

Property and Procurement

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**BASED ON THE REGULATIONS UNDER
THE UNIFORM GRANT GUIDANCE
2 CFR 200**

**FOR EDUCATION GRANTS, REPLACES
THE REGULATIONS UNDER
EDGAR PART 80**

Historical Property Perspective

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The previous OMB Circulars, A-102 and A-87, identified what was allowed and not allowed using federal funds and applied rules for supplies versus equipment.

The circulars had not been revised since the early 1990s.

Since the last revision to the circulars, the world has seen cell phones, wireless networks, hand-held tablets, SMART boards, laptops, touch pads, camcorders, portable printers, and the list goes on, and no one knew how to classify these items...

Definitions

Different levels of administrative burden based on classification – so very important to know

Real Property
§200.85

Land, including land and structure improvement. EXCLUDES moveable machinery and equipment

Personal Property
§200.78

Property, other than real property.

Tangible:
Equipment
Supplies
Computing Devices
IT Systems

Intangible:
*(having no
physical existence)*
Trademarks,
copyrights

Uniform Grant Guidance Definitions

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Equipment (§ 200.33):

Tangible personal property (including IT systems) having a useful life of more than one year and a per-unit cost equal or greater to the capitalization level established by the sub-recipient; or \$5,000.

Acquisition cost (§200.2) –

Freight, installation, accessories, auxiliary apparatus to make the equipment usable is included in the threshold cost of equipment.

Equipment Threshold Example

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Subrecipient's capitalization threshold is \$3,000

Purchase of a SMARTboard for \$2,500; freight, installation and wall-mounting brings the price to **\$3,100**

EQUIPMENT

NOT EQUIPMENT

Equipment Threshold Example

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Subrecipient's capitalization threshold is \$6,000

Purchase of a SMARTboard for \$2,500; freight, installation and wall-mounting brings the price to **\$3,100**

EQUIPMENT

NOT EQUIPMENT

Equipment Threshold Example

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Subrecipient's capitalization threshold is \$6,000

Purchase of playground equipment for \$3,500; freight and installation brings the price to **\$5,100**



EQUIPMENT



NOT EQUIPMENT

Equipment Use Defined

§200.313

- The equipment must be used only for the authorized purpose of the project until funding for the project ceases or until the equipment is no longer needed for the purposes of the project.
- When no longer needed for the original program, the equipment may be used in other activities supported by the Federal awarding agency, in the following priority order:

Use of Equipment Priority List

§200.313(c)(1)(i-ii)

- 1) Activities funded by the same Federal agency, but different award
 - A vehicle purchased with IDEA funds can be used by Title I when no longer needed by the special education program

- 2) Activities funded by a different Federal agency
 - A vehicle purchased with IDEA funds can be used by Food Service when no longer needed by the special education program and the Title I program does not need it

Replacement Equipment

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§200.313(c)(4)

When the equipment is no longer usable for the program, the subrecipient may trade-in or sell the item and use the proceeds to offset the cost of the replacement

- The subrecipient can sell a 6-seat van used for special education and use the proceeds to offset the cost of a 12-seat bus to be used for special education.

Equipment “Administrative Burden”

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§200.313(d) Management requirements

These requirements apply to:

- Any items meeting the definition of equipment (either \$5,000 or sub-recipient’s threshold if less)
- Equipment purchased in whole or in part with Federal funds
- Includes replacement equipment if Federally-paid for equipment proceeds were used

Equipment Management Requirements

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1) Property Records must exist and include:

- A description of the property
- A serial number or other identification number
- The source of funding – including the Federal Award Identification Number (FAIN), which can be found on the grant award document
- Who holds the title
- Acquisition date

Equipment Management Requirements

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(Property Records continued)

- Cost of the equipment
- Percentage of Federal funds used for the equipment
- Location, use and condition of the property
- Any ultimate date of disposal
 - ✦ Date of disposal
 - ✦ Sale price of the equipment

Equipment Management Requirements

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2) Physical inventory

- Must be conducted and the results reconciled with the property records at least once every two years

3) Control system

- Ensure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage or theft must be investigated.

