**[Note that this sample policy is intended to give NC local governments a general guide to crafting a Property Management Policy that is consistent with federal Uniform Guidance provision in 2 CFR 200 Subpart D for expenditure of its Coronavirus State and Local Fiscal Recovery Funds. A local government must work with its attorney to draft a policy that is compliant with applicable laws and regulations and that can be fully implemented by the local government. Use of this policy template does not create an attorney/client relationship. Any questions about this sample policy, or suggestions for improvements, may be directed to Kara Millonzi @** **millonzi@sog.unc.edu****.]**

# SAMPLE POLICY FOR PROPERTY MANAGEMENT REALTED TO THE EXPENDITURE OF AMERICAN RESCUE PLAN ACT CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS BY NORTH CAROLINA LOCAL GOVERNMENTS

**WHEREAS** the [LOCAL GOVERNMENT NAME], has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); and

**WHEREAS** the funds may be used for projects within these categories, to the extent authorized by state law.

1. Support COVID-19 public health expenditures, by funding COVID-19 mitigation and prevention efforts, medical expenses, behavioral healthcare, preventing and responding to violence, and certain public health and safety staff;
2. Address negative economic impacts caused by the public health emergency, including economic harms to households, small businesses, non-profits, impacted industries, and the public sector;
3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet; and

**WHEREAS** the ARP/CSLFRF are subject to the provisions of the federal Uniform Grant Guidance, 2 CFR Sect. 200 (UG), as provided in the [Assistance Listing](https://sam.gov/fal/7cecfdef62dc42729a3fdcd449bd62b8/view); and

**WHEREAS** the [Compliance and Reporting Guidance for the State and Local Fiscal Recovery Funds](https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf) (v4.1 June 2022) provides, in relevant part:

**Equipment and Real Property Management.** Any purchase of equipment or real property with SLFRF funds must be consistent with the Uniform Guidance at 2 CFR Part 200, Subpart D. Equipment and real property acquired under this program must be used for the originally authorized purpose. Consistent with 2 CFR 200.311 and 2 CFR 200.313, any equipment or real property acquired using SLFRF funds shall vest in the non-Federal entity. Any acquisition and maintenance of equipment or real property must also be in compliance with relevant laws and regulations.

**WHEREAS** Subpart D of the UG dictates title, use, management, and disposal of real property, equipment, and supplies acquired in whole or in part with ARP/CSLFRF funds;

**BE IT RESOLVED** that the governing board of [LOCAL GOVERNMENT NAME] hereby adopts and enacts the following UG Property Management Policy for the expenditure of ARP/CSLFRF funds.

# Property Standards for Real Property, Equipment, and Supplies Acquired with American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Funds

## POLICY OVERVIEW

[Title 2 U.S. Code of Federal Regulations Part 200](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200), Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, commonly called Uniform Guidance (UG), specifically Subpart D, details post award requirements related to property management of property acquired or updated, in whole or in part, with funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF).

2 CFR 200.311 through 2 CFR 200.316, as modified by [US Treasury ARP/CSLFRF Final Rule FAQs 13.15 & 13.16](https://home.treasury.gov/system/files/136/SLFRF-Final-Rule-FAQ.pdf), detail property standards related to the expenditure of ARP/CLSFRF funds. The [LOCAL GOVERNMENT NAME], hereinafter [County/City/Town/Village] shall adhere to all applicable property standards, as detailed below. **Note that pursuant to ARP/CSLFRF Final Rule FAQ 13.15, the Uniform Guidance property standards do not apply to real property, equipment, or supplies purchased or improved with Revenue Replacement ARP/CSLFRF funds.**

## DEFINITIONS

The definitions in 2 CFR 200.1 apply to this policy, including the following:

**Computing devices**: machines used to acquire, store, analyze, process, and publish data and other information electronically, including accessories (or “peripherals”) for printing, transmitting and receiving, or storing electronic information. See also the definitions of supplies and information technology systems in this section.

**Equipment:** tangible [personal property](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=d435474852e94e23e854db2c7f692a8a&term_occur=999&term_src=Title:2:Subtitle:A:Chapter:II:Part:200:Subpart:A:Subjgrp:27:200.1) (including information technology systems) having a useful life of more than one year and a per-unit  [acquisition cost](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=00ade141eb71c752ddf5a88809ea2724&term_occur=999&term_src=Title:2:Subtitle:A:Chapter:II:Part:200:Subpart:A:Subjgrp:27:200.1) which equals or exceeds the lesser of the capitalization level established by the [county/City/Town/Village] for financial statement purposes, or $5,000.

