

The Texas Education Agency (TEA) may enter into an agreement with a federal agency concerning a project related to education, including provision of school lunches and construction of school buildings. TEA, or another state agency designated by the governor, shall coordinate the actions of a district participating in a federal financial assistance program. *Education Code 7.021(b), (c); Gov't Code 742.003*

**Retirement and
Insurance
Contributions**

Under the Texas Public School Retired Employees Group Benefits Act, Insurance Code Chapter 1575, a district that applies for money provided by the United States or a privately sponsored source shall, if any of the money will pay part or all of an active employee's salary, also apply for any legally available money to pay state contributions required by Insurance Code Chapter 1575, Subchapter E. *Insurance Code 1575.252*

Such district must comply with the requirements of Insurance Code Chapter 1575, Subchapter F. *Insurance Code 1575.252(2)–.257*

Under the Teacher Retirement System, Government Code, Title 8, Subtitle C, if a district applies for money provided by the United States, an agency of the United States, or a privately sponsored source, and if any of the money will pay part or all of an employee's salary, the district shall apply for any legally available money to pay state contributions required by Government Code 825.404 or 830.201. *Gov't Code 825.406(a)*

Such district must comply with the requirements of Government Code 825.406.

Block Grant Funds

If a district receives more than \$5,000 in block grant funds to be used as the district determines is appropriate, it shall provide evidence to TEA that a public meeting or hearing was held in a timely manner solely to seek public comment on the needs or uses of block grant funds received by the district. The board may hold this meeting or hearing in conjunction with another board meeting or hearing if the meeting or hearing to consider block grant funds is clearly noted in an announcement of the other meeting or hearing. *Gov't Code 2105.058*

**Education
Department General
Administrative
Regulations
(EDGAR)**

Note: For information regarding procurement under state law, see the CH policy series regarding Purchasing and Acquisition and the CV series regarding Facilities Construction.

For additional legal requirements applicable to school nutrition procurement, see COA.

EDGAR means the Education Department General Administrative Regulations (34 C.F.R. 75, 76, 77, 79, 81, 82, 84, 86, 97, 98, and 99). *34 C.F.R. 77.1(c)*

Uniform Guidance
(2 C.F.R. 200)

The Department of Education (DOE) adopts the Office of Management and Budget (OMB) Guidance in 2 C.F.R. Part 200 Uniform Guidance, except for 2 C.F.R. 200.102(a) and 2 C.F.R. 200.207(a). Thus, 2 C.F.R. Chapter XXXIV, Part 3474 gives regulatory effect to the OMB guidance and supplements the guidance as needed for the DOE. *2 C.F.R. 3474.1*

The Uniform Guidance establishes uniform administrative requirements, cost principles, and audit requirements for federal awards to non-federal entities, including school districts. *2 C.F.R. 200.64(j), .69, .100*

Note: The Uniform Guidance applies to all new grant awards and non-competing continuations (NCCs) made on or after December 26, 2014 (see 2 C.F.R. 200.110).

For more information on EDGAR, the Uniform Guidance, and the federal regulations that apply to federal education grant awards, visit TEA's [EDGAR Materials and Resources](#)¹ and the DOE's [EDGAR website](#)² and [Uniform Guidance website](#).³

*General
Compliance*

A district is responsible for complying with all requirements of the federal award. *2 C.F.R. 200.300(b)*

Throughout 2 C.F.R. Part 200 when the word "must" is used it indicates a requirement. Whereas, use of the word "should" or "may" indicates a best practice or recommended approach rather than a requirement and permits discretion. *2 C.F.R. 200.101(b)(1)*

*Disclosures
Conflicts*

A district must disclose in writing any potential conflict of interest to the federal awarding agency (e.g., DOE) or pass-through entity (e.g., TEA) in accordance with applicable federal awarding agency policy. *2 C.F.R. 200.112*

Crimes

A district must disclose, in a timely manner, in writing to the federal awarding agency or pass-through entity all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Failure to make required disclosures can result in any of the remedies described in 2 C.F.R. 200.339 (Remedies for Noncompliance), including suspension or debarment. *2 C.F.R. 200.113*

STATE AND FEDERAL REVENUE SOURCES
FEDERAL

CBB
(LEGAL)

