



FAQ



Frequently Asked Questions for Major Facilities Property Management

GENERAL

1

Why is NSF working to update guidance relating to property (real and personal) acquired through cooperative agreements?

NSF is updating property guidance based on recommendations from the Office of Inspector General which focused on NSF's oversight of its vehicle fleet at Major Facilities and Government-Owned Equipment Purchased on NSF Awards. As a result, NSF revised its policies and terms and conditions to provide better oversight, clarify roles and responsibilities, and reduce administrative burden. Additional details are available at the [OIG Reports and Publication](#) website.

TITLE STATUS

2

In what cases may NSF identify Federally-owned property?

NSF's designation of Federal ownership is generally limited to aircraft, vessels and property furnished by other Federal entities unless a compelling operational rationale is separately established. At the time of award, or periodically during the award when property is acquired and the Program Officer designates Federally-owned property, it will be documented in the terms and conditions.

3

Are title and ownership distinctly different so that a Recipient could hold the title but not have ownership? What about for property that has a paper title, such as vehicles or buildings?

Recipient-held title does not mean the Recipient has ownership. The Recipient has title to the property, and has custody with regard to its use, management, and disposition, but its rights are limited, and it does not outright own the property. During the period of the award or until final disposition instructions are given, neither the government nor the Recipient has free and clear ownership in the common sense. Neither can do whatever they want with the property since Recipient title is subject to use and disposition requirements.

It is important not to confuse "title," in this context, with the paper titles associated with vehicles and real property; rather, think of it as a concept. The concept of Recipient-titled property is that the Recipient has a contractual agreement with NSF regarding use and disposition of that property. So, while a Recipient may receive a paper title from the state that identifies the Recipient as the "owner" of a vehicle, for example, if it is acquired through Federal funds the Recipient is still obligated to fulfill any property-related conditions of the award. and the Program Officer designates Federally-owned property, it will be documented in the terms and conditions.



4

Does “property trust relationship” mean that neither NSF nor the Recipient has “ownership”?

During the period of the award or until final disposition instructions are given, neither the government nor the Recipient has free and clear ownership in the common sense per *2 CFR §200.316*. Neither party can do whatever they want with property since Recipient title is subject to use and disposition requirements. For example, the Recipient cannot “encumber” the property without government approval, so it is not an unfettered asset. Likewise, the government cannot arbitrarily take the property for its own since it was funded to support the science program.

All Federally-funded property must be included on the Recipient’s inventory so that NSF is able to account for the property when necessary. NSF also relies on the Recipient and their financial statement auditors to appropriately report property assets and to determine if the special status of Recipient-titled property should be noted in some way in their financial statement.

REPORTING

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Are Recipients required to submit the Annual Inventory report for Federally-owned Property on August 15, 2020?

Yes, the Recipient is required to submit the Annual Inventory report for Federally-owned property due August 15th. If the Recipient is not able to meet this requirement due to COVID-19 impacts, contact your cognizant Program Officer and Grants and Agreements Officer for guidance.

PROPERTY MANAGEMENT

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Given the updates to NSF guidance and terms and conditions, what is the guiding policy on property acquired or fabricated under Major Facility awards?

The guiding policy on acquiring or fabricating property (personal property and real property) for Major Facility awards remains consistent with the Uniform Guidance and the revised *NSF Terms and Conditions*. Unless otherwise specified in the award, title to property purchased or fabricated with NSF award funds will vest in the Recipient upon acquisition. Such property is subject to the full range of acquisition, use, management, and disposition requirements of *2 CFR §§200.311-.313*, and more generally the property standards at subpart D, *2 CFR §§200.310-.316*.

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Do Major Facility Recipients have access to General Services Administration (GSA) resources for Recipient-titled property?

Only NSF Federally Funded Research Development Centers (FFRDC) have access to the General Services Administration Sources of Supply. The FFRDCs will continue to be authorized to utilize GSA sources of supply for goods and services, including the use of interagency motor pool vehicles and related services. For non-FFRDCs, Major Facilities Recipients do not have access to GSA Sources of Supply.

As an alternative, NSF sponsors the transfer of excess government personal property to eligible organizations. To access a worldwide inventory of available excess personal property, an eligible grantee should contact the NSF Property Administrator at nsfproperty@nsf.gov to become a registered user of GSAXcess® GSA's online personal property system is located at: <http://gsaxcss.gov>. Recipients should review the additional information provided in the NSF Proposal and Award Policies and Procedures Manual, *Chapter IX.D.5.*, for further information.



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When multiple funding sources (e.g., Federally-funded, Recipient-funded, International partner-funded) are used to acquire or fabricate property, what are the use and disposition requirements?

When multiple funding sources are used to acquire or fabricate property, the Recipient must adhere to the use and disposition requirements consistent with the terms and conditions associated with the funding source. Generally, depending upon which party retains title to the asset, the other party is entitled to fair market value compensation for the asset, unless the party relinquishes all rights to be compensated.

For more information, the Recipient should consult *2 CFR §200* the Uniform Guidelines for use and disposition of all assets funded, in whole or in part, by Federal funds. See *2 CFR §200.311* “Real property”, *2 CFR §200.313* “Equipment”, and *2 CFR §200.314* “Supplies”.

