

# TEXAS DEPARTMENT OF PUBLIC SAFETY

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## THSSAA Information Bulletin

No. 15-002,

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To: Texas Regional Councils  
Texas Association of Regional Councils  
Urban Area Security Initiative Grant Program Points of Contact  
All Texas State Homeland Security Grant Program Points of Contact

From: Garry Jones  
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Texas Homeland Security State Administrative Agency (THSSAA)

Subject: Use, Disposition, Pass-through and Loan of HSGP Funded Equipment

Attachment: (1) SF-428, SF-428c, and SF-428s Forms  
(2) Equipment Pass-Through Form  
(3) Equipment Loan Form

### Purpose:

This Information Bulletin clarifies the use of and process to dispose of, pass-through or loan grant purchased equipment and replaces THSSAA Information Bulletin #3 issued August 31, 2006 and THSSAA Information Bulletin #11-001 issued March 2, 2011. This will apply to all Homeland Security grant-funded equipment that is either noted as a capital asset or a controlled asset per THSSAA Information Bulletin# 12-004.

In some cases sub-recipients are required to request disposition instructions for equipment acquired with grant funds (acquired equipment) when original or replacement equipment is no longer needed for the original program or for other activities currently or previously supported by a Federal agency. Sub-recipients may also be required to provide compensation to the awarding agency when acquired equipment is sold or retained for use on activities not sponsored by the Federal government.

Sub-recipients may pass-through equipment procured with grant funds to a project participant to carry out grant-funded activities.

Sub-recipients may temporarily loan equipment procured with grant funds to a governmental or non-governmental entity to carry out or support grant-related activities.

## **Definitions:**

Acquired Equipment – Equipment purchased with grant funds.

Fair Market Value – An estimate of the market value of a property, based on what a knowledgeable, willing, and unpressured buyer would probably pay to a knowledgeable, willing, and unpressured seller in the market. An estimate of fair market value may be founded either on precedent or extrapolation.

Passed-through Equipment – Equipment procured by a sub-recipient on behalf of a project participant or equipment purchased by a project participant and reimbursed by a sub-recipient to carry out a grant-funded project.

Project Participant – an entity participating in a grant-funded program that purchases or is reimbursed for equipment or other services as a direct result of their relationship with a sub-recipient in an effort to carry out grant-funded activities.

Receiving Entity – The recipient of passed-through or loaned assets.

Sub-recipient – an entity that receives a sub-award from the Texas Homeland Security State Administrative Agency to carry out all or part of a grant-funded program.

Written Appraisal – A report or document stating, based on an educated and professional opinion, the Fair Market Value of an asset.

## **Equipment Use**

Per 44CFR § 13.32 (c), grant-funded equipment shall be used by the sub-recipient in the program for which it was acquired as long as needed, whether or not the program continues to be supported by Federal funds.

When no longer needed for the original program, the equipment may be used in other activities currently or previously supported under a federal grant or sub-grant.

## **Passed-through Equipment**

Acquired equipment may be passed-through from a sub-recipient to a project participant to carry out grant-funded activities under the following conditions:

- A memorandum of understanding (MOU) exists between the sub-recipient and the project participant (see section below for MOU requirements).
- The project participant must meet the same THSSAA eligibility criteria as the sub-recipient (see [http://www.txdps.state.tx.us/director\\_staff/saa/documents/genHSGPEligInstr.pdf](http://www.txdps.state.tx.us/director_staff/saa/documents/genHSGPEligInstr.pdf) for general eligibility requirements). It is the responsibility of the sub-recipient to verify the eligibility of the project participant. The sub-recipient may be required to refund the cost of any equipment purchased with grant funds if it is determined that the project participant did not meet all eligibility requirements.
- The sub-recipient is responsible for notating on their inventory log, at a minimum, the following information for each passed-through equipment item:
  - A description of the asset

- A serial number or other identification number (Should match serial number or ID number recorded on project participant's inventory log.)
- The location of the equipment
  - The location may be referenced as the project participant's jurisdiction
  - A notation and the date that the equipment item was passed-through to a project participant

Example Location Entry: Pass Through to Sample County on 1/15/15

- The sub-recipient must maintain, at a minimum, the above referenced information on their inventory list until notification is received from the project participant that the equipment has been properly disposed of.
- The project participant becomes responsible for any aspects of the asset including inventory control, disposition, and complying with all grant requirements as noted in the MOU.

The corresponding THSSAA Passed-through Equipment Form must be completed under all conditions for all controlled or capital assets as defined by THSSAA IB 12-004. A copy of the THSSAA form must be retained by both parties.

