing Body is responsible for establishing procedures and guidelines for accessing and collecting information in reports received by the Governing Body/Policy Committee. Listed below are the required monthly, quarterly and annual reports for Head Start:



*Monthly:* SEC.642 (d) (2) (A)-(D)

- Monthly financial statements, including credit card expenditures
- Monthly variance reports showing budget versus actual
- Monthly program information summaries
- Program enrollment reports, including attendance reports for children whose care is partially subsidized by another public agency
- Monthly reports meals and snacks provided through USDA programs

*Quarterly:* IRS 941 1304.51(H) (2)

*Annually:* SEC.642 (d) (2) (E)-(G) (1)

- Single Audit, if expenses exceed \$750,000
- The annual self-assessment, including any findings related to such assessment
- The community-wide strategic planning and needs assessment of the Head Start Agency, including any applicable updates
- The program information reports

Reporting to HHS Agencies and the IRS

*Annually:*

- Single Audit
- Compliance Supplement; HS Act Sec. 647(c)(2)
- Annual Report to the Public HS Act Sec. 644(a)(2)(A)-(H)
- IRS 5500 1304.51(h)(2)
- IRS 990 (for non-profits) 1304.51(h)(2)

## **T MONTH END CLOSING**

All Head Start delegate agencies are required to have financial management systems that provide timely, current and complete disclosure of financial information. Regulations related to Head Start financial management can be found in 45 CFR §75.302. CDBG agencies must prepare month-end closing in keeping with the requirements of §200.302.

*See ACS Administrative Advisory for Month-End Closing.*

## **U ACS-HS-01 REPORTING TEMPLATE**

The ACS-HS-01 Reporting Template captures cumulative expense reporting by Head Start Agencies. This is a new reporting requirement for Agencies to compile monthly expenses for ACS to review for Grant Reporting on the SF-425. There is a separate ACS-EHS-01 reporting template for Early Head Start, using the same schedule. Agencies can also use this template to generate reports for Governing Boards. The data is reported in six sections:

- Section One - Summarizes Head Start expenses at the Delegate level and also allows a line for Delegates using an approved Indirect Cost Rate
- Section Two - Non-Federal Share for Pre-K/Other
- Section Three - Total of Section One + Section Two
- Section Four - Summarizes administrative expenses by Head Start funds and NFS and calculates the overall Administrative percentage
- Section Five - CACFP expenses
- Section Six - Monthly Credit Card Expenditure

This ACS-HS-01 and ACS-EHS-01 reports are due six weeks after the end of each 6-month period on:

- September 15<sup>th</sup> for the period February 1<sup>st</sup> to July 31<sup>st</sup>
- March 15<sup>th</sup> for the period August 1<sup>st</sup> to January 31<sup>st</sup>

## V RECONCILIATION

### EarlyLearn Contracts

Section 4.07 Recoupment of Disallowances, Improperly Incurred Costs and Overpayments.

The Department (ACS) may, at its option, either require the Contractor (EarlyLearn Contractor) to reimburse the Department or withhold for the purposes of set-off, any monies due to Contractor under this Agreement up to the amount of any disallowance or improperly incurred costs resulting from any audits of Contractor, and/or the amount of any overpayment to Contractor with regard to this Agreement or to any other agreement between the parties hereto, including any agreement(s) that commenced prior to the commencement date of this Agreement. Prior to the imposition of withholding for the purposes of set-off, the Department will provide the Contractor with an opportunity to be heard upon at least (10) days prior written notice.

Section 4.07 Failure to Spend Funds.

In the event that Contractor fails to spend funds for any part of the Budget within the time indicated therein (i.e. the fiscal year unless otherwise indicated) or at the level of expenditures indicated therein, the Department reserves the right, in its discretion, to recoup any funds advanced and not spent. If Contractor fails to spend funds in the Budget, the Department reserves the discretion to reduce the Budget going forward to account for the expected future level of expenditures. Interest paid is not an allowable expense and must be paid with non-restricted, non-EarlyLearn funds.

## **W BANK LINE OF CREDIT**

All ACS contractors are encouraged to obtain a bank line of credit to fill temporary or seasonal needs. The line of credit is generally an unsecured loan made on the basis of the borrower's financial strength. Banks usually require compensation for offering a credit line in the form of balances and/or fees. The interest rate on a loan may be negotiated, depending on the level of balances held at the bank.



### **III. EARLY CARE AND EDUCATION**

## **Early Care and Education (ECE) Program Description**

### **A CHILD CARE**

Child Care subsidized services are funded by several Federal, State and local resources. Each funding stream has eligibility requirements for the differing types of care. ACS is the recipient of the Child Development Block Grant (CDBG) and the New York City allocation of the Federal Child Care Development Block Grant (CCDBG), and governs the eligibility requirements for subsidized child care.

Eligible children are between six (6) weeks and thirteen (13) years of age (18 years if the child has a documented special need). Contracted center-based care is for children between the ages of 6 weeks and up to four (4) years of age (kindergarten eligible). Contracted Family Child Care is for children between the ages of six (6) weeks and up to four (4) years of age (Pre-K eligibility). Additionally, children must meet one or more of the following criteria:

- Family income below 100% of Federal Poverty Level (FPL);
- Receiving Temporary Assistance for Needy Families (TANF) or Social Security Income (SSI);
- Homeless (as defined by the McKinney-Vento Act); and
- The child is in foster care.

### **Child Care Centers**

EarlyLearn Child Care programs are offered in two types of settings:

- Center-based care is available for children from six-weeks through four-years-old; and
- Home-based care is available for children from six-weeks through four-years-old through Family Child Care Networks (FCCN).

### **B PRE-K FOR ALL (Pre-K)**

Pre-K for All is a free educational program available through the Department of Education. A child is eligible for Pre-K if he or she resides in New York City, and will be 4 years old by December 31st of the school year. Programs are offered as either half day or full day in local elementary schools and community-based sites. Funding is integrated into the EarlyLearn NYC contract and many ACS-funded Child Care centers include Pre-K, funded at half day. To support full day expansion starting City Fiscal Year 2015, ACS provided additional Pre-K funding known as “Enhancement” to the base EarlyLearn contract funds. For further guidance, please refer to presentations from August 24, 2015 and October 1, 2014 along with FAQs on the EarlyLearn website.

### **C HEADSTART**

In order to be eligible for Head Start services, a child shall be either 3 or 4 years of age and shall meet one or more of the following criteria:

- Family income below 100% of Federal Poverty Level (FPL);
- Receiving Temporary Assistance for Needy Families (TANF) or Social Security Income (SSI);
- Homeless (as defined by the McKinney-Vento Act); and
- The child is in foster care.

In addition to families meeting one of the above listed eligibility criteria, programs with Head Start funding may serve families with incomes **above** 100% of FPL, up to maximum of 10% of their funded enrollment. Each program is allowed to serve 10% of their program's enrollment above the poverty level, as per Head Start Performance Standard § 1305.4.

After priority is given to those meeting the above criteria, and in addition to the 10% over-income, programs with Head Start funding may also serve a limited number of families with incomes between 100% and 130% of FPL (up to a maximum of 35%). Head Start enrollment should include 10% of children with disabilities.

#### **D EARLY HEAD START**

Early Head Start is a year-round program that provides services for pregnant women and for children from birth through age three and their families. Early Head Start children and their families receive:

- High-quality early childhood education in a warm and nurturing relationship-based environment
- Parent education and engagement
- Health and mental health services or referrals , including prenatal education
- Nutrition education
- Family support services

#### **F DUAL PROGRAMS**

Dual programs serve children who are eligible for both Child Care and Head Start services. In order to be eligible for a dual slot, a child must meet the Head Start age and income requirements:

- Children must be pre-school age (3 years or 4 years);
- Family income below 100% of FPL; and
- Recipient of cash assistance through TANF.



#### **IV. NON-FEDERAL SHARE AND PARENT FEES**

## **A HEAD START NON-FEDERAL SHARE**

Head Start is a federally funded and community-supported program. The federal government awards community organizations 80 percent of the cost of the program and expects the agency to fund 20 percent from cash or in-kind donations. Federal regulations guide all grant expenses, including non-federal share match. Costs must be reasonable, necessary, allowable, and allocable and meet the cost principles. Non-Federal Share is calculated at 20 percent of the total grantee budget (i.e. Federal funds plus Non-Federal Share), which is the same as 25 percent of the Federal funds.

### **Example of Calculation of Non-Federal Share with total funding of \$1,250,000:-**

Non-Federal Share: \$250,000 = 20% of \$1,250,000  
Federal Grant: \$1,000,000 = 80%  
Total Funding: \$1,250,000 = 100%

Non-Federal Share = 20% of total funding, i.e. (20% of \$1,250,000).

### **OR**

25% of Federal funds, i.e. (25% of \$1,000,000) –  
*For every \$1 spent of Federal funds, there must be a \$.25 Non-Federal match.*

For buildings with Federal Interest, it is not allowable to charge the difference between rent paid and the appraisal value as Non-Federal Share in-kind. For Head Start sites, if the appraisal value includes renovations paid for with Federal funds, there can be no charge for Non-Federal Share in-kind, due to the use of Federal funds. This would be interpreted as charging the same cost against Head Start twice – once, to renovate with Federal funds, and again for Non-Federal Share. ACS' policy is consistent with Federal policy; Charging of rent as Non-Federal Share in-kind is not allowable unless the building, whether owned or leased, is free of Federal funds. (*See Administrative Advisory for Non-Federal Share*).

### **Budget**

The Head Start grant application submitted by ACS must include proposed budgets for the federal and non-federal funds.

## **B CHILD CARE**

### **Parent Fees**

Families with children enrolled in EarlyLearn are required to pay a weekly parent fee with regard to the daily attendance of the child. All families in receipt of child care or a dually eligible child care slot (infant/toddler or pre-school) are required to pay the weekly parent fees, with the exception of families who are homeless, or in receipt of Public Assistance, Preventive Services or Protective Services, as determined by the HRA or ACS.

#### **i. Parent/Caretaker Fees**



ACS sets a weekly fee for Child Care services (Center-based and FCC Network providers) in accordance with New York State regulations. ACS also advises the contractor of the fee the parent/caretaker must be charged for each enrolled family.

The contractor must collect parent/caretakers fees weekly in advance for children whose program eligibility requires parent contributions. Contractors are required to have a parent/caretaker fee collection policy. This policy must be shared with all fee paying parents/caretakers. Parent/caretaker fees are billed and collected in advance of service. It is the responsibility of the parent/caretaker to pay the fee and the contractor to collect the fee. The fee is revenue which is essential to the operation of the contractor's program(s). Parent Fees are a separate funding source and must be tracked separately.

**ii. Private Pay**

ACS encourages the integration of fee paying children with ACS-subsidized children. Fee paying families would have a different fee schedule from the one ACS- subsidized children are contracted for. Note that the separation of children by income is discouraged.

**C PRE-K FOR ALL**

Programs are offered as either half day or full day in local elementary schools and community-based sites. Many ACS-funded child care centers include Pre-K. Pre-K is free but the wrap-around hours associated with the Child Care program still requires a fee.

**Pre-K for All In-Kind Contributions:**

Only private funding may be viewed as the source of "in-kind" contributions. In-kind contributions are not subject to cost allocation principles, as long as the Pre-K program is not charged more than it would have been charged under an appropriate cost allocation methodology.

