

A photograph of the Florida State Capitol building, featuring a prominent white dome and classical columns. The building is set against a clear blue sky. In the foreground, there are green trees and a flagpole with the Florida state flag. A semi-transparent white box with blue text is overlaid on the center of the image.

Education Department General Administrative Regulations (EDGAR)

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ACKNOWLEDGEMENT

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DISCLAIMER

All the information and handouts provided are not to be deemed legal advice. As legal interpretations may vary, we encourage all attendees to consult with their County Office of Education and/or legal counsel prior to using any samples provided.

What is EDGAR?

- The Education Department General Administrative Regulations (EDGAR) are the federal regulations that govern all federal grants awarded by the U.S. Department of Education on or after December 26, 2014, to local districts (LEAs) and charters including State-administered programs. The regulations impact time and effort certifications, indirect cost reimbursement, timely obligation of funds and carryover, financial management rules, program income, record retention, property/ equipment/supplies inventory controls, procurement, monitoring, conflicts, travel policies, and allowable costs. All recipients of federal grant dollars must comply with these new rules to avoid audit exposure. Effective date of July 1, 2016.

EDGAR – Purpose

- Emphasizes internal controls to strengthen oversight over federal funds to reduce risks of waste, fraud, and abuse.
- Auditors will look for significant written policies and procedures that provide for effective internal controls and will ensure grantees are monitoring employees for compliance with the written policies and procedures.
- Grantees must have written procedures for determining the allowability of costs charged to federal grants. (200.302(b)(7))
- All costs must be documented as reasonable, necessary, allocable, and allowable.

OVERVIEW

- EDGAR Requirements for Purchasing
- State & Federal Rules for Purchases
- Formal Purchase Process
- Contract Provisions & Certifications
- P-Card / Credit Card Purchases
- Non-competitive Award
- Travel Policies
- Approval of Expenditures
- Inventory Control
- Retention of Records
- Written Policies and Procedures

Procurement Limits

- Office of Management and Budget Memorandum M-18-18
- Districts and Charter Schools must follow the most restrictive rule or regulation.
- Micro-purchases below \$10,000, the more restrictive federal rules apply.
- Small Purchases between \$10,000 and \$250,000, the federal rules require price or rate quotations from an adequate number of qualified sources.
 - **The most restrictive rule applies here so the lower California limit applies. (CNPs may potentially use a higher limit; however, it is recommended that you check with your legal counsel.)**
- Formal purchases greater than \$250,000, the federal rule for the cost or price analysis is more restrictive and must also be followed in conjunction with the state rules.