<i>Procurement Standards</i>	The district must have and use documented procurement procedures, consistent with state, local, and tribal laws and regulations and the standards of 2 C.F.R. 200.318, for the acquisition of property or services required under a federal award or subaward. The district's documented procurement procedures [see Competition, below] must conform to the procurement standards identified in 2 C.F.R. 200.317 through 200.327.
District Procedures	
Oversight	The district must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
Conflicts of Interest	The district must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. A conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization that employs or is about to employ any of these parties, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the district may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, districts may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the district. [See BBFA, CAA(LOCAL), CB(LOCAL), DBD]
Records	The district must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. [See Pre-procurement Review and Contract Cost and Price, below] <i>2 C.F.R. 200.318(a), (b), (c)(1), (i)</i> [See 2 C.F.R. 200.334 for record retention requirements.]
<i>Financial Management</i>	The district's financial management systems, including records documenting compliance with federal statutes, regulations, and the terms and conditions of the federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been

used according to the federal statutes, regulations, and the terms and conditions of the federal award. [See also 2 C.F.R. 200.450 (Lobbying)]

The district's financial management system must comply with 2 C.F.R. 200.302(b). [See also 2 C.F.R. 200.334 (Retention requirements for records), .335 (Requests for transfer of records), .336 (Methods for collection, transmission and storage of information), and .337 (Access to records)]

2 C.F.R. 200.302

Internal Controls

The district must:

1. Establish and maintain effective internal control over the federal award that provides reasonable assurance that the district is managing the award in compliance with federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework" issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
2. Comply with the U.S. Constitution, federal statutes, regulations, and the terms and conditions of the award.
3. Evaluate and monitor the district's compliance with statutes, regulations and the terms and conditions of federal awards.
4. Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.
5. Take reasonable measures to safeguard protected personally identifiable information and other information the federal awarding agency or pass-through entity designates as sensitive or the district considers sensitive consistent with applicable federal, state, local, and tribal laws regarding privacy and responsibility over confidentiality.

2 C.F.R. 200.303

"Internal controls" for districts means processes designed and implemented by districts to provide reasonable assurance regarding the achievement of objectives in the following categories:

1. Effectiveness and efficiency of operations;
2. Reliability of reporting for internal and external use; and

3. Compliance with applicable laws and regulations.

2 C.F.R. 200.1

Competition

All procurement transactions for the acquisition of property or services required under a federal award must be conducted in a manner providing full and open competition consistent with the standards of 2 C.F.R. 200.319 and 200.320 (Methods of procurement to be followed).

In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements.

The district must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. Nothing in this provision preempts state licensing laws. When contracting for architectural and engineering services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

The district must have written procedures for procurement transactions. These procedures must ensure that all solicitations meet the requirements of 2 C.F.R. 200.319(d). [See Procurement Standards, above]

The district must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the district must not preclude potential bidders from qualifying during the solicitation period.

Noncompetitive procurements can only be awarded in accordance with 2 C.F.R. 200.320(c).

2 C.F.R. 200.319

*Procurement
Methods*

The district must have and use documented procurement procedures, consistent with the standards of 2 C.F.R. 200.320 and 200.317 (Procurements by states), 200.318 (General procurement standards), and 200.319 (Competition) for any of the following methods of procurement used for the acquisition of property or services required under a federal award or sub-award. *2 C.F. R. 200.320*

STATE AND FEDERAL REVENUE SOURCES
FEDERAL

CBB
(LEGAL)