**D COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)**

Community Development Block Grant program funds are used by sub-recipients of the ACS as an allowable cost for Child Care. Services must comply with the CDBG national objective pertaining to limited clientele income requirement so that at least 51 percent of enrollees are from low and moderate income households. Not less than 70 percent of CDBG funds must be used for activities that benefit low-and moderate-income persons. In addition, each activity must meet one of the following national objectives for the program: benefit low-and moderate-income persons, prevention or elimination of slums or blight, or address community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community for which other funding is not available. (*See Administrative Advisory on CDBG Funding*)

**E CHILD AND ADULT CARE FOOD PROGRAM (CACFP)**

**i. Child Care Centers - CACFP**

Eligible public or private nonprofit centers, outside-school-hours care centers, Head Start programs, and other institutions which are licensed or approved to provide day care services must

participate in CACFP, independently or as sponsored centers. For-profit programs (or contractors with for-profit centers under their administration), receive subsidized tuition payments for child care services or are eligible for free and reduced meal reimbursement from CACFP if meals were served in months with twenty five percent (25%) of enrolled children, or twenty five percent (25%) of the licensed capacity (whichever is less). Meals served to children are reimbursed at rates based upon a child's eligibility for free, reduced price, or paid meals. The EarlyLearn program requires all contractors to maintain a CACFP agreement which covers food costs paid for by CACFP.

**ii. Family Child Care Homes – CACFP**

If the contractor has a Family Child Care Network (“FCC Network”), the contractor serves as the administrator of CACFP for its family child care or group child care home providers [“FCC Network provider(s)”] and is responsible for ensuring FCC Network providers are participants in CACFP. Reimbursement for meals served in child care homes is based upon eligibility for tier I rates (which targets higher levels of reimbursement to low-income areas, providers, or children) or lower tier II rates.

**iii Pre-K for All - CACFP**

**Note:** If the food for Pre-K students is paid for by any other State, Federal, or City program, food related costs are not allowable. Food related costs not covered by such programs may be allowable. Pre-K Contractors are strongly encouraged to take full advantage of funding available from the CACFP operated by the NYS Department of Health. Subject to the above, food and salary costs associated with the provision of one daily snack/meal of adequate nutritive quality may be allowable.

In addition to following CACFP standards, contractors are required to follow the New York City Food Standards for all meals served. Pre-K programs that operate fewer than three hours must provide a nutritional snack. Full day Pre-K contractors must provide at least a lunch and snack to ensure that the nutritional needs of the children are met. Food preparation staff costs must be reasonable when compared to length of time the students are at the site and the number of students being fed. If Pre-K staff are required to eat with the Pre-K students, the cost of food for staff may also be allowable.

**F FUND-RAISING**

Costs of organized fund-raising for capital or obtaining contributions are unallowable. Fund raising for the purposes of meeting program objectives are allowable with prior written approval from ACS. Fund raising activities must be conducted after normal business hours and on week-ends and staff must volunteer to participate.



## **V. COST ALLOCATION**

## A COST ALLOCATION PLAN

### EarlyLearn

A Cost Allocation Plan (CAP) is a written account of the methodology used by the EarlyLearn contractor to allocate program costs among its various funding sources. A CAP is required based on contractual agreement with ACS and in accordance with federal regulations. EarlyLearn agencies shall accurately and equitably allocate costs which are attributable to the operation of two or more programs or which are attributable to two or more funding sources. The goal is to ensure that each program bears its fair share of the total cost of any item. The requirement to allocate the costs of shared resources can be met by using logical and rational methods. Generally, the methods used to allocate a shared cost should be the simplest, most straightforward way of allocating this type of cost fairly. (*See Administrative Advisory for a Cost Allocation Plan*).

#### i. Braided Funding

Funds from two or more funding sources are coordinated to support the total cost of services to individual children, but revenues are allocated and expenditures tracked by funding source. In braiding, cost allocation methods are required to assure that there is no duplicate funding of service costs and that each funding source is charged its fair share of program and administrative costs.

#### ii. Space Allocation

The following requirements should be considered when allocating space at EarlyLearn Facilities:

- Use floor plans, blueprints or measurements;
- Assign square footage to individual programs to the extent possible;
- Calculate percentages of shared use from assigned square footage;
- Apply percentages of shared use to square footage which can't be assigned to individual program (common areas);
- Make sure all space is accounted for; and
- Factor in amount of time used to equitably apportion shared space.

### Pre-K for All

Pre-K for All funds cannot be used to cover non Pre-K related expenses. Therefore, contractors receiving funds from any public agency or private source to operate a program/programs in addition to the Pre-K for All, have a continuing obligation under the terms of the Agreement to establish a cost allocation methodology and to allocate costs across programs, where applicable. Therefore, where the contractor accepts funding for programs from non-NYC DOE funding sources, or from the NYC DOE for programs other than the Pre-K for All (*e.g.*, Special Education Programs), the contractor must:

- Establish an allocation methodology that fairly and reasonably divides costs, and maintain all relevant records and information used to develop the methodology;

- For each fiscal year, maintain books, records, and other evidence, in sufficient detail to support all claims against the Pre-K for All program, including those that have been made on a cost allocation basis;
- Review allocation percentages on an annual basis and adjust them as necessary to reflect a reasonable cost distribution among programs. All records used to update or select a new allocation methodology for an expense must be maintained as well;
- Make the records available for review by the Field Office or its representative upon request. Failure to maintain appropriate documentation may result in disallowance.

## **B COST ALLOCATING PLAN**

All Agencies are required to have a Cost Allocating Plan (CAP). Allocating between direct and indirect costs refers to the distribution of costs between direct/programmatic and indirect/administrative funds which, taken together, equal the total cost of the program.

## **C DIRECT AND INDIRECT COSTS**

Head Start regulations for determining direct and indirect costs charged to Federal awards are provided in CFR §§75.413 and 75.414.

### **Direct Costs**

Direct Costs are those costs that can be identified specifically with a particular final cost objective, such as Head Start, Child Care, Pre-K and CACFP or other internally or externally funded activities, or that can be assigned to such activities relatively easily with a high degree of accuracy. Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect (Facilities & Administration) costs.

### **Application to EarlyLearn and Head Start Agencies**

Identification with the Federal award rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect (Facilities & Administrative) costs of Federal awards. Typical costs charged directly to a Federal award are the compensation of employees who work on that award, their fringe benefit costs, the costs of materials and other items of expense incurred for the Federal award. Certain costs that would otherwise be treated as indirect costs if directly related to a specific award may also include extraordinary utility consumption, the cost of materials supplied from stock, or services rendered by specialized facilities or other institutional service operations.

### **Indirect (F&A) Costs**

Facilities and Administration Classification: For nonprofit organizations, indirect (F&A) costs must be classified within two broad categories:

- (a) “Facilities” is defined as depreciation on buildings, equipment, and capital improvement, interest on debt associated with certain buildings, equipment and capital improvements, and operations and maintenance expenses.

- (b) “Administration” is defined as general administration and general expenses such as the director’s office, accounting, personnel, and all other types of expenditures not listed specifically less than one of the subcategories of “Facilities” (including cross allocations from other pools, where applicable).

## **D INDIRECT COST RATE**

An Indirect Cost Rate may be limited to the Administrative Cost Limitations according to regulations for each funding stream. E.g. 15% for Head Start. Grantees are not required to obtain a negotiated indirect cost rate. Those who have never had a negotiated indirect cost rate have three options for dealing with indirect costs. See Appendix C - Uniform Guidance Highlights.

### **Indirect Cost Agreement:**

An indirect cost rate agreement is negotiated with the cognizant Federal agency for indirect costs (Cost Allocation Services, or CAS), as outlined in §75.414, which is explained in more detail in Appendix IV to Part 75. This applies to grants or awards which are received directly from a Federal agency.

### **De Minimis Rate**

Any agency that has a direct Federal grant or sub-award and has never negotiated an indirect cost rate, except for a governmental department or agency unit that receives more than \$35 million in direct federal funding, may elect to charge a *de minimis* rate of 10 percent of modified total direct costs (MTDC), which may be used indefinitely. Election and effective date of the *de minimis* rate should be reflected in the fiscal policies and procedures of the Agency. Adoption of the *de minimis* rate does not impact the Agency's responsibility to assure that administrative costs do not exceed 15 percent of the total Head Start award (federal + match).

## **E ADMINISTRATIVE COSTS**

Expenses are reported in functional classifications such as program expenses and administrative expenses. Administrative costs cover the organization-wide management functions of accounting, budgeting, coordination, direction, and planning, as well as the management of payroll, personnel, property and purchasing. Such costs can be for either personnel or non-personnel functions.

**Note:** The Indirect Cost Rate is 100% administrative.

The agency's actual percentage can be obtained by dividing the total administrative costs incurred to date or at the end of the budget period by the total approved costs (Federal share plus non-Federal share) incurred to date or at the end of the budget period. The total expenditures for administrative costs are to be reported in the final Financial Status Report (SF-425) for the budget period.

## **F PROGRAM COSTS**

Program costs cover expenses directly related to (1) the direction, coordination or implementation of component services as well as (2) the delivery of such component services.

Program costs include but are not limited to:

- (1) Personnel and non-personnel costs directly related to the provision of program component services and component training and transportation for staff, parents and volunteers;
- (2) Costs of functions directly associated with the delivery of program component services through the direction, coordination or implementation of a specific component;
- (3) Costs of the salaries of program component coordinators and component staff, janitorial and transportation staff involved in program component efforts, and the costs associated with parent involvement and component volunteer services; and
- (4) Expenses related to program staff functions, such as the allocable costs of fringe benefits, travel, per diem and transportation, training, food, center/ classroom supplies and equipment, parent activities funds, insurance, and the occupation, operation and maintenance of program component space, including utilities.

## **G DUAL BENEFIT COSTS**

Agencies must classify dual benefit costs as administrative or programmatic and properly allocate such costs according to the percent of the cost that is dedicated to each function.

Dual benefit costs can apply to personnel or non-personnel costs. Dual benefit costs include, but are not limited to, salaries, benefits and other costs (such as travel, per diem, and training costs) of staff that perform both program and development and administrative functions. Space costs, and costs related to space, such as utilities, are frequently dual benefit costs. The delegate agency must determine and allocate appropriately the amount or percentage of space dedicated to development and administration.

Not all administrative costs or program costs can be classified as dual benefit costs. For example, the executive director is 100 percent administrative and a teacher is 100 percent program. They cannot be classified as a dual benefit cost.

## **H ADMINISTRATIVE COST LIMITATIONS**

### **i. Head Start Administrative Cost Limitation**

Section 644 (b) of the Head Start Act and Head Start regulation 45 CFR 1303.5 limit the amount of funds that may be charged as development and administrative costs to 15% of the total costs, including the required non-Federal Share contribution to such costs, for both Head Start only programs and Dual programs. However, there are some exceptions. If a Head Start contractor has a negotiated rate in excess of 15%, the maximum that can be charged to Head Start grant funding is 15%. The net percentage of the negotiated rate in excess of 15% can be accounted for as non-Federal Share.

**ii. Child Care Administrative Cost Limitations**

The percentage of funds that may be charged as development and administrative costs for Child Care is 25% of the total cost of the program. In dual programs, contractors must apply the administrative cost rate appropriate to the funding:

- Combined Head Start and Non-Federal Share funded expense development and administrative costs cannot exceed 15%
- Child Care, Community Development Block Grant and Child Care related Pre-K for All-funded development and administrative costs cannot exceed 20%

Agencies must have a system in place, including adequate procedures, to ensure that the administrative cost limitation requirement is met in order to avoid non-compliance. Non-compliance with this requirement would entail an audit finding and corrective action plan.





## **VI. FUNDING SOURCES FOR EARLYLEARN PROGRAMS**

## **A EARLYLEARN FUNDING MODEL**

The EarlyLearn system combines three types of early childhood education programs and braids five funding streams managed by ACS and the New York City Department of Education (DOE). ACS and its contractor/delegates must follow fund accounting, which separately tracks revenue and expenditures by funding source.

The categories of funds disbursed by ACS and the DOE to contractors are:

### **1. Head Start Grant/Early Head Start**

ACS receives funding through a direct federal Head Start grant to provide high-quality early childhood services to children in poor families and low-income children with special needs and limited English proficiency.

### **2. Child Care Development Block Grant (CCDBG)**

ACS receives funding from the State for CCDBG to provide contracted center-based and home-based childcare for eligible children in low-income working families.