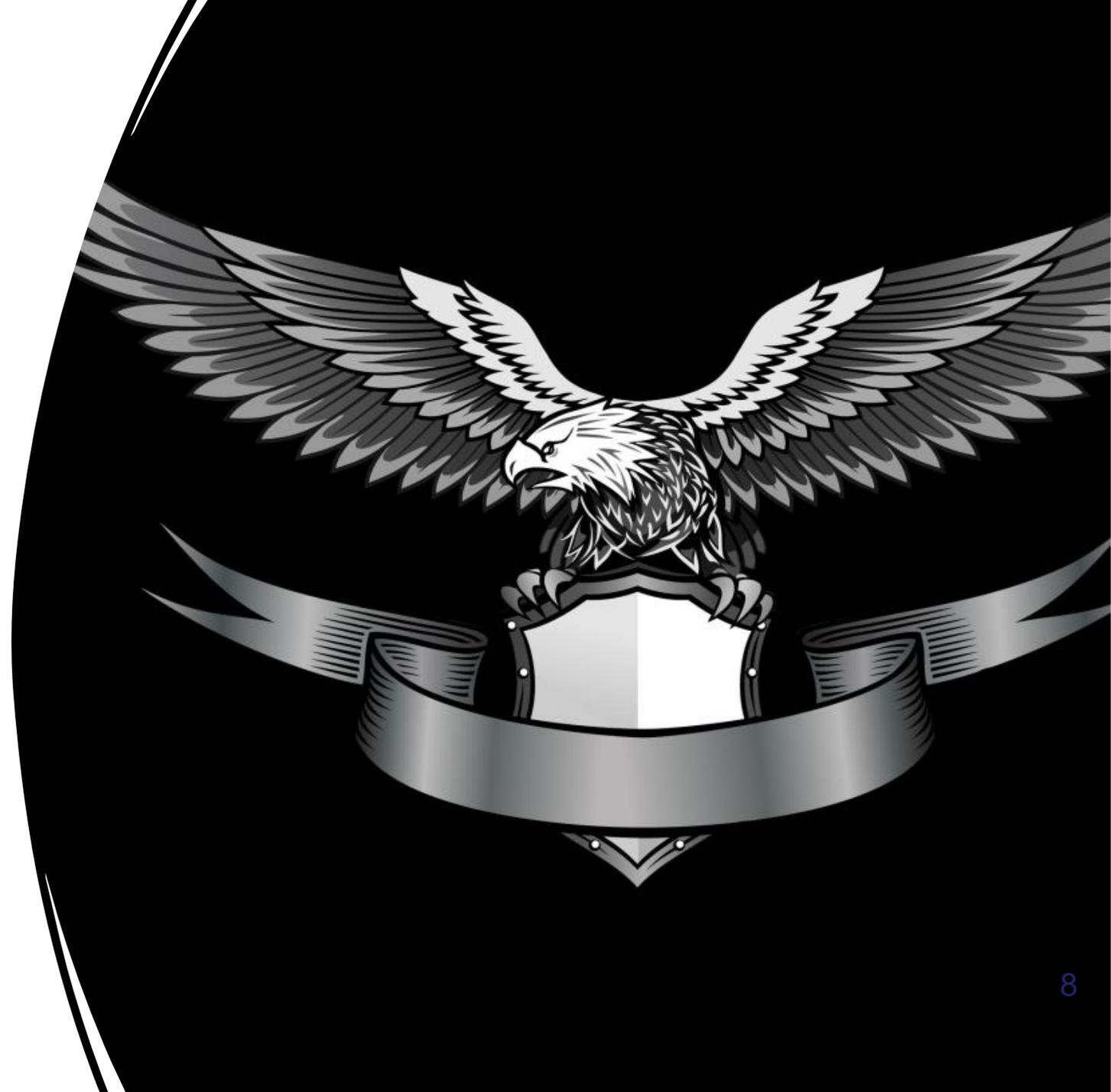
Note: Although there are conflicting opinions on whether state bid limits apply to charter schools; when using federal funds, charters must comply with federal regulations.

EDGAR Applied

EDGAR regulations apply to all federally funded programs including grants including, but not limited to the following:

- Title I — Title II — Title III — Title IV — Title V — Title VI — Title VII — Title VIII
- Every Student Succeeds Act (ESSA)
- ESEA Flexibility
- Workforce Innovation and Opportunity
- CTE / ROP / Carl Perkins
- National School Lunch Program
- Department of Defense Construction Grants

EDGAR Requirements for Purchasing Good and Services



Application of Bid Limits

- Price is in the aggregate:
 - For single or individual purchases made without contract: aggregate costs means the cost of the individual purchase (One-offs)
 - For contracts: aggregate costs means the total **potential** cost of the contract, including any option years and amendments, or the time between full procurements for that same goods/services/etc.
 - Example of Categories: Office supplies; miscellaneous repairs/equipment, vehicle purchase, equipment repair services

Purchase Orders and Contracts

- The issuance of a Purchase Order (PO) by the district and its acceptance by the vendor (either through performance or signature on the PO) constitute a contract. For this reason, it is crucial the PO clearly specify the item(s) or service(s) being purchased and the terms and conditions of the purchase.
- The non-federal agency must ensure that its contracts and purchase orders contain the applicable provisions.

MICRO PURCHASE

State Rules v. Federal Rules

Micro Purchase

State Regulations

- There are no state rules for micro purchases; however, a district or charter school may have stricter regulations within board policy or administrative regulation.

Federal Regulations

- Micro-purchase threshold means the dollar amount at or below which a non-Federal entity may purchase property or services using micro-purchase procedures (see § 200.320). Generally, the micro-purchase threshold for procurement activities administered under Federal awards is not to exceed the amount set by the FAR at 48 CFR part 2, subpart 2.1, unless a higher threshold is requested by the non-Federal entity and approved by the cognizant agency for indirect costs.

Micro Purchase Procedures

- Agency determines the item and quantity to be purchased based on the grant award.
- Agency identifies and contacts the vendor/supplier to complete the purchase.
- Agency may also obtain quotes (orally or written), but quotes are not required.
- Agency must determine the price paid is reasonable. Price reasonableness normally will be based on a comparison with historical prices paid for the item, commercial catalog prices, or other offers.
- Agency must keep documentation to support the method of purchase, basis for vendor selection and reasonableness of price.
- If competitive quotations were solicited and award was made to other than the low quote, documentation should include identification of solicited vendors and the reason for award decision.