Informal Procurement Methods	<p>When the value of the procurement for property or services under a federal award does not exceed the simplified acquisition threshold, as defined in 2 C.F.R. 200.1, or a lower threshold established by a district, formal procurement methods are not required. The district may use informal procurement methods to expedite the completion of its transactions and minimize the associated administrative burden and cost. The informal methods used for procurement of property or services at or below the simplified acquisition threshold include:</p>
<i>Micro-Purchases—Definitions</i>	<p>“Micro-purchase” means a purchase of supplies or services, the aggregate amount of which does not exceed the micro-purchase threshold. Micro-purchases comprise a subset of a district's small purchases as defined in 2 C.F.R. 200.320.</p> <p>“Micro-purchase threshold” means the dollar amount at or below which a district may purchase property or services using micro-purchase procedures. Generally, the micro-purchase threshold for procurement activities administered under federal awards is not to exceed the amount set by the Federal Acquisition Regulations (FAR) at 48 C.F.R. Part 2, Subpart 2.1 [see below], unless a higher threshold is requested by the district and approved by the cognizant agency for indirect costs.</p>
	<p><i>2 C.F.R. 200.1</i></p> <p>Micro-purchase threshold means \$10,000, except as provided by 48 C.F.R. 2.101. <i>48 C.F.R. 2.101</i></p>
<i>Micro-Purchase Distribution</i>	<p>The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold. [See the definition of “micro-purchase” above.] To the maximum extent practicable, the district should distribute micro-purchases equitably among qualified suppliers. <i>2 C.F.R. 200.320(a)(1)(i)</i></p>
<i>Micro-Purchase Awards</i>	<p>Micro-purchases may be awarded without soliciting competitive price or rate quotations if the district considers the price to be reasonable based on research, experience, purchase history or other information and documents it files accordingly. Purchase cards can be used for micro-purchases if procedures are documented and approved by the district. <i>2 C.F.R. 200.320(a)(1)(ii)</i></p>
<i>Micro-Purchase Thresholds</i>	<p>The district is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures. The micro-purchase threshold used by the district must be authorized or not prohibited under state, local, or tribal laws or regulations. Districts may establish a threshold higher than the federal</p>

threshold established in the FAR in accordance with 2 C.F.R. 200.320(a)(1)(iv) and (v). *2 C.F.R. 200.320(a)(1)(iii)*

Districts may establish a threshold higher than the micro-purchase threshold identified in the FAR in accordance with the requirements of 2 C.F.R. 200.320. The district may self-certify a threshold up to \$50,000 on an annual basis and must maintain documentation to be made available to the federal awarding agency and auditors in accordance with 2 C.F.R. 200.334. The self-certification must include a justification, clear identification of the threshold, and supporting documentation of any of the following:

1. A qualification as a low-risk auditee, in accordance with the criteria in 2 C.F.R. 200.520 for the most recent audit;
2. An annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or,
3. For public institutions, a higher threshold consistent with state law.

2 C.F.R. 200.320(a)(1)(iv)

Micro-purchase thresholds higher than \$50,000 must be approved by the cognizant agency for indirect costs. The district must submit a request with the requirements included in 2 C.F.R. 200.320(a)(1)(iv). The increased threshold is valid until there is a change in status in which the justification was approved. *2 C.F.R. 200.320(a)(1)(v)*

*Small
Purchases—
Procedures*

The acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources as determined appropriate by the district. *2 C.F.R. 200.320(a)(2)(i)*

*Small
Purchases—
Simplified
Acquisition
Thresholds*

“Simplified acquisition threshold” means the dollar amount below which a district may purchase property or services using small purchase methods. Districts 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 C.F.R. Part 2, Subpart 2.1 [see below]. The district 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 C.F.R. Part 2, Subpart 2.1) for the simplified acquisition threshold. Recipients should determine if local government laws on purchasing apply. *2 C.F.R. 200.1, .320(a)(2)(ii)*

Simplified acquisition threshold means \$250,000, except as provided by 48 C.F.R. 2.101. *48 C.F.R. 2.101*

Formal
Procurement
Methods

When the value of the procurement for property or services under a federal financial assistance award exceeds the simplified acquisition threshold, or a lower threshold established by a district, formal procurement methods are required. Formal procurement methods require following documented procedures. Formal procurement methods also require public advertising unless a non-competitive procurement can be used in accordance with 2 C.F.R. 200.319 or 200.320(c). The following formal methods of procurement are used for procurement of property or services above the simplified acquisition threshold or a value below the simplified acquisition threshold the district determines to be appropriate:

Sealed Bids

A procurement method in which bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the preferred method for procuring construction, if the conditions [*sic*].

In order for sealed bidding to be feasible, the following conditions should be present:

1. A complete, adequate, and realistic specification or purchase description is available;
2. Two or more responsible bidders are willing and able to compete effectively for the business; and
3. 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.