### **3. Community Development Block Grant (CDBG)**

The CDBG program is a flexible program that provides communities with resources to address a wide range of unique community development needs. Beginning in 1974, the CDBG program is one of the longest continuously run programs at Housing and Urban Development (HUD). The CDBG program provides annual grants on a formula basis to local government and States.

### **4. Pre-K for All**

The New York State Pre-K for All program, funded by state education dollars, provides resources through the Department of Education to operate public prekindergarten classes for 4-year-olds in local public schools and community-based child care centers.

### **5. City Tax Levy (CTL)**

New York City tax levy dollars are used to support the early childhood education system through revenue from real estate related taxes, income taxes, consumption and other taxes.



## **VII. BUDGET**

## **A BUDGET PROCEDURES**

ACS Budget Department conducts an annual budget review which provides contractors with an opportunity to revise contract budgets according to projected spending for the current and new fiscal year within the allowable categories, as set forth in the *EarlyLearn Line Item Budget Guidelines in Fiscal year 2016*. The budget period follows New York City's fiscal year which is July 1 to June 30. EarlyLearn contracts are funded with multiple funding streams such as Federal Head Start, Child Care Development Block Grant, Community Development Block Grant, Pre-K for All and City Tax Levy dollars with defined service goals, specific allowable and unallowable expenditures, matching requirements and program standards. Each program budget is developed for one year and funds must be disbursed within the budget fiscal year.

## **B HHS ACCELERATOR**

HHS Accelerator is the City's online financial system designed to simplify and expedite the contract process and deliver services directly to clients and communities. HHS Accelerator has the functionality to manage finance data electronically. EarlyLearn contractors can manage and monitor budgets, invoices and payments in the system. HHS Accelerator Financials enables a paperless process and facilitates increased accuracy in accounting. The system provides:

- A document vault;
- The standard budget template;
- A common interface for the City and contractors to conduct financial transactions,
- Functionality to configure/modify/amend budgets and process invoices and payments.

All EarlyLearn contractors must complete the budget process in HHS Accelerator by accessing the budget, allocating among budget categories and providing documentation during submission. Subsequent changes can be made after the original budget has been reviewed and approved. (*See Contractor Budget Submission Manual*).

### **Document Vault**

The document vault is a secure, web-based filing cabinet which allows ACS and its contractors to store and share documents. Standard file types such as .doc, .docx, .rtf, .xls, .xlsx, .ppt, .txt, .tif, .jpeg, and .pdf are allowed. Documents that do not exceed the file size limit (12 MB) can be uploaded. Stored documents should be related to the fiscal management and development of contracts.

## **C BUDGET REVIEW**

After a contract is awarded and configured in HHS Accelerator, contractors must prepare and submit a baseline budget for the proposed services, and contract terms. The purpose of the budget review process is to provide approval of all budgets and budget modifications submitted by ACS contractors. An approved budget also allows ACS to provide an advance in the beginning of the year.

Individual contracts are assigned to specific ACS Budget Analysts. Budgets and Budget Modifications must be submitted through HHS Accelerator Financials which is a new financial system of records effective October 1, 2016, for routing to the assigned Budget Analysts. After review by the Analysts, the budgets/budget modifications are routed to a second level of review for final approval. *(See ACS FY17 Contract Budget Submission and Modification Instructions along with the EarlyLearn Line Item Budget Guidelines for reference).*

### **Pre-K for All Enhancement**

The Pre-K for All Enhancement initiative was implemented in FY15. This initiative adds additional funding for the following three areas:

1. Salary enhancement for Pre-K for All Lead Teachers with specific credentials;
2. Support Staff for increased class size and Quality Enhancement; and
3. Funds for substitute teachers while Teachers and Assistant Teachers attend professional development provided by the Department of Education.



## **VIII. PAYMENTS**

## A ADVANCE PAYMENTS TO EL CONTRACTORS USING CITY TAX LEVY

ACS invoices NY State on a monthly basis for Child Care expenses. For Head Start, ACS draws down funds every three months on the calendar quarter. ACS does not draw down Federal Head Start funds prior to disbursement to Agencies. ACS advances funds at the beginning of the year and reimburses based on submitted expenses. Advanced funds are City tax levy dollars. (*See Contractor Invoice Guide*).

**Recoupment Policy, effective FY18:** The Non-profit Resiliency Committee (NRC) has agreed to three months' advance payments ahead of the fiscal year for providers. Advances will be recouped from invoices during the last six months of the operating budget period for a given fiscal year. The number of recoupment payments will equal at least the number of months of advance and will not be required through a single payment. The City will make reasonable accommodations to the recoupment schedule to ensure operational continuity based on the financial situation and cash flow needs of the provider. When all invoices have been submitted, any unrecovered advance amount will be owed to the City.

## B WEEKLY PARENT FEES

The weekly parent fee, for Child Care services only, is assessed on the family level. This is a statutory requirement for Child Care subsidized services only. For families with multiple children, the fee is "attached" to the youngest child receiving Child Care and only the program providing services to that child is responsible for collecting the fee from the family. ACS deducts the aggregate parent fees due from the contractors' payments.

In accordance with the signed ACS fee agreement, any parent's failure to pay fees is a reason for termination and contractors should immediately give a written notice of any past due fees to the family with a specified time period of 7 to 30 days within which satisfactory arrangements for such payment must be made. If a full payment of parent fees is not made within the time period specified, contractors should provide a second written notice to the family stating that failing to comply with paying their fee will result in termination from the program.

If a preschooler is in a dually eligible slot, the fee is assessed on no more than six hours of service. The remaining hours of service are considered Head Start. There is no fee for a child in a Head Start slot.

## C CITY OF NEW YORK PAYEE INFORMATION PORTAL (PIP)

The Payee Information Portal of the City of New York is designed to facilitate vendor record maintenance and payment reconciliation.

Registered vendors can:

- Check payment status
- Update business information

- View agreements and invoices from City agencies
- Enroll for commodity codes to receive solicitations from the City
- Update and report subcontracts and payments made to subcontractors
- Download applications forms

#### **D**    **HHS ACCELERATOR**

ACS will use some of the major components of HHS Accelerator for financial transactions:

- ACS and Delegate Agencies manage budgets and track payments through electronic financial transactions;
- The document vault allows for easy storage, access and sharing of electronic documents. All Head Start Administrative Advisories are shared in the document vault.





## **IX. PROCUREMENT**

## **A EARLYLEARN AND CDBG SUB-RECIPIENTS**

Effective May 17, 2017, there is an additional one-year grace period for implementation of the procurement standards in 2 CFR 200.317 through 200.326. This means that the grace period for all delegate agencies extends through December 25, 2017 and the implementation date for the procurement standards will start for fiscal years beginning on or after December 26, 2017.

All Agencies must document procurement procedures for purchasing services, supplies and other expendable property, equipment and real property and provide copies to ACS. Agencies are advised to use Federal funds to purchase items and services in the most economical way, and to buy only what they need. Agencies are allowed to design their own systems for procurement and use whatever forms and workflow processes best suit the organizational structure.

The Simplified Acquisition Threshold (SAT) is the dollar amount below which an entity may purchase properties or services using small purchase methods to expedite the purchase of items costing less than that amount. Currently, the amount is \$150,000. Federal principles lay out the following five permissible methods of procurement:

- “Micro purchase” means an acquisition of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the micro purchase threshold of \$3,500 (as per 48 CFR 2.1, effective 10/1/2015 through 9/30/2020);
- Small purchases, except most construction, that are less than the SAT;
- Competitive sealed bids with formal advertisement; required for most construction and all others above the SAT;
- Competitive proposals, required above the SAT; and
- Non-competitive proposals or sole source.

### **Head Start**

Head Start Agencies must follow the standards for procurement found in regulations §45 CFR 75.329. Purchases of equipment, purchase/construction/renovation of facilities, etc., must comply with all applicable Federal requirements, including prior approval from the Administration for Children and Families (ACF) as the Head Start funding source. (*See Administrative Advisory for Head Start Procurement*).

### **CDBG**

CDBG agencies must be guided by the Federal principles under §200.320. (*See Administrative Advisory for CDBG Funding*)

## **B ACS BIDDING PROCEDURES FOR HEAD START AGENCIES**

### **Procedures for Emergency contracts less than \$5,000 or greater than \$5,000 up to \$10,000**

Emergency work pertains directly to issues that affect the safety of any Head Start facility or taking action to prevent a situation from becoming dangerous when there is no time to solicit bids and follow the normal bidding procedures. Emergencies are identified by ACS Department of Real Estate, Design and Construction Management (RE&DCM) or Early Care and Education (ECE),

Department of Health, the City of New York Fire Department, Environmental Control Board, Department of Buildings, the Agency and its staff or parents calling in to ACS or the City of New York 311 hotline.

When an emergency is reported, an ACS Project Manager, an ACS on-call contractor or contractor known to Head Start responds quickly to evaluate the site. Depending on the nature of the emergency, a contractor known to ACS with a fair and reasonable rate is dispatched. Contractors are approved and recommended by the New York City Vendor Source System where multiple quotes or proposals are received and followed with a contract proposal. In all cases, a variety of vendors are chosen with consideration for Minority and Women Business Enterprises and Employment (MWBE). RE&DCM then follows the normal process for contracts and payments to the Delegate and the vendor, as outlined in 'Bidding' above under Sections B, C, and D.

For work valued less than \$3,500, a no-bid contract is required but a proposal must be sent to Carol Merryshapiro, ACS Director, EarlyLearn Facilities 212-341-4802; [carol.merryshapiro@acs.nyc.gov](mailto:carol.merryshapiro@acs.nyc.gov) who will provide technical assistance with writing a contract between the delegate agency and the vendor. However, delegates should ensure that Davis Bacon guidelines are followed for any payment to laborers in excess of \$2,000.

Where emergency quick bid contracts are required for work valued greater than \$5,000, delegates are advised to send Work Orders to [earlylearn.facilities@acs.nyc.gov](mailto:earlylearn.facilities@acs.nyc.gov), regardless of the value of the contract, and follow-up with Carol Merryshapiro.

### **Head Start Facilities Maintenance and Repair Projects between \$10,000 and \$50,000**

#### **Bidding**

1. A Project is identified by:
  - a) Department of Health, Fire Department, Department of Buildings, Department of Environmental Protection or other official regulatory agency
  - b) Agency Staff (request corroborated by Facilities Project Manager)
  - c) Request from ACS HS Administration/Program/RED&CM
2. If the project is estimated to be less than \$20,000, specifications will be sent by E-mail to five (5) random vendors from the City of New York bidder's list and five (5) MWBE vendors from the City of New York bidder's list provided by ACS Administration Services. Additionally, a minimum of five (5) previous Head Start contractors registered on the City bidder's list may be solicited.
3. Proposals will be sent to a special computer mailbox set up for privacy of the bids, which is accessible only by the Facilities Director. Printing will be done only at the time proposals will be reviewed.
4. Proposals will be evaluated by the Executive Director of Construction Management, Facilities

Director, a representative of the Agency, a Facilities Project Manager and an EarlyLearn Head Start Education representative. If a representative from the Agency is unable to attend the bid opening, a conference call will be arranged and the proposals will be reviewed while they call in. A copy of all the bids will be mailed to the Agency, along with the bid evaluation sheet to be signed and returned.

5. The bid evaluation sheet will be completed and signed by the Executive Director of Construction Management, a representative of the Agency, Facilities Project Manager, HS Facilities Director and HS ECE representative.
6. The Project is awarded to the lowest responsible bidder based on price, time-frame and ability to perform the work satisfactorily.

### **Contracts**

1. The selected contractor is notified by the HS Facilities Project Manager or the HS Facilities Director.
2. RED&CM prepares and prints the standard HS construction contract (originally developed by ACS Business Law Unit), attaching Davis-Bacon regulations for projects over \$2,000 as well as the original proposal. The Contract includes: Estimated project completion time, estimated project commencement date and estimated project completion date. Dates are subject to change based on funding or unforeseen field circumstances. Any significant delay by the contractor beyond the estimated dates in the Contract must be justified in writing by the contractor, and approved by ACS prior to any release of payment to the contractor.

