

LARGE FACILITIES WORKSHOP

2020 FALL WEBINAR

OCTOBER 28, 2020



National
Science
Foundation

AUI Background

- AUI operates multiple radio astronomy facilities on NSF's behalf
 - All formerly consolidated as part of the “National Radio Astronomy Observatory” though now operated under separate Cooperative Support Agreements
 - Facilities in United States and Chile
- Operate a “Central Development Laboratory” to research and build next generation radio astronomy instruments.
- AUI Corporate performs fiscal duties for observatories and oversees implementation of equipment and property activities performed at the facility sites.

Radio Astronomy Background

- Green Bank Observatory
(world's largest moveable object)



- Very Large Array



Radio Astronomy Background

- ALMA Array



- Central Development Lab



Addressing Changes to NSF Property Terms

- Early Discussions with NSF on policy, terms/conditions, and reporting
 - Allows AUI insight into NSF goals, and NSF insight into AUI concerns
 - Reduce administrative burden and eliminate compliance risks
 - Balance risks to both sides
- Piloting initial process
 - Identify unforeseen implementation issues
 - Identify additional policy, legal, or term/condition issues to address
 - Allow flexibility to try different ways to implement

Legal and Term/Condition Issues

- Consolidating various property and equipment thresholds and definitions in AUI processes
- Addressing liability issues to either:
 - avoid taking on new liability risks, or
 - ensure new liability risks are properly managed/insured
- Addressing balance sheet issues
- Mobility of property titles between award agreements
- Timing of new award conditions (FY19 or FY20)

Pilot Timeline

- Jan 2020 – NSF pilot program **kickoff meeting** to address IG findings and recommendations.
- Feb 2020 – NSF and AUI met to address:
 - Based upon NSF’s initial guidance (*NSF Lexicon*), how would AUI classify government property (FOP or RTP).
 - How would AUI implement the change
 - What problems AUI foresees with re-classifying property (e.g. insurance, licensing, etc...)
 - Provide analysis of **property types / categories** for property stored in eEquip! Asset Management System that could change from FOP to RTP.
 - Determination that implementation would need to be **phased / step approach** with “low hanging fruit” to be implemented first (i.e. not applicable to international and vehicles).
- Mar – April 2020 – AUI (Fiscal, Contracts, MIS, Business Managers, Property Managers) met to identify property, **assign classification** (based on NSF guidance), assign object codes / GL accounts with **definitions**, and submit a **transition plan phase 1**.
- May – June 2020 – AUI and NSF worked to finalize the property listing, classifications, and transition plan (***~75% of property moved to RTP***).
- July – Aug 2020 – NSF provided a **draft amendment** to NRAO and GBO CAs of the property transitioning from FOP to RTP.
- Sept 2020 – NSF issued amendment to execute the change. **This change will be effective for the reporting period ending September 30, 2020.**
- Oct 2020 – Based on pilot and transition of property, AUI submitted **annual inventory** for FOP property via CPIR for US property. International property was submitted using our historical reporting criteria.

Phase 1 Transition

After NSF / AUI agreed to a phased transition

AUI - Federally-owned Property Transition Phase #1

#	Task	POC	Date	Date to Complete	Comment / Question
1	Distribute category listing to BMs for final consensus	BM, Fiscal, CAP & MIS	06/24/20	06/24/20	
2	Get consensus on categories	BM, Fiscal, CAP & MIS	06/24/20	06/24/20	
3	MIS to make possible changes to JDE ERP	Fiscal, CAP & MIS	06/30/20	07/17/20	
4	Evaluate listing of active property to determine if items are in the appropriate, new categories	BM & Fiscal	06/24/20	07/17/20	
5	Fiscal to review input from BMs (Property Custodians) item categorization, inquiry / resolve any unknown or questioned items, and make changes to the system.	BM & Fiscal	07/17/20	07/24/20	
6		Fiscal, CAP & NSF	07/27/20	07/27/20	
6a	Provide NSF with marked-up active list of items by categories, FOP>>RTP indication and by CA/CSAs	same as above	07/27/20	07/27/20	AUI will move-out making system changes right away. NSF should do a quick review for any concerns.
6b	Initiate negotiation of adjustments to property terms/conditions	same as above	07/27/20	08/28/20	
7	Execute phase #1 property changes (FOP>>RTP) in property system	Fiscal & MIS	07/24/20	08/21/20	
8	Final Review (cross-check) of phase #1 property changes (FOP>>RTP)	BM, Fiscal, CAP & MIS	08/24/20	08/28/20	
9	Final Submission of marked-up property list to NSF	Fiscal & CAP	08/31/20	08/31/20	
10	Re-Tag or list of re-tag dates if not feasible for some items	BM & Fiscal	08/31/20	08/31/21	
11	Re-initiate phase #2 discussion for more complex items	BM, Fiscal, CAP, MIS & NSF	09/07/20	09/07/20	

