

# Section 11

## Property Management

## Section 11 – Property Management

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## Section 11 - Property Management

### 1.0 Introduction

If Disaster Recovery CDBG funds are used to acquire real or personal property, the grantee is responsible for ensuring that the property continues to be used for its intended (and approved) purpose, proper records are maintained to keep track of it, steps are taken to take care of it, and that if the property is sold, the OCD/DRU is reimbursed for the Disaster Recovery CDBG share of the property's value. Grantees must tag and log all property valued greater than \$1,000 and update inventory records annually (see Exhibit 11-1 for an example of a property control tracking log).

This fairly straightforward proposition about the ownership, use, management, and disposition of property is complicated by two facts. First, the rules about property management and disposition differ slightly depending on whether a grantee is a public-sector grantee. (The rules are generally more explicit for governmental grantees). Second, the rules depend on the nature of the property. Real property (e.g., land, buildings) is treated differently than personal property (e.g., equipment, supplies, intangible property like copyrights).

This Section outlines the rules for grantees regarding the ownership, management, and disposition of real and personal property. Despite the different treatments, there are several key themes applicable to most property that should be emphasized at the outset:

1. Property can only be acquired with Disaster Recovery CDBG funds for a *specific purpose* that must be approved by the grantee and should be made a part of the CEA.
2. The use of that property for the approved purpose must continue; in the case of personal property, generally for as long as it is needed, if the grantee owns it and the property is needed for the Disaster Recovery CDBG activity, and in the case of real property (acquired or improved with Disaster Recovery CDBG funds in excess of \$25,000), generally for at least 5 years following the expiration of the Grantee Agreement.
3. If the property is owned, accurate records must be maintained for it (e.g., purchase date, price, location, physical description, maintenance history and condition, original and current use, and other inventory types of data).
4. The use of the property must be controlled (in accordance with its intended purpose) and good care must be taken to protect it (that is, take adequate steps to prevent its damage, theft, or loss).
5. If the property is no longer needed, the property must be disposed of according to specific rules (such as paying back the OCD/DRU, accounting for program income, etc.).

### 1.1 Regulations

The federal requirements relating to property are organized according to title (ownership), use, and disposition. In general, the property management system must provide for accurate records, the conduct of regular inventories, adequate maintenance and control, and proper sales procedures. Grantees must follow sales procedures that provide for competition, to the extent practicable, and that result in the highest possible return.

The following chart summarizes the applicability of specific sections of the regulations to particular categories of property for governmental grantees/subrecipients and private subrecipients and shows the relevant regulations affecting its ownership, use, and disposition.

**Rules for Property Management and Disposition**

Property Management and Disposition Regulations 24 CFR 570.503—all subrecipients (subs) 24 CFR 85.32–85.34, govt. subs 24 CFR 84.32–84.34, non-profit subs	Real Property (Acquired with CDBG funds)	Personal Property Acquired with CDBG funds		
		Tangible		Intangible
		Nonexpendable	Expendable	
<i>Typical Example</i>	<i>Land/Buildings</i>	<i>Cars/Equipment</i>	<i>Office Supplies</i>	<i>Copyrights</i>
Ownership	See property acquisition, 24 CFR 570.201(a), 201(c), 202, 203(a)	Vested in subs 24 CFR 85.32 24 CFR 84.34	Vested in subs 24 CFR 85.33 24 CFR 84.35	Nonexclusive license to govt. 24 CFR 85.34 24 CFR 84.36
Use & Management	24 CFR 570.505 governs grantees; subrecipients follow 503(b)(7) *	24 CFR 85.32 24 CFR 84.34	24 CFR 85.33 24 CFR 84.35	
Disposition	24 CFR 570.503(b)(7)	Generally, fair-market value or proceeds returned to grantee; with grantee approval, proceeds retained as program income  24 CFR 85.32 and 24 CFR 570.502(a)(8)  24 CFR 84.34 as modified by 570.502(b)(3)(vi)	Residual inventories  24 CFR 85.33  24 CFR 84.35	Nonexclusive license to use remains with govt.

\* 570.501(b) requires that units of general local government participating with, or as part of, an urban county, or as part of a metropolitan city, follow the same requirements as are applicable to grantees/subrecipients, except that the 5-year period identified under 570.503(b)(7)(i) begins with the date that the unit of general local government is no longer considered by HUD to be a part of the urban county or metropolitan city, instead of the date that the subrecipient agreement expires.

**2.0 Definitions, Acronyms or Terminology**

Please reference these terms for explanation of commonly used names, acronyms, and phrases used within this Section.

1. **Real property** – Land, including all the natural resources and permanent buildings on it.
2. **Personal property** – Basically any kind of property other than real property. Personal property can be *tangible* (such as supplies, furniture, and equipment), or *intangible* (such as copyrights, patents, and inventions).
3. **Non-expendable personal property** – Tangible personal property having a useful life of more than 1 year and an acquisition cost of \$300 or more per unit.
4. **Expendable personal property** – All tangible personal property other than non-expendable personal property.
5. **Program Income** – Gross income received by the grantee directly generated from the use of Disaster Recovery CDBG funds or matching contributions.