### **Payment to the Agency**

1. When the signed contracts are returned to RED&CM, a Renovation Funds Release Authorization ("RFRA") is generated by RED&CM, signed by the HS Project Manager, HS Facilities Director, and the Executive Director of Construction Management, ACS Financial Services and HS Assistant Director for EarlyLearn Budget.
2. The amount of start-up funds requested to be released to the Agency is dependent on the size and timeline for the estimated time of completion.
3. After Budget encumbers the funds, they generate a Disbursement Memorandum which is sent to Payments, along with the contract and original RFRA
4. RED&CM notifies the Agency by E-mail that a disbursement is in process and the Agency Payment Release Authorization ("DAPRA") should be prepared. A copy of the Disbursement Memorandum is sent to the Agency so that they are aware of the amount of the expected payment and to be able to check their bank account for these funds.

### **Payment to the Contractor**

1. In order for contractor payments to be made against the disbursement, the Agency initiates a signed DAPRA to Facilities.
  - a. For start-up funding, the Project Manager and Facilities Director must sign the DAPRA and forward to Budget for signature, allowing payment.
  - b. In the absence of start-up funds, the Project Manager and Facilities Director sign the DAPRA, review the Application for Payment or invoice, and the Department of Labor (DOL) payroll forms.
2. RED&CM reviews the DOL payroll forms for completion of all related information, including the trade classification for the job and accuracy of wage rates paid plus fringe benefits. DOL payroll forms must be submitted for each week worked on the project.
3. In order to justify the payment, the contractor's work must be inspected before the Project Manager signs the DAPRA. The Executive Director of Construction Management and the Facilities Director must sign the DAPRA and forward to Budget for signature along with the invoices and Department of Labor payroll forms.
4. When the signed DAPRA is returned to RED&CM, it is sent by E-mail to the Agency for processing and release of the check to the contractor for the amount listed on the DAPRA. The original copy of the DAPRA is then mailed to the Agency for their records.

### **Head Start Facilities Maintenance and Repair for Projects more than \$50,000**

#### **Bidding**

1. The Project is identified by:
  - a. Department of Health, Fire Department, Department of Buildings, Department of Environmental Protection or other official regulatory agency
  - b. Agency Staff (request corroborated by Facilities Project Manager)
  - c. Request from ACS HS Administration/Program/RED&CM
  - d. Specifications (drawings, if necessary) are developed into an Invitation to Bid package.
2. Invitations are sent by E-mail to five (5) random vendors from the city bidder's list, a minimum of five (5) MWBEE vendors from the city bidder's list provided by ACS Administrative Services, and a minimum of five (5) Head Start contractors registered on the city bidder's list.
3. Sealed bids are due on a date certain and are kept sealed in Facilities Director's office until the scheduled bid opening.
4. All bids include detailed section on Davis Bacon and posting rules. Bidders must

provide listing of job categories, with wages plus fringe in order to be considered.

5. Agency representative attend the bid opening at 150 William Street with the ACS HS Project Manager, the Early Care Education representative, the Executive Director of Construction Management and the Facilities Director.
6. A. Bid envelopes are unsealed and opened by the Agency and reviewed by each person present for completeness, entering pertinent information into the Bid Evaluation form. If this is a relatively straightforward project the award is made to the lowest responsible bidder.  
  
B. If it is a more complex project, the bid evaluation is signed and the Agency is given a copy of the bids. The Facilities Staff and Agency have 5 business days to review the documents. If the award does not go to the lowest bidder, there must be a detailed written justification.

### **Contracts**

1. Selected contractor is notified by HS Facilities Project Manager or HS Facilities Director.
2. The award decision is made and Facilities Unit prepares and prints the HS Construction contract (originally developed by ACS Business Law Unit), attaching Davis-Bacon guidance and the contractor's bid. Contract includes: Estimated project completion time, estimated project commencement date and estimated project completion date. Dates are subject to change based on funding or unforeseen circumstances. Any significant delay by the contractor beyond the estimated dates must be justified in writing by the contractor, and approved by ACS prior to this release of payment to the contractor.

### **Payment to the Agency**

1. When the signed contracts are returned to RED&CM, a Renovation Funds Release Authorization ("RFRA") is generated from Facilities, signed by the HS Project Manager, the Executive Director of Construction Management, the HS Facilities Director, and ACS HS Financial Services Asst. Director for EarlyLearn Budget. The amount of start-up funds released to the Agency will be dependent on the size and timeline for the estimated time of completion.
2. After Budget encumbers the funds they generate a disbursement memorandum to Payments Unit, along with the contract and original Renovation Funds Release Authorization ("RFRA").
3. RED&CM notifies the Agency by email that a disbursement is in process and the Agency Payment Release Authorization ("DAPRA") should be prepared. A copy of the Disbursement Memorandum is sent to them as well so that they know the amount to expect and to begin checking their account for these funds.

## **Payment to the Contractor**

1. In order for contractor payments to be made against the disbursement, the Agency must initiate a signed DAPRA and send to RED&CM when the funds have been transferred to their account. The amount of start-up funds released to the Agency will depend on the size and timeline for the estimated time of completion.
  - a. For start-up funding, the Facilities Project Manager, Executive Director of Construction Management and Facilities Director must sign the DAPRA and forward it to Budget for signature, before payment is made.
  - b. Excluding start-up funds, the Project Manager and Facilities Director sign the DAPRA, review the Application for Payment or invoice and the Department of Labor (DOL) payroll forms.
2. RED&CM reviews the DOL payroll forms for completion of all related information, including the trade classification for the job and accuracy of wage rates paid plus fringe benefits. DOL payroll forms must be submitted for each week worked on the project.
3. The contractor's work is inspected before the Project Manager signs the DAPRA in order to justify the payment. The Facilities Director and Executive Director of Construction Management then sign the DAPRA and forward to Budget for signature, along with the invoices and Department of Labor payroll forms.
4. When the signed DAPRA is returned to RED&CM, it is sent by E-mail to the Agency for processing and release of the check to the contractor in the amount listed on the DAPRA. The original copy of the DAPRA is then mailed to the Agency for their records.

## **C MICRO-PURCHASES FOR HEAD START AND CDBG SUB-RECIPIENTS**

In accordance with the Code of Federal Regulations, 45 Part §75, purchases of supplies or services less than \$3,500 (if ACS project managers know the cost to be fair and just) are treated as micro-purchases. Every effort must be made to extend these micro-purchases to a variety of vendors and, whenever possible, to MWBE vendors. In all cases, if the cost exceeds \$2,000, payment and reporting procedures must be in accordance with the Davis Bacon Act. Although Part 75 allows small contracts up to \$150,000, ACS always solicits bids over \$10,000.



## **X. PAYROLL/PERSONNEL INTERNAL CONTROLS**



## **A WRITTEN PERSONNEL AND PAYROLL MANUAL**

The Agency shall develop, follow, and regularly update a written payroll and personnel manual. Such manual shall include policies and procedures regarding payroll and personnel practices and comply with the law. The payroll manual shall include policies and procedures that govern attendance, vacation and sick leave, executive compensation, incentives, bonuses, and pension. The personnel manual shall include the policies and procedures that govern hiring and termination of staff, the engagement of paid and non-paid consultants or subcontractors, including but not limited to, FCC Network providers, and volunteers. The personnel manual shall contain policies such as employee conflict of interest, sexual harassment and protection for “whistle-blowers”. These shall be accessible to all employees and be made available to ACS upon request.

### **Leave Accrual Payment Liability**

For each Head Start program year, ACS will only fund accrued leave that is liquidated within ninety (90) days after the close of the fiscal year. Accrued leave which is determined to be a prior year liability must be treated as a liability of the Agency.

EarlyLearn Contractors must ensure that all vacation and sick leave is paid out by June 30th or ninety (90) days after the close of the fiscal year. ACS will not recognize any rolled over vacation and sick leave for any contractor’s employees. The contractor, and not ACS, shall be responsible for the payment of any accrued vacation and sick leave rolled into the new fiscal year. No payment for accrued leave shall be made from revenue budgeted for the new fiscal year. Upon termination of employment, it is the sole responsibility of the contractor to pay for any accrued leave which was not paid at the end of the fiscal year coinciding with any staff member’s termination of employment.

### **§75.437/200.437 Employee health and welfare costs**

(a) Costs incurred in accordance with the Agency's documented policies for the improvement of working conditions, employer-employee relations, employee health, and employee performance are allowable. However, an organization now needs a "documented policy" in order to pay health and welfare costs with federal funds. Costs that would previously have been described in fiscal policies and procedures as *employee morale costs* are no longer allowable.

## **B COMPENSATION**

### **General**

Compensation is specifically defined in Section 653 of the Head Start Act to include "salaries, bonuses, periodic payments, severance pay, the value of any vacation time, the value of a compensatory or paid leave benefit not [explicitly] excluded and the fair market value of any employee prerequisite or benefit not [explicitly] excluded”.

Compensation for personal services includes all remuneration, paid currently or accrued, for services of employees rendered during the period of performance under the Federal award, including but not necessarily limited to wages and salaries. Compensation for personal services may also include fringe benefits. Under regulation 45 CFR §1301.31, delegate agencies are required to have personnel policies that specify salary rates and fringe benefits. All EarlyLearn delegate agencies must document compensation-related discussions or decisions of governing boards and provide copies of minutes of board meetings to ACS. (*See ACS Staffing Guidelines for Salaried Positions*).

### **Wage Comparability**

The Head Start Act indicates that Early Head Start and Head Start staff shall not receive compensation at (1) a rate which is in excess of the average rate of compensation paid in the area where the program is carried out; or (2) less than the minimum wage rate prescribed in section 6(a)(1) of the Fair Labor Standards Act of 1938.

### **Cost of Living Adjustments**

Cost of Living Adjustments, if provided by the various funding sources, will be applied at the rate being paid to agencies. *Head Start and Dual Funded* agencies must follow all expense requirements outlined in Head Start funded COLA grant awards.

Each Agency applies for a COLA increase in accordance with the terms of their funding award for the fiscal year base funding level and based on directions from ACS. Base funding excludes training and technical assistance funds and any one-time funding Agencies may have received during the fiscal year. COLA funds are to be used to increase staff salaries` and fringe benefits and to pay for higher operating costs. Only the allocated portion of each funding may be eligible for COLA adjustments, depending on directives.

Programs that use COLA funds to increase staff salaries should increase the hourly rate of pay and permanently increase the Head Start pay scale, rather than only increasing the salaries of current employees. Sections 653 and 640(j) of the Head Start Act provide further guidance on the uses and limitations of the COLA funds.

### **Bonus and Incentive Compensation**

*Bonus and incentive payments are unallowable. However, incentives are allowable based on the pre-determined requirements under §75.430.*

**§75.430** Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc., is allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the non-Federal entity and the employees before the services were rendered, or pursuant to an established plan followed by the non-Federal entity so consistently as to imply, in effect, an agreement to make such payment.

## Executive Compensation

### i. Key Employee List

Agencies shall submit a list of its key employees to ACS within thirty (30) days of the execution of the EarlyLearn contract, at the beginning of each fiscal year and after any salary changes for executive level staff. The list shall include the Executive Director, Chief Financial Officer, Chief Operating Officer or the functional equivalent of such positions, and the senior financial and programmatic supervisory personnel involved directly or indirectly in the performance of the contract. For each listed key employee, the Agency shall provide current total compensation (including all benefits), all sources of the employee's total compensation, whether from this contract or another City, State, Federal or private source, and the dollar amount of compensation from each such source.

### ii. Compensation Policies - Executive Level Staff

Compensation is defined as salary and benefits, i.e. health, paid leave, retirement and other welfare related benefits, as well as perquisites and related insurance. All of these items and any other benefits must be reported in the employee's year end W2. Fringe benefits under the categories of Social Security, Medicare and 401K that are typically part of a 30-35% fringe rate are excluded from counting as compensation, in keeping with Section 653 of the Head Start Act.