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When multiple funding sources (e.g., Federally-funded, Recipient-funded, International partner-funded) are used to acquire or fabricate property, how do the terms and conditions apply to all of the property?

Use and disposition of an asset must be performed in accordance with the terms and conditions of the award and any award-specific terms, which may address different requirements based on funding sources, international requirements or agreements or other agency requirements.

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Would there be an impact to the use, disposition and reporting if property was co-funded by two Federal sources?

If funded by two or more Federal sources, the use of the asset must be consistent with the terms and conditions of the award funding the asset, which should not conflict with the other Federal source’s terms and conditions. This should be confirmed during negotiation of the awards. For disposition, depending upon which party retains title to the asset, the other party is entitled to fair market value compensation for the asset, unless the party relinquishes all rights to be compensated. For reporting, the Recipient must follow the requirements of *2 CFR §200.313(d)* “Management requirements” for managing assets acquired in whole or in part under the Federal award.

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In a situation where a building is Federally-owned, how do the use and disposition requirements apply if the Recipient treats leasehold improvements as an asset?

A leasehold improvement is a change made to property to customize it for the particular needs of a tenant. For Federally-owned Property, the Recipient must agree with these improvements for any tenant utilizing the Federally-owned property. Any leasehold improvements permanently affixed to Federally-owned property should be treated as titled to the Federal government and added to the inventory schedules maintained by the Recipient, as appropriate. All use and disposition requirements of Federally-owned property would apply.



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How are personal property taxes funded for Recipient-titled property?

Taxes may be allowable consistent with *2 CFR §200.470*, which are paid from the Federal award. The Recipient must follow GAAP standards. Exceptions are described in *2 CFR §200.470 b.(1)(i-iii)*. Normal treatment of these taxes should be negotiated between the Recipient and the cognizant Federal agency as indirect costs.

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When acquiring land under a trust, which National Environmental Policy Act (NEPA) considerations (environmental protection study, etc.) are required?

If NSF is funding the acquisition of property, then NSF would have to consider whether such acquisition would result in environmental impacts. While it is unlikely that the mere acquisition of property would result in environmental impacts, it is possible that environmental impacts could occur depending on the anticipated use at the time of acquisition. If the use is known, an environmental review would need to consider the use and be completed before a decision on the acquisition is issued.

If NSF is transferring title of real property to a Recipient under the “property trust relationship,” then NSF would also have to look at whether such a transfer would result in environmental impacts. Most likely, such a title transfer would not. However, the removal of property from Federal ownership would have implications under the National Historic Preservation Act (NHPA). The reason is that only property under Federal jurisdiction is subject to the requirements of the NHPA, which is a statute designed to ensure that Federal agencies consider the potential impacts of proposed actions on important historic, archaeological, and cultural resources that are under their jurisdiction before decisions are made. Therefore, if those resources are no longer under a Federal agency’s jurisdiction, they are no longer afforded the protections of the NHPA. In fact, the regulations implementing the NHPA specifically state that the removal of property from Federal ownership/jurisdiction constitutes a major impact on such resources and, accordingly, the Federal agency would need to complete the NHPA’s Section 106 consultation process before a decision on transferring title to the property is made. There could also be other implications under state or local law depending on the locality.

INSURANCE AND LIABILITY

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Are Major Facility Recipients required to insure Federally-owned property and Recipient-titled property?

Major Facility Recipients are prohibited from incurring expenses to insure Federally-owned property absent express statutory approval and affirmation from NSF through an award-specific term and condition (refer to Article 55. Liability) of the *Cooperative Agreement Modifications and Supplemental Financial and Administrative Terms and Conditions for Major Multi-User Research Facility Projects and Federally Funded Research and Development Centers*.

However, Recipient-titled property must be insured. In accordance with the requirements of *2 CFR §200.310* “Insurance coverage”, the Recipient must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided to property owned by the Recipient. Any additional insurance should be approved by the Grants and Agreements Officer. As always, awardees must not incur expenses beyond the funding obligated to its award.



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With regard to the vehicle title, are there liability issues if the vehicle is designated as Federally-owned?

As stated in *Cooperative Agreement Modifications and Supplemental Financial and Administrative Terms and Conditions for Major Multi-User Research Facility Projects and Federally Funded Research and Development Centers*, NSF cannot assume any liability for accidents, bodily injury, illness, breach of contract, any other damages or loss or any claims arising out of any activities undertaken pursuant to the award, whether with respect to persons or property of the awardee or third parties. The awardee is advised to insure or otherwise protect itself or others, as it may deem desirable.

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With regard to vehicles, how does the liability of the Recipient change if vehicles are changed to Recipient-titled from Federally-owned?

Recipients always have a duty to care for property in their possession, whether the property is Federally-owned or Recipient-titled. Insurance coverage may be applicable for Recipient-titled property as in the case of vehicles. *2 CFR §200.310* generally addresses insurance coverage as follows:

“The non-Federal entity must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided to property owned by the non-Federal entity. Federally-owned property need not be insured unless required by the terms and conditions of the Federal award.”