BM = Business Managers (Mike Holstine, Steven Geiger, Skip Lagoyda, Pablo Vidal)
 Fiscal = Accounting (Jack Tade, Brenda Murphy, Thad Brown, Wen Chen)
 CAP = Contract & Procurement (David Curren, Richard Sakchaug)
 MIS = Management Information System (Chuck Beverage)

Grouping & Category Transition

Current Object Code			General Transition Plan					
			Transition 1 Object Code (vehicles & international property are excluded)					
Object Code	Description	FOP / RTP	Move to	Object Code	Description	FOP / RTP	Comment	OC Definition
5205	Land => \$25K	FOP	Same	5205	Land FOP	FOP		Includes all government-owned land
5206	Land Improvements => \$25K	FOP	5205	5206	FOP Land Improvements	FOP		
5210	Buildings => \$25K	FOP	Same	5210	Buildings - FOP	FOP		Includes all office, housing, storage, industrial, research and development, and service buildings.
5215	Leasehold Improvements => \$25K	FOP	Same	5215	Leasehold Improvements - FOP	FOP		Improvements to all office, housing, storage, industrial, research and development, and service buildings leased.
5220	Telescopes => \$25K	FOP	Same	5220	Telescopes - FOP	FOP		Includes all research structures and additions. Buildings are not included
5221	N/A	N/A	New	5221	Telescope Equipment - FOP	FOP	New	Includes equipment that is intrinsic to telescope use and could not be utilized elsewhere without modification.
5230	Test & Research Equip => \$25K	FOP	5286	5230	Test & Research Equip => \$25K	FOP		
5240	Equipment => \$25K	FOP	5287	5240	Equipment => \$25K	FOP		
5241	Computer Hardware => \$25K	FOP	5288	5241	Computer Hardware => \$25K	FOP		
5242	Computer Software => \$25K	FOP	5289	5242	Computer Software => \$25K	FOP		
5250	Vehicles	FOP	Same	5250	Vehicles	FOP		Includes any titled vehicles
5281	Land (\$5K - \$25K)	RTP	5205	5281	Land (\$5K - \$25K)	RTP		
5282	Land Improvements (\$5K - \$25K)	RTP	5205	5282	Land Improvements (\$5K - \$25K)	RTP		
5283	Buildings (\$5K - \$25K)	RTP	5210	5283	Buildings (\$5K - \$25K)	RTP		
5284	Leasehold Improvements (\$5K - \$25K)	RTP	5215	5284	Leasehold Improvements (\$5K - \$25K)	RTP		
5285	Telescopes (\$5K - \$25K)	RTP	5220	5285	Telescopes (\$5K - \$25K)	RTP		
5286	Test & Research Equip (\$5K - \$25K)	RTP	Same	5286	Test & Research Equip - RTP	RTP		Includes electrical and electronic equipment. Examples: Cryostat, signal generators, spectrum analyzer, etc.
5287	Equipment (\$5K - \$25K)	RTP	Same	5287	Equipment - RTP	RTP		Includes all other specialized equipment that is not included in test and research equipment. These items include theodolites, generators, milling machines, and automated lathes.
5288	Computer Hardware (\$5K - \$25K)	RTP	Same	5288	Computer Hardware - RTP	RTP		Includes all computer hardware
5289	Computer Software (\$5K - \$25K)	RTP	Same	5289	Computer Software - RTP	RTP		Includes all computer software
5291	Furniture & Fixtures (\$5K - \$25K)	RTP	Same	5291	Furniture & Fixtures - RTP	RTP		Includes all office furniture and fixtures