In accordance with NY State Executive Order No. 38, and since every EarlyLearn provider receives State funding, organizations must be in compliance and not exceed salary caps for executive compensation. Section 653 prohibits any Head Start employee from being compensated at a rate higher than that of an Executive Schedule **Level II** position, currently \$187,000 effective January 1, 2017.

Head Start delegate agencies must document a compensation policy for Executive Level positions, e.g. Directors and Chief Executive Officers and the governing board has a responsibility to approve reasonable (not excessive) compensation for these positions. Boards that engage in an annual process of reviewing and approving the compensation of key employees, as well as documenting the process in minutes of Board meetings, will be acting in the best interest of their organizations. *See Salary Table below.*

Salary Table No. 2017-EX  
Rates of Basic Pay for the Executive Schedule (EX)

Effective January 2017

Level	Rate
Level I	\$207,800
Level II	\$187,000
Level III	\$172,100
Level IV	\$161,900
Level V	\$151,700

**iii. Board Composition**

Agencies shall submit to ACS, within thirty (30) days of the execution of the EarlyLearn contract and at the beginning of each new fiscal year, a listing of all members of its Board of Directors.

**iv. Pension Contributions to the Cultural Institutions Retirement System (CIRS)**

Pension funds are part of the EarlyLearn rate for *Head Start funded employees only*. Pension for *Child Care* funded employees, including Family Child Care Network (FCCN) Administrative Staff, will continue to be provided by the Cultural Institutions Retirement Systems (CIRS). FCCN in-home providers are not entitled to the pension covered through the CIRS.

The purpose of the schedule of pension contributions to the CIRS is to determine the number of employees in the corresponding total amount of salaries per budget category that are eligible for the pension. This will enable ACS to compare the Schedule from the amount paid directly to CIRS for Child Care.



## **XI. INSURANCE**

## A INSURANCE, BONDING AND MAINTENANCE

(a) *Purpose.* If a delegate agency uses Federal funds to purchase or continue purchase on a facility, excluding modular units, the agency must obtain a title insurance policy for the purchase price that names the responsible HHS official as an additional loss payee. §1303.52

(b) *Insurance coverage.*

(1) If a delegate agency uses federal funds to purchase or continue purchase on a facility or modular unit the delegate agency must maintain physical damage or destruction insurance at the full replacement value of the facility, for as long as the agency owns or occupies the facility.

(2) If a facility is located in an area the National Flood Insurance Program defines as high risk, the delegate agency must maintain flood insurance for as long as the agency owns or occupies the facility.

(3) A delegate agency must submit to the responsible HHS official, within 10 days after coverage begins, proof of insurance coverage required under paragraphs (a) and (b) of this section.

(c) *Maintenance.* A delegate agency must keep all facilities purchased or constructed in whole or in part with Head Start funds in good repair in accordance with all applicable federal, state, and local laws, rules and regulations, including Head Start requirements, zoning requirements, building codes, health and safety regulations and child care licensing standards.

§1303.12 A delegate agency must have an ongoing process to identify risks and have cost-effective insurance for those identified risks. Each agency must specifically consider the risk of accidental injury to children while participating in the program and must submit proof of appropriate coverage in the initial application for funding. The process of identifying risks must also consider the risk of losses resulting from fraudulent acts by individuals authorized to disburse Head Start funds. Consistent with §45 CFR part 75, if any agency lacks sufficient coverage to protect the Federal government's interest, the agency must maintain adequate fidelity bond coverage.

Effective January 1, 2014, all Delegate Agencies are required to purchase insurance policies covering general liability, workers compensation, disability and employee fraud/theft. ACS recommends that Governing Boards obtain Directors' and Officers' Liability Insurance. All contractors are required to send copies of their current insurance policies to ACS and these policies must include the following:

### **Workers' Compensation and Disability Insurance**

Insurance that provides medical benefits and salaries to employees in the event of occupational disease or bodily injury resulting from any mishap during their employment. Coverage is also provided for any suit filed against programs due to an injury sustained by an employee.

**Commercial General Liability**

Insurance that protects programs against claims or suits from the bodily injury suffered by members of the public or from damage to their property, \$1 million each occurrence. This also includes negligence or physical damage caused by staff; sexual abuse and molestation.

**Fidelity**

This covers loss of monies and securities due to employee theft, \$1 million theft with a limit of liability equal to twenty five percent (25%) of the annual EarlyLearn budget. This also covers robbery from program premises, including computer theft through outside manipulation: robbery of program messenger away from the premises, premises monies and security; loss resulting from check forgery. It does not cover petty cash coverage.

**Special Accident (Non-Employee Coverage)**

This covers medical expenditures for non-employees injured in the program, who are authorized to participate in the activities of the insured.

**Property**

Covers physical damage to the Agency property and other valuables owned by the Agency. Staff personal property and the homes of Family Day Care providers are excluded. It is written on an all-risk basis and covers standard perils such as burglaries, vandalism, fire and floods.

All insurance certificates submitted to ACS must meet the following requirements:

- Certified by a Broker - notarized document attesting to accuracy of associated policies
- Notarized; and
- Include Broker's Name & Contact Information

**Certificate of Liability Insurance (Form ACORD 25)**

The following information must be included:

- Broker's Name & Contact Information
- Contractor's Name and Address
- Insured Site name and address
- Contact name on document
- Other Locations listed if more than one site
- Policy number
- Policy effective and expiration date
- NAIC No. {The NAIC# must match with the name of the Insurance Company ( refer to naic.org )}
- Fidelity Bond/Insurance was listed
- Certificate of Holder section must show:

*The City of New York  
C/o The Administration for Children's Services  
150 William Street  
New York, NY 10038*

- Description of Operations/Location section must include *“The City of New York, including its officials and employees are listed as additional insured”*

#### **Certificate of Disability Insurance (Form DB-120.1)**

The following information must be included:

- Legal Name and Address of Insured per Site
- Business Number of Insured
- NYS Unemployment Insurance Employer Registration Number
- Federal Employer ID or SS Number
- Name and Address of the Entity Requesting Proof of Coverage should read as follows:  
*The City of New York  
C/o The Administration for Children's Services  
150 William Street  
New York, NY 10038*
- Insurance Carrier's name
- Policy number
- Policy effective and expiration date

#### **Certificate of Workers' Compensation Insurance – NY State Insurance Fund (Form U-26.3)**

The following information must be included:

- Business Name and Address
- Policyholder Name and Address (Insured Site)
- Policy number
- Certificate number
- Period Covered by this Certificate
- Certificate Holder section showing :  
*The City of New York  
C/o The Administration for Children's Services  
150 William Street  
New York, NY 10038”*

#### **State of NY Workers' Compensation Board Certificate of Coverage (Form C-105.2)**

The following information must be included:

- Legal Name and Address of Insured per Site
- Business Number of Insured
- NYS Unemployment Insurance Employer Registration Number



- Federal Employer ID or SS Number
- Name and Address of the Entity Requesting Proof of Coverage should read as follows:  
*The City of New York*  
*C/o The Administration for Children’s Services*  
*150 William Street*  
*New York, NY 10038*
- Insurance Carrier’s name
- Policy number
- Policy effective and expiration date

### **Certificate of Fidelity Bond/Insurance**

(If a separate certificate was provided to ACS) The following information must be included:

- Broker’s Name & Contact Information
- Insured Site Name and Address
- Contact name on document
- Other Locations listed if more than one site
- Policy number
- Policy effective and expiration date
- NAIC No. {The NAIC# must match with the name of the Insurance Company (refer to naic.org)}
- Certificate of Holder section must show:

*The City of New York*  
*C/o The Administration for Children’s Services*  
*150 William Street*  
*New York, NY 10038*

- Description of Operations/Location section must include “*The City of New York, including its officials and employees are listed as additional insured*”

### **Bus Trip (including Yellow School Bus) Insurance**

– (on a case-by-case basis)

- Coverage should be a total of \$5 million dollars

### **Pre-K for All**

Allowable insurance premium costs include those for commercial general liability, fire/disaster, or casualty loss insurance or any insurance coverage required by the agreement with the NYC DOE to provide Pre-K for All services. The Field Office reserves the right to consider whether the amount of the deductible and cost of the policy are reasonable. In the event of a claim against the insurance policy, the amount paid by the provider as the deductible is not allowable.



## **XII. PAYMENT OF TAXES**

All Agencies are subject to certain monthly, quarterly, and annual tax requirements. Agencies are also subject to federal income tax withholding and social security tax. This means these two taxes must be withheld from employees' pay and the agency must make monthly and/or quarterly federal tax deposits and employer-share contributions to social security.

Tax reports include the following:

## **A FEDERAL FILING**

### **IRS Form 941**

This is used for an employer's quarterly Federal tax return. All EarlyLearn contractors are responsible for withholding Federal income tax and other payroll taxes from each employee's paycheck and remitting it to the IRS. Each Form 941 filed reports the total amount of tax withheld during the quarter.

### **IRS Form 990**

All Non-Profit Agencies must file Form 990 with the IRS. Form 990 is an annual report that certain federally tax-exempt organizations must file with the IRS.

The IRS uses this form to assess compliance with the Internal Revenue Code. It provides information on the filing organization's mission, programs, and finances. The form lists organizational assets, receipts, expenditures, and compensation of officers.

## **B STATE FILING**

### **CHAR500**

All EarlyLearn contractors must file a CHAR500 with New York State. All registered organizations, even those meeting annual report exemption requirements, must file with the Charities Bureau every year on form CHAR500.



### **XIII. PROPERTY MANAGEMENT**

## **A. CONSTRUCTION, PURCHASES AND MAJOR RENOVATIONS**

45 CFR §1303.50 – All delegate agencies require prior Federal approval for construction, purchases and major renovations associated with their facilities. After November 7, 2016, if a grantee receives federal funds to purchase, construct or renovate a facility on real property the grantee does not own, or to purchase or renovate a modular unit on real property the grantee does not own, the grantee must have a lease or other occupancy agreement of at least 30 years for purchase or construction of a facility and at least 15 years for a major renovation or placement of a modular unit. The lease or occupancy agreement must:

- (1) Provide for the grantee's right of continued use and occupancy of the leased or occupied premises during the entire term of the lease;
- (2) Designate the regional grants management officer to receive a copy of any notice of default given to the grantee under the terms of the agreement and include the regional grants management officer's current address;
- (3) Specify that the responsible HHS official has the right to cure any default under the lease or occupancy agreement within the designated period to cure default; and,
- (4) Specify that the responsible HHS official has the right to transfer the lease to another interim or replacement grantee.

### **Copies of Documents – §1303.53**

A grantee must submit to the responsible HHS official, within 10 days after filing or execution, copies of deeds, leases, loan instruments, mortgage agreements, notices of Federal interest and other legal documents related to the use of Head Start funds for purchase, construction, major renovation or the discharge of any debt secured by the facility.

Major renovation means a structural change to the foundation, roof, floor, or exterior or load-bearing walls of a facility, or extension of an existing facility to increase its floor area. Major renovation also means extensive alteration of an existing facility, such as to significantly change its function and purpose, even if such renovation does not include any structural change to the facility. In addition, all contracts must include a provision for administrative, contractual, or legal remedies to be enforced if the contractor violates or breaches the contract terms. All contracts must contain a clause for contract termination as a result of default or conditions beyond the control of the contractor. All contracts must contain a provision allowing the Department of HHS or any other duly authorized representative access to the contractor's books, documents, paper, or records in direct connection with the contracted services.

## **Small-Construction Projects (Adequately Documented By FY and PY)**

Incidental alterations and [minor] renovations mean improvements to facilities which do not meet the definition of major renovation

### **B CITY LEASE COSTS**

The City leases a number of centers where Head Start and/or Child Care funds are used to operate programs. NYC has a process in place using multiple City agencies to lease and oversee the facilities. RED&CM oversees those properties, working with NY City's Department of Citywide and Administrative Services.

