

Grants Administrative Changes under the New EDGAR

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What NOT To Do!

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From October 1, 2015 Through March 31, 2016
the ED OIG has secured approx.

\$185.7 Million

in settlements, fines, restitutions, recoveries,
forfeitures and savings.



Recent USDE OIG Findings Semiannual Reports No.72 (October 1, 2015 – March 31, 2016)

Puerto Rico

- A former Principal allegedly embezzled more than \$67,000 in school funds, cashed checks written to him from the school bank account to pay for various personal bills including his fitness club membership and online shopping.

Recent OIG Findings Semiannual Reports No.72 (cont.)

Louisiana

- Former Maintenance and Operations Supervisor used his position and authority to purchase items with school district funds for personal use.
- He was sentenced to 2 years probation and paid more than \$9,000 for fines for theft.

Recent OIG Findings

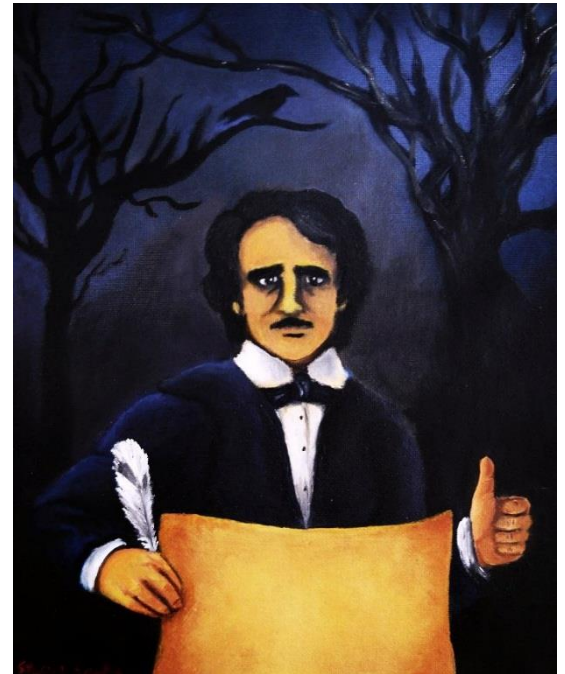
Semiannual Reports No.72 (cont.)

Texas

- Assistant Superintendent pled guilty to theft and conspiracy along with a teacher for conspiracy.
- The Asst. Super embezzled money, stole from the booster club and steering contracts giving money family members totaling \$480,000 for services that were never provided.
 - Included contracts to her son for printing services, which her son then contracted out and then billed the district for exorbitant prices.
- The teacher increased standardized test scores by providing teachers with test answer keys and changed answers on student test booklets.



The New EDGAR



Key Parts of the NEW EDGAR

■ **Title 34**

- Part 75 – Direct Grant Programs
- **Part 76 – State-Administered Programs**
- Part 77 – Definitions
- Part 81 – General Education Provisions Act (GEPA)

■ **Title 2**

- **Part 200 – Cost/Administrative/Audit Rules**
- **Part 3474 – USDE Exceptions – Adopts Part 200**
- Part 3485 – Nonprocurement Debarment and Suspension

Prior Rules (Incorporated Into the NEW EDGAR)

- A-21 – Cost Rules – Rules – IHEs
- A-87 – Cost Rules – State / Local Gov't
- A-122 – Cost Rules – Nonprofit
- A-102 – Administrative Rules State / Local Gov't
- A-110 – Administrative Rules IHEs
- A-133 – Audit Rules



Part 76 State- Administered Programs

Allowable Costs 76.530 (pg 55)



- The general principles to be used in determining costs applicable to grants is 2 CFR Part 200 Subpart E
 - Prohibited:
 - Use of funds for religion 76.532
 - Real property and construction (unless authorized) 76.533

Indirect Cost Rates

76.560 – 76.569 (pg 56 – 58)

- Incorporates language from 2 CFR Part 200
- Includes information on Restricted indirect cost rate and how to calculate the rate.



When Obligations Are Made

76.707 (pg 66)

Type of Obligation	When Obligation Occurs
Acquisition of Property	Date of binding written commitment
Personal Services by Employee	When services are performed
Personal Services by Contractor	Date of binding written commitment
Travel	When travel is taken
Approved Pre-Agreement Cost	On the first day of the grant or subgrant performance period.

