



Department of Energy
Washington, DC 20585

WEATHERIZATION PROGRAM NOTICE 13-04
EFFECTIVE DATE: OCTOBER 11, 2012

SUBJECT: Property Acquired Under the Weatherization Assistance Program (WAP)

PURPOSE: This guidance serves to clarify the regulatory obligations that apply to property acquired under the WAP Formula and Recovery Act grants and does not apply to Federally-owned property.

SCOPE: The provisions of this guidance apply to recipients and subrecipients of financial assistance under the Department of Energy (DOE) WAP.

LEGAL AUTHORITY: Title IV, Energy Conservation and Production Act, as amended, authorizes the Department of Energy to administer the WAP. (42 U.S.C. § 6861, *et. seq.*) All grant awards made under this program shall comply with applicable law and regulations including the WAP regulations contained in 10 CFR 440 and DOE Financial Assistance regulations at 10 CFR 600.

PROCEDURES: This information applies to the WAP program only, and is not applicable to other programs unless you receive specific direction from other programs. Please note that States will use, manage, and dispose of equipment acquired under a grant in accordance with State laws and procedures. Local Governments, Tribal Organizations, Nonprofit Organizations and Subgrantees shall follow their appropriate property regulations found in 10 CFR 600: Subpart B - Uniform Administrative Requirements for Grants and Cooperative Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations; Subpart C - Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments; or Subpart D - Administrative Requirements for Grants and Cooperative Agreements With For-Profit Organizations. Any potential discrepancies between guidance contained in this document and 10 CFR 600 shall be resolved in favor of 10 CFR 600.

1. DOE has no interest in equipment acquired with award funds with a current per-unit fair market value less than \$5,000.

Fair market value means the best estimate of the gross proceeds if the property were to be sold in a public sale. As soon as the fair market value of an individual unit of property falls below

\$5,000, DOE's interest in the property is extinguished. At this point, recipients/subrecipients take full title to the property without restriction, free and clear of government interest, and a disposition request to DOE is not necessary. Disposition requirements no longer apply and the recipient/subrecipient have no further obligation to DOE.

A piece of equipment is considered to be an individual unit if it has individual utility or can be sold as an individual unit. For example, a photovoltaic solar system contains other components including solar panels, racking systems, inverters and associated wiring. For purposes of disposition, the system should be treated as individual units, such as the individual solar panels and individual inverters, not as a whole. If the system was purchased as individual units and can be sold as such, it should be disposed of as individual units. As a guide to making this determination, consider the manner in which the equipment was purchased and break larger systems into their smallest individual components of individual utility.

2. For equipment acquired with award funds with a current per-unit fair market value of \$5,000 or more, the recipient/subrecipient may continue to use property in the project or program for which it was acquired, and a disposition request to DOE is not necessary.

Recipients/subrecipients may continue to use this equipment indefinitely so long as the recipient/subrecipient continues to use the property in the project or program for which it was acquired. In this case, a disposition request to DOE or Contracting Officer approval is not necessary. Recipients/subrecipients must continue to account for award property during the award and after the closeout of the award, as long as the property continues to have a fair market value of \$5,000 or more, in accordance with DOE's financial assistance regulations found at 10 CFR 600.

As soon as the fair market value of an individual unit of property falls below \$5,000, DOE's interest in the property is extinguished. At this point, recipients/subrecipients take full title to the property without restriction, free and clear of Government interest, and a disposition request to DOE is not necessary.¹

2a. If the recipient/subrecipient continues to use the property in the project or program for which it was acquired, the recipient/subrecipient must continue to account for award property during the award and after the closeout of the award, as long as the property continues to have a fair market value of \$5,000 or more, in accordance with DOE's financial assistance regulations found at 10 CFR 600.

If the recipient/subrecipient continues to use property for the project or program for which it was acquired, property records must be maintained to include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, the cost of the property, percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.² Additionally, recipients/subrecipients must take a

¹ 10 CFR 600.134(g), 232(e)(1), 321(f)(1)(i).

² 10 CFR 600.134.(f)(1), 232(d)(1), 323(a).

physical inventory and the results reconciled with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records must be investigated by the recipient/subrecipient to determine the causes of the difference. The recipient/subrecipient must, in connection with the inventory, verify the existence, current utilization, and continued need for the property.³ These property inventory requirements do not differ from the requirements in the applicable regulations for the award period. DOE retains the right to periodically ask for, and the recipient/subrecipient agrees to provide upon request reasonable information concerning the use or final disposition of the property.⁴

2b. All property purchased as equipment and later incorporated into real property should be treated as equipment prior to disposition and then again when removed.

Equipment purchased with award funds may be installed or otherwise incorporated into real property. Under a traditional interpretation of generally accepted accounting principles and property law, once property (equipment) is installed, incorporated or permanently attached to real property (land, structures, buildings), the asset loses its identity as property (equipment). As such, it is no longer reportable as an equipment item and records should be closed out as “consumed by real property asset XXX” or in accordance with your property management procedures. Examples of this type of property include the mechanical portions of HVAC systems and renewable energy generation equipment such as photovoltaic systems or wind turbines. Should the equipment be de-installed or detached from the real property asset for any reason (repair, transfer, relocation, or disposition), recipients/subrecipients shall again manage the removed equipment as personal property in accordance with its fair market value, until such time as it is re-installed or reincorporated into real property, or formally dispositioned.

