

Equipment Acquisition, Use, and Disposition Policy



I. Introduction

The Emergency Solutions Grant (ESG) Program is a federal program operated by the U.S. Department of Housing and Urban Development (HUD) to make grants to states, local governments, and territories for the purposes of funding activities that directly serve people experiencing homelessness, including people at risk of homelessness. The California Department of Housing and Community Development (CA HCD) is a direct recipient of ESG from HUD. CA HCD administers an annual allocation of ESG and an additional one-time allocation of ESG made available under the CARES Act.

For the purposes of this document, “annual ESG” refers to CA HCD’s annual allocation of ESG, “ESG-CV” refers to CA HCD’s one-time allocation of CARES Act ESG, and “ESG” refers to the program in general and to aspects of the program that apply to both annual ESG and ESG-CV.

This ESG Equipment Acquisition, Use, and Disposition Policy (the “Policy”) provides the structure under which equipment purchased with ESG can be passed on to entities other than the original purchaser.

A. Applicability

This Manual applies to ESG grants funded using:

- Annual ESG
- ESG-CV

II. General Requirements

A. Overview

The ESG Program’s primary regulatory body is 24 CFR Part 576, the ESG Program Interim Rule.¹ Equipment, which includes but is not limited to vehicles and electronic infrastructure, can be purchased using ESG funds to support a variety of ESG eligible activities. Equipment purchases using ESG funds are subject to 2 CFR Part 200, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.²

¹ <https://www.hudexchange.info/resource/1927/hearth-esg-program-and-consolidated-plan-conforming-amendments/>

² <https://www.govinfo.gov/app/details/CFR-2014-title2-vol1/CFR-2014-title2-vol1-part200>

B. Acquisition

When acquiring equipment, CA HCD and ESG subrecipients are subject to all applicable federal requirements, most importantly:

- 24 CFR 576.407(c), which makes explicit that the ESG Program is governed by the uniform requirements in 2 CFR Part 200;
- 24 CFR 576.407(f), which requires compliance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, which includes a requirement that, when purchasing an item or set of items whose costs exceed \$10,000 in a year, those items must be designated in the guidelines of the Environmental Protection Agency at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition;
- 2 CFR 200.317-326, which outline general procurement standards, including standards applicability for states and state entities (e.g. CA HCD).

C. Use

Equipment purchased using ESG funds must continue to be used by the purchasing entity to support the activities for which it was originally purchased, regardless of whether those activities continue to receive ESG or any other federal funding.

The purchasing entity cannot encumber the equipment without the prior approval of HUD.

D. Disposition

When no longer needed for the original project or program, equipment must be disposed of in the following order of priority.

Within a given priority band: if equipment could be used for multiple purposes or transferred to multiple new entities with the same level of priority, the current equipment owner has sole discretion in determining how the equipment will be used or transferred.

1. Activities under Another HUD Award

Equipment may be used in other activities supported by another award from HUD. Initial priority shall be given to other activities supporting people experiencing homelessness or homeless response systems, followed equally by any other HUD-funded activity.

2. Activities under Another Federal Award

Equipment may be used in other activities supported by another award from a Federal agency other than HUD. Initial priority shall be given to other activities supporting people experiencing homelessness or homeless response systems, followed by other activities supporting housing for low-income households, followed by other activities related to promoting social and community services, followed equally by any other federally funded activity.

3. All Other Cases

The non-federal entity that owns the equipment must request disposition instructions from HUD. Disposition of the equipment must be conducted as follows, in accordance with the instructions from HUD:

- (1) Equipment with a current per unit fair market value of \$5,000 or less may be retained, sold, or otherwise disposed of with no further responsibility to HUD.
- (2) Except as provided in 2 CFR 200.312(b), or if HUD fails to provide requested disposition instructions within 120 days, equipment with a current per unit fair market value exceeding \$5,000 may be retained by the non-federal entity or sold. HUD is entitled to an amount calculated by multiplying the current market value or proceeds from sale by HUD's percentage of participation in the cost of the original purchase. If the equipment is sold, HUD may permit the non-federal entity to deduct and retain from HUD's share \$500 or 10% of the proceeds, whichever is less, for its selling and handling expenses.
- (3) The non-federal entity may transfer title of the property to the Federal Government or to an eligible third party provided that, in such cases, the non-federal entity must be entitled to compensation for its attributable percentage of the current fair market value of the property.

In cases where a non-federal entity fails to take appropriate disposition actions, HUD may direct the non-federal entity to take disposition actions.