Obligations During Carryover 76.710 (pg 67)

- Carryover funds must be used in accordance with the Federal statute and regulation that apply and are in effect for the carryover period and any state plan or application required.

Records 76.730 (pg 68)



- A State and subgrantee shall keep records that fully show:
 - The amount of funds;
 - How funds were used;
 - Total cost of the project;
 - Share of the cost provided from other sources; and
 - Other records to facilitate an effective audit.
- References throughout new reporting requirements on financial management in 2 CFR 200.302 (performance reporting)

Procedures to Ensure Compliance

76.770 – 76.783 (pg 68-69)

- Goes beyond 2 CFR Part 200, Subpart D
- A State shall have procedures for reviewing and approving applications and amendments, for technical assistance, for evaluating projects and for performing other admin responsibilities the State has determined necessary.
 - A subgrantee may request a hearing if State has violated a State or Federal statute.





Part 200 Uniform Administrative Req, Cost Principles, and Audits for Federal Awards

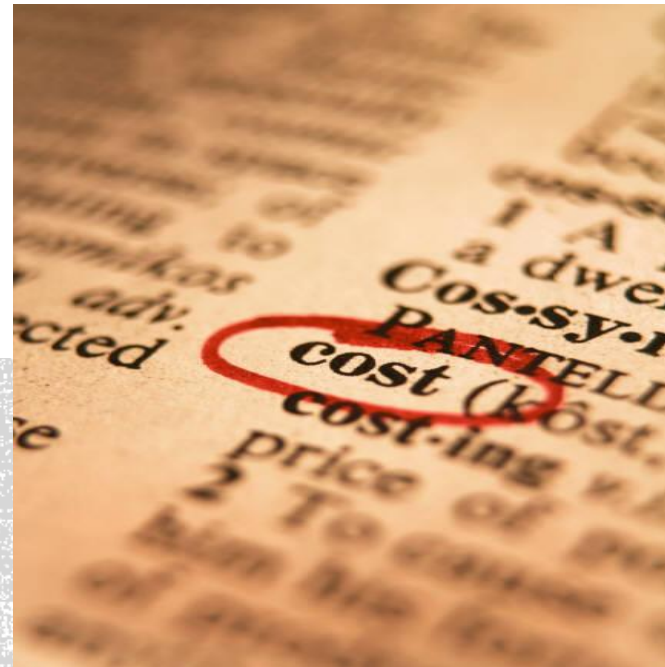
**Formerly know as the “Uniform Grants
Guidance”, the “Omni Circular” and the “Super
Circular”**

The New 2 CFR Part 200

- Subpart A – Definitions
- Subpart B – General Provisions
- Subpart C – Pre Award Requirements
- Subpart D – Post Award Requirements
- Subpart E – Cost Principles
- Subpart F – Audit Requirements

Cost Principles

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Factors Affecting Allowability of Costs

200.403

All Costs Must Be:

1. Necessary, Reasonable and Allocable
2. Conform with federal law & grant terms
3. Consistent with state and local policies
4. Consistently treated
5. In accordance with GAAP
6. Not included as match
7. *Net of applicable credits (moved to 200.406)*
8. Adequately documented

Reasonable 200.404

- Consideration must be given to:
 - a. Whether cost is a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award;
 - b. The restraints or requirements imposed such as:
 - Arms length bargaining (hint: procurement processes);
 - Federal, state and local laws; and
 - Terms of the grant award.
 - c. Market Prices for comparable goods or services in the geographical area;
 - d. Whether the individuals acted with prudence under the circumstances considering their responsibilities; and
 - e. No significant deviation from established prices.

Allocable

200.405

- A cost is allocable to a Federal award or cost objective if the goods or services involved are chargeable or assignable in accordance with relative benefits received.
 - Incurred specifically for the award;
 - Benefits both award and other work and can be distributed in proportions that may be approximated using reasonable methods; and
 - Necessary to the overall operation of the entity and assignable to the award in accordance with this Part.
- Can only charge in proportion to the value received by the program
 - Example: Agency purchases a computer to use 50% on the Federal grant program and 50% on a state program – can only charge half the cost to the grant.

Factors Affecting Allowability of Costs (cont.)

