

Federal Grants: Procurement, Equipment, Property Inventory, and Real Property

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Procurement Defined

Procurement is the complete process of purchasing goods and services.
The purchasing process includes:

- Requesting
- Receiving
- Paying

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

General 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 (§200.318)

General Standards

- 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)]
- Subrecipient is responsible for all contract disputes and cannot defer to the Federal agency in such cases [§200.318(k)]

General Standards

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

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

General Standards – Full and Open Competition

§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

General Standards – Full and Open Competition

§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

Five Methods of Procurement

- Micro-purchase
- Small Purchase
- Sealed Bids
- Competitive Proposals
- Noncompetitive Proposals

Micro Purchase

§200.320 (a)(1)

The non-Federal entity is responsible for determining an appropriate micro-purchase threshold based on internal controls, an evaluation of risk and its documented procurement procedures.

- Aggregate dollar amount not to exceed \$10,000
- When practical, distribute equitable among qualified suppliers
- No competitive quotes required if management determines price is reasonable

Small Purchase

§200.320(a)(2)

The non-Federal entity is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk and its documented procurement procedures.

- Purchase up to the Simplified Acquisition threshold (currently \$250,000)
- Informal procedures acceptable
- Price or rate quotes must be obtained from an adequate number of sources

Sealed Bids

§200.320(b)(1)

A procurement method in which bids are publicly solicited and a firm fixed-price contract is awarded to the responsible bidder, who met the terms and conditions of the invitation, whose bid is the lowest in price.

- Purchases over the Simplified Acquisition Threshold (currently \$250,000)
- Formal solicitation required
- Must be solicited from an adequate number of qualified sources, providing them sufficient response time prior to the date set for opening the publicly advertised bids
- Most common for construction contracts

Competitive Proposals

§200.320(b)(2)

A procurement method in which either a fixed-price or cost-reimbursement contract is awarded through a competitive proposal process.

- Purchases over the Simplified Acquisition Threshold (currently \$250,000)
- Formal solicitation required
- Used when sealed bids are not feasible
- Awarded to responsible firm whose proposal is most advantageous to the program, with price being one of the considered factors

Non-Competitive Proposals

§200.320(c)

A procurement method allowed only when it meets specific criteria outlined in the regulations.

- The item is available only from a single source, but not because of a brand name
- Public emergency makes a sealed or competitive bid process unrealistic
- The federal awarding agency (or pass-through entity-DPI) expressly authorizes in response to a written request by the subrecipient
- After solicitation of a number of sources, competition is determined inadequate

Additional Contracting Requirements

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

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 subcontracting, to also take affirmative steps of 1 through 5.

Contracting Provisions

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” (§200.327)

There are 11 possible provisions, including:

Debarment and Suspension

Termination for cause and for convenience

Equal Employment Opportunity

Davis-Bacon and Related Acts

Contract Work Hours and Safety Standards Act

Procurement 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

These written standards must ensure that all solicitations:

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).

Identify all requirements which the vendor must fulfill and all other factors to be used in evaluating bids or proposals.

Written Procedures

Sample questions to ask when writing procurement procedures:

- ❑ Where are instructions outlining the solicitation requirements [200.319(b)] 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?

Construction

- Technical Assistance Document and Presentation Resources
- Construction/Minor Remodeling
- Davis-Bacon and Related Acts
- Construction Services Budgeting
 - Assurances
 - Requirements
- Discuss construction projects with your LEA's legal counsel



Davis-Bacon and Related Acts

Davis-Bacon and Related Act Compliance

- Applies to ALL contractors/subcontractors performing on construction and minor remodeling contracts in excess of \$2,000
- Includes laborers and mechanics



Davis-Bacon and Related Acts

- Prevailing wage determination
- Bids/contracts include contract clauses with Davis-Bacon
- >\$100,000 comply with Contract Work Hours and Safety Standards Act (overtime)
- Use eligible contractors
- Prevailing wage determination posted at work site
- Collect certified payroll records weekly
- Report alleged Davis-Bacon violations
- Maintain documentation



SAM.gov Prevailing Wage

Help me find a wage determination

I know the WD number
Search by WD Number

e.g. DBA or SCA Identifier

Show active only

I do not know the number
Start your search by selecting a category

Public Building or Works 
Wage rates for laborers and mechanics

Service Contracts 
Wage rates for service employees
Service Contract Act (SCA)

<https://sam.gov/content/wage-determinations>

Conflict of Interest

Maintain written standards for “Conflict of Interest” 200.318(c)(2)

The LEA’s relationships with a contractor or subcontractor should not impede on their bidding process. LEAs should ensure that the costs are both reasonable and necessary and that outside relationships with vendors remain impartial throughout the procurement process.