If sealed bids are used, the following requirements apply:

1. Bids must be solicited from an adequate number of qualified sources, providing them sufficient response time prior to the date set for opening the bids, for local governments, the invitation for bids must be publicly advertised;
2. The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

3. All bids will be opened at the time and place prescribed in the invitation for bids, and for local governments, the bids must be opened publicly;
4. 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. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
5. Any or all bids may be rejected if there is a sound documented reason.

2 C.F.R. 200.320(b)(1)

Proposals

A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. They are awarded in accordance with the following requirements:

1. Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical;
2. The district must have a written method for conducting technical evaluations of the proposals received and making selections;
3. Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the district, with price and other factors considered; and
4. The district may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby offeror's qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

2 C.F.R. 200.320(b)(2)

STATE AND FEDERAL REVENUE SOURCES
FEDERAL

CBB
(LEGAL)

Noncompetitive
Procurement

There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:

1. The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold;
2. The item is available only from a single source;
3. The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;
4. The federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the district; or
5. After solicitation of a number of sources, competition is determined inadequate.

2 C.F.R. 200.320(c)

Cooperative
Purchasing

To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the federal government, the district 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. Competition requirements will be met with applied to documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements [*sic*].
2 C.F.R. 200.318(e)

Affirmative Steps

The district must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in items 1 through 5 above.

2 C.F.R. 200.321

*Domestic
Preference*

As appropriate and to the extent consistent with law, the district should, to the greatest extent practicable under a federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of 2 C.F.R. 200.322 must be included in all subawards including all contracts and purchase orders for work or products under this award.

For purposes of this provision:

1. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
2. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

2 C.F.R. 200.322

*Pre-procurement
Review*

The district must make available upon request, for the federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

1. The district's procurement procedures or operation fails to comply with the procurement standards in 2 C.F.R. Part 200;
2. The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

3. The procurement, which is expected to exceed the simplified acquisition threshold, specifies a “brand name” product;
4. The proposed contract is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
5. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

2 C.F.R. 200.325(b)

*Contract Cost
and Price*

The district must perform a cost or price analysis in connection with every procurement action in excess of the simplified acquisition threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the district must make independent estimates before receiving bids or proposals.

The district must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

Costs or prices based on estimated costs for contracts under the federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the district under 2 C.F.R. Part 200, Subpart E. The district may reference its own cost principles that comply with the federal cost principles.

The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

2 C.F.R. 200.324

*Contract
Provisions*

The district's contracts must contain the applicable provisions described in appendix II to 2 C.F.R. Part 200. *2 C.F.R. 200.327*

*Suspension and
Debarment*

Districts are subject to the non-procurement debarment and suspension regulations at 2 C.F.R. Part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities. *2 C.F.R. 200.214*

*Remedies for
Noncompliance*

If a district fails to comply with the U.S. Constitution, federal statutes, regulations, or the terms and conditions of a federal award, the federal awarding agency or pass-through entity may impose additional conditions, as described in 2 C.F.R. 200.208 (Specific Conditions). If the federal awarding agency or pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, the federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

1. Temporarily withhold cash payments pending correction of the deficiency by the district or more severe enforcement action by the federal awarding agency or pass-through entity.
2. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
3. Wholly or partly suspend or terminate the federal award.
4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a federal awarding agency).
5. Withhold further federal awards for the project or program.
6. Take other remedies that may be legally available.

2 C.F.R. 200.339

Travel Costs

Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the district. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in the district's non-federally funded activities and in accordance with the district's written travel reimbursement policies.

In the absence of an acceptable, written district 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 C.F.R. 31.205–46(a)].

2 C.F.R. 200.475(a), (d)

*Property
Standards*

Federally
Owned Property

Title to federally owned property remains vested in the federal government. The district must submit annually an inventory listing of federally owned property in its custody to the federal awarding agency. Upon completion of the federal award or when the property is no longer needed, the district must report the property to the federal awarding agency for further federal agency utilization.

Exempt property means property acquired under a federal award where the federal awarding agency has chosen to vest title to the property to the district without further responsibility to the federal government, based upon the explicit terms and conditions of the federal award. The federal awarding agency may exercise this option when statutory authority exists. Absent statutory authority and specific terms and conditions of the federal award, title to exempt property acquired under the federal award remains with the federal government.