**Information technology systems**: computing devices, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related resources. See also the definitions of computing devices and equipment in this section.

**Intangible property**: property having no physical existence, such as trademarks, copyrights, patents and patent applications and property, such as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership (whether the property is tangible or intangible).

**Personal property**: property other than [real property](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e9a6b10874803e22a56417021f7b4c65&term_occur=999&term_src=Title:2:Subtitle:A:Chapter:II:Part:200:Subpart:A:Subjgrp:27:200.1). It may be tangible, having physical existence, or intangible.

**Property**: [real property](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e9a6b10874803e22a56417021f7b4c65&term_occur=999&term_src=Title:2:Subtitle:A:Chapter:II:Part:200:Subpart:A:Subjgrp:27:200.1) or  [personal property](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=d435474852e94e23e854db2c7f692a8a&term_occur=999&term_src=Title:2:Subtitle:A:Chapter:II:Part:200:Subpart:A:Subjgrp:27:200.1).

**Real property**: land, including land improvements, structures and appurtenances thereto, but excludes moveable machinery and equipment.

**Supplies**: all tangible [personal property](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=d435474852e94e23e854db2c7f692a8a&term_occur=999&term_src=Title:2:Subtitle:A:Chapter:II:Part:200:Subpart:A:Subjgrp:27:200.1) other than those described in the definition of equipment in this section. A computing device is a supply if the [acquisition cost](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=00ade141eb71c752ddf5a88809ea2724&term_occur=999&term_src=Title:2:Subtitle:A:Chapter:II:Part:200:Subpart:A:Subjgrp:27:200.1) is less than the lesser of the capitalization level established by the local government for financial statement purposes or $5,000, regardless of the length of its useful life. See also the definitions of computing devices and equipment in this section.

## REAL PROPERTY

**Title to Real Property:** Title to real property acquired or improved with ARP/CSLFRF funds vests with the [County/City/Town/Village]. 2 CFR 200.311(a).

**Use of Real Property:** During the period of performance of the ARP/CSLFRF award, the [County/City/Town/Village] may use real property purchased or improved with ARP/CSLFRF funds for a purpose other than the purpose for which it was purchased or improved if such other purpose is also consistent with the ARP/CSLFRF eligible use requirements.

If the [County/City/Town/Village] changes the use of the real property to an ineligible use or sells the real property prior to the end of the period of performance, then it must follow the disposition procedures detailed in the Disposition of Real Property section below.

After the period of performance of the ARP/CSLFRF award, the [County/City/Town/Village] must use the real property consistent with the purpose for which it was purchased or improved or for any other eligible purpose in the same category as the purpose reported to US Treasury as of the final reporting period, as set forth in the table below:

|  |  |
| --- | --- |
| **Category**  | **Use Requirements** page56image294424576 |
| Public Health and Assistance to Households and Individuals  | Property, supplies, or equipment last reported as being used to respond to the public health impacts of the public health emergency, as outlined in 31 CFR 35.6(b)(3)(i), or being used for the provision of services to households provided in 31 CFR 35.6(b)(3)(ii)(A), are authorized to fulfill any eligible use of funds provided in these subparagraphs of the Final Rule.  |
| Assistance to Small Businesses, Nonprofits, and Impacted Industries  | Property, supplies, or equipment last reported as being used for the provision of services to small businesses, nonprofits, and impacted industries outlined in 31 CFR 35.6(b)(3)(ii)(B)-(D) are authorized to fulfill any eligible use of funds outlined in the public health and negative economic impacts eligible use category. page56image294497744page56image294498576 |
| Water, Sewer, or Broadband Infrastructure  | Property, supplies, or equipment last reported as being used to make investments in water, sewer, or broadband infrastructure pursuant to 31 CFR 35.6(e) are authorized to fulfill any eligible use of funds outlined in the water, sewer, and broadband infrastructure eligible use category.  |
| Government Services/Revenue Loss  | N/A |
| Premium Pay page56image294552336page56image294553120 | N/A  |

If the real property’s use shifts outside the parameters of the eligible purpose according to this table after the period of performance, then the [County/City/Town/Village] (and any subrecipients) must follow the disposition procedures in the Disposition of Real Property section below.

The [County/City/Town/Village] is responsible for being able to substantiate its determination on whether the use of the real property is authorized and maintain a record of that determination in accordance with the requirements set forth in the financial assistance agreement accepted in connection with the ARP/CSLFRF award.