Procurement Procedures

The district must maintain sufficient records to detail the history of procurement. Records must include at a minimum: 200.318(i)

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



Procurement Suspension & Debarment

LEAs must follow the procurement standards set out at 2 CFR sections 200.318 through 200.326. LEAs must use their own documented procurement procedures, which reflect applicable state and local laws and regulations, provided that the procurements conform to applicable federal statutes and the procurement requirements identified in 2 CFR Part 200.

1. General Procurement Standards
2. Full and Open Competition
3. Informal Procurements
 - a. Davis-Bacon
4. Sealed Bid or Proposal
5. Cost Analysis
6. Bonding Requirements

Procurement Suspension & Debarment

Overview of what Auditors will look for:

- LEAs followed their procurement procedures
- That procurements made with federal funds were made in compliance with the federal regulations for procurement.
- LEAs verified that their vendors were not suspended, debarred, or otherwise excluded.



Equipment & Property Management

Different levels of administrative burden
based on equipment classification –
so very important to understand the
difference

Real Property

§200.85

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

Personal Property

§200.85

Property, other than real property.

Tangible
Equipment
Supplies
Computing Devices
IT Systems

Intangible
(having no
physical existence)
Trademarks,
copyrights

Personal Property

Uniform Grant Guidance Definitions

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.

Capital Equipment Threshold Example

Subrecipient's capitalization threshold is \$5,000

Purchase of a SMARTboard for \$4,500; freight, installation and wall-mounting brings the price to \$5,100

NON-CAPITAL
EQUIPMENT

CAPITAL
EQUIPMENT

Capital Equipment Threshold Example

Subrecipient's capitalization threshold is \$5,000
Purchase of a SMARTboard for \$2,500; freight, installation and wall-mounting brings the price to \$3,100

NON-CAPITAL
EQUIPMENT

CAPITAL
EQUIPMENT

Capital Equipment Threshold Example

Subrecipient's capitalization threshold is \$6,000
Purchase of presentation equipment for \$4,500 per unit; freight and installation brings the price to \$5,100 per unit

NON-CAPITAL
EQUIPMENT

CAPITAL
EQUIPMENT

Capital Equipment Threshold Example

Subrecipient's capitalization threshold is \$6,000
Purchase of playground equipment for \$3,500; freight and installation brings
the price to \$4,900

NON-CAPITAL
EQUIPMENT

CAPITAL
EQUIPMENT

Name a Piece of Equipment

Besides a vehicle, how many more types of equipment can you think of in which a single unit 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

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”

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 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 authors of the UGG determined that 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.

Laptops are “Supplies”

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 Equipment Management Requirements...

Internal Control over Compliance Requirements

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 (2 CFR §200.62)

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

“Administrative Burden”

Equipment (§200.313(d)): Management Requirements

These requirements apply to:

- Any items meeting the definition of equipment (either \$5,000 or the subrecipient’s capitalization 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

1) Property Records must exist and include:

- A description of the property
- A serial number or other identification number
- Fund Source – including the Federal Award Identification Number (FAIN)
- Titleholder
- Acquisition date
- Cost of the equipment
- Percentage of Federal funds used for the equipment
- Location, use, and condition of the property
- Disposal details, including date and sale price if applicable

Equipment Management Requirements

2) Physical Inventory

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

3) Control system

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

4) Maintenance

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

5) Disposition

- Procedures must be developed to dispose of equipment.

Equipment Use Defined

Equipment [§200.313(1)]:

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.

Equipment Use Limited

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 (§200.313).

When no longer needed for the original program, the subrecipient may sell, repurpose or dispose of the equipment following regulations.

For all disposal options, the subrecipient must document (as part of its grant records) why the equipment is no longer needed by the federal grant program and how it was disposed.

Use of Equipment Priority List

When no longer needed for the original program, the equipment may be used in other activities supported by the Federal awarding agency, in a set priority order.