20 Current OC count

11 New OC Count

Government Property Classifications:

Federally Owned Property (FOP) – Any federally funded property in the custody of the Recipient where the agency has reserved ownership. The Recipient is subject to use and disposition requirements in accordance with the award and must submit to NSF annually an inventory listing of federally owned property. (Government Property)

Recipient Titled Property (RTP) – Any federally funded property in the custody of the Recipient where the agency has **not** reserved ownership but is still subject to established obligations and conditions. Property is held in trust for the beneficiaries of the project or program (generally the science community) under which the property was acquired or improved. This arrangement is otherwise known as the “property trust relationship”. Generally, the Recipient may not encumber (i.e. place lien on) the property and must follow the terms and conditions on the use, management and disposition of the property. Only following disposition decisions at the end of the award, would ownership potentially transfer to the Recipient. (Government Property)

AUI Transition Recommendations

- Establish core transition team consisting of Accounting, Contracts / Procurement, Management Information System (MIS) personnel, Business Managers, Property personnel (Custodians), and Legal / Insurance personnel.
- Establish primary POC(s) of recipient organization and NSF for project.
- Create a transition plan. Expect modifications to timeline.
- Have Legal and Insurance personnel review contract terms/conditions and coverage policy early in the process.
- Group federal assets into FOP vs RTP and subcategories that is reviewed and agreed upon by the recipient organization early in process. Grouping may facilitate a phased / step transition that need to be factored into the transition plan, as well as possible adjustments to ERP (*enterprise resource planning*) and other subsystems (*e.g. eQuip!*) that house federal assets. Listing and phased approach will need to reviewed and approved by NSF.
- Execute detailed framework of federal asset transition by Property personnel, Business Managers, MIS, and Accounting.
- Engage Financial Statement auditors regarding the transition (i.e. title vs ownership).
- Communicate regularly with NSF POC(s).
- Expect disagreements. Rely on above framework and NSF to address.

Supplemental Data

- Lexicon
- Sample of AUI Transition Q&A

Lexicon

NSF Standard Operations Guidance Definitions and Use for Property

Rev: January 14, 2020

These terms are intended to provide additional familiarity with NSF's use and do not replace Uniform Administrative Requirements definitions at 2 CFR 200.

Property: This consists of both real property and personal property. Generally, real property includes land and things built on land that are not typically moveable, such as buildings. Personal property is all other property whether it is tangible (having a physical existence) or intangible (i.e., intellectual property and other financial instruments). Personal property includes "equipment" which is any tangible property with a useful life greater than 1 year and typically a per-unit purchase cost of \$5000 unless the Recipient's sets a lower value for financial statement purposes. Equipment can range from the very small to the very large as long as it is moveable. See Figure _____

Federally-Funded Property: Any property acquired, fabricated or improved in whole or in part with federal funds, whether funded by NSF or any other federal agency.

Recipient-Funded Property: Property acquired exclusively with non-federal funds. Recipient-funded property is owned by the Recipient and the government has no implied or expressed interest. If Recipient-funded property is important to the award, particularly for longer-term projects, NSF must carefully consider the potential impact to the award prior to authorizing use and reliance on Recipient-funded property.

Vest [Vested]: To confer or bestow to someone. Title to federally-funded property vests with the Recipient subject to established obligations and conditions unless the government reserves ownership.

Ownership [Owned]: The ultimate and exclusive rights and control over property.

Custody: Protective care or guardianship responsibilities of the Recipient over federally-funded property.

Title [Titled]: A right to something (for example, property), but the actual rights conferred may be limited; for example, use, management and disposition under the "property trust relationship" between the government and the Recipient.

Federally-Owned Property: Any federally-funded property in the custody of the Recipient where the agency has reserved ownership. The Recipient is subject to use and disposition requirements in accordance with the award and must submit to NSF annually an inventory listing of federally-owned property in its custody.

Property Trust Relationship: The arrangement where the Recipient has custody of federally-funded property for the beneficiaries of the project or program subject to established obligations and conditions.

Recipient-Owned Property: Property acquired with federal or non-federal funds where the government has no implied or expressed interest.