3. If recipient/subrecipient has a residual inventory of unused supplies exceeding \$5,000 in total aggregate fair market value and the supplies are not needed for any other federally-sponsored project or program, the recipient/subrecipient shall retain the supplies for use on non-Federally sponsored activities or sell them, but shall, in either case, compensate the Federal Government for its share.

The amount of compensation shall be computed in the same manner as for equipment. Fair market value means the best estimate of the gross sales proceeds if the property were to be sold in a public sale. The value of unused supplies shall be calculated on an individual recipient/subrecipient basis, not based on the entire award.

4. DOE has no interest in residual inventory of unused supplies⁵ acquired with award funds which are \$5,000 or less in total aggregate fair market value.

If the recipient/subrecipient has acquired supplies that have not been consumed by the end of the project, and the total aggregate fair market value of the supplies is \$5000 or less, DOE has no

³ 10 CFR 600.134.(f)(3), 232(d)(2), 323(c)

⁴ 10 CFR 600.153(e), 242(e), 342(e).

⁵ As defined in the regulations - 10 CFR 600.101, 202, 302.

interest in the supplies and title vests with any restriction in the recipient/subrecipient. The value of unused supplies shall be calculated on an individual recipient/subrecipient basis, not based on the entire award.

5. When the recipient/subrecipient elects to retain title without further obligation to the Federal Government, recipient/subrecipient must submit a disposition request to DOE and compensate the Federal Government for that percentage of the current fair market value of the real property or equipment that is attributable to the Federal participation in the project.⁶

When electing to retain title, recipients/subrecipients must compensate DOE for its portion of the fair market value of the equipment. Fair market value means the best estimate of the gross sales proceeds if the property were to be sold in a public sale. The recipient/subrecipient shall submit a disposition request to DOE, providing credible evidence of fair market value, as outlined in Item 7 below. The Contracting Officer may also accept credible evidence in the form of bids from interested buyers, sales of comparable property, or estimated scrap value from a credible contractor with experience in the particular materials if the property has no value beyond scrap.

6. If the recipient/subrecipient has no further use for the equipment, recipient/subrecipient may elect to use the equipment on another federally sponsored project without requesting disposition instructions. For-Profit recipients/subrecipients may do so subject to approval of the DOE Contracting Officer and requirements of 10 CFR 600.321(e)(2).

IMPORTANT:

Title to equipment acquired with Federal funds with a fair market value of \$5,000 or more must be retained by the recipient/subrecipient when using equipment on another federally sponsored project.

All types of entities may transfer the property to another project sponsored by DOE or project sponsored by another Federal agency.⁷ The recipient/subrecipient must continue to account for equipment used on another federally sponsored project (see 2.a. above). Order for preference of use must be satisfied.

7. If the recipient/subrecipient no longer needs the property in the project or program for which it was acquired or for other federally sponsored activities, recipient/subrecipient must request disposition instructions from DOE.

If recipient/subrecipient has no use for the property, chooses not to retain title and will compensate DOE for DOE's share of the property, or cannot identify another federally sponsored project where the property may be utilized, the recipient/subrecipient must request disposition instructions.

⁶ 10 CFR 600.134(g), 232(e)(2), 321(f)(iii).

⁷ 10 CFR 600.134(c), 232(c)(1), 321(e)(2)(i).

The forms below shall be used when requesting disposition during the award, at closeout, or after the award has expired when property is no longer needed. An inventory of property is required when requesting disposition (see SF-428-S below) or if specifically requested (DOE reserves the right to request property records at any time). DOE does not expect Grantees to use the SF-428B form in any situation.

When requesting disposition, complete the Tangible Personal Property Report, Form SF-428 found at: http://www.whitehouse.gov/sites/default/files/omb/grants/approved_forms/sf-428.pdf

Check “Disposition Report/Request (SF-428-C) in Block 6.

Also complete the Disposition Request/Report, Form SF-428-C, found at: http://www.whitehouse.gov/sites/default/files/omb/grants/approved_forms/sf-428-c.pdf, Check “Request Federal Agency Disposition Instructions” in Block b.(ii), and also check “Sale of acquired equipment” in Block 2.b. and attach the completed Supplemental Sheet, Form SF-428-S found at: http://www.whitehouse.gov/sites/default/files/omb/grants/approved_forms/sf-428-s.pdf or recipient equivalent, and complete the remaining information required in Block 2 to calculate the amount to be remitted to the Federal Government.

8. Based on this guidance, it is expected that the final property report will be waived for the subject programs as specified in the award terms and conditions.

As a reminder, recipients/subrecipients are not required to provide an inventory of property acquired with award funds unless property is no longer needed, as indicated in Item 7 above, or if specifically requested (DOE reserves the right to request property records at any time).

If you have further questions regarding property disposition, please do not hesitate to contact the DOE Project Officer or DOE Grants Management Specialist identified in the Assistance Agreement for your award.



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