§200.313 (c)(1)(i-ii)

- Activities funded by the US Department of Education, but through a different award.
- IDEA purchased, given to Title I (ESEA)
- Activities funded by other federal agencies.
- IDEA purchase, given to Fresh Fruits and Vegetables Program (USDA)
- General education activities.
- Item is not usable by any other federal program, and can be used for general purposes.

If the non-capital equipment is no longer usable for any program (outdated or broken), the subrecipient should document the removal of the items from program use.

Disposal of Equipment

When no longer needed for the original program, the equipment may be used in other activities supported by the Federal awarding agency, in a set priority order.

§200.313 (c)(1)(i-ii)

- If the capital equipment has a current fair market value of less than \$5,000 it may be repurposed for general use, sold, or otherwise disposed of with no further obligation to DPI.
- If the capital equipment has a current fair market value of \$5,000 or greater, the subrecipient, with permission from the DPI program area, may:
 - Reinvest the revenue into replacement equipment to support the existing federal education program; or
- Sell the capital equipment and return the funds to the US Department of Education through DPI.

Equitable Participation

- For formula grants with equitable services provisions (IDEA, ESEA, ESSER and GEER grants), private schools are not allowed to obligate federal funds. LEAs should follow their procurement procedures and make purchases and contract for services on behalf of private schools.
- LEAs may not reimburse the private school for supplies or materials they have purchased. In addition, any property, materials, or equipment purchased with federal funds for private school equitable participation must remain the property of the LEA.
- The LEA should follow its written procedures for loss, theft, or damage of property.
- Educational services or benefits under the grant, including the use of materials and equipment, must be secular, neutral, and non-ideological [20 U.S.C. 6320(2)(a)].

Equitable Participation

Non-capital equipment purchased with federal funds would be available to the private school for the duration of the grant program.

- If the grant program ends (such as the stimulus funds), and the private school participates in other federally funded programs (such as Title IV, Part A of ESEA or IDEA), then the LEA may use the non-capital equipment to support those programs. The non-capital equipment must support the intended purpose of the federally funded program and be determined necessary for that program by the LEA and private school through consultation.
- If the private school does not participate in any other federal program, then the LEA must collect the non-capital equipment for use with other federally funded programs in the LEA (2 CFR 200.314 and 34 CFR 76.661).

Real Property

Real Property

- Real property refers to the purchase of land, including land, structure improvements, and appurtenances (the attachment of a right or property to a more worthy principal) thereto, but excludes moveable machinery and equipment (§200.1).
 - includes new construction on existing land such as outdoor learning spaces, additions to a school building, or other construction, structural alterations to buildings, building maintenance, or repairs (i.e., upgrades to HVAC systems).
 - Minor remodeling (such as replacing flooring, replacing plumbing fixtures, replacing door knobs, etc), defined as minor alterations to a previously completed building, is excluded from the definition of real property.
- If an LEA uses federal funds to improve land or buildings, the federal government will hold interest in the real property (2 CFR §200.316)

Real Property

- Reporting on Real Property (§200.330)
 - The UGG requires LEAs to submit reporting annually on the status of real property for 15 years
 - DPI is developing the system for this requirement and will release guidance when it is available
- Disposal
 - Awaiting guidance from USDE
 - If you are disposing of real property or thinking of disposing of real property, please contact DPI

Construction and Davis-Bacon Resources

- [Federal Stimulus Funds Updates: Construction \(Google Slides\)](#)
- [Federal Stimulus Funds Updates: Construction \(Video\)](#)
- [Construction and Federal Stimulus Funds](#)
- [How to Budget Construction in WISEgrants](#)
- [Davis-Bacon and Related Acts Compliance](#)
- [SAM.gov Prevailing Wage Determinations](#)
- [SAM.gov Exclusions](#)
- [U.S. Department of Labor Wage and Hour Division Davis-Bacon and Related Acts](#)
- Send questions to: essergrants@dpi.wi.gov

Additional Resources

- [Capital and Non-Capital Equipment Purchased with Federal Funds](#)
- [Use and Disposition of Equipment under Equitable Participation - Federal Stimulus Relief Funds FAQ](#)
- [Federal Procurement Standards](#)
- [Written Procedures](#)