200.403(g)

Adequately documented

- Amount of funds under grant
- How the funds are used
- Total cost of the project
- Share of costs provided by other sources
- Records that show compliance and performance
- Other records to facilitate an effective audit (see 76.730 page 68)



Methods for Collection, Transmission and Storage of Information

200.335

- **NEW:** When original records are electronic and cannot be altered, there is no need to create and retain paper copies.
- When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided they:
 - Are subject to periodic quality control reviews,
 - Provide reasonable safeguards against alteration; and
 - Remain readable.



Selected Items of Cost

There are 55 specific items of cost!
Starts at 200.420

Selected Items of Cost Examples

- **Advertising/PR 200.421**
 - Allowable for programmatic purposes including:
 - Recruitment
 - Procurement of goods
 - Disposal of materials
 - Program outreach
 - Public relations (in limited circumstances)

Selected Items of Cost Examples (cont.)

- **Alcohol 200.423**
 - Not allowable



- **Collections of Improper Payments 200.428**
 - The costs incurred by the non-Federal entity to recover improper payments are allowable as either direct or indirect costs, as appropriate.

Selected Items of Cost Examples (cont.)

■ Conferences 200.432

- Prior Rule: Generally allowable
- Includes Meals / Conferences / Travel and Family Friendly Policies
- Allowable conference costs include rental of facilities, costs of meals and refreshments, transportation, unless restricted by the federal award
- **NEW:** Costs related to identifying, but not providing, locally available dependent-care resources
- Conference hosts must exercise discretion in ensuring costs are appropriate, necessary and managed in manner than minimizes costs to federal award

Selected Items of Cost (cont.)

■ **Travel Costs 200.474 (Changed)**

- Travel costs may be charged on actual, per diem, or mileage basis
- **NEW:** Travel charges must be consistent with entity's written travel reimbursement policies
- **NEW:** Allows costs for “above and beyond regular dependent care”
- Grantee must retain documentation that participation of individual in conference is necessary for the project
- **NEW:** Travel costs must be reasonable and consistent with written travel policy / or follow GSA 48 CFR 31.205-46(a)



Time and Effort Documentation



Documentation for Personnel Expenses

200.430(i)

- **NEW:** Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed.
 - How staff demonstrate allocability
 - If employee paid with federal funds, then must show that the employee worked on that specific federal program cost objective
- 200.403(a)

Who must participate? 200.430(i)(1) and (i)(4)

- Must be maintained for all employees whose salaries are:
 - Paid in whole or in part with federal funds
 - Used to meet a match/cost share requirement
 - NOT contractors



The Prior A-87 Rule (SEAs and LEAs)

Semi-Annual Certifications

- If an employee works on a single cost objective:
 - After the fact
 - Account for the total activity
 - Signed by employee **or** supervisor
 - Every six months (at least twice a year)

Personnel Activity Report (PAR)

- If an employee works on multiple cost objectives:
 - After the fact
 - Account for total activity
 - Signed by employee
 - Prepared at least monthly and coincide with one or more pay periods

The Prior A-122 Rule (Nonprofits)

Personnel Activity Report (PAR)

- If an employee works on one or more cost objectives:
 - After the fact
 - Account for the total activity
 - Signed by employee **or** supervisor
 - Prepared at least monthly



Documentation for Personnel Expenses (cont.)

200.430(i)(1)

NEW: These records **MUST:**

1. Be supported by a system of internal controls which provides reasonable assurance charges are accurate, allowable and properly allocated;
2. Be incorporated into official records;
3. Reasonably reflect total activity for which employee is compensated;
 - Not to exceed 100%

Documentation for Personnel Expenses (cont.)

200.430(i)(1)

4. Encompass all activities (federal and non-federal);
5. Comply with established accounting policies and practices; and
6. Support distribution among specific activities or cost objectives.

Use of Budget Estimates

200.430(i)(1)(viii)

- Budget estimates alone do not qualify as support for charges to Federal awards May be used for interim accounting purposes if:
 - Produces reasonable approximations
 - Significant changes to the corresponding work activity are identified in a timely manner
 - Internal controls in place to review after-the-fact interim charges based on budget estimates

Reconciliation

200.430(i)(1)(viii)(C)

- **NEW:** All necessary adjustment must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated.

