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proceeds, whichever is less, for the Cooperator's selling and handling expenses.

(2) If the Cooperator is instructed to ship the equipment elsewhere, the Cooperator shall be reimbursed by the Federal Government by an amount which is computed by applying the percentage of the Cooperator'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 Cooperator is instructed to otherwise dispose of the equipment, the Cooperator shall be reimbursed by the REE Agency for such costs incurred in its disposition.

(4) The REE Agency may reserve 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 shall be subject to the following standards.

(i) The equipment shall be appropriately identified in the award or otherwise made known to the Cooperator in writing.

(ii) The REE Agency shall issue disposition instructions within 120 calendar days after receipt of a final inventory. The final inventory shall list all equipment acquired with federal funds and federally owned equipment. If the REE Agency fails to issue disposition instructions within the 120 calendar days, the Cooperator shall apply the standards of this section, as appropriate.

(iii) When the REE Agency exercises its right to take title, the equipment shall be subject to the provisions for federally owned equipment.

§ 550.39 Equipment replacement insurance.

If required by the terms and conditions of the award, the Cooperator shall provide adequate insurance coverage for replacement of equipment acquired with Federal funds in the event of loss or damage to such equipment.

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§ 550.40 Supplies and other expendable property.

(a) Title to supplies and other expendable property shall vest in the Cooperator upon acquisition. If there is a residual inventory of unused supplies exceeding \$5,000 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 Cooperator shall retain the supplies for use on non-Federal sponsored activities or sell them, but shall, in either case, compensate the Federal Government for its share. The amount of compensation shall be computed in the same manner as for equipment.

(b) The Cooperator shall 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.

§ 550.41 Federally-owned property.

(a) Title to federally-owned property remains vested in the Federal Government. Cooperators shall submit annually an inventory listing of federally-owned property in their custody to the REE Agency. Upon completion of the award or when the property is no longer needed, the Cooperator shall report the property to the REE Agency for further Federal Agency utilization.

(b) If the REE Agency has no further need for the property, it shall be declared excess and reported to the GSA, unless the REE Agency 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 Executive Order 12999, "Education technology: ensuring Opportunity for all children in the next century." Appropriate instructions shall be issued to the Cooperator by the REE Agency.

§ 550.42 Intangible property.

(a) The Cooperator may copyright any work that is subject to copyright

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and was developed, by the Cooperator, or jointly by the Federal Government and the Cooperator, or for which ownership was purchased, under a cooperative agreement. REE Agencies reserve 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 for Federal purposes.

(b) Cooperators are subject to applicable regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR part 401, "Rights to Inventions Made by Non-profit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements."

(c) The REE Agency has the right to:

(1) Obtain, reproduce, publish or otherwise use the data first produced under a cooperative agreement; and

(2) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

(d)(1) In addition, in response to a Freedom of Information Act (FOIA) request for research data relating to published research findings produced under a cooperative agreement that were used by the Federal Government in developing an Agency action that has the force and effect of law, the REE Agency shall request, and the Cooperator shall provide, within a reasonable time, the research data so that they can be made available to the public through the procedures established under the FOIA. If the REE Agency obtains the research data solely in response to a FOIA request, the Agency may charge the requester a reasonable fee equaling the full incremental cost of obtaining the research data. This fee should reflect costs incurred by the Agency, the Cooperator, and applicable subrecipients. This fee is in addition to any fees the Agency may assess under the FOIA (5 U.S.C. 552(a)(4)(A)).

(2) The following definitions apply for purposes of paragraph (d) of this section:

(i) Research data is defined as the recorded factual material commonly accepted in the scientific community as necessary to validate research findings, but not any of the following: prelimi-

nary analyses, drafts of scientific papers, plans for future research, peer reviews, or communications with colleagues. This "recorded" material excludes physical objects (e.g., laboratory samples). Research data also do not include:

(A) Trade secrets, commercial information, materials necessary to be held confidential by a researcher until they are published, or similar information which is protected under law; and

(B) Personnel and medical information and similar information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, such as information that could be used to identify a particular person in a research study.

(ii) Published is defined as either when:

(A) Research findings are published in a peer-reviewed scientific or technical journal;

(B) A Federal Agency publicly and officially cites the research findings in support of an Agency action that has the force and effect of law; or

(C) Used by the Federal Government in developing an Agency action that has the force and effect of law is defined as when an Agency publicly and officially cites the research findings in support of an Agency action that has the force and effect of law.

(e) All rights, title, and interest in any Subject Invention made solely by employee(s) of the REE Agency shall be owned by the REE Agency. All rights, title, and interest in any Subject Invention made solely by at least one (1) employee of the REE Agency and at least one (1) employee of the Cooperator shall be jointly owned by the Agency and the Cooperator, subject to the provisions of 37 CFR part 401.

(f) REE Agencies shall have a non-exclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

PROCUREMENT STANDARDS

§ 550.43 Purpose of procurement standards.

Sections 44 through 50 set forth standards for use by Cooperators in establishing procedures for the procurement of supplies and other expendable property, equipment and other services with Federal funds. These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal statutes and executive orders. No additional procurement standards or requirements shall be imposed by the Federal awarding agencies upon Cooperators, unless specifically required by Federal statute or executive order or approved by OMB.

§ 550.44 Cooperator responsibilities.

The standards contained in this section do not relieve the Cooperator of the contractual responsibilities arising under its contract(s). The Cooperator is the responsible authority, without recourse to the REE Agency, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of a nonassistance agreement. This includes disputes, claims, award protests, source evaluation or other matters of a contractual nature. Matters concerning violation of statute are to be referred to such Federal, State or local authority, as may have proper jurisdiction.

§ 550.45 Standards of conduct.

The Cooperator shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. The

officers, employees, and agents of the Cooperator shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subagreements. However, Cooperators may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Cooperator.

§ 550.46 Competition.

(a) All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The Cooperator shall be alert to organizational conflicts of interest as well as non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the Cooperator, price, quality and other factors considered. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the Cooperator. Any and all bids or offers may be rejected when it is in the Cooperator's interest to do so.

(b) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources. In certain circumstances, contracts with certain parties are restricted by agencies' implementation of Executive Orders 12549