

not encumber the property without approval of the Department.

(b) The recipient must obtain written approval by the Department for the use of real property in other Federally-sponsored projects when the recipient determines that the property is no longer needed for the purpose of the original project. Use in other projects will be limited to those under Federally-sponsored projects (i.e., awards) or programs that have purposes consistent with those authorized for support by the Department.

(c) When the real property is no longer needed as provided in paragraphs (a) and (b) of this section, the recipient must request disposition instructions from the Department. The Department will observe one or more of the following disposition instructions.

(1) The recipient may be permitted to retain title without further obligation to the Federal Government after it compensates the Federal Government for that percentage of the current fair market value of the property attributable to the Federal participation in the project.

(2) The recipient may be directed to sell the property under guidelines provided by the Department and pay the Federal Government for that percentage of the current fair market value of the property attributable to the Federal participation in the project (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the recipient is authorized or required to sell the property, proper sales procedures must be established that provide for competition to the extent practicable and result in the highest possible return.

(3) The recipient may be directed to transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the recipient shall be entitled to compensation for its attributable percentage of the current fair market value of the property.

§ 70.33 Federally-owned and exempt property.

(a) *Federally-owned property.* (1) Title to Federally-owned property remains vested in the Federal Government. Recipients may be required by the terms

and conditions of the award, to submit annually an inventory listing of Federally-owned property in their custody to the Department. Upon completion of the award or when the property is no longer needed, the recipient must report the property to the Department for further Federal agency utilization.

(2) If the Department has no further need for the property, it will be declared excess and reported to the General Services Administration, unless the Department has statutory authority to dispose of the property by alternative methods (e.g., the authority provided by the Federal Technology Transfer Act (15 U.S.C. 3710 (I)) to donate research equipment to educational and non-profit organizations in accordance with Exec. Order No. 12821, “Improving Mathematics and Science Education in Support of the National Education Goals.”) Appropriate instructions shall be issued to the recipient by the Department.

(b) *Exempt property.* When statutory authority exists, the Department may vest title to property acquired with Federal funds in the recipient without further obligation to the Federal Government when such property is “exempt property.”

[Order No. 1980-95, 60 FR 38242, July 26, 1995; Order No. 1998-95, 60 FR 57932, Nov. 24, 1995]

§ 70.34 Equipment.

(a) Title to equipment acquired by a recipient with Federal funds will vest in the recipient, subject to conditions of this section.

(b) The recipient must not use equipment acquired with Federal funds to provide services to non-Federal outside organizations 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.

(c) The recipient must use the equipment in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds and must not encumber the property without approval of the Department. When no longer needed for

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the original project or program, the recipient must use the equipment in connection with its other Federally-sponsored activities, in the following order of priority:

(1) Activities sponsored by the Department which funded the original project, then

(2) Activities sponsored by other Federal awarding agencies.

(d) During the time that equipment is used on the project or program for which it was acquired, the recipient must make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the equipment was originally acquired. First preference for such other use must be given to other projects or programs sponsored by the Department. Second preference must be given to projects or programs sponsored by other Federal awarding agencies. If the equipment is owned by the Federal Government, use on other activities not sponsored by the Federal Government may be permissible if authorized in writing by the Department. User charges must be treated as program income.

(e) When acquiring replacement equipment, the recipient may use the equipment to be replaced as trade-in or sell the equipment and use the proceeds to offset the costs of the replacement equipment subject to the written approval of the Department.

(f) The recipient's property management standards for equipment acquired with Federal funds and Federally-owned equipment must include all of the following:

(1) Equipment records must be maintained accurately and must include the following information:

(i) A description of the equipment.

(ii) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

(iii) Source of the equipment, including the award number.

(iv) Whether title vests in the recipient or the Federal Government.

(v) Acquisition date (or date received, if the equipment was furnished by the Federal Government) and cost.

(vi) Information from which one can calculate the percentage of Federal

participation in the cost of the equipment (not applicable to equipment furnished by the Federal Government).

(vii) Location and condition of the equipment and the date the information was reported.

(viii) Unit acquisition cost.

(ix) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates the Department for its share.

(2) Equipment owned by the Federal Government must be identified to indicate Federal ownership.

(3) A physical inventory of equipment must be taken and the results reconciled with the equipment records annually. Any differences between quantities determined by the physical inspection and those shown in the accounting records must be investigated to determine the causes of the difference. The recipient must, in connection with the inventory, verify the existence, current utilization, and continued need for the equipment.

(4) A control system must be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment must be investigated and fully documented; if the equipment was owned by the Federal Government, the recipient must promptly notify the Department.

(5) Adequate maintenance procedures must be implemented to keep the equipment in good condition.

(6) Where the recipient is authorized or required to sell the equipment, proper sales procedures must be established which provide for competition to the extent practicable and result in the highest possible return.

(g) When the recipient no longer needs the equipment, the equipment may be used for other activities in accordance with the following standards. For equipment with a current per unit fair market value of \$5,000 or more, the recipient may retain the equipment for other uses provided that compensation is made to the Department or its successor. The amount of compensation must be computed by applying the percentage of Federal participation in the cost of the original project or program

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to the current fair market value of the equipment. If the recipient has no need for the equipment, the recipient must request disposition instructions from the Department. The Department will determine whether the equipment can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the equipment must be reported to the General Services Administration by the Department to determine whether a requirement for the equipment exists in other Federal agencies. The Department will issue instructions to the recipient no later than 120 calendar days after the recipient's request and the following procedures will govern.

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the recipient's request, the recipient may sell the equipment and reimburse the Department an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the recipient may be permitted to deduct and retain from the Federal share \$500 or ten percent of the proceeds, whichever is less, for the recipient's selling and handling expenses.

(2) If the recipient is instructed to ship the equipment elsewhere, the recipient may be reimbursed by the Federal Government by an amount which is computed by applying the percentage of the recipient's participation in the cost of the original project or program to the current fair market value of the equipment, plus any reasonable shipping or interim storage costs incurred.

(3) If the recipient is instructed to otherwise dispose of the equipment, the recipient may be reimbursed by the Department for such costs incurred in its disposition.

(4) The Department reserves the right to transfer the title to the Federal Government or to a third party named by the Federal Government when such third party is otherwise eligible under existing statutes. Such transfer will be subject to the following standards.

(i) The equipment must be appropriately identified in the award or oth-

erwise made known to the recipient in writing.

(ii) The Department will issue disposition instructions within 120 calendar days after receipt of a final inventory. The final inventory must list all equipment acquired with grant funds and Federally-owned equipment. If the Department fails to issue disposition instructions within the 120 calendar day period, the recipient may apply the standards of this section, as appropriate.

(iii) When the Department exercises its right to take title, the equipment is subject to the provisions for Federally-owned equipment.

§ 70.35 Supplies and other expendable property.

(a) Title to supplies and other expendable property vests in the recipient upon acquisition. If there is a residual inventory of unused supplies exceeding \$5000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other Federally-sponsored project or program, the recipient may retain the supplies for use on non-Federal sponsored 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.

(b) The recipient must not use supplies acquired with Federal funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute as long as the Federal Government retains an interest in the supplies.

§ 70.36 Intangible property.

(a) The recipient may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under an award. The Department reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

(b) Recipients are subject to applicable regulations governing patents and inventions, including government-wide