Recipient-Titled Property: Any federally-funded property in the custody of the Recipient where the agency has not reserved ownership but is still subject to established obligations and conditions. Recipient-titled property is held in trust for the beneficiaries of the project or program (generally the science community) under which the property was acquired or improved. This arrangement is otherwise known as the "property trust relationship". Generally, the Recipient may not encumber (i.e. place a lien on) the property and must follow the terms and conditions on use, management and disposition of the property. Only following disposition decisions at the end of the award, would ownership potentially transfer to the Recipient.

Conditional Interest: The government's right to invoke a transfer of Recipient-titled property; including to the government or to another Recipient.

Exempt Property: NSF may elect to convey property to a Recipient with no conditions or with conditions that vary from the standard regulations and internal policies. Exempt property status at NSF is typically reserved to the NSF grants portfolio. Generally, NSF's use of exempt property establishes use and management requirements but typically does not require Recipients to seek disposition instructions at any point during the life of the award. This approach aligns with the intent of assistance awards and significantly reduces administrative burden. If, in rare instances, NSF has an interest in issuing disposition instructions the agency would need to contact the Recipient within 120 days following the award end date. For other than exempt property, it is standard practice that Recipients must contact NSF for disposition instructions during closeout or when the property is no longer needed during the life of the award. Special statutory authorities must be invoked to convey property to a Recipient with no conditions.

AUI Transition Q&A

AUI Property Questions

April 27, 2020

Ver.1.0

Please note that the following guidance does not alter the terms and conditions of the award:

- 1) **Property trust relationship, does it really mean that neither (NSF/Recipient) entity has “ownership”?**
- a. **If it is so, then why does NSF/OGC think it doesn't matter, i.e., reserve ownership is sufficient?**

NSF Response: During the period of the award or until 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 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.

All federally funded property must be included on the Recipient's inventory so that NSF is able to account for it when needed. 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. For these reasons, the concept of “reserve ownership” is sufficient from NSF's perspective.

- 2) **With regard to vehicles, how does the liability of the Recipient change if vehicles are changed to Recipient-titled vs. Federally-owned?**

NSF Response: Recipients always have a duty to care for property in their possession, whether the property is government 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 CAFATC includes Article 54, 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.

- 3) **When acquiring land under a trust, NEPA (environmental protection study, etc.) is required. Would anything change (either at the federal, state or local level) if it becomes Recipient-titled Property?**

NSF Response: If NSF is funding the acquisition of property, then NSF would have to do an environmental review at some level, although perhaps not a full-blown EIS. If NSF is transferring real property to a Recipient under the “property trust relationship”, then NSF would also have to look at whether such a transfer of title would result in environmental impacts. Most likely, such a title transfer would not. However, the removal of property from federal ownership (i.e. at final disposition) would have implications under the National Historic Preservation Act (NHPA). The reason is that the NHPA is a procedural statute that requires federal agencies to consider impacts to important historic, archaeological, and cultural resources that are under their jurisdiction. Therefore, if those resources are no longer under their jurisdiction, they are no longer afforded federal protection and the benefits of the NHPA. This is why the regulations implementing the NHPA specifically state that the removal of property from federal ownership/jurisdiction (not necessarily transfer of title under the property trust relationship) constitutes a major impact on such resources.

- 4) **At the end of an award and if the awardee 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 FOP or RTP)?**

NSF Response: The obligations for removal of improvements and restoration of the land following the closure of a facility (or following the end of an award) are typically dependent upon the terms of the land-use agreement that authorized the use of the land in the first instance. Often, the land-use agreement has a provision indicating which entity (i.e., the awardee or NSF) is responsible for the removal of improvements and restoration of the land back to its original condition (to the extent practicable). Regardless of which entity is responsible for carrying-out removal and restoration activities, NSF, as either the entity having either the primary interest in the land (or, in some circumstances, in its role as the funding agency), must first complete its environmental compliance responsibilities before authorizing any decommissioning or restoration activities.

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

NSF Response: NSF will review the property at the end of the award and make a determination on whether it will invoke its conditional interest and transfer any qualifying property to a new Recipient. Generally, for Major Facility awards, any property necessary for the project will be transferred.

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

NSF Response: The recipient is expected to cover all costs within the award ceiling and budget accordingly, including insurance costs. NSF work with the Recipient to find an agreeable path forward if there are additional cost impacts.