Equipment Management Requirements

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4) Maintenance

- Procedures must be developed to keep the property in good condition

5) Disposition

- Proper sales procedures must be established to ensure the highest possible return

Name a Piece of Equipment

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- Besides a vehicle, can you think of a piece of equipment that costs more than \$5,000 that is used solely for a federally-supported program area?
- If the subrecipient's capitalization threshold is less than \$5,000, in some cases less than \$1,000, can the federal equipment management requirements be met?

Uniform Grant Guidance Definitions

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Supplies (§200.94) -

Tangible personal property that does not fit the definition of equipment – now solely based on the financial threshold and not on “length of useful life”

Computing Devices (§200.20) –

Machines used to acquire, store, analyze, process and publish data electronically and any accessory used in conjunction (printers, servers, routers, etc.)

Laptops are Supplies

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A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or \$5,000, regardless of the length of its useful life. (§200.94)

Hot Topic: Computing Devices

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If computers, laptops, tablets, handheld devices, touch screens – all items that are highly desirable and easy to walk off – considered supplies, are they now disposable?

NO – However, the stringent requirements of the Equipment Management system would do little to prevent theft or misuse but would instead create an administrative burden outweighing any perceived benefits

Internal Control over Compliance Requirements

§200.62

All subrecipients of Federal funds must have an implemented process designed to provide reasonable assurance that (c) Funds, property, and other assets are SAFEGUARDED against loss from unauthorized use or disposition.

Subrecipient determines how computing devices will be tracked, used, and disposed of in accordance with the Federal grant program.

Laptops are Supplies

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A computing device is a supply if the acquisition cost is **less than the lesser of the capitalization level established by the non-Federal entity for financial statement** purposes or \$5,000, regardless of the length of its useful life. (§200.94)

If your threshold is low enough to capitalize laptops and computers, then those items MUST be inventoried according to the Uniform Grant Guidance...

Private Schools & Equipment / Supplies

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Education Department's General Administrative Regulations still dictate –

§ 76.651(3)

- The LEA will maintain administrative direction and control over funds and property that benefit students enrolled in private schools.

Private Schools & Equipment / Supplies

§ 76.658(a)

- The LEA may not use Federal funds to finance the existing level of instruction in a private school or to otherwise benefit the private school.

§ 76.658(b)

- The LEA will use Federal funds for specific needs of students rather than the needs of the private school or the general needs of students enrolled in private schools.

Private Schools & Equipment / Supplies

§ 76.661 Equipment and Supplies may be placed in a private school for the period needed for the project

The LEA must insure that the equipment or supplies placed in a private school:

- Are used only for the purposes of the project; and
- The equipment or supplies shall be removed if they are no longer needed for the purposes of the project or the removal is necessary to avoid the use of the equipment or supplies for other than project purposes

Procurement

EDGAR Part 80 placed many additional requirements onto the OMB Circular A-87 regulations.

The Uniform Grant Guidelines has now replaced EDGAR Part 80 in whole

Introduction



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What is procurement?

- The complete process of obtaining goods and services (purchasing).

- Purchasing Process
 - ✦ Requesting
 - ✦ Receiving
 - ✦ Paying

- General Rule: A good purchasing system ensures that goods or services are obtained in a way that **maximizes the value** of funds.

§200.318

General Procurement Standards

The subrecipient must use its own documented procurement procedures which reflect applicable State and local regulations, provided that the procurements conform to applicable Federal laws and the Uniform Grant Guidance.

General Standards

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- Maintain oversight to ensure contractors perform the work as specified in the contract (§200.318(b))
- Maintain written standards for “Conflict of Interest” (§200.318(b))
- Only contract with reliable vendors (§200.318(h))
- Sub-recipient is responsible for all contract disputes and cannot defer to the Federal agency in such cases (§200.318(k))

General Standards

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The subrecipient must maintain records sufficient to detail the history of procurement. Records must include, but not limited to: (§200.318(i))

- Rationale for the method of procurement
- Selection of contract type
- Contractor selection or rejection
- The basis for the contract price

§200.319(c)

Competition guidance for all procurement methods

“Full & Open”

The following are considered “anti-competitive”