The [County/City/Town/Village] is not required to seek or obtain the approval of US Treasury prior to changing the use within the parameters of these authorized purposes.

## **Insurance of Real Property:** The [County/City/Town/Village] must provide the equivalent insurance coverage for real property acquired or improved with ARP/CSLFRF funds as provided to property owned by the [County/City/Town/Village]. 2 CFR 200.310.

**No Encumbrance of Real Property:** The [County/City/Town/Village]may not encumber the real property unless authorized by US Treasury. 2 CFR 200.311(b).

**Disposition of Real Property:** If the [County/City/Town/Village] changes the use of real property to an ineligible use or sells the asset during the period of performance of the ARP/CSLFRF award or changes the use of the asset outside the eligible category after the period of performance ends, then the [County/City/Town/Village] must obtain disposition instructions from US Treasury. The instructions must provide for one of the following alternatives:

1. The [County/City/Town/Village] retains title after compensating US Treasury. The amount paid to US Treasury will be computed by applying US Treasury’s percentage of participation in the cost of the original purchase (and costs of any improvements) to the fair market value of the property. However, in those situations where the [County/City/Town/Village] is disposing of real property acquired or improved with ARP/CSLFRF funds and acquiring replacement real property under the ARP/CSLFRF, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.
2. The [County/City/Town/Village] sells the property and compensates US Treasury. The amount due to US Treasury will be calculated by applying US Treasury’s percentage of participation in the cost of the original purchase (and cost of any improvements) to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the ARP/CSLFRF award has not been closed out, the net proceeds from sale may be offset against the original cost of the property. When the [County/City/Town/Village] is directed to sell property, sales procedures must be followed that provide for competition to the extent practicable and result in the highest possible return.
3. The [County/City/Town/Village] transfers title to US Treasury or to a third party designated/approved by US Treasury. The [County/City/Town/Village] is entitled to be paid an amount calculated by applying the [County/City/Town/Village]’s percentage of participation in the purchase of the real property (and cost of any improvements) to the current fair market value of the property. 2 CFR 200.311(c).

## EQUIPMENT

**Title to Equipment:** Title to equipment acquired or improved with ARP/CSLFRF funds vests with the [County/City/Town/Village]. 2 CFR 200.313(a).

**Use of Equipment:** During the period of performance of the ARP/CSLFRF award, the [County/City/Town/Village] may use equipment purchased or improved with ARP/CSLFRF funds for a purpose other than the purpose for which it was purchased or improved if such other purpose is also consistent with the ARP/CSLFRF eligible use requirements.

If the [County/City/Town/Village] changes the use of equipment to an ineligible use or sells the equipment prior to the end of the period of performance, then it must follow the disposition procedures detailed in the Disposition of Equipment section below.

After the period of performance of the ARP/CSLFRF award, the [County/City/Town/Village] must use equipment consistent with the purpose for which it was purchased or improved or for any other eligible purpose in the same category as the purpose reported to US Treasury as of the final reporting period, as set forth in the table below:

|  |  |
| --- | --- |
| **Category**  | **Use Requirements** page56image294424576 |
| Public Health and Assistance to Households and Individuals  | Property, supplies, or equipment last reported as being used to respond to the public health impacts of the public health emergency, as outlined in 31 CFR 35.6(b)(3)(i), or being used for the provision of services to households provided in 31 CFR 35.6(b)(3)(ii)(A), are authorized to fulfill any eligible use of funds provided in these subparagraphs of the Final Rule.  |
| Assistance to Small Businesses, Nonprofits, and Impacted Industries  | Property, supplies, or equipment last reported as being used for the provision of services to small businesses, nonprofits, and impacted industries outlined in 31 CFR 35.6(b)(3)(ii)(B)-(D) are authorized to fulfill any eligible use of funds outlined in the public health and negative economic impacts eligible use category. page56image294497744page56image294498576 |
| Water, Sewer, or Broadband Infrastructure  | Property, supplies, or equipment last reported as being used to make investments in water, sewer, or broadband infrastructure pursuant to 31 CFR 35.6(e) are authorized to fulfill any eligible use of funds outlined in the water, sewer, and broadband infrastructure eligible use category.  |
| Government Services/Revenue Loss  | N/A |
| Premium Pay page56image294552336page56image294553120 | N/A  |

If the equipment’s use shifts outside the parameters of the eligible purpose according to this table after the period of performance, then the [County/City/Town/Village] (and any subrecipients) must follow the disposition procedures in the Disposition of Equipment section below.