2 C.F.R. 200.312(a), (c)

Property Trust
Relationship

Real property, equipment, and intangible property that are acquired or improved with a federal award must be held in trust by the district as trustee for the beneficiaries of the project or program under which the property was acquired or improved. The federal awarding agency may require the district to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a federal award and that use and disposition conditions apply to the property. *2 C.F.R. 200.316*

Real Property

Subject to the requirements and conditions set forth in 2 C.F.R. 200.311, title to real property acquired or improved under a federal award will vest upon acquisition in the district.

Except as otherwise provided by federal statutes or by the federal awarding agency, real property will be used for the originally authorized purpose as long as needed for that purpose, during which time the district must not dispose of or encumber its title or other interests.

When real property is no longer needed for the originally authorized purpose, the district must obtain disposition instructions from the federal awarding agency or pass-through entity. The instructions must provide for one of the following alternatives:

1. Retain title after compensating the federal awarding agency an amount determined under 2 C.F.R. 200.311(c)(1).

2. Sell the property and compensate the federal awarding agency an amount determined under 2 C.F.R. 200.311(c)(2).
3. Transfer title to the federal awarding agency or to a third party designated/approved by the federal awarding agency. The district is entitled to be paid an amount calculated by applying the district's percentage of participation in the purchase of the real property (and cost of any improvements) to the current fair market value of the property.

2 C.F.R. 200.311

Equipment
Title and Use

Subject to the requirements and conditions set forth in 2 C.F.R. 200.313, title to equipment acquired under a federal award will vest upon acquisition in the district. Unless a statute specifically authorizes the federal agency to vest title in the district without further responsibility to the federal government, and the federal agency elects to do so, the title must be a conditional title. Title must vest in the district subject to the following conditions:

1. 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.
2. Not encumber the property without approval of the federal awarding agency or pass-through entity.
3. Use and dispose of the property in accordance with the provisions below.

Equipment must be used by the district in the program or project for which it was acquired in accordance with 2 C.F.R. 200.313(c).

Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a federal award, until disposition takes place will, as a minimum, meet the requirements of 2 C.F.R. 200.313(d).

Disposition

If the district is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

When original or replacement equipment acquired under a federal award is no longer needed for the original project or program or for other activities currently or previously supported by a federal awarding agency, except as otherwise provided in federal statutes, regulations, or federal awarding agency disposition instructions, the district must request disposition instructions from the federal awarding agency if required by the terms and conditions of the fed-

eral award. Disposition of the equipment will be made as prescribed in 2 C.F.R. 200.313(e), in accordance with federal awarding agency disposition instructions.

2 C.F.R. 200.313

Supplies	Title to supplies will vest in the district upon acquisition. If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other federal award, the district must retain the supplies for use on other activities or sell them, but must, in either case, compensate the federal government for its share. The amount of compensation must be computed in the same manner as for equipment under 2 C.F.R. 200.313(e)(2). <i>2 C.F.R. 200.314(a)</i>
Intangible Property	Title to intangible property acquired under a federal award vests upon acquisition in the district. The district must use that property for the originally-authorized purpose, and must not encumber the property without approval of the federal awarding agency. When no longer needed for the originally authorized purpose, disposition of the intangible property must occur in accordance with the provisions in 2 C.F.R. 200.313(e). <i>2 C.F.R. 200.315(a)</i>
Direct Grant Programs	The regulations in 34 C.F.R. Part 75 apply to each direct grant program of the DOE. <i>34 C.F.R. 75.1</i>
State-Administered Programs	The regulations in 34 C.F.R. Part 76 apply to each state-administered program of the DOE. <i>34 C.F.R. 76.1</i>
General Education Provision Act	The regulations in 34 C.F.R. Part 81 govern the enforcement of legal requirements under applicable programs administered by the DOE and implement Part E of the General Education Provisions Act (GEPA). <i>34 C.F.R. 81.1</i>

¹ TEA EDGAR Materials and Resources:

https://tea.texas.gov/Finance_and_Grants/Grants/EDGAR_Materials_and_Resources/

² DOE EDGAR website:

<https://www2.ed.gov/policy/fund/reg/edgarReg/edgar.html>

³ DOE Uniform Guidance website:

<https://www2.ed.gov/policy/fund/guid/uniform-guidance/index.html>