### **C PROPERTY MANAGEMENT - FEDERAL INTEREST**

#### **Head Start only**

Under 45 CFR §1309.21 there must be a Notice of Federal Interest whenever grant funds are used to purchase, construct or make major renovations to a facility, including when the facility is a modular unit classified as personal property. A Federal interest created by the use of Head Start funds does not end until it is released by the ACF.

#### Limitations on Federal Interest - §1303.48

When Head Start funds are used, the Federal government has an interest in all real property and equipment acquired or upon which major renovations have been undertaken. Facilities acquired with Head Start funds may not be mortgaged or used as collateral, sold or otherwise transferred to another party, without the written permission of ACS and the responsible HHS official.

#### Recording notices of Federal Interest §1303.46

A notice of federal interest must be recorded in the official real property records for the jurisdiction where the facility is or will be located. The delegate agency must file the notice of federal interest as soon as it uses Head Start funds to either fully or partially purchase a facility or real property where a facility will be constructed, or as soon as it receives permission from the responsible HHS official to use Head Start funds to continue purchase on a facility.

#### Reporting on real property with Federal Interest - §75.343

ACS requires delegate agencies to submit reports at least annually on the status of real property in which the Federal government retains an interest. ACF has opted to require annual real property reporting using Standard Form SF-429 and Attachment SF-429-A, as indicated in ACF-IM-HS-15-01, for all delegate agencies. ACS will distribute and request that all delegates submit information required for the Standard Form 429 each program year pertaining to:

- Energy utilization for the program year

*See ACS Memorandum on Federal Interest Reporting.*

**Insurance Coverage:** Agencies operating in a site with Federal interest are required to obtain minimum insurance coverage as follows:

- A physical destruction insurance policy, including flood insurance where appropriate, which insures the full replacement value of the facility from risk of partial and total

physical destruction. The insurance policy is to be maintained for the period of time the facility is owned and used for operating a Head Start Program.

ACS will monitor Federal interest to ensure that Agencies make written requests and receive written permission before:

- obtaining a mortgage;
- using mortgage as collateral;
- sale or transfer of property
- Obtain permission and enter into a written agreement with required terms before subordination of the Federal interest. 45 CFR §1309.21.
- Include mortgages and encumbrance review in the annual audit.

### **Federal Interest - Default**

Subordination of the Federal interest allows a lender to take precedence over HHS in receiving its money back in case the borrower (Agency) defaults on the mortgage. In the event of default, ACS will ensure that the following mortgage provisions are applied:

- Notice of default to ACF
- ACF right of intervention
- ACF right to substitute borrower
- If foreclosure occurs, Federal share must be paid to ACF

Head Start Agencies involved in purchase of facilities with respect to which the responsible HHS official has subordinated the Federal interest to that of the lender must keep the lender informed of the current addresses and telephone numbers of the agencies to which the lender is obligated to give notice in the event of a default.

### **Federal Interest - Leases**

In order to protect Federal interest, ACS Finance and Facilities will work together to ensure that lease provisions allow ACS the right to designate a new lessee in the event of default.

## **D PROPERTY MANAGEMENT - OWNERSHIP**

ACS Finance will require Agencies to ensure the following specifications are defined for each owned facility:

- Receive express written permission before using a facility for a purpose other than that for which it was funded. 45 CFR §1309.21.
- Obtain title insurance with ACS named as loss payee. 45 CFR §1309.23.
- Obtain physical destruction insurance (may include flood insurance). 45 CFR §1309.23.
- Adequately maintain facilities. 45 CFR §1309.23.
- Submit timely certified copies of all required documents. 45 CFR §1309.40.

**Note:** *In the event that a Head Start facility is operated in a city-owned building, the charging of rent to Non-Federal Share is not an allowable cost.*

## **E PROPERTY MANAGEMENT - LEASEHOLD**

ACS Finance will require Agencies to ensure the following specifications are defined for each leasehold facility:

Arm's length lease: This is an operating lease between the Agency and an unrelated property owner. The relationship between the delegate and the owner is arm's length. The lease does not include elements of purchase.

Less than arm's length: There is a less than arm's length relationship between the Agency and the landlord. One party to the Lease Agreement is able to control or substantially influence the actions of the other.

Lease to Purchase: The lease contains at least one of the elements of a purchase:

- The lease provides for transfer of ownership to the Agency.
- The lease provides for the Agency to purchase the property for less than fair market value.
- The duration of the lease is 75 percent or more of the expected economic life of the facility.
- Payments under the lease are at least 90 percent of the asset's value.

Rental costs under leases which are required to be treated as capital leases under GAAP are allowable only up to the amount that would be allowed had the institution purchased the property on the date the lease agreement was executed. This amount would include expenses such as depreciation, maintenance, taxes, and insurance.

**Note:** *In the event that the Head Start facility is operated in a city-owned building or NYCHA building where the rent is paid by ACS, the charging of rent to Non-Federal Share is not an allowable cost.*

### **Pre-K for All Rent Cost Allocation**

Rent expenses are typically allowable only for the 10 months the Pre-K Program is in operation. If contractors are not operating any other program during the summer months, rent expenses may be allowable. Pre-K funds may be used to cover a portion of the rent for these months, consistent with established cost allocation methodology.

Whether through a less than arm's length arrangement or otherwise, the share of rental expense allocated to Pre-K programs must be based on a documented and reasonable allocation methodology, such as square footage utilization. If the space occupied by the Pre-K program is also designated for personal use, only the space used by the Pre-K program during Pre-K hours can be subject to rental charges. Providers must follow the Internal Revenue Service's rules for assigning expenses to non-exclusive-use premises



## F MORTGAGES

### Protection of federal interest in mortgage agreements - §1303.49

(a) Any mortgage agreement or other security instrument that is secured by real property or a modular unit constructed or purchased in whole or in part with federal funds or subject to renovation with federal funds must:

(1) Specify that the responsible HHS official can intervene in case the grantee defaults on, terminates or withdraws from the agreement;

(2) Designate the responsible HHS official to receive a copy of any notice of default given to the grantee under the terms of the agreement and include the regional grants management officer's current address;

(3) Include a clause that requires any action to foreclose the mortgage agreement or security agreement be suspended for 60 days after the responsible HHS official receives the default notice to allow the responsible HHS official reasonable time to respond;

(4) Include a clause that preserves the notice of federal interest and the grantee's obligation for its federal share if the responsible HHS official fails to respond to any notice of default provided under this section;

(5) Include a statement that requires the responsible HHS official to be paid the federal interest before foreclosure proceeds are paid to the lender, unless the official's rights under the notice of federal interest have been subordinated by a written agreement in conformance with §1303.51;

(6) Include a clause that gives the responsible HHS official the right to cure any default under the agreement within the designated period to cure the default; and,

(7) Include a clause that gives the responsible HHS official the right to assign or transfer the agreement to another interim or permanent grantee.

(b) A grantee must immediately notify the responsible HHS official of any default under an agreement described in paragraph (a) of this section.

#### 45 CFR §1309.21(b)

Facilities acquired with grant funds may not be mortgaged or used as collateral, or sold or otherwise transferred to another party, without the written permission of ACS and the responsible HHS official, including refinancing of existing loans. ACS will monitor Federal Interest to ensure that Agencies:

- Make written request and receive written permission before:
  - obtaining a mortgage;
  - using mortgage as collateral;
  - sale or transfer of property

- Obtain permission and enter into a written agreement with required terms before subordination of the Federal interest. 45 CFR §1309.21.
- Include mortgages and encumbrance review in the annual audit.

## **G EQUIPMENT THRESHOLD POLICY**

Effective Program Year 04 (2/1/2017-1/31/2018), the threshold for capital expenditures on general-purpose equipment will be \$5,000 for NYC Administration for Children’s Services (ACS) as Head Start grantee, and Delegate Agencies, in keeping with the Code of Federal Regulations (CFR), Uniform Guidance **§75.439** addresses equipment and other capital expenditures. Equipment is defined as 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 in this Advisory by ACS for financial statement purposes, or \$5,000, as defined by Uniform Guidance.

Prior approval is defined in **§75.2** as written approval by an authorized HHS official evidencing prior consent before an Agency undertakes certain activities or incurs specific costs. The purchase of any equipment exceeding the \$5,000 threshold is unallowable as a direct cost except with the prior written approval of the federal Department of Health and Human Services (HHS) or Administration for Children and Families (ACF), Office of Head Start, Region Two (OHS). For Program Year 04, Delegate Agencies must use this new capitalization level for financial statements.

All ACS Head Start Delegate Agencies must safeguard equipment purchased using Head Start funds by maintaining complete and accurate equipment records, verifying the accuracy of records by conducting a physical inventory at least every two years, and following disposition requirements. (*See Administrative Advisory for Head Start Equipment and Property Management*).



#### **XIV. PROGRAM OR GRANT-RELATED INCOME**

## **A EARLYLEARN**

Program income is derived from rental or fees associated with use of space or equipment that was purchased with Federal funds. All program income must offset the Federal grant and must be accounted for in a separate general ledger account.

Unrestricted income is received through activities such as fundraising, endowments/gifts with no restrictions or income from private pay families after cost allocation. Bank charges, penalties, etc. must be paid from unrestricted funds.

Child Care parent fees are required by CCDBG and are not classified as unrestricted income. These fees must cover the cost of the Child Care program.



## **XV. CONFLICT OF INTEREST POLICY**

ACS requires all contractors to establish safeguards to prevent employees, consultants, members of governing bodies, and others who may be involved in grant-supported activities from using their positions for purposes that are, or give the appearance of being, motivated by a desire for private financial gain for themselves or others, such as those with whom they have family, business, or other ties. These safeguards must be reflected in written standards of conduct.

Conflict of interest arises whenever an individual's personal, financial, professional interest or other business concerns are potentially at odds with the best interests of the organization. Each Agency must have a conflict of interest policy which outlines what constitutes a conflict of interest for Board members, staff and volunteers. The Governing Board must ensure it has a strong conflict-of-interest policy with disclosure and recusal guidelines and that this policy is enforced without failure.

The IRS has published a suggested conflict of interest policy on the *Appendix A: Sample Conflict of Interest Policy of Form 1023 – Additional Material* (Application for Exemption under Section 501(c) (3)).

## **A PROCUREMENT**

No payment shall be made to or obligation undertaken in connection with the ACS Contract with (including but not limited to consulting services) (a) any person who is a relative of a director or officer or principal of the Agency, or (b) any entity that has a director, officer or principal who is a relative of the director, officer or principal of the Agency.

Agencies should also establish procedures, such as competitive bids, that ensure that the organization is receiving fair value in the transaction.

## **B HUMAN RESOURCES**

A conflict of interest policy regarding human resources must include, but not be limited to:

### **Auditor Independence**

Independence of internal or external auditors from parties that may have financial interest in the business being audited.

### **Nepotism**

Conflict of interest includes the employment of immediate family of a governing board member by the Agency.

## **C FACILITIES**

### **Restrictions on the Ownership of Property**

As pursuant to the Appendix B Article 4 Sec. 5 of the EarlyLearn Contract, no member of the Board of Directors, or officer or employee of the Agency, shall be: an owner; a member of the Board of Directors of an owner; a trustee of an owner, or an employee of an owner of the facility in which an EarlyLearn NYC program is located. This rule shall not apply, however, where the

facility in which the EarlyLearn NYC programs are provided by the Agency or developed to the Community Facilities Improvement Act.

## **D FISCAL**

### **Fiscal Role of the Board**

The Board has a fiduciary responsibility to the organization, a responsibility to see that funds are well managed and safeguarded, as follows:

#### **i. Policies:**

The Board must have financial policies in place that dictate their desire regarding financial matters such as controls on cash receipts and disbursements, budget practices, investments, capital budgets, financial reports and audits. The Board must ensure that all finances are properly managed.

#### **ii. Budget:**

The Board must have an annual budget in place that they approve along with established policies for the development of the budget cycle, budget revisions and budget activity.

