

Property and Procurement

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**BASED ON THE REGULATIONS
UNDER THE OMNI CIRCULAR
2 CFR 200**

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

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Historical Property Perspective

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The OMB Circulars, A-102 and A-87, identify what is allowed and not allowed using federal funds and apply rules for supplies versus equipment

The circulars had not been revised since the mid 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...

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Definitions

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

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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

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2 CRF §200 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

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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

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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

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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**

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NOT EQUIPMENT

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Equipment Use Defined

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§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:

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Use of Equipment Priority List

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§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

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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.

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Disposing of Equipment

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§200.313(e)

Request disposition instructions from DPI, but usually the process will be:

- Items with a fair market value of \$5,000 or less may be retained, sold or otherwise disposed of with no further obligation to DPI or the Federal agency
- Items with a fair market value greater than \$5,000 may be sold, and if the proceeds are not reinvested into replacement equipment, the percent representing the grant amount must be returned to the Federal agency
 - ✦ The subrecipient may keep \$500 or 10% of the proceeds, whichever is less, to cover selling and handling expenses

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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

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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

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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

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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

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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

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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?

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2 CRF §200 DEFINITIONS

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Supplies (§200.94):

Tangible personal property that does not fit the definition of equipment

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.)

- now solely based on the financial threshold and not on “length of useful life”

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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 not valuable?

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

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Internal Control over Compliance Requirements

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§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

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Private Schools & Equipment / Supplies

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§ 76.651(3)

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

§ 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

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Private Schools & Equipment / Supplies

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§ 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

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Private Schools & Equipment / Supplies

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§ 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

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Procurement

EDGAR Part 80 placed many additional requirements above OMB Circular A-87

2 CFR 200, the Uniform Grant Guidelines, has no replaced EDGAR Part 80 in whole

Definition



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Procurement is 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
- **2 CFR §200.318**
General procurement standards

Procurement Basis

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The subrecipient must use its own documented procurement procedures which reflect state and local laws and regulations provided that the procedures conform to the Federal program and the Omni Circular

The subrecipient must have written procedures for procurement transactions (§200.319(c))

Procurement Types

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Micro-purchases

The acquisition of supplies or services, with the aggregate dollar not exceeding \$3,000

May be purchased without soliciting competitive quotations if the subrecipient considers the price to be reasonable

Procurement Types

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Simplified Acquisition Threshold (small purchases)

The acquisition of supplies or services, between the range of \$3,001 and \$150,000

For small purchase procedures, the subrecipient must obtain price or rate quotations from an adequate number of qualified sources

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Procurement Types

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Any purchase greater than \$150,000 must be handled either through

- Sealed bids
- Competitive proposals
- Non-competitive proposals (sole source)

A cost or price analysis must be done – as a starting point, the sub-recipient must make independent estimates before receiving bids or proposals (§200.323)

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Maintain Procurement Records

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“Sufficient to detail the history of procurement”

- Will include, but not limited to
 - Rationale for the method of procurement
 - Selection of the contract type
 - Contractor selection or rejection
 - Basis for the contract price

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Competition

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All procurement transactions using Federal funds must be conducted in a manner providing full and open competition

- Restrictive practices
 - Unreasonable requirements for a firm to qualify to do business
 - Requiring unnecessary experience and excessive bonding
 - Noncompetitive pricing practices between firms
 - Noncompetitive contracts to consultants that are on retainer contracts
 - Organization conflict of interest
 - Specifying only a “brand name” instead of allowing “an equal” product to be offered and describing the performance requirements of the procurement

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Conflict of Interest

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The subrecipient must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, awards, and administration of contracts

If the subrecipient has a parent organization that is not local government, the written standard must also cover organizational conflicts of interest

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Contractors

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The subrecipient must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders

The subrecipient must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement

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Contract Provisions

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The subrecipient's contracts must contain "Contract Provisions for non-Federal Entity Contracts Under Federal Awards" - Appendix II to Part 200

- Administrative remedies for contracts over \$150,000
- Termination for cause included in contracts over \$10,000
- Equal Employment Opportunity language
- Davis Bacon Act for construction / remodeling contracts
- Clean Air Act language for contracts over \$150,000
- Debarment and Suspension
- Byrd Anti-Lobbying Amendment for contracts over \$100,000

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Debarment & Suspension

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Addressed in both the grant application assurances and restated on the grant award document

A subrecipient cannot make a contract to parties listed on the Excluded Parties List System in the System for Award Management (SAM)

Contains the list of names of parties debarred, suspended, or otherwise excluded by Federal agencies

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Technical Assistance

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Procurement guide will be developed that covers procurement transactions in excess of \$150,000

It will include the requirements for sealed bids and competitive proposals

The updated procurement process goes into practice with the 2015-16 grants.

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