Micro Purchase Procedures

- The district should develop a local policy to determine how to equitably distribute micro purchases, to the extent practicable, among qualified vendors.
- Micro-purchases do not require any of the special provisions or clauses found in 2 C.F.R. § 200,326 and 2 C.F.R. Part 200, Appendix II, Required Contract Clauses.

Micro Purchase Self-Certification

The 2020 revisions to the Uniform Guidance permit non-Federal entities, for some types of contracts, to raise the micro-purchase to a level not to exceed \$50,000.

- A non-Federal entity may self-certify a threshold of up to \$50,000 on an **annual basis** if (1) it maintains documentation to be made available to a Federal awarding agency or pass-through entity and auditors in accordance with 2 C.F.R. 200.334, and (2) within the self-certification.

Micro Purchase Self-certification Requirements

- To increase the Micro Purchase limit, a district must:
 - Write a justification for the threshold;
 - Identify the threshold; and
 - Maintain supporting documentation of any of the following:
 - a qualification as a low-risk auditee, in accordance with the criteria in § 200.520 for the most recent audit;
 - an annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or
 - for public institutions, a higher threshold consistent with State law.

SMALL PURCHASE / SIMPLIFIED ACQUISITION

State Rules v. Federal Rules

State Regulations

There are no state rules for small purchases; however, a district or charter school may have stricter regulations within board policy or administrative regulation.

Federal Regulations

Simplified acquisition threshold means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods (see § 200.320). Non-Federal entities adopt small purchase procedures in order to expedite the purchase of items at or below the simplified acquisition threshold. The simplified acquisition threshold for procurement activities administered under Federal awards is set by the FAR at 48 CFR part 2, subpart 2.1.

State Rules v. Federal Rules

Federal Regulations (cont'd)

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. However, in no circumstances can this threshold exceed the dollar value established in the FAR (48 CFR part 2, subpart 2.1) for the simplified acquisition threshold. Recipients should determine if local government laws on purchasing apply. (Note: California's bid limit is more restrictive.)

Small Purchase Procedures

- Before completing a small purchase, a district must determine price reasonableness by performing a price or cost analysis.
- An independent estimate used a benchmark for evaluating price reasonableness:
 - A. Comparison of catalog or market prices;
 - B. Comparison of regulated prices, such as the purchase of utilities; or
 - C. Comparison with recent prices paid for similar goods or services.
- A cost analysis involves breaking down the total cost by cost components such as labor, materials, and profit. to determine whether the costs are allowable, allocable, and reasonable pursuant to Federal requirements. Required when:
 - A. Price competition is insufficient;
 - B. Only one bid is received;
 - C. The good or service is available from only one source;
 - D. The price is the result of a contract modification; or
 - E. The solicitation called for specific cost elements, such as labor hours, overhead, materials, etc.

Small Purchase Procedures

- Written specifications/scope of work that include a description of the goods or services needed, including quantity, required certification, licensing, etc.
 - Descriptions/ specifications must be communicated equally among vendors, and should include unit size (case, package) , measurement unit, brand name equivalent.
- Price quotes from an adequate number of qualified sources.
- Requires you source from at least two vendors (adequate number of sources).
- Evaluate bidders' responses to your specifications.
- Determine most responsive and responsible bidder at lowest price and award contract.
- County and/or District's may have more restrictive limits.
- Managing the contract is a requirement.
- Certifications are required for small purchases.

State Rules v. Federal Rules

FORMAL PURCHASE THRESHOLD:

STATE REQUIREMENTS

- California's formal bid limit is currently **\$115,400** (PCC 20111) as of January 1, 2024. This amount adjusts annually.

FEDERAL REQUIREMENTS

- When the value of the procurement for property or services under a Federal financial assistance award exceeds the dollar value established in the FAR (48 CFR part 2, subpart 2.1) for the simplified acquisition threshold., or a lower threshold established by a non-Federal entity, formal procurement methods are required.

Formal Purchase Procedures

- Sealed Bids are Required:
 - A complete, adequate, and realistic specification or purchase description is available;
 - Two or more responsible bidders are willing and able to compete effectively for the business;
 - The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price;
 - Advertised and solicited from an adequate number of suppliers;
 - Publicly opened;
 - A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest.