## Loaned Equipment

Acquired equipment may be temporarily loaned to a governmental or non-governmental entity to carry out or support grant-related activities under the following conditions:

- A memorandum of understanding (MOU) exists between the sub-recipient and the receiving entity (see section below for MOU requirements).
- The receiving entity of loaned equipment must meet the same THSSAA eligibility criteria as the sub-recipient see [http://www.txdps.state.tx.us/director\\_staff/saa/documents/genHSGPEligInstr.pdf](http://www.txdps.state.tx.us/director_staff/saa/documents/genHSGPEligInstr.pdf) for general eligibility requirements). It is the responsibility of the sub-recipient to verify the eligibility of the receiving entity.
- Equipment is loaned for a temporary time period for the purpose of a recent or immediate upcoming event. There is no intention by the sub-recipient to have the receiving entity keep the equipment.
- The sub-recipient retains responsibility for all aspects of the asset, including inventory control, disposition and complying with all grant requirements.

Some governmental entities in the State of Texas find it necessary in the furtherance of their Emergency Operations Plan to loan equipment to non-governmental responding entities. Some examples would be: school districts, not for profit organizations, volunteer fire departments, etc. In consultation with the Department of Homeland Security, following are additional eligibility requirements for loans to non-governmental entities:

- The non-governmental entity must be an emergency response or public safety agency.
- The sub-recipient in receipt of Homeland Security grant funded equipment must determine the non-governmental entity is included in the Emergency Operations Plan of a governmental jurisdiction. This plan must meet and be maintained at no less than the intermediate preparedness level required for HSGP grant eligibility and be on file with the Texas Division of Emergency Management (TDEM).

- The non-governmental entity must comply with HSPD-5, Management of Domestic Incidents, the adoption of the National Incident Management System (NIMS), a requirement to receive Federal preparedness assistance through grants, contracts, and other activities.
- It is allowable for a NIMS compliant organization to purchase equipment which is then used by others via a Memorandum of Understanding. Such an arrangement would be appropriate when a governmental entity wants to ensure that its organizations, included in their Emergency Operations Plan, with fewer resources can still effectively respond. The receiving entity(ies) should have a plan indicating whether and/or how they address the NIMS recommendations for Non-governmental entities.

The corresponding THSSAA Equipment Loan Form must be completed under all conditions for all controlled or capital assets as defined by THSSAA IB 12-004. A copy of the THSSAA form must be retained by both parties.

Emergency Loan Conditions:

In the event of a time sensitive situation where time spent verifying eligibility may endanger life or property, equipment may be loaned for mutual aid immediately but for a period of **not more than 60 days** without the need to verify eligibility. The sub-recipient will complete the (Equipment Loan Form) and retain it in their files.

Example: A storm hits a small community and has knocked out power. Generators are needed to help power a local hospital. Time is of the essence and a jurisdiction would not need to verify eligibility before moving the equipment. The generator will only be needed for a few weeks until power is restored.

**Memorandum of Understanding (MOU) for Passed-Through or Loaned Equipment:**

A sub-recipient who passes-through or loans procured equipment to another eligible jurisdiction or non-governmental entity must develop and complete an MOU for all controlled and capital assets as defined in SAA IB# 12-004.

The MOU must include:

1. The basis of the agreement.
2. Signature and date of both parties.
3. Details of the equipment to include: Description, Control number, SER/VIN number, Model number, Acquisition date and Unit cost.
4. Responsible party for the care, custody, control, maintenance, disposition and use of the equipment including but not limited to:
  - a. Inventory control of any equipment loaned to a non-governmental entity in accordance with THSSAA Policy and the Uniform Grant Management Standards.
  - b. Maintaining any issued equipment in good working order.
  - c. Ensuring the equipment is used only as allowable under the grant and in the furtherance of the Emergency Operations Plan.
  - d. Ensuring the sub-recipient is notified when passed-through equipment is disposed of by a project participant.

The MOU must be retained by both the receiving entity and the sub-recipient.

## Equipment Disposition – Approval Required

Approval to dispose of equipment with a current per unit fair market value (FMV) of \$5,000 or more is required in the following circumstances:

- The original sub-grant from which the equipment was purchased is still open (active).
- Original or replacement equipment acquired under a sub-grant is lost, destroyed, or stolen and insurance proceeds to purchase or offset the cost of a replacement are available.
- Original or replacement equipment acquired under a closed grant or sub-grant is no longer needed for the original program or for other activities currently or previously supported by either the Federal awarding agency under which the equipment was originally procured or any another Federal agency.
- When original or replacement equipment is sold the awarding agency shall have a right to an amount calculated by multiplying the current FMV or proceeds from sale by the awarding agency's share of the equipment:

(FMV) X THSSAA's percentage (%) share of the original equipment acquisition cost.