The [County/City/Town/Village] is responsible for being able to substantiate its determination on whether the use of equipment is authorized and maintain a record of that determination in accordance with the requirements set forth in the financial assistance agreement accepted in connection with the ARP/CSLFRF award.

The [County/City/Town/Village] is not required to seek or obtain the approval of US Treasury prior to changing the use within the parameters of these authorized purposes.

During the time that equipment is used on the project for which it was acquired, the [County/City/Town/Village] must also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, provided that such use will not interfere with the work on the project for which it was originally acquired. First preference for other use must be given to other programs or projects supported by US Treasury and second preference must be given to programs or projects under Federal awards from other Federal awarding agencies. Use for non-federally-funded programs or projects is also permissible. User fees should be considered if appropriate. 2 CFR 200.313(c)(2).

**Noncompetition:** The [County/City/Town/Village] must not use equipment acquired with the ARP/CSLFRF funds to provide services for a fee that is less than private companies charge for equivalent services unless specifically authorized by Federal statute for as long as the Federal Government retains an interest in the equipment. 2 CFR 200.313(c)(3).

**No Encumbrance:** The [County/City/Town/Village] may not encumber the equipment without approval of US Treasury. 2 CFR 200.313(a)(2).

**Replacement Equipment:** When acquiring replacement equipment, the [County/City/Town/Village] may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property. 2 CFR 200.313(c)(4).

**Management of Equipment:** The [County/City/Town/Village] will manage equipment (including replacement equipment) acquired in whole or in part with ARP/CSLFRF funds according to the following requirements.

1. The [County/City/Town/Village] will maintain sufficient records that include
2. a description of the property,
3. a serial number or other identification number,
4. the source of funding for the property (including the Federal Award Identification Number (FAIN)),
5. who holds title,
6. the acquisition date,
7. cost of the property,
8. percentage of Federal participation in the project costs for the Federal award under which the property was acquired,
9. the location, use and condition of the property, and
10. any ultimate disposition data including the date of disposal and sale price of the property.
11. The [County/City/Town/Village] will conduct a physical inventory of the property and reconcile results with its property records at least once every two years.
12. The [County/City/Town/Village] will develop a control system to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft will be investigated by the [County/City/Town/Village].
13. The [County/City/Town/Village] will develop and implement adequate maintenance procedures to keep the property in good condition.
14. If the [County/City/Town/Village] is authorized or required to sell the property, it will establish proper sales procedures to ensure the highest possible return, in accordance with state and federal law.

## **Insurance of Equipment:** The [County/City/Town/Village] must provide the equivalent insurance coverage for equipment acquired or improved with ARP/CSLFRF funds as provided to property owned by the [County/City/Town/Village]. 2 CFR 200.310.

**Disposition of Equipment:** If the [County/City/Town/Village] changes the use of the equipment to an ineligible use or sells the equipment during the period of performance of the ARP/CSLFRF award or changes the use of the equipment outside the eligible category after the period of performance ends, then the [County/City/Town/Village] may either make the equipment available for use in other activities funded by a Federal agency, with priority given to activities funded by US Treasury, dispose of the equipment according to instructions from US Treasury, or follow the procedures below. 2 CFR 200.313(e).

1. Equipment with a per-item fair market value of less than $5,000 may be retained, sold or transferred by the [County/City/Town/Village], in accordance with state law, with no additional responsibility to US Treasury;
2. If no disposal instructions are received from US Treasury, equipment with a per-item fair market value of greater than $5,000 may be retained or sold by the [County/City/Town/Village]. The [County/City/Town/Village] must establish proper sales procedures, in accordance with state law, to ensure the highest possible return. The [County/City/Town/Village] must reimburse US Treasury for its federal share. Specifically, US Treasury is entitled to an amount calculated by multiplying the current market value or proceeds from sale by the ARP/CSLFRF funding percentage of participation in the cost of the original purchase. If the equipment is sold, US Treasury may permit the [County/City/Town/Village] to deduct and retain from the Federal share $500 or ten percent of the proceeds, whichever is less, for its selling and handling expenses.
3. Equipment may be transferred to US Treasury or to a third-party designated by US Treasury in return for compensation to the [County/City/Town/Village] for its attributable compensation for its attributable percentage of the current fair market value of the property.