The Cooperative Agreement Financial & Administrative Terms and Conditions includes Article 55. Liability states: “NSF cannot assume any liability for accidents, bodily injury, illness, breach of contract, any other damages or loss or any claims arising out of any activities undertaken pursuant to the award, whether with respect to persons or property of the awardee or third parties. The awardee is advised to insure or otherwise protect itself or others, as it may deem desirable.”

If title to vehicles is transferred from NSF to the Recipient, the Recipient should review its insurance coverage for sufficiency. If the vehicle needs to be replaced for any reason, the Recipient generally relies on NSF to fund the replacement (subject to review, approval and availability of funds) so only liability coverage may be necessary. Any additional costs for insurance as a result of transfer in title could be covered through re-budgeting, a supplemental request, or in future budget submissions depending on the magnitude and timing, subject to NSF review and approval as appropriate.

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Will NSF provide supplemental funding for additional cost of insurance or other property-related expenses, if required, for the management of property?

Any additional costs for insurance as a result of insurance or other property-related expenses, if required for the management of property, could be covered through re-budgeting, a supplemental request, or in future budget submissions depending on the magnitude and timing, subject to NSF review and approval as appropriate.

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Are there differences in vehicle requirements between those for Federally-owned property versus Recipient-titled related to drivers and passengers? For example, are there restrictions that limit whether non-staff persons (spouses) can accompany a Facility staff person?

Recipients who operate vehicles designated as Federally-owned property are subject to the guidelines identified in the *Financial Management Regulation (FMR), Part 102-34 — Motor Vehicle Management*. See Subpart D — Official Use of Government Motor Vehicles which contains guidance on the “official” use of a Government motor vehicle to perform the agency’s mission or in this case a NSF-sponsored project; citations §102-34.205 and §102-34.215 under this part speak to some of the restrictions. Essentially, Government motor vehicles, as Federally-Owned Property (FOP), are used for official purposes only. Recipients, when authorized, should use Federally-owned vehicles solely in the performance of the NSF-sponsored project.

For Recipient-titled vehicles, NSF would require that Recipients have documented policies and procedures on use.

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If a vehicle is designated as Recipient-titled and still useful, but it is now not likely to pass inspection at the State Department of Motor Vehicles (DMV), what should the Facility do if it wants to keep the vehicle?

If a vehicle has been designated as Recipient-titled, the Recipient must follow all State DMV regulations for vehicle operation. If the vehicle does not pass inspection, the Recipient may consider whether repair is possible or submit a request to the agency for disposition instructions.

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What are the possible implications on Federally-owned vehicles and Federally-owned real property, if NSF now designates them as Recipient-titled property?

The Recipient would be required to insure the Recipient-titled vehicles and property per *2 CFR §200.310*. The Recipient will update its property inventory records to show title is now vested with the Recipient. Recipients may be required to pay for property taxes, registration, inspection and titling fees, depending upon their state and government requirements. The costs associated with these charges, if they are required and reasonable, would be allowable costs reimbursable under the Federal award. In most cases, NSF would expect that these costs would be accounted for as indirect costs and should be negotiated with the Recipient’s cognizant Federal agency.

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At the end of an award, would Recipient-titled property transfer to a new Recipient if the Recipient has changed?

When an award ends, Recipients must request disposition instructions from NSF. NSF will review the property and make a determination on whether it must be transferred to a new Recipient. In general, for Major Facility awards, any property determined to be necessary for the continued performance of the project, or the overall program, will be transferred to other Recipients.

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What is the process for property at the end of an award, either when funding for a program ends or management responsibility is transferred to a new Recipient?

At the end of the award, whether the property is Federally-owned or Recipient-titled, a final property inventory report must be submitted to NSF. NSF will review the property inventory and determine whether it will invoke its conditional interest in the property and issue disposition instructions. NSF may instruct that title to the property remains with the Recipient with no further obligation to the government; transfer property to another NSF award; report the property to the General Services Administration (GSA) for reuse by eligible Federal and/or state agencies to support other sponsored projects; or otherwise dispose as deemed appropriate. In general, for Major Facility awards, any property determined to be necessary for the continued performance of the project, or the overall program, will be transferred to other Recipients.

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What happens if NSF does not issue disposition instructions to the Recipient for Recipient-titled property within the 120-day period following award expiration?

If NSF fails to provide requested disposition instructions on Recipient-titled property within 120 days, the Recipient may retain, sell or otherwise dispose of items of equipment with a current per unit fair market value of \$5,000 or less. Refer to *2 CFR §200.313(e)*.

The 120-days does not apply for Federally-owned property. Upon completion of the award, the Recipient must request disposition instructions from NSF along with the final inventory report that is due by the end date of the award. Disposition for all Federally-owned property must be resolved before the award can be fully closed out. Refer to *2 CFR §200.312*.

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At the end of an award, if the Recipient changed or the program is completed/ended without a follow-on award, who is responsible for restoring property (e.g., land) back to its native state (whether it's Federally-owned property or Recipient-titled property)?

Requirements for locations vary and the Recipient should work closely with NSF to abide by any pre-existing agreements (e.g., a land use agreement) applicable to the award.



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