- Placing unreasonable requirements on vendors to qualify for business
- Requiring unnecessary experience
- Noncompetitive pricing practices between firms
- Noncompetitive contracts to consultants that are on retainer contracts

§200.319(c)

Competition guidance for all procurement methods

“Full & Open”

The following are considered “anti-competitive”

- Organizational conflicts of interest
- Specifying a “brand name” product instead of allowing an “equal” product to be offered
- Cannot be bound by state or local geographical preferences in the evaluation of bids or proposals

Micro Purchase

- Supplies or services, aggregate cost of purchase is less than \$3,000
 - Unlike equipment, not a “per item” amount, but bulk purchase amount
- No need to solicit competitive quotes if the subrecipient considers the price to be reasonable

Small Purchase

- Supplies or services, aggregate cost of purchase is less than the Simplified Acquisition Threshold
 - Between \$3,000 and \$150,000
- Gather quotes from an adequate number of qualified sources
 - Adequate not defined

“Simplified Acquisition Threshold”

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For all projects or services which will cost more than \$150,000, the subrecipient must (§200.323)

- Perform a cost analysis and determine an estimate *before* receiving bids or proposals
- Must negotiate a fair and reasonable profit as a separate element from cost
 - Consider complexity of the work performed
 - Risk borne by the vendor
 - The amount of vendor sub-contracting
 - Vendor’s past record of performance
 - Industry profit rates in the geographical area

Sealed Bids

- Preferred procurement method for services with a cost over \$150,000
- Lump sum contract through formal advertising for the lowest responsible bidder who meets the material terms and conditions of the bid invitation
- Several steps to be completed per §200.320(c)

Competitive Proposal

- Use when sealed bids (the preferred method) is not feasible
- Fixed price or cost reimbursement
- Formal advertising and all evaluation factors identified
- Subrecipient must have a *written method* for vendor selection

Non-Competitive Proposal

Proposal from only one source, under these conditions:

- The item is only available from one source (but remember – cannot be based on “Name Brand”)
- Public emergency makes a sealed or competitive bid process unrealistic
- The pass-through entity expressly authorizes in response to a written request by subrecipient
 - Contracts with CESA / CCDEB
- After solicitation of a number of sources, competition is determined inadequate

Additional Contracting Requirements

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Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms. (§200.321)

- 1) Take affirmative steps to place these business types on qualified vendor lists
- 2) Solicit these groups whenever they are potential sources
- 3) Divide large projects into smaller pieces to allow for these businesses to participate

Additional Contracting Requirements

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- 4) Establish delivery schedules, where permitted, that encourage participation by these businesses
- 5) Utilize the services of Small Business Administration and the Minority Business Development Agency of the Department of Commerce
- 6) Require the prime contractor, if sub-contracting, to also take affirmative steps of 1 through 5

And Finally...Contract Provisions (§200.326)

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All contracts using Federal funds must contain the applicable provisions set forth in the Uniform Grant Guidelines, Appendix II – “Contract Provisions for non-Federal Entity Contracts Under Federal Award”

- There are 11 possible provisions, and include
 - Termination for cause and for convenience
 - Equal Employment Opportunity
 - Davis Bacon Act
 - Contract Work Hours and Safety Standards Act

WRITTEN PROCEDURES

The subrecipient must use its own documented procurement procedures which reflect applicable State and local regulations, provided that the procurements conform to applicable Federal laws and the Uniform Grant Guidance.

The subrecipient must have written procedures regarding solicitations to ensure that all procurement transactions are conducted in a manner providing full and open competition

Written Procedures

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These written standards must ensure that all solicitations:

- 1) Incorporate a clear and accurate description of the technical requirement.
 - Description cannot contain features which unduly restrict competition (such as unnecessary experience or specifying only “brand name” products)
- 2) Identify all requirements which the vendor must fulfill and all other factors to be used in evaluating bids or proposals.

Written Procedures / Procurement



Sample questions to ask when writing procedures:

- Where are instructions outlining the solicitation requirements (200.319(c)) available for staff?
- Prior to releasing a solicitation, who has reviewed and ensured that the solicitation requirements have been included?
- Who verifies that prequalified lists of persons, firms, or products are current and include enough qualified sources to ensure maximum open and free competition?