Compliance

200.430(i)(2)

- **NEW:** For records which meet the standards, the non-federal entity will not be required to provide additional support or documentation for the work performed.
- DOL regulations for Fair Labor Standards Act must still be met (i.e. charges must be supported by records indicating the total number of hours worked each day).

Noncompliance 200.430(i)(8)

- For a non-Federal entity where the records do not meet these standards:
 - USDE may require personnel activity reports (PARs), including prescribed certifications or equivalent documentation that support the records as required in this section.
 - PARs are not defined!!

Financial Management Controls



Financial Management Rules 200.302(b) (pg 108)

Prior Rule 80.20(b)

1. Financial Reporting
2. Accounting Records
3. Internal Control
4. Budget Control
5. Allowable Cost
6. Source Documentation
7. Cash Management

2 CFR 200.302 (b)

1. Identification of Awards (NEW)
2. Financial Reporting
3. Accounting Records (Source Docs)
4. Internal Control
5. Budget Control
6. Written Cash Management Procedures (NEW)
7. Written Allowability Procedures (NEW)

1) Identification of Awards 200.302(b)(1)

NEW: All federal “awards” received and expended

- The name of the federal “program”
- Identification # of award
 - CFDA Title and Number
 - Federal Award I.D. #
 - Fiscal Year of Award
 - Federal Agency
 - Pass-Through (If S/A)



2) Financial Reporting

200.302(b)(2)

- Accurate, current, complete disclosure of financial results of each award in accordance with 200.327 and 200.328.

3) Accounting Records

200.302(b)(3)

Combined 80.20(b)(2) and 80.20(b)(6):

■ Source Documentation Must Be Kept On:

1. Federal Awards
2. Authorizations
3. Obligations
4. Unobligated balances
5. Assets
6. Expenditures
7. Income
8. Interest (**NEW**)

(Eliminated liabilities)

4) Internal Controls

200.302(b)(4)

Essentially same as prior 80.20(b)(3):

- Effective control over and accountability for:
 1. All funds
 2. Property
 3. Other assets
- Must adequately safeguard all assets
- Use assets solely for authorized purpose

Internal Controls

200.303

- a. Non-Federal entities must establish and maintain effective internal control over the Federal award that provides reasonable assurances that the entity is managing the award in compliance with federal statutes, regs, and terms of the award.
 - **NEW:** Internal controls “should” be in compliance with:
 - The U.S. Comptroller General’s Standard for Internal Control Integrated Framework; and
 - Internal Control Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO)

Internal Controls (cont.)

200.303

- b. Comply with Federal statutes, regs, and the terms and conditions of the Federal awards.
- c. Evaluate and monitor the non-Federal entity's compliance with statutes, regs and the terms and conditions of Federal awards.
- d. Take prompt action when instances of noncompliance are identified including in audit findings.
- e. Take reasonable measures to safeguard protected personally identifiable info (PII) and other information designated or deemed sensitive

Required Certification

200.415

- **NEW:** An official authorized to legally bind the non-federal entity must certify on annual and final fiscal reports or vouchers requesting payment:
 - “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.”

5) Budget Control

200.302(5)

- Same as current rule 80.20(b)(4)
- Comparison of expenditures with budget amounts for each award

6) Written Cash Management Procedures 200.302(6)

- **NEW:** Written Procedures to implement the requirements of 200.305

7) Written Allowability Procedures 200.302(b)(7)

- **NEW:** Written procedures for determining allowability of costs in accordance with Subpart E – Cost Principles
 - Procedures can not simply restate the Uniform Guidance Subpart E
 - Should explain the process used throughout the grant development and budget process
 - Training tool and guide for employees

Procurement

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General Procurement Standards

200.318(a)

- All nonfederal entities must have documented procurement procedures which reflect applicable Federal, State, and local laws and regulations.

Contract Administration

200.318(b)

- Nonfederal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of the contract

Conflict of Interest

200.318(c)(1)

- Must maintain written standard of conduct, including conflict of interest policy.
- A conflict of interest arises when any of the following has a financial or other interest in the firm selected for award:
 - Employee, officer or agent
 - Any member of that person's immediate family
 - That person's partner
 - An organization which employs, or is about to employ, any of the above or has a financial interest in the firm selected for award

Conflict of Interest (cont.)