#### **iii. Financial Reporting:**

The Board should review both the monthly financial statements, budget reports and the cash flow statements. In regard to conflict of interest on fiscal matters, a conflict is defined as an actual or perceived interest in an action that results in, or has the appearance of resulting in, personal or professional financial gain. The Board is obligated to seek the furtherance of the mission of the agency. Board members are prohibited from using their job title or status for private profit or benefits. If it is a relevant conflict, the Board is responsible for reviewing and voting on the said conflict. This vote must be absent of the conflicting board member(s).

## **E GOVERNING BODY**

The directors of an organization owe it a duty of loyalty. The duty of loyalty requires a director to act in the interest of the organization rather than in his/her personal interest or that of some other person or organization. In particular, the duty of loyalty requires a director to avoid conflicts of interest that are detrimental to the organization. Agencies must adopt a written policy to address potential conflicts of interest involving their directors, trustees, officers, and other employees.

### **Head Start Act of 2007 Governing Body Conflict of Interest Sec. 642 (c) (1) (C)**

Members of the governing body shall:

(i) Not have financial conflicts of interest with the Head Start agency (including any Agency);

(ii) Not receive compensation for serving on the governing body or for providing services to the Head Start agency;

(iii) Not be employed, nor shall members of their immediate family be employed, by the Head Start agency (including any Agency); and

(iv) Operate as an entity independent of staff employed by the Head Start agency.

**Governing Board Composition**

Head Start programs must have a governing body composed of at least one member with a background and expertise in accounting or fiscal management, one member with a background and expertise in early childhood education and development and one member who is a licensed attorney familiar with issues that come before the governing body.





## **XVI. AUDIT**

## **A ACS Audit Requirements**

All EarlyLearn Providers are required to have an annual audit of their financial statements covering a fiscal period of one (1) year. Delegate agencies must submit audited financial statements to ACS within thirty (30) days after the receipt of the final report, but no later than seven (7) months after the audit period (January), except where delegates are operating under a calendar year.

The audit must be performed in accordance with Generally Accepted Accounting Principles (GAAP), Generally Accepted Government Auditing Standards (GAGAS), Non-profit Auditing Standards, ACS Audit Instructions, Federal laws including Audit of States, Local Governments, and Non-Profit Organizations including the Compliance Supplement (US OMB Single Audit) and shall contain a separate opinion of the adequacy of the provider's internal controls of Federal Awards to safeguard its assets. The Comptroller's Office maintains a Pre-Qualified Vendor List (PQL) of Certified Public Accounting firms for agencies to utilize when seeking auditing services.

### **New Single Audit Threshold Requirements**

The Uniform Guidance replaced OMB Circular A-133 which was based on the Single Audit Act amendment of 1996. The new regulation has increased the Federal award expenditure threshold for filing a Single Audit from \$500,000 to \$750,000. A Federal program is defined as all Federal awards assigned a single Catalog of Federal Domestic Assistance (CFDA) number. Agencies spending at least \$750,000 in federal funding from all sources (including Head Start, Early Head Start and Early Head Start – Child Care Partnership awards) are subject to the single audit requirement for fiscal years beginning December 26, 2014.

To determine if an agency is subject to a Single Audit, the total Federal award expenditures made for the fiscal year (FY) must be multiplied by the CFDA Federal percentage for the Federal program. If the result of the calculation of total Federal award expenditures for any single or combination of Federal programs operated by an agency is \$750,000 or more, that agency must conduct a Single Audit.

ACS requires submission of Single Audits nine (9) months after the end of the fiscal year (March). Auditors are required to follow the provisions of OMB Single Audit and program-specific guidance found in the 2016 Compliance Supplement and EarlyLearn Audit Instructions.

### **Digital Audit Policy**

The Digital Audit Policy was announced by the Non-profit Resiliency Committee (NRC), effective FY18. All certified public accountants (CPAs) hired by City agencies, or auditors authorized by City agencies to conduct audits of human service contracts, must collect documents during the audit planning exclusively through the HHS Accelerator Document Vault. The Document Vault may also be used to transfer additional documents needed by the CPA or authorized auditor during the course of the audit. This recommendation excludes audit sample documents that would be reviewed on site by the auditors. (See *FY17 EarlyLearn Audit Instructions*).

The following documents are required for the Digital Audit:

- **Folder 1 - Char 500 - 990 - Audit**

- **Folder 2 - Organizational documents and policies**

1. Certificate of Incorporation.
1. Corporate by-laws.
2. IRS determination letter (501c3).
3. All correspondence with the IRS regarding tax exempt status from the last 3 years.
4. New York State sales tax exemption certificate.
5. Organizational charts for the Organization and for accounting department.
6. Personnel policy manual
7. Accounting manual or procedure manual for the accounting department. If too voluminous, copy of table of contents only.
8. Board of Directors List (showing titles if they are officers).
9. Conflict of Interest policy.
10. Board Minutes
11. Anti-Nepotism policy

- **Folder 3 - Agency Program Audit**

1. Agreements / policies in effect for fringe benefits claimed to the contract (i.1. Retirement benefit, health insurance etc.)
2. Insurance policies in effect (top sheets only showing the summary of coverage).
3. All required payroll tax returns
4. Consulting agreements
5. Lease Agreements and mortgages
6. Claiming Billing Reports if reimbursement-based
7. Budget and budget modifications if reimbursement-based
8. Bank reconciliation statements

- **Folder 4 - Financial Statements and Tax Returns**

1. Copies of any audits from: IRS, NYS Charities Bureau or other government sources conducted in the last 3 years.
2. Check signatories / staff authorized to conduct banking.
3. Chart of accounts including funds maintained (restricted, etc.) and cost centers; final trial balance from previous fiscal year.
4. A list of who has an Organization credit card, and type of card (Amex, etc.).
5. Copies of audited Independent CPA audit reports
6. Latest A-133 and management letter
7. Cost allocation methodology for PS and OTPS



## **XVII. GOVERNANCE**

## **A EARLYLEARN GOVERNING BODY RESPONSIBILITIES**

Each EarlyLearn Agency shall have an active governing body which is responsible for setting the mission and strategic direction of the Agency as well as oversight of the finances, operations, and policies. The Governing Board: (a) ensures that its members have the requisite skills and experience to carry out their duties and that all members understand and fulfill their governance duties, acting for the benefit of the Agency and its public purpose; (b) is responsible for and ensures that the hiring, promotion and firing policies and practices for all board, staff and volunteer positions are fair and inclusive; (c) ensures that policies of the Agency (including but not limited to conflict of interest policy) are in writing, clearly articulated and officially adopted; (d) ensures that the Agency conducts all transactions and dealings with integrity and honesty; (e) ensures that the Agency promotes working relationships with board members, staff, volunteers, and program beneficiaries that are based on mutual respect, fairness and openness; (f) ensures that the resources of the Agency are responsibly and prudently managed; and, (g) ensures that the Agency has the capacity to carry out its programs effectively.

## **B HEAD START GOVERNING BODY RESPONSIBILITIES**

As part of their responsibilities, Head Start governing body and Policy Council members regularly review a wide variety of documents and reports, from personnel policies to federal directives. The key to effective program governance is the right structure, the right people, and the right practices. The Head Start leader's role is to ensure that the governance and management entities are working collaboratively to achieve positive outcomes for children, families, and their respective communities. Section 642(d) (2) of the Head Start Act of 2007 lists the documents and reports that must be regularly reviewed by the governing body and Policy Council.

## **C HEAD START GOVERNING BODY COMPOSITION REQUIREMENTS:**

### **Section 642 (c) (1) (b)**

The governing body shall be composed as follows:

- Not less than one (1) member shall have a background and expertise in fiscal management or accounting.
- Not less than one (1) member shall have a background and expertise in early childhood education and development.
- Not less than one (1) member shall be a licensed attorney familiar with issues that come before the governing body.
- Additional members shall reflect the community to be served and include parents of children who are currently or were formerly enrolled in Head Start programs, and selected for their expertise in education, business administration, or community affairs.

## **D PARENT POLICY COMMITTEE**

Each delegate agency must establish and maintain a parent policy committee at the delegate level. The Head Start Policy Committee of each ACS delegate agency and the Child Care Parent Committee of each Child Care agency manage a Parent Activity Fund to meet the goals and obligations of their respective committees. (*See Administrative Advisory for Parent Activity Fund*).

### **Head Start Policy Committee**

#### Duties and responsibilities

A policy committee must approve and submit to the delegate agency its decisions in each of the following areas referenced at section 642(c)(2)(D)(i) through (vii) of the Head Start Act.

A policy committee must use ongoing monitoring results, data on school readiness goals, other information described in §1302.102, and information described in section 642(d)(2) of the Act to conduct its responsibilities.

#### Composition

A program must establish a policy committee in accordance with section 642(c)(3) of the Act, as early in the program year as possible. Parents of children currently enrolled in each program option must be proportionately represented on the policy council and on the policy committee at the delegate level.

The program must ensure members of the policy committee do not have a conflict of interest pursuant to sections 642(c)(2)(C) and 642(c)(3)(B) of the Act. Staff may not serve on the policy committee except parents who occasionally substitute as staff

#### Term

- A member will serve for one year;
- If the member intends to serve for another year, s/he must stand for re-election.
- The policy committee must include in its by-laws how many one-year terms, not to exceed five terms, a person may serve.
- A program must seat a successor policy committee before an existing policy committee may be dissolved.

### **Head Start Parent Committee**

Parent Committee - 1301.4

(a) Establishing parent committees. A program must establish a parent committee comprised exclusively of parents of currently enrolled children as early in the program year as possible. This committee must be established at the center level for center-based programs and at the local program level for other program options. When a program operates more than one option, parents may choose to have a separate committee for each option or combine membership. A program must ensure that parents of currently enrolled children understand the process for elections to the policy council or policy committee and other leadership opportunities.

(b) Requirements of parent committees. Within the parent committee structure, a program may determine the best methods to engage families using strategies that are most effective in their

community, as long as the program ensures the parent committee carries out the following minimum responsibilities:

- (1) Advise staff in developing and implementing local program policies, activities, and services to ensure they meet the needs of children and families;
- (2) Have a process for communication with the policy council and policy committee; and
- (3) Within the guidelines established by the governing body, policy council or policy committee, participate in the recruitment and screening of Early Head Start and Head Start employees.

#### **E HEAD START DELEGATE AGENCY RESPONSIBILITIES**

Each Head Start agency shall ensure the sharing of accurate and regular information for use by the governing body and the policy council/committee, about program planning, policies, and Head Start agency operations, including:

- a. monthly financial statements, including credit card expenditures;
- b. monthly program information summaries;
- c. program enrollment reports, including attendance reports for children whose care is partially subsidized by another public agency;
- d. monthly reports of meals and snacks provided through programs of the Department of Agriculture;
- e. the financial audit;
- f. the annual self-assessment, including any findings related to such assessment;
- g. the community-wide strategic planning and needs assessment of the Head Start agency, including any applicable updates;
- h. communication and guidance from the Secretary; and
- i. the program information reports.

Head Start leaders need to ensure that their programs meet the requirements of the 2007 Head Start Act with regards to their governing body and policy council: the composition, roles and responsibilities, and the conduct of responsibilities of both of these important entities.

#### **F SELF ASSESSMENT**

The annual fiscal Self-Assessment is a method of measuring agency compliance with Head Start Performance Standards. Self-Assessment promotes continuous improvement of internal controls and reporting systems. The governing board shall review and approve each delegate agency's internal methodology for completing the annual fiscal self-assessment.



## **XVIII. RETENTION OF RECORDS**



## A RECORD RETENTION POLICY

### EarlyLearn Contract

Pursuant to Appendix A, Article 5, Section 5.02 of the EarlyLearn contract, Agencies are required to retain all books, records, and other documents pertaining to the EarlyLearn NYC contract for six (6) years after the final payment or expiration or termination of the contract. Organizations should have policies in place that clearly state the length of time that financial records of the organization must be kept. This will apply both to physical written records (ledgers, checks receipts, etc.) and to electronic records if the treasurer is using a computer program to manage the finances of the agency. In addition, if any litigation, claim, or audit concerning an EarlyLearn contract commenced before the expiration of the six-year period, the records must be retained until the completion of such litigation, claim, or audit. (*See Record Retention Table at Appendix C*).