### **3.0 Real Property**

The use of real property for programs under OCD/DRU’s jurisdiction is governed by 24 CFR 570.505. For real property acquired or improved in whole or in part with CDBG funds in excess of \$25,000, the recipient cannot change the use or planned use of the property (including the beneficiaries of such use) without first providing affected citizens notice and opportunity to comment, and determining that either:

1. The contemplated new use meets one of the National Objectives and is not a building for the general conduct of government.
2. The contemplated new use is deemed appropriate (after consultation with affected citizens) but will not meet a National Objective. In this latter case, the recipient must reimburse the Disaster Recovery CDBG program in the amount of the current fair market value of the property, less the value attributable to the non- Disaster Recovery CDBG portion of the acquisition or improvements.

The subrecipient CEA must be explicit about the use of any real property under the subrecipient’s control that was acquired or improved in whole or in part with Disaster Recovery CDBG funds in excess of \$25,000. For such instances, 24 CFR 570.503(b)(7) mandates that such real property either:

1. Must be used by the grantee to continue to meet one of the Disaster Recovery CDBG program’s National Objectives for at least 5 years after the expiration of the CEA (or a longer time as specified by the grantee in the CEA); or
2. If a National Objective is not met during this time period, the subrecipient must reimburse OCD/DRU for the current fair market value, less any portion of the value attributable to non-Disaster Recovery CDBG funds.

## **4.0 Personal Property – Equipment**

### **4.1 Title**

Title to equipment acquired with Disaster Recovery CDBG funds by a grantee (i.e. local parish or municipality) is vested in the grantee, subject to the conditions described in Subsection 4.2 below.

## **4.2 Use**

Equipment purchased with Disaster Recovery CDBG funds or other forms of federal assistance must be used by the grantee in the program or project for which it was acquired, and as long as needed, whether or not the program or project continues to be supported by federal funds.

1. The grantee must make the acquired equipment available for use on other projects or programs currently or previously supported by the federal government provided that such use will not interfere with the work on the project or program for which the equipment was originally acquired.
2. A grantee is prohibited from using Disaster Recovery CDBG-acquired equipment to provide services for a fee to compete unfairly with private companies that provide equivalent services unless specifically authorized by federal statute.
3. With the approval of the OCD/DRU, equipment acquired with Disaster Recovery CDBG funds may be used as a trade-in on replacement property.

## **5.0 Personal Property – Supplies**

24 CFR 85.33 applies as follows:

Upon termination of the CEA or award from the OCD/DRU, if there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate fair market value, and if such supplies are not needed for any other federally sponsored programs or project, the grantee must compensate the OCD/DRU for the share of such supplies which were acquired with Disaster Recovery CDBG funds.

## **6.0 Personal Property – Copyrights**

For governmental grantees and subrecipients (24 CFR 85.34) and for non-profit subrecipients (84.36):

The federal government reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use, for federal government purposes:

1. The copyright to any work developed with Disaster Recovery CDBG funds; and,
2. Any rights of copyright which a grantee or a contractor purchases with Disaster Recovery CDBG support.

## **7.0 Management Requirements**

For equipment (including replacement equipment) acquired in whole or in part with Disaster Recovery CDBG funds, the grantee must have procedures and control systems in place to:

1. Keep adequate equipment records, which must include information on:
  - a. Property description;

- b. Identification;
  - c. Funding source (grant number);
  - d. Title holder;
  - e. Acquisition date and cost;
  - f. Federal share of cost;
  - g. Location, use, and condition.
  - h. Unit acquisition cost; and,
  - i. Disposition data.
2. Conduct a physical inventory of the property at least once per year, with a reconciliation of the inventory results with the equipment records.
  3. Ensure adequate safeguards for preventing loss, damage, or theft of property.
  4. Maintain the equipment in good condition.

To adequately manage all property, the grantee must maintain all property details on the Property Control Tracking log (See Exhibit 11-1 for Property Control Tracking form and a sample).

### **8.0 Disposition**

When original or replacement equipment acquired with Disaster Recovery CDBG funds is no longer needed for the original project or program or for other activities currently or previously assisted with federal funds, it must be transferred to the OCD/DRU for the Disaster Recovery CDBG program or can be retained by the grantee after compensation to the OCD/DRU (per 24 CFR 570.502(b)(3)(vi)(B)). The following rules of disposition will apply to governmental grantees.

1. Equipment with a current per-unit fair market value of less than \$5,000 may be retained, sold, or otherwise disposed of by the grantee *after notice to the OCD/DRU*, subject to the conditions in 3 below.
2. Equipment with a current per-unit fair market value of \$5,000 or more may *after notice to the OCD/DRU* be retained or sold by the grantee with the OCD/DRU having the right to compensation in an amount equal to multiplying the current fair market value *or* the proceeds from sale by the federal share (percentage) in the original acquisition price of the equipment.
3. The OCD/DRU may reserve the right to transfer title of the equipment to a federal agency or a third party to be used in other activities currently or previously supported by the agency(24 CFR 85.32(g)).
4. In addition, per 24 CFR 570.502(a) (8), in all cases when equipment purchased with CDBG funds is sold, the net proceeds are considered program income. (24 CFR 570.502(b) (3) (vi) (A)) Also see Section 5 – Financial Management for additional guidance on program income.

### **9.0 Resources**

<b>Exhibit</b>	<b>Description</b>
Exhibit 11-1	Property Control Tracking Log (Blank form and Sample)

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