200.318(c)(1)

- Must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors/ subcontractors.
- However, may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value.
- Standards of conduct must include disciplinary actions applies for violations.



Conflict of Interest (cont.)

200.318(c)(2)

- **NEW:** If the non-federal entity has a parent, affiliate, or subsidiary organization that is not a state or local government the entity must also maintain written standards of conduct covering organization conflicts of interest

Conflict of Interest (cont.)

200.112

- The Federal awarding agency must establish conflict of interest policies for Federal awards.
- **NEW:** All non federal entities must establish conflict of interest policies, and disclose in writing any potential conflict to federal awarding agency in accordance with applicable Federal awarding agency policy.

Mandatory Disclosures

200.113

- **NEW:** Must disclose in writing, in a timely manner:
 - All violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.
 - Failure to make disclosures can result in remedies in 200.338 (remedies for noncompliance) including suspension and debarment.

Vendor Selection Process 200.318(h)

- Must award contracts only to responsible contractors possessing the ability to perform successfully:
 - Contractor integrity
 - Compliance with public policy
 - Record of past performance
 - Financial and technical resources

Competition

200.319(a)

- All procurement transactions must be conducted with full and open competition.
 - Must have protest procedures to handle disputes
- To eliminate unfair advantage, contractors that develop or draft specifications, requirements, statement of work, and invitations for bids or RFPs must be excluded from competing for such procurements.

Competition (cont.)

200.319(b)

- Must prohibit the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposal, except where applicable Federal statutes expressly mandate or encourage geographic preference.
- Does not preempt state licensing laws.
- Exception: architectural and engineering services (if provides appropriate number of qualified firms).

Competition (cont.)

200.319(c)

- Written procedures for procurement must ensure all solicitations:
 - Incorporate a clear and accurate description of the technical requirements for materials, product or service to be procured; and
 - “Brand name or equivalent” may be used as needed, but the specific features of the named brand which must be met by the offers must be clearly states
 - Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

Methods of Procurement

200.320

- Method of procurement:
 - **NEW:** Micro-purchase
 - Small purchase procedures
 - Competitive sealed bids
 - Competitive proposals
 - Noncompetitive proposals

Micro-Purchase 300.320(a)

- **NEW:** Acquisition of supplies and services under **\$3,500** or less.
 - Updated under the Federal Acquisition Regulations (confirmed in the compliance supplement)
- May be awarded without soliciting competitive quotations if nonfederal entity considers the cost reasonable.
- To the extent practicable must distribute micro-purchases equitably among qualified suppliers.

Small Purchase Procedures

300.320(b)

- Good or service that costs \$150,000 or less
 - (NEW: Simplified Acquisition Threshold was raised under 200.88)
 - Organization may set lower threshold
- Must obtain price or rate quotes from an adequate number of qualified sources
- “Relatively simply and informal”

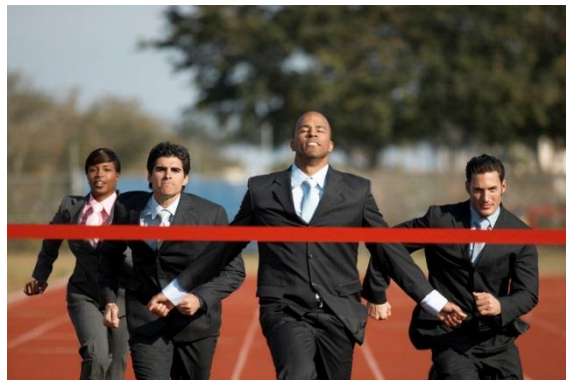
Sealed Bids 300.320(c)



- Over \$150,000
 - Organization may set lower threshold
- Bids are publically solicited.
- Appropriate when:
 - A complete, adequate and realistic specification or description of good or service is available;
 - Two or more responsible bidders are willing and able to compete effectively for the business
 - Selection of vendor can be made principally based on price and it's a firm fixed price contract.

Competitive Proposals 300.320(d)

- Over \$150,000
 - Organization may set lower threshold
- Award contract to responsible vendor whose proposal is most advantageous to the program, considering price and other factors.
- Generally used when sealed bid is not appropriate.