## SUPPLIES

**Title to Supplies.** Title to supplies acquired with ARP/CSLFRF funds vests with the [County/City/Town/Village] upon acquisition. 2 CFR 200.314(a).

**Use of Supplies:** During the period of performance of the ARP/CSLFRF award, the [County/City/Town/Village] may use supplies purchased or improved with ARP/CSLFRF funds for a purpose other than the purpose for which it was purchased or improved if such other purpose is also consistent with the ARP/CSLFRF eligible use requirements.

If the [County/City/Town/Village] changes the use of supplies to an ineligible use or sells the supplies prior to the end of the period of performance, then it must follow the disposition procedures detailed in the Disposition of Supplies section below.

After the period of performance of the ARP/CSLFRF award, the [County/City/Town/Village] must use supplies consistent with the purpose for which they were purchased or improved or for any other eligible purpose in the same category as the purpose reported to US Treasury as of the final reporting period, as set forth in the table below:

|  |  |
| --- | --- |
| **Category**  | **Use Requirements** page56image294424576 |
| Public Health and Assistance to Households and Individuals  | Property, supplies, or equipment last reported as being used to respond to the public health impacts of the public health emergency, as outlined in 31 CFR 35.6(b)(3)(i), or being used for the provision of services to households provided in 31 CFR 35.6(b)(3)(ii)(A), are authorized to fulfill any eligible use of funds provided in these subparagraphs of the Final Rule.  |
| Assistance to Small Businesses, Nonprofits, and Impacted Industries  | Property, supplies, or equipment last reported as being used for the provision of services to small businesses, nonprofits, and impacted industries outlined in 31 CFR 35.6(b)(3)(ii)(B)-(D) are authorized to fulfill any eligible use of funds outlined in the public health and negative economic impacts eligible use category. page56image294497744page56image294498576 |
| Water, Sewer, or Broadband Infrastructure  | Property, supplies, or equipment last reported as being used to make investments in water, sewer, or broadband infrastructure pursuant to 31 CFR 35.6(e) are authorized to fulfill any eligible use of funds outlined in the water, sewer, and broadband infrastructure eligible use category.  |
| Government Services/Revenue Loss  | N/A |
| Premium Pay page56image294552336page56image294553120 | N/A  |

If the supplies use shift outside the parameters of the eligible purpose according to this table after the period of performance, then the [County/City/Town/Village] (and any subrecipients) must follow the disposition procedures in the Disposition of Supplies section below.

The [County/City/Town/Village] is responsible for being able to substantiate its determination on whether the use of supplies is authorized and maintain a record of that determination in accordance with the requirements set forth in the financial assistance agreement accepted in connection with the ARP/CSLFRF award.

The [County/City/Town/Village] is not required to seek or obtain the approval of US Treasury prior to changing the use within the parameters of these authorized purposes.

**Noncompetition.** As long as the Federal Government retains an interest in the supplies, the [County/City/Town/Village] must not use supplies acquired under the ARP/CSLFRF to provide services to other organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute. 2 CFR 200.314(b)**.**

**Disposition of Supplies. I**f there is a residual inventory of unused supplies exceeding $5,000 in total aggregate value upon termination or completion of the project and the supplies are not needed for any other Federal award, the non-Federal entity must retain the supplies for use on other activities or sell them, but must, in either case, compensate the Federal Government for its share. The amount of compensation must be computed in the same manner as for equipment. 2 CFR 200.314(a).

**[DRAFTER’S NOTE: If applicable, add section for Intangible Property, in accordance with 2 CFR 200.315.]**

## PROPERTY TRUST RELATIONSHIP

Real property, equipment, and intangible property, that are acquired or improved with ARP/CSLFRF funds must be held in trust by the [County/City/Town/Village] as trustee for the beneficiaries of the project or program under which the property was acquired or improved. US Treasury may require the [County/City/Town/Village] to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a Federal award and that use and disposition conditions apply to the property. 2 CFR 200.316.

## IMPLEMENTATION OF POLICY

[NAME OF RESPONSIBLE PERSONEL HERE] shall adopt procedures to track all real property, equipment, and supplies (collectively, property) acquired or improved in whole or in part with ARP/CLSFRF funds. At a minimum, those procedures must address the following:

* Ensure proper insurance of property
* Document proper use of property
* Working with [NAME OF FINANCE PERSONNEL HERE], record and maintain required data records for equipment
* Conduct periodic inventories of equipment, at least every two years
* Create processes for replacement and disposition of property
* Establish other internal controls to safeguard and properly maintain property