## **XIX. APPENDICES**

## APPENDIX A: AUDIT ATTESTATION

Date

Marcia Gilliard, Assistant Commissioner  
Finance/Audit Division  
Administration for Children's Services  
150 William Street, Rm 10-Q3  
New York, NY 10038

Dear Ms. Gilliard;

The (Agency) attests that we have received less than \$750,000 in Federal funds and are therefore not required to complete a Single Audit. The schedules submitted have been audited and the required testing has been done to ensure that the expenditures are chargeable to ACS contract(s):

*Schedule 1a – Statement of Revenue and Expenditures – Consolidated – ACS Funded - EarlyLearn*  
*Schedule 1b – Statement of Revenue and Expenditures – Consolidated – ACS Funded – Non EL*  
*Schedule 1c – Statement of Revenue and Expenditures – Consolidated – Not ACS Funded*  
*Schedule 2 – Schedule of Head Start Expenditures by Program Year*  
*Schedule 3 – Schedule of Non Federal Share by Program Year*  
*Schedule 4 – Schedule of Fixed Assets Inventory*  
*Schedule 5 – Schedule of Quantitative Program Results*

Signature

Print Name

## APPENDIX B: UNIFORM GUIDANCE HIGHLIGHTS

### ACS Head Start Uniform Guidance Highlights

#### *Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards*

Uniform Guidance became effective on December 26, 2014. Existing, new and incrementally-funded awards issued on or after December 26, 2014 will be subject to the Uniform Guidance. Audit Requirements will apply to audits of fiscal years beginning on or after December 26, 2014.

**Note:** The new fiscal regulations do not supersede the Head Start Act and Program Performance Standards. The fiscal requirements in the Head Start Act continue to apply, such as the 15 percent administrative cost limitation, 20 percent Non-Federal Share requirement, fiscal reporting to the governing body and Policy Council, and Executive Level II compensation limits.

#### **Audit Threshold**

The regulation has increased the single audit threshold from \$500,000 to \$750,000. Delegates who have spent at least \$750,000 in federal funding from all sources (including Head Start, Early Head Start and Early Head Start-Child Care Partnership awards) are subject to the single audit requirement for fiscal years beginning after December 26, 2014.

#### **Key Definitions**

- **Agency** refers to a state, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a federal award as a recipient or sub-recipient.
- **Sub-award** is an award provided by a pass-through entity for the sub-recipient to carry out part of the federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program. Guidance for determining whether an entity receiving funds should be characterized as a sub-recipient or a contractor is found at **§75.351**.
- A **"recipient"** is an entity that receives a federal award directly from a federal awarding agency to carry out an activity under a federal program. It usually refers to, but is not limited to, Agencies. The term recipient does not include sub-recipients. What we think of as the **"grantee"** is the recipient of the Federal award.
- A **"sub-recipient"** is the Agency that receives a sub-award from a pass-through entity to carry out part of a federal program. Under the Head Start Program Performance Standards, "Agency" would fall within the definition of sub-recipient under Part 75.

**"Pass-through entity"** refers to an Agency that provides a sub-award to a sub-recipient to carry out part of a Federal program. Both the recipient and the sub-recipient fall within the definition of Agency.

### **Should vs. Must**

The word “must” is used throughout Part 200 to indicate requirements. The word “should” is used to indicate best practices or recommended approaches that Agencies need to be aware of, but are not necessarily required to comply with.

### **Internal Controls**

For Federal awards, Agencies must:

- Establish and maintain effective internal controls
- Comply with Federal statutes, regulations, & terms and conditions
- Evaluate and monitor compliance
- Take prompt action on audit findings
- Safeguard protected personally identifiable information

Two new requirements strengthen oversight:

- Conflict of interest - The Federal awarding agency must establish conflict of interest policies for its Federal awards. The Agency must disclose in writing any potential conflict of interest to the Federal awarding agency (or pass-through entity) in accordance with applicable Federal awarding agency policy.
- Mandatory disclosures - Agencies (and applicants) must disclose all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

### **Fiscal Policies and Procedures**

All Agencies will need to review and make at least some changes in their fiscal policies and procedures to assure that they are fully compliant with the new regulations.

An organization now needs a "documented policy" in order to pay health and welfare costs with federal funds. Costs that would previously have been described in fiscal policies and procedures as *employee morale costs* are no longer allowable.

### **Indirect Costs and Cost Allocation**

Grantees and delegates are not required to obtain a negotiated indirect cost rate. Grantees and delegates that have never had a negotiated indirect cost rate have three options for dealing with indirect costs:

- (1) Indirect Cost Agreement: Negotiate an indirect cost rate agreement with the cognizant agency for indirect costs (Cost Allocation Services, or CAS), as outlined in **§75.414**;
- (2) De Minimis Rate: Any Agency that has never received a negotiated indirect cost rate, except for a governmental department or agency unit that receives more than \$35 million in direct federal funding, may elect to charge a de minimis rate. The de minimis rate is set at 10 percent and the base is modified total direct cost (MTDC), i.e. salaries, fringe benefits, supplies, services, travel costs and the first \$25,000 of each sub-award. The de minimis rate is only open to those entities that have never received a negotiated indirect rate and may be used indefinitely until the non-Federal

- entity elects to negotiate an indirect rate. Election and effective date of the *de minimis* rate should be reflected in the fiscal policies and procedures of the non-federal entity.
- (3) Direct Allocation: This method is acceptable, provided each joint cost is prorated using a base which accurately measures the benefits provided to each federal award or other activity. The bases must be established in accordance with reasonable criteria and be supported by current data. For an example using nonprofit organizations, see **Appendix IV to Part 75(B) (1-5)**.

Uniform Guidance and CFR Part 75 provide more information and options than grantees had in the past to support differentiating between direct and indirect costs.

### **Personnel Activity Reports**

The Uniform Guidance makes record-keeping easier, making it clear that personnel costs can be documented in a variety of ways.

**§75.430 Compensation - personal services** - Outlines the standards for documentation of personnel expenses. Charges to federal awards for salaries and wages must be based on records that accurately reflect the work performed.

Time records must be kept for non-exempt workers and volunteers as detailed below:

- Non-exempt workers: In accordance with Department of Labor regulations implementing the *Fair Labor Standards Act*, charges for the salaries and wages of non-exempt employees must also be supported by records indicating the total number of hours worked each day.
- Volunteers: Salaries and wages of employees used in meeting cost sharing or matching requirements on federal awards must be supported in the same manner as salaries and wages claimed for reimbursement from federal awards.

### **Allowable Costs**

Agencies may charge to Federal awards only allowable costs incurred during the period of performance.

In the area of real property, the items of cost no longer recognize use allowance as an allowable cost (See **§75.436 Depreciation**). **§75.436(e)** now requires that:

- Charges for depreciation be supported by adequate property records
- Physical inventories be taken at least once every two years
- Adequate depreciation records showing the amount of depreciation taken each period be maintained

### **Proposal Costs**

Proposal costs must meet the basic cost principle requirement of reasonableness. They need to be characterized as indirect Facilities & Administration costs and be within the scope of the negotiated indirect cost rate, *de minimis* rate, or cost allocation method used by the grantee and allocated consistently with other indirect F&A costs.

### **Fundraising Costs**

The language in the new regulation is clear that organized fundraising remains unallowable. Neither the Administration for Children and Families (ACF) nor OHS has given prior written approval for fundraising for the purpose of meeting federal program objectives. Consequently, all forms of fundraising both organized and for the purpose of meeting match requirements, are unallowable.

### **Real Property Reporting, Requests and Procurement**

The federal awarding agency or pass-through entity must require Agencies to submit reports at least annually on the status of real property in which the federal government retains an interest. The awarding agency can allow multi-year frequencies for reporting where the federal interest extends 15 years or longer, but ACF has opted to require annual real property reporting using **Standard Form (SF) 429 and Attachment A**, as indicated in **ACF-IM-HS-15-01**, for all grantees.

**SF-429** has two functions, (1) to report and (2) to request permission for certain actions. The cover page and Attachment A are used for reporting. The cover page and Attachment B are used to request funds to engage in a facilities activity.

Disposition, as well as refinancing, encumbrance, and subordination, is requested using the cover page and **Attachment C of SF-429**. Disposition options are found in **§75.318 Real property**.

### **Equipment**

Prior written approval is required for purchase or sale of equipment, defined as 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 Agency for financial statement purposes, or \$5,000. Uniform Guidance at **§75.439** addresses equipment and other capital expenditures. Inventory requirements are found at **§75.320(d)**, and **(e)** covers disposition of equipment.

### **Procurement**

Procurement is discussed in the Uniform Guidance at **200.317** through **200.326**, and in **Part 75 at §75.327** through **§75.335**.

The Agency must use one of the 5 methods of procurement:

- (1) Micro-purchases for acquisition of supplies or services if aggregate amount does not exceed \$3,500 (as per 48 CFR 2.1, effective 10/1/2015 through 9/30/2020); Micro-purchases may be awarded without soliciting competitive quotations if the agency considers the price to be reasonable ;
- (2) Small purchase procedures;
- (3) Sealed bids (formal advertising);
- (4) Competitive proposals; and
- (5) Noncompetitive proposals – revised to clarify that solicitation of a proposal from only one source may be used only when one or more of the following apply:
  - The item is available only from a single source
  - The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation. The Federal awarding agency (or pass

through entity) expressly authorizes this method in response to a written request from the Agency if after solicitation of a number of sources, competition is determined inadequate.



## APPENDIX C: RECORD RETENTION TABLE

<b>Record</b>	<b>Retention</b>
Audit reports	Permanent
Correspondence – Legal and important matters	Permanent
Deeds, mortgages, and bills of sales	Permanent
Financial statements – Year-end	Permanent
General ledgers/year-end trial balance	Permanent
Minute books of directors, bylaws, and charters	Permanent
Retirement and pension records	Permanent
Tax returns and worksheets, examination reports and other documents relating to tax filings	Permanent
Trademark registrations and copyrights	Permanent
Accident reports/claims (settled Cases)	7 Years
Accounts payable ledgers and schedules	7 Years
Accounts receivable ledgers and schedules	7 Years
Contracts, mortgages, notes, and leases – expired	7 Years
Garnishments	7 Years
Insurance claims	7 years
Inventories of products, materials, and supplies	7 Years
Invoices (to customers, from contractors)	7 Years
Notes receivable ledgers and schedules	7 Years
Payroll records and summaries	7 Years
Personnel records (terminated)	7 Years
Property records (incl. depreciation schedules)	7 years
Purchase orders	7 Years
Sales records	7 Years
Subsidiary ledgers	7 Years
Timesheets/cards	7 Years
Withholding tax statements	7 Years
Bank statement & reconciliations	3 Years
Chart of accounts	3 years
Employment applications	3 Years
Insurance policies (expired)	3 Years
Internal audit reports	3 Years
Internal reports	3 Years
Petty cash vouchers	3 Years
Correspondence – General	2 Years

## **APPENDIX D: DFS FISCAL PUBLICATIONS**

1. EarlyLearn Fiscal Manual
2. Administrative Advisory for Head Start Cost Allocation
3. Administrative Advisory for Head Start Non-Federal Share
4. Administrative Advisory for Head Start Month-End Closing
5. Administrative Advisory for Head Start Procurement
6. Administrative Advisory for Head Start Equipment and Property Management
7. Administrative Advisory for CDBG Funding
8. Administrative Advisory for Head Start Parent Activity Fund
9. Memorandum: Federal Interest Reporting
10. Staffing Guidelines for Salaried Positions
11. EarlyLearn Contract Budget & Amendment Guidelines
12. Contractor Budget Submission Manual
13. Contractor Invoice Guide
14. Memorandum: Use of Indirect Cost Rates under Uniform Guidance
15. Memorandum: Uniform Digital Audit Documentation