Noncompetitive Proposals 200.320(f)



- Appropriate only when:
 - The item is only available from a single source;
 - There is a public emergency that will not permit delay;
 - **NEW:** The Federal awarding agency or pass-through expressly authorizes noncompetitive proposals in response to a written request from non-Federal entity; or
 - After soliciting a number of sources, competition is determined inadequate.

Suspension and Debarment Appendix II(H)

- Cannot contract with vendor who has been suspended or debarred
 - Excluded Parties List System in the System for Award Management (SAM)
 - 2 CFR Part 180 (OMB Debarment Suspension Rules) and 2 CFR 3485 (USDE Rules)

Suspension and Debarment

2 CFR 180.300

- For contracts over \$25,000 you must verify that the person with whom you intend to do business is not excluded or disqualified.
- This MUST be done by either:
 - a. Checking SAM; or
 - b. Collecting a certification from that person; or
 - c. Adding a clause or condition to the covered transaction with that person.



Property Management

Equipment

200.33

- Equipment: tangible, nonexpendible, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.
- Grantee may also use its own definition of equipment as long as the definition would at least include all equipment defined above.

Supplies

200.94

- All tangible personal property other than equipment
 - **NEW:** Computing devices are supplies is less than \$5,000
- **NEW:** Computing devices 200.20 (pg 97)
 - Machines used to acquire, store, analyze, process, public data and other information electronically
 - Includes accessories for printing, transmitting and receiving or storing electronic information

Equipment

200.313(a) and (c)(4)

- **NEW:** Conditional Title vests with the non-Federal entity.
- **NEW:** Cannot encumber the property without approval of Federal agency or Pass-through agency

But

- **NEW:** When acquiring replacement equipment, 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.

Equipment Procedures

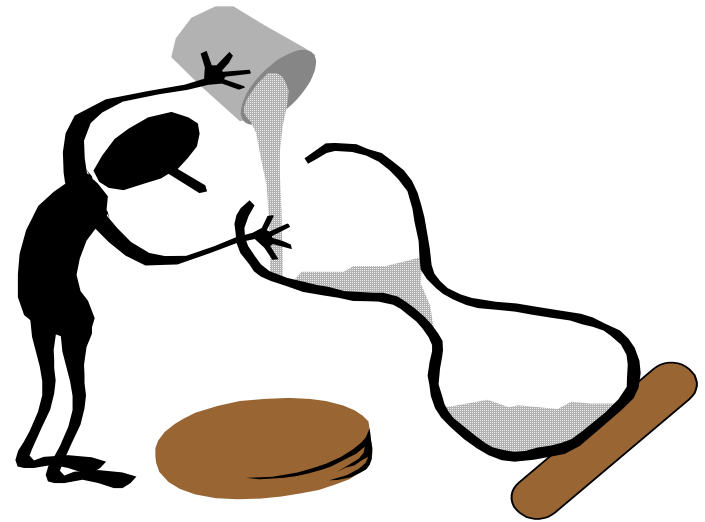
200.313 (d)

Procedures for managing equipment must meet the following requirements:

1. Property records
 - Description, serial number or other ID, source of funding, title, acquisition date and cost, percent of federal participation, location, use and condition, and ultimate disposition date including sale price
2. Physical inventory at least every two years
3. Control system to prevent loss, damage, theft
 - All incident must be investigated
4. Adequate maintenance procedures
5. If authorized or required to sell property, proper sales procedures to ensure highest possible return.

21stCCLC Fiscal Rules: Supplement Not Supplant

- 21stCCLC funds can be used to supplement, but in no case supplant, Federal, State, local funds or other non-federal funds.



Presumption Rebutted!

- If demonstrate would not have provided services if the federal funds were not available
- NO non-federal resources available this year!



21stCCLC Fiscal Rules

- Indirect Costs
 - If you have an approved rate that can distinguish costs for each program
 - Restricted Indirect Cost Rate!
- Pre-award Costs (if have written approval)
 - If charge after award notice but before the effective date, costs may be charged to the extent they would have been allowable if incurred after the award date.
 - If, prior to receiving notice of the grant, the local organization incurring financial obligations is doing so at its own risk.



Charge a Fee?

- Must offer a sliding scale of fees and scholarships for those who cannot afford the program.
- Income collected from fees must be used to fund program activities specified in the grant application.



QUESTIONS?



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