Formal Purchase Procedures

- Requests for Competitive Proposals may be used for purchases supporting a Child Nutrition Program effective January 1, 2018.
- Bids/RPFs must be publicized and identify all evaluation factors and their relative importance. Any response to publicized Bid/RFP must be considered to the maximum extent practical;
- Responses must be solicited from an adequate number of qualified sources;
- The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
- Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered;
- Require negotiating profit levels for contracts above the bid limit (requiring the recipient to perform a cost or price analysis - 2 CFR §§ 200.317 – 200.326).
- State bond requirements may be used in lieu of federal bond requirements. (Public Works - CFR §200.325)

EDGAR Updates

- Effective for awards issued after November 12, 2020:
 - Adding the domestic preferences for procurement requirements encouraging use of goods and products produced in the United States (Section 200.322).
 - The time for direct awards closeout reports increased from 90 to 120 days (Section 200.344).
- Other changes to the Uniform Guidance can be found at:
<https://www.hklaw.com/en/insights/publications/2020/10/omb-issues-extensive-revisions-to-the-uniform-guidance>

Contract Provisions and Certifications

- Legal Remedies, Penalties, and Liquidated Damages – Contracts above the state and/or federal bid limit. (CFR 200.326)
- Termination for Convenience, Termination for Cause: Must include the manner by which it will be effected and the basis for settlement. - All contracts in excess of \$10,000.
- Equal Employment Opportunity – Public Works contracts using federal funds.
- Davis-Bacon Act (federal prevailing wage provisions) – Public Works contracts in excess of \$2,000 using federal funds.
- Contract Work Hours and Safety Standards Act (no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous) – Public Works contracts in excess of \$100,000.

Contract Provisions and Certifications

- Rights to Inventions Made Under a Contract or Agreement (37 CFR 401.3) – Retaining title rights by federal government. (Science or Technology)
- Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). – Contracts above the state and/or federal bid limit.
- Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).
- Debarment and Suspension – All contracts above \$25,000
- Byrd Anti-Lobbying Certification – All contracts in excess of \$100,000
- Recovered Materials – All purchases in excess of \$10,000 (CFR § 200.322)

Certification – Buy American

Federal Buy American Provision: Requires that a school food authority (SFA) purchase, to the maximum extent practicable, domestic commodities or products.

SB 490 California

- Effective January 1, 2024, through January 1, 2029, and LEAs who operate the School Nutrition Programs and receive more than \$1,000,000 in annual federal meal reimbursement.
- Bids and contracts must state that only agricultural food products grown, packed, or processed domestically may be purchased unless any of the following applies:

Certification – Buy American

- The bid or price of the nondomestic agricultural food product is more than 25 percent lower than the bid or price of the domestic agricultural food product.
- The quality of the domestic agricultural food product is inferior to the quality of the agricultural food product grown, packed, or produced non-domestically.
- The agricultural food product is not produced or manufactured domestically in sufficient and reasonably available quantities of a satisfactory quality to meet the needs of the public institution.
- An “Agricultural food product” means a fresh or processed product, including fruits, nuts, vegetables, herbs, mushrooms, dairy, shell eggs, honey, grains, livestock meats, poultry meats, and fish, including shellfish.

Intergovernmental Agreement

- Cooperative Purchasing / Piggyback Contracts:
 - To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. (CFR § 200.318).
 - A comparative process is required when using Piggyback contracts.

Non-Competitive Award

- Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when **one or more** of the following circumstances 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 noncompetitive proposals in response to a written request from the non-Federal entity; or
 - After solicitation of a number of sources, competition is determined inadequate.

P-Card And Credit Card Procedures

- Need original itemized receipt for each credit card purchase
- Items must be recorded in proper object code.

Travel

- Written Travel Policy or Administrative Regulation is recommended
- If no written policy exists, federal travel regulations apply:
 - Does not allow per diem in lieu of actual cost for meals.
 - May not exceed federal allowable rates.
 - Requires justification as to why the travel is necessary to accomplish the program objectives for the attendee.
 - (CFR 200.474) (d) In the absence of an acceptable, written non-Federal entity policy regarding travel costs, the rates and amounts established under 5 U.S.C. 5701-11, (“Travel and Subsistence Expenses; Mileage Allowances”), or by the Administrator of General Services, or by the President (or his or her designee) pursuant to any provisions of such subchapter must apply to travel under Federal awards (48 CFR 31.205-46(a)).

