

Interagency Committee for Property Management (ICPM) Personal Property Loan Guide Revised November 2021

Background

This guide was developed in 2005 by the Interagency Committee for Property Management (ICPM) to aid (1) Federal agencies that loan personal property to other Federal agencies as well as employees and to outside organizations; and (2) to those who are the recipients of loaned personal property. At that time, individual agencies set their own policies which were often inconsistent with the policies of other agencies. This document provides standard guidance to agencies on how, and under what circumstances, to loan personal property.

Special thanks go to Porscha Porter (DHS) and Coral Childs (GSA) for their contributions to this revised guide:

Authorities

Federal property laws, rules, regulations, and policies are based on fiduciary responsibility. Fiduciary usually means monetary. Fiduciary responsibility can be defined as a legal or ethical relationship of trust when a person or an agency has agreed to act in the capacity of a caretaker (steward) of another's rights, assets, or well-being. The federal government asset manager's fiduciary responsibility requires acting as a caretaker for the public's assets.

The Federal Property and Administrative Services Act of 1949 (40 USC 101 et seq.; June 30, 1949, Ch. 288, 63 Stat. 377), assigned responsibility to the General Services Administration (GSA) to establish regulations guiding and governing civilian executive agencies of the Federal Government in all matters pertaining to property management.

- Federal Acquisition Regulation Part 45, Government Property
- FMR 102-36.295, Is there any reporting requirement on the disposition of excess personal property?

- FMR 102-36.370, Are there special requirements concerning the use of excess personal property for disaster relief?
- 40 U.S.C. 472, Definitions

General Loan Procedures

Loans must only be made for official purposes or authorized purposes where the loan is beneficial to the Government and the agency in accomplishing its mission. Property must not be procured or acquired solely to fulfill loan requests or requirements. Consideration must also be given to the borrower's ability to manage and control the loaned property, the ability of the borrower to reimburse the loaning agency in the event of loss, damage or needed repairs, and the inventory control procedures of the borrower to manage the loaned property.

Each agency must determine its own specific statutory and regulatory authorities or restrictions regarding the loaning of property to other activities, as well as obtaining loans to the agency. Agencies should document their loan policy and procedures for domestic or foreign loans and allow appropriate concurrence and approval stages depending on the recipient and/or purpose of the loan.

Property may be loaned for official purposes or other authorized purposes to nonprofit organizations, state or local Government agencies, or organizations that have a valid Federal treaty or international agreement and have an approved property management system. Recipients will receive a revocable license to use Government property, exclusively for the purpose provided and subject to the termination at any time by the loaning agency. Title to the property loaned to nonprofit organizations, remains with the U.S. Government, however, accountability and liability rests with the organization as appropriate.

Government property loaned under a contract, grant or cooperative agreement, including subcontracts, require specific provisions in the contract or agreement permitting the loan of such property. Property should only be loaned to contractors, in accordance with Federal Acquisition Regulation Part 45, under emergency or special circumstances, and only under the authority of the contract. Similarly,

loans to non-Federal organizations having grants and/or cooperative agreements should be documented in accordance with the terms and provisions of that grant or cooperative agreement.

In addition, upon declaration by the President of an emergency or a major disaster, you may loan excess personal property to State and local governments, with or without compensation and prior to reporting it as excess to GSA, to alleviate suffering and damage resulting from any emergency or major disaster (Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121-5206) and Executive Order 12148 (3 CFR, 1979 Comp., p.412), as amended)). If the loan involves property that has already been reported excess to GSA, you may withdraw the item from the disposal process subject to approval by GSA. You may also withdraw excess personal property for use by your agency in disaster relief. You are still accountable for this property and your agency is responsible for developing agencywide procedures for recovery of such property.

All loans must be approved and coordinated by the agency's property management officials. All other required approvals must be obtained prior to consummation of the agreement or shipment of any property. Approvals should consider the nature of the property being loaned, the purpose of the loan, and the ability of the recipient to control the loaned property. Loans of hazardous material, potentially hazardous material, and the proliferation of sensitive or export-controlled property may require coordination with the export control office, the safety office, the office having oversight of hazardous material, or other Federal agencies.

