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SECRETARY OF EDUCATION

SUSANA MARTINEZ  
Governor

August 27, 2013

**MEMORANDUM**

**TO:** Superintendents  
Directors of Federal Programs

**FROM:\*** Tiffany Winters, Leigh Manasevit, Jennifer Segal of Brustein and Manasevit,  
Attorneys at Law

**THROUGH:** Hipolito "Paul" Aguilar, Deputy Secretary, Finance and Operations 

**RE: PRIOR APPROVALS - EQUIPMENT PURCHASES OVER \$5000.**

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The purpose of this memo is to provide guidance to you on when prior approval by an awarding agency (PED) is required for equipment purchases under the Office of Management and Budget (OMB) Circular A-87 and Part 80 of the Education Department General Administrative Regulations (EDGAR).

**A. Prior Approval Requirements and the Definition of Equipment**

OMB Circular A-87 "Cost Principles for State, Local, and Indian Tribal Governments" is applicable to state and local educational agencies and all costs must meet the requirements of A-87 to be allowable. A-87 requires prior approval by the awarding agency for all capital expenditures charged to a federal grant, which includes equipment.

Under A-87 equipment is defined as

[A]n article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of the capitalization level established by the governmental unit for financial statement purposes, or \$5,000. Appendix B to part 225 § 15(a)(2).

\* Please note that this memo was prepared by Tiffany Winters, Leigh Manasevit, Jennifer Segal of Brustein and Manasevit, Attorneys at Law and represents their interpretation of the applicable law based on the available guidance. They explicitly do not guarantee that the United States Department of Education would support the same conclusions. In addition, PED cannot provide you with legal advice. If you have any questions on a particular scenario you may wish to consult your own attorney.

The acquisition cost for equipment is determined by the “net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired.” *Id.* at § 15(a)(1).

EDGAR Part 80 establishes uniform administrative requirements for grants for state and local educational agencies. Part 80 does not generally address allowability; specifically it does not require prior approval for equipment purchases, but rather it provides the requirements necessary for the management, use, and disposal of equipment after it is purchased. EDGAR Part 80 also defines equipment as “tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.” Accordingly, while both definitions for equipment vary slightly, they both refer to equipment as a single unit A-87 refers to equipment as “an article,” while Part 80 uses the term “unit”. In our view those terms have the same meaning.

## **B. Analysis**

It is our interpretation that if each unit on a purchase order costs less than \$5,000, then prior approval is not required. To determine what constitutes a unit, each item must be independently “usable for the purpose for which it is acquired.” Appendix B to Part 225 § 15(a)(1).

For example, if PED were to purchase five \$1,000 computers, each to be placed in a separate school for use by teachers to develop lesson plans, those items are independently usable for the purpose for which they are acquired; therefore they are five separate units and prior approval would not be required. If however, PED were to make a purchase of software, software licenses, computers and supplies to equip a single computer lab, the items collectively are needed to develop and run the lab so the unit is the whole package and prior approval would be required. *See* Letter from United States Department of Education Office of Special Education and Rehabilitative Services to Honorable Cecil J. Picard, State Superintendent, Louisiana Department of Education (June 22, 2006), available here: <http://www2.ed.gov/policy/speced/guid/idea/letters/2006-2/picard062206funding2q2006.pdf>.

## **C. Examples**

1. When the unit price of any equipment is equal to or greater than \$5,000. For example, you purchase a Braille embosser on PO xxx at \$5,001.
2. When multiple units of the same item have a total purchase price equal to or greater than \$5,000. For example, you purchase twelve iPads on PO xxx at \$600 each (\$7,200 total cost).
3. When a similar item is purchased multiple times on different POs (or appears on different RfRs) with an accumulative total purchase price equal to or greater than \$5,000. You purchase five iPads on PO xxxx1 and five on PO xxxx2 at \$600 each. The total cost is \$6,000.

**Example 1:** A Braille embosser is a single tangible item with a useful life of more than one year and an acquisition cost of over \$5,000. It therefore meets the A-87 definition of equipment and prior approval would be required.

**Example 2:** Each iPad has an acquisition cost of under \$5,000. Therefore, as long as each iPad could be used for the purpose for which it is acquired regardless of whether the other iPads are purchased, prior approval would not be necessary.

**Example 3:** Similar to the analysis for Example 2, as long as each iPad could be used for the purpose for which it is acquired regardless of whether the other iPads are purchased, prior approval would not be necessary.

cc: Hanna Skandera, Secretary of Education  
Marian Rael, Chief Financial Officer  
Susan Lucero, Federal Grants Management  
PED Federal Programs Staff