Approval of expenditures

- To assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets, the annual and final fiscal reports or vouchers requesting payment under the agreements must include a certification, signed by an official who is authorized to legally bind the non-Federal entity, which reads as follows (CFR §200.415):
 - “By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).”

Contract Administration / Oversight and Procedures

- Administrative Requirements (CFR §200.318)
- Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
- Must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts.
- Consolidate or separate purchases to achieve maximum cost efficiency.
- Evaluate use of lease-purchase and cooperative contracts for procurement of common goods.
- Use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

Audit Preparation

- And any government entity, including a school district, that spends more than \$750,000 in federal funds in one year will be audited, per a PL 104–156 – 07/05/1996.
- Understanding what the applicable requirements are that are subject to audits. (EDGAR)
- Having the proper written policies and procedures pursuant to federal procurement requirements.
- Tracking of expenditures to ensure funds were properly spent.
- What the auditor will be looking at:
 - Whether the costs are allowable in accordance with the program rules.
 - Whether the dollars drawn down from the federal government or the state were expended in a timely fashion.
 - Whether the district complied with state and federal requirements for procurement. How well the procedures and policies were designed and whether they were implemented effectively.

Audit Results

- What happens if the auditor finds something is not quite right?
 - May or may not make a finding.
 - Corrective Action Process:
 - Identification of steps to correct the issue.
 - State or Federal agency oversees the funds shall monitor the corrective process.
 - Once action has been taken, the finding may be cleared or kept open if additional efforts are required.
 - Issues that can lead to a finding:
 - Lack of proper documentation supporting the expenditure relationship to Covid.
 - Lack of competition.
 - Failure to follow most restrictive laws including the state's bid limit threshold.
 - Failure to follow the proper contracting requirements, especially for federal construction projects.
 - Penalties can range from a written finding to repayment of funds.

FEDERAL INVENTORY CONTROL



EDGAR and Asset Tracking

- 2 CFR 200.302(b)(4) states that a non-Federal entity “must adequately safeguard all assets and assure that they are used solely for authorized purposes.” Under the rule, equipment must be tracked until it is properly disposed and removed from the inventory. This means that even after an item has fully depreciated, it will still need to be tracked if it was paid for using Federal funds.

Legal Mandates

- Use the equipment for the authorized purposes of the project during the period of performance, or until the property is no longer needed for the purposes of the project.
- May not encumber the property without approval of the Federal awarding agency or pass-through entity.
- A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
- A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated.
- Adequate maintenance procedures must be developed to keep the property in good condition.
- Sales procedures must be developed.

PROPER USE

- The district shall also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, providing such use will not interfere with the work on the projects or program for which it was originally acquired.
- A district must not use equipment acquired with grant funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted or contemplated by Federal statute.
- When acquiring replacement equipment, the district may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to the approval of the awarding agency.

Equipment Inventory Thresholds

- Equipment
 - EDGAR Section §80.3, for state and local government, “equipment” is tangible, nonexpendable personal property that has a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.
 - If a state or local government set a lower threshold, such entities, must use that lower number for defining equipment.
 - Non-capitalized Equipment*: Record expenditures for movable personal property of a relatively permanent nature that has an estimated useful life greater than one year and an acquisition cost less than the LEA’s capitalization threshold but greater than the LEA’s inventory threshold pursuant to Education Code Section 35168 or local policy. (>\$500 and < \$5,000)
 - Capitalized Equipment*: movable personal property, including equipment such as vehicles, machinery, computer systems, and playground equipment, that have both an estimated useful life over one year and an acquisition cost equal to or greater than the capitalization threshold established by the LEA. Acquisition cost includes tax, freight or other types of delivery charges, and installation costs including labor.