Example 1: Equipment Purchased Using 100% Grant Funds  
Current fair market value (appraisal) = \$6,300.  
Formula:  $\$6,300 \times 100\% = \$6,300$   
THSSAA would be entitled to the full \$6,300.

Example 2: Equipment Partially Purchased with Grant Funds  
Current fair market value (appraisal) = \$6,300  
Percent that grant funds contributed to original purchase: 75%  
Formula:  $\$6,300 \times 75\% = \$4,725$   
THSSAA would be entitled to \$4,725

## Equipment Disposition - No Approval Required

A disposition request is NOT required if the grant-funded equipment meets any of the following conditions:

- The current per unit fair market value of the equipment is less than \$5,000.
- It is being used by the program for which it was originally acquired, regardless of whether or not the program is still receiving federal grant funds.
- The original sub-grant under which the equipment was purchased is closed and it is being used by another program within the jurisdiction/agency, region, or state that has received federal grant funds.

When no longer needed for the original program, the equipment may be used in other activities currently or previously supported under a federal grant or sub-grant. Note: Disposing of equipment by transferring to other federally funded programs implies the equipment is no longer necessary within the original grant program. As a result, THSSAA may not consider funding requests for similar equipment purchases from a sub-recipient who has transferred equipment in this manner for a period of time similar to the typical useful life of the transferred equipment.

- First preference for other use shall be given to programs currently or previously supported by grants from the federal awarding agency that sponsored the grant under which the equipment was procured.

For example, if the equipment was procured under the federal Homeland Security Grant Program from the Department of Homeland Security, Federal Emergency Management Agency (FEMA), then first preference must be given to other programs funded by FEMA in the order referenced below:

- o Sub-recipients should first **review needs within their jurisdiction/agency** to determine if any programs supported by FEMA could use the equipment.
- o If no programs within the jurisdiction/agency need the equipment then sub-recipients should **consult with the COG/UASI to review needs** within the region.
- o If no programs within the COG/UASI region need the equipment then sub-recipients should **consult with THSSAA** to determine if the equipment could be used within any TXDPS programs funded by FEMA or within a program located within another region of the state.
- Next preference for other use shall be given to programs currently or previously supported by any other federal awarding agency. This includes any program that has received federal funds through a grant or sub-grant from any federal agency. Consideration must be given to other programs that are receiving or have received federal funds in the same order referenced above.

The sub-recipient must document the disposition date on their equipment inventory log and maintain documentation supporting decisions allowing for equipment use based on the preferences listed above.

### Equipment Disposition Request Procedure:

A Tangible Personal Property Report (SF-428), Disposition Request (SF- 428c), and Supplemental Sheet (SF-428s) are required to request disposition instructions or report disposition for equipment with a current per unit FMV of \$5,000 or more. A written appraisal of FMV must be included with the forms.

- The sub-recipient or receiving entity of passed-through equipment must submit the forms and written appraisal to the THSSAA Monitoring Section at [SAAMonitoring@dps.texas.gov](mailto:SAAMonitoring@dps.texas.gov).
- If applicable as noted in the grid below, THSSAA will forward the documents to FEMA for approval, denial or special instructions.
- If THSSAA or FEMA does not provide disposition instructions within 120 days, the sub-recipient or receiving entity of passed-through equipment may continue to use the equipment or dispose in accordance with the applicable property standards.
- THSSAA will notify the sub-recipient or receiving entity of passed-through equipment of THSSAA's or FEMA's decision.

**Disposition Approval Matrix for Equipment Valued Over \$5,000**

Equipment Disposition Type	Active Grant	Closed Grant
<b>Retain for Original Purpose</b>	No Approval Required	No Approval Required
<b>Use in Other Federally Funded Activity/Program</b>	THSSAA Approval Only	No Approval Required
<b>Use Insurance Proceeds to Replace Lost, Destroyed, or Stolen Equipment</b>	THSSAA Approval Only	THSSAA Approval Only
<b>Trade in or Sell to Offset Cost of Replacement Equipment</b>	THSSAA Approval Only	THSSAA Approval Only
<b>Sell Equipment w/ Federal Share of Proceeds Refunded</b>	THSSAA/FEMA Approval	THSSAA/FEMA Approval
<b>Use in Non-Federally Funded Activity/Program</b>	THSSAA/FEMA Approval	THSSAA/FEMA Approval

For any questions not addressed here or about the SF-428 forms, contact THSSAA monitoring unit.