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PART 77—DEFINITIONS THAT APPLY TO DEPARTMENT REGULATIONS

§ 77.1 Definitions that apply to all Department programs.

(a) [Reserved]

(b) Unless a statute or regulation provides otherwise, the following definitions in part 74 or 80 of this title apply to the regulations in title 34 of the Code of Federal Regulations. The section of part 74 or 80 that contains the definition is given in parentheses.

Award (§ 74.2)
Contract (includes definition of ''Subcontract'') (§ 74.2) (§ 80.3)
Equipment (§ 74.2) (§ 80.3)
Grant (§ 80.3)
Personal property (§ 74.2)
Project period (§ 74.2)
Real property (§ 74.2) (§ 80.3)
Recipient (§ 74.2)
Supplies (§ 74.2) (§ 80.3)

(c) Unless a statute or regulation provides otherwise, the following definitions also apply to the regulations in this title:

Acquisition means taking ownership of property, receiving the property as a gift, entering into a lease-purchase arrangement, or leasing the property. The term includes processing, delivery, and installation of property.

Applicant means a party requesting a grant or subgrant under a program of the Department.

Application means a request for a grant or subgrant under a program of the Department.

Budget means that recipient's financial plan for carrying out the project or program.

Budget period means an interval of time into which a project period is divided for budgetary purposes.

Department means the U.S. Department of Education.

Director of the Institute of Musuem Services means the Director of the Institute of Museum Services or an officer or employee of the Institute of Museum Services acting for the Director under a delegation of authority.

Director of the National Institute of Education means the Director of the National Institute of Education or an officer or employee of the National Institute of Education acting for the Director under a delegation of authority.

ED means the U.S. Department of Education.

EDGAR means the Education Department General Administrative Regulations (34 CFR parts 74, 75, 76, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99.)

Elementary school means a day or residential school that provides elementary education, as determined under State law.

Facilities means one or more structures in one or more locations.

Fiscal year means the Federal fiscal year—a period beginning on October 1 and ending on the following September 30.

GEPA means The General Education Provisions Act.

Grant period means the period for which funds have been awarded.

Grantee means the legal entity other than a Government subject to 34 CFR part 80 to which a grant is awarded and which is accountable to the Federal Government for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the award document. For example, a grant award document may name as the grantee one school or campus of a university. In this case, the granting agency usually intends, or actually intends, that the named component assume primary or sole responsibility for administering the grant-assisted project or program. Nevertheless, the naming of a component of a legal entity as the grantee in a grant award document shall not be construed as relieving the whole legal entity from accountability to the Federal Government for the use of the funds provided. (This definition is not intended to affect the eligibility provision of grant programs in which eligibility is limited to organizations which may be only components of a legal entity.) The term ''grantee'' does not include any secondary recipients such as subgrantees, contractors, etc., who may receive funds from a grantee pursuant to a grant. The definition of ''grantee'' for State, local, and tribal governments is contained in 34 CFR 80.3.

Local educational agency means:

(a) A public board of education or other public authority legally constituted within a State for either administrative control of or direction of, or to perform service functions for, public elementary or secondary schools in:

(1) A city, county, township, school district, or other political subdivision of a State; or

(2) Such combination of school districts or counties a State recognizes as an administrative agency for its public elementary or secondary schools; or

(b) Any other public institution or agency that has administrative control and direction of a public elementary or secondary school.

(c) As used in 34 CFR parts 400, 408, 525, 526 and 527 (vocational education programs), the term also includes any other public institution or agency that has administrative control and direction of a vocational education program.

Minor remodeling means minor alterations in a previously completed building. The term also includes the extension of utility lines, such as water and electricity, from points beyond the confines of the space in which the minor remodeling is undertaken but within the confines of the previously completed building. The term does not include building construction, stuctural alterations to buildings, building maintenance, or repairs.

Nonprofit, as applied to an agency, organization, or institution, means that it is owned and operated by one or more corporations or associations whose net earnings do not benefit, and cannot lawfully benefit, any private shareholder or entity.

Nonpublic, as applied to an agency, organization, or institution, means that the agency, organization, or institution is nonprofit and is not under Federal or public supervision or control.

Preschool means the educational level from a child's birth to the time at which the State provides elementary education.

Private, as applied to an agency, organization, or institution, means that it is not under Federal or public supervision or control.

Project means the activity described in an application.

Public, as applied to an agency, organization, or institution, means that the agency, organization, or institution is under the administrative supervision or control of a government other than the Federal Government.

Secondary school means a day or residential school that provides secondary education as determined under State law. In the absence of State law, the Secretary may determine, with respect to that State, whether the term includes education beyond the twelfth grade.

Secretary means the Secretary of the Department of Education or an official or employee of the Department acting for the Secretary under a delegation of authority.

Service function, with respect to a local educational agency:

(a) Means an educational service that is performed by a legal entity—such as an intermediate agency:

(1)(i) Whose jurisdiction does not extend to the whole State; and

(ii) That is authorized to provide consultative, advisory, or educational services to public elementary or secondary schools; or

(2) That has regulatory functions over agencies having administrative control or direction of public elementary or secondary schools.

(b) The term does not include a service that is performed by a cultural or educational resource.

State means any of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

State educational agency means the State board of education or other agency or officer primarily responsible for the supervision of public elementary and secondary schools in a State. In the absence of this officer or agency, it is an officer or agency designated by the Governor or State law.

Work of art means an item that is incorporated into facilities primarily because of its aesthetic value.

(Authority: 20 U.S.C. 1221e–3(a)(1), 2831(a), 2974(b), and 3474)

[45 FR 22529, Apr. 3, 1980, as amended at 45 FR 37442, June 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 45 FR 86298, Dec. 30, 1980; 54 FR 21776, May 19, 1989; 57 FR 30342, July 8, 1992; 59 FR 34739, July 6, 1994; 64 FR 50392, Sept. 16, 1999]

PART 79—INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF EDUCATION PROGRAMS AND ACTIVITIES

Sec.

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AUTHORITY: 31 U.S.C. 6506; 42 U.S.C. 3334; and E.O. 12372, unless otherwise noted.

SOURCE: 48 FR 29166, June 24, 1983, unless otherwise noted.

§ 79.1 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' issued July 14, 1982 and amended on April 8, 1983. These regulations also implement applicable provisions of Section 401 of the Intergovernmental Cooperation Act of 1968 and Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966.

(b) These regulations are intended to foster an intergovernmental partnership and a strengthened Federalism by relying on state processes and on state, areawide, regional, and local coordination for review of proposed federal financial assistance.

(c) These regulations are intended to aid the internal management of the Department, and are not intended to create any right or benefit enforceable at law by a party against the Department or its officers.

(Authority: E.O. 12372)

§ 79.2 What definitions apply to these regulations?

Department means the U.S. Department of Education.

Order means Executive Order 12372, issued July 14, 1982, amended April 8, 1983, and titled ''Intergovernmental Review of Federal Programs.''

Secretary means the Secretary of the U.S. Department of Education or an official or employee of the Department acting for the Secretary under a delegation of authority.

State means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

(Authority: E.O. 12372)

§ 79.3 What programs and activities of the Department are subject to these regulations?

(a) The Secretary publishes in the FEDERAL REGISTER a list of the Department's programs and activities that are subject to these regulations and identifies which of these are subject to the requirements of section 204 of the Demonstration Cities and Metropolitan Development Act.

(b) If a program or activity of the Department that provides Federal financial assistance does not have implementing regulations, the regulations in