*California School Accounting Manual

Federal Inventory Audit

- Audit findings applied to equipment ruled that setting the threshold at \$500 was too high for:
 - Significant Technological Items
 - Easily Pilferable Items
 - Highly Walkable Items

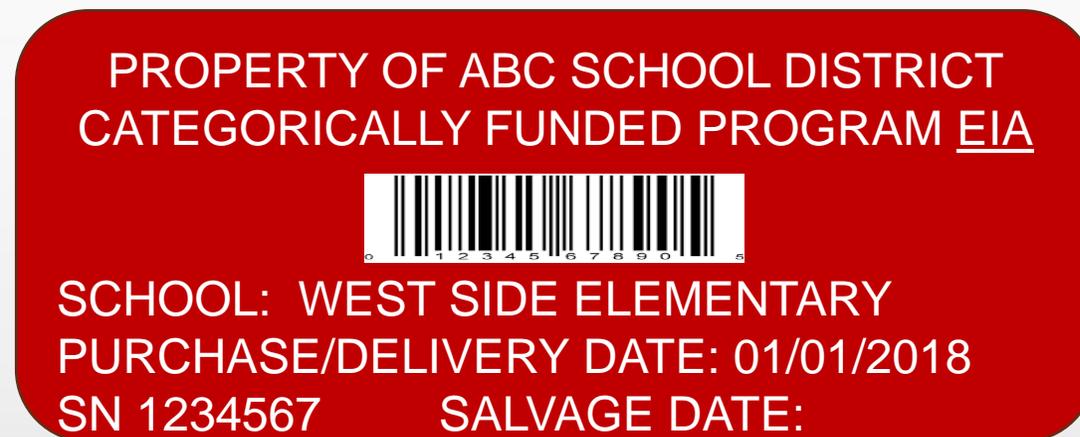
Note: When in doubt, track it.

FEDERAL Inventory record

- District must maintain a historical inventory record for each piece of equipment with an acquisition cost of \$500 or more per unit that is purchased with state and/or federal funds. Property records must be maintained that include (EC§ 35168; 5 CCR§ 3946; 34 CFR § 80.32 (d)(1))
 - Type/description
 - Model/name
 - Serial number or other identification number
 - Title Holder
 - Funding source
 - Acquisition date
 - Cost
 - Percentage of Federal participation in the cost of the property
 - Location
 - Current condition (fair, good,
 - Transfer, replacement or disposition of obsolete or unusable equipment
- The district must conduct a physical check of the inventory of equipment within the past two years and reconcile the result with inventory records. (34 CFR § 80.32 (d)(2).)

Inventory tag FOR FEDERAL PROPERTY

- The label should mark the equipment with the Federal Program name and include the fiscal year of purchase and property of the respective school district.



Note that with newer barcode scanning software, the barcode itself may contain much of the information required. As long as the district is able to meet all the reporting requirements, a separate tag may not be required. Check with funding source. For example: E-Rate equipment requires separate tagging.

Real Property

- Real property means land, including land improvements, structures and appurtenances thereto, but excludes movable machinery and equipment.
(§74.2) (§80.3)
- Must be included in the inventory.

Disposition of Property

- Disposition of Equipment Section §80.32(e) of EDGAR establishes specific rules for disposing of equipment, depending on what the equipment will be used for and the value of the equipment.
- If there are no federally supported programs that need the equipment, the disposal rules depend on the current fair market value of the equipment. If the equipment has a current fair market value of less than \$5,000, the district may keep the equipment, sell it or otherwise dispose of it with no further obligation to the U.S. Department of Education.
- If the equipment has a current fair market value in excess of \$5,000, the district may keep or sell the equipment but must pay the US Department of Education a share based on the percentage of federal participation in the initial acquisition.
- Districts must take care to accurately value equipment. Ensuring proper valuation is an important part of a sound control system.

Retention of Records



Federal Records

- Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities. (CFR 200.333)

Exceptions to 3-year Requirement

- Litigation, claim, or audit: Records must be retained until final resolution.
- Written Notification: When the federal government requests extended retention in writing.
- Real property records and equipment records must be retained for three years after disposition.
- Records transferred to or maintained by federal agency. Retention is not required by non-federal agency.

Note: The above applies to purchasing records. Program requirements may be different.

Local Requirements

- When local requirements are stricter, district must comply with the stricter rules.

Written Policies and Procedures



Policy Updates

- The policies and procedures have been required as of July 1, 2016.
- Regarding the approval and adoption process for the required policies and/or procedures, the district is to follow its local process and policy for approval of administrative policies and procedures when seeking approval of the required EDGAR policies and procedures.
- The district's policies and procedures are not official until this approval process has been completed. (CFR § 200.318)
 - Check your BPs and ARs to ensure these have been updated in accordance with the requirements.

What You Must Include

Written procedures for the following that include state and federal requirements.

- Purchasing Process
- Code of Conduct
- Conflict of Interest
- Inventory Control
- Records Retention



Questions?

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