Prior to making any loan, the agency's designated property manager should review the borrower's property management system to ensure that it is sufficient to maintain and adequately track the location and condition of the property to be provided under the loan agreement and maintain a copy of the review in the official transaction file.

Loans must be documented and signed by both parties. The loan document should identify what items are being loaned, the purpose of the loan, the duration of the loan, a loan termination clause at the convenience of the Government and have a method for verifying the

property accountability system, along with the specific contract or grant award number the property is being assigned. In accordance with agency policy and terms of the loan agreement, termination of a loan may be accomplished by the lending organization with written notice to the borrower, and the borrower may terminate the loan by returning the property to the lender in the agreed-upon condition. If the loan is still required past the initial loan duration, the loan agreement (including any new provisions) may be extended and reissued if it benefits the Government.

The title to all loaned property remains with the lending U.S. Government agency unless the agreement specifies title passes to the grantee or awardee.

Agency records must reflect the location of the property and contain the backup documentation supporting the loan. Loaned property is tracked in the lending organization's property control system and included in all site inventories.

At a minimum, each agency should include the following information in their policy:

All Loans

Establish a system for recording and reporting loans made to any recipient other than a federal agency on the annual report of property furnished to non-Federal recipients as required by FMR 102-36.295.

Domestic Loans

For loans internal to the Executive agency (including "loans" of property to employees for use away from the official duty station). The initiating organization should coordinate with the agency's personal property official for approval. Approval may also include proper notifications to facility property manager, liabilities, inventorying schedules, maintenance, property passes and other agency specific requirements.

For loans to other Executive agencies. The loaning agency's property management official should coordinate with the borrowing agency's property management official for approval. Review by an office of Intergovernmental Relations may be required.

For loans to non-executive branch activities (such as contractors). Review by the Office of Congressional Affairs (if loaned to a Congressional organization), and agency procurement official (if loaned to commercial activity), as appropriate, may be required.

For loans to contractors, grant and/or cooperative agreement recipients and other non-Federal entities. Approval by the agency official responsible for the administration of those instruments is required.

Emergency Loans. In situations of an emergency nature, it may be necessary for a federal agency to borrow supplies or to obtain services from another organization and replace the borrowed supplies or reimburse the organization for the borrowed items. Under emergency situations, verbal agreements between the organizations may be authorized. Verbal agreements should be followed up with either an e-mail or fax confirming the arrangement.

It is recommended that Memorandums of Understanding (MOU) be developed between Federal agencies and other Federal or private entities to cover these types of emergency situations.

Foreign Loans

Loans to foreign governments/organizations. All agreements with the foreign countries need to be part of the loan request package. The responsible program official supporting the foreign loan effort must be identified. The loan package must also state if a license is required to export the property. A declaration that all export reviews have been completed must be included in the loan documentation. The agency's designated senior manager should concur in the loan

request and forward to the agency's property management official. Review and approval by Legal Counsel, International Affairs, and Export Control/High Risk Representative may be required along with coordination with the Departments of Commerce and State and incorporated into the official loan package.

Use of Government Property by Employees

Government personal property and nonpersonal services shall be used only for those purposes for which they were obtained or contracted for or other officially designated purpose, unless in a bona fide emergency. As used in this section nonpersonal services means those contractual services, other than personal and professional services, as defined in 40 U.S.C. 472. This includes property and services on interagency loan as well as property leased by agencies.

The use of Government property by individual employees which does not interfere with the official duties of the employee or appreciably increase the cost of the federal activity may be allowable in some circumstances. Agencies must ensure that the employee understands that any property provided to them in the performance of their official duties belongs to the United States Government and may not be used to conduct private business or any illegal or illicit purposes not condoned by the government. The property must be returned to the agency by the employee when the property is no longer needed for the use that it was originally provided.

GSA Contact: For more information, please contact William Garrett at William.Garrett@GSA.gov.

This information is not policy. Information here is developed as guidance by the Interagency Committee on Property Management (ICPM) to assist our federal community on topics not directly addressed by GSA policy. Informed revisions are welcome. Policy is developed through the official rulemaking process and can be found at www.GSA.GOV/FMR.