

Federal Government, rather than acquired by the recipient with Federal funds under the award), to the DoD Component or other Federal agency responsible for administering the property under the award.

(b) *Use on other activities.* (1) Use of federally owned property on other activities is permissible, if authorized by the DoD Component responsible for administering the award to which the property currently is charged.

(2) Use on other activities will be in the following order of priority:

(i) Activities sponsored by DoD Components' grants, cooperative agreements, or other assistance awards;

(ii) Activities sponsored by other Federal agencies' grants, cooperative agreements, or other assistance awards;

(iii) Activities under Federal procurement contracts, or activities not sponsored by any Federal agency. If so used, use charges shall be assessed to those activities. For real property or equipment, the use charges shall be at rates equivalent to those for which comparable real property or equipment may be leased. The use charges shall be treated as program income.

(c) *Disposition of property.* Upon completion of the award, the recipient shall report the property to the responsible agency. The agency may:

(1) Use the property to meet another Federal Government need (e.g., by transferring accountability for the property to another Federal award to the same recipient, or by directing the recipient to transfer the property to a Federal agency that needs the property, or to another recipient with a currently funded award).

(2) Declare the property to be excess property and either:

(i) Report the property to the General Services Administration, in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(b)(2)), as implemented by General Services Administration regulations at 41 CFR 101-47.202; or

(ii) Dispose of the property by alternative methods, if there is statutory authority to do so (e.g., DoD Components are authorized by 15 U.S.C. 3710(i), the Federal Technology Transfer Act, to donate research equipment

to educational and nonprofit organizations for the conduct of technical and scientific education and research activities. Such donations shall be in accordance with the DoD implementation of E.O. 12999 (3 CFR, 1996 Comp., p. 180), "Educational Technology: Ensuring Opportunity for All Children in the Next Century," as applicable.) Appropriate instructions shall be issued to the recipient by the responsible agency.

§ 34.23 Property management system.

The recipient's property management system shall include the following, for property that is Federally owned, and for equipment that is acquired in whole or in part with Federal funds, or that is used as matching share:

(a) Property records shall be maintained, to include the following information:

(1) A description of the property.

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

(3) Source of the property, including the award number.

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

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

(6) Information from which one can calculate the percentage of Federal participation in the cost of the property (not applicable to property furnished by the Federal Government).

(7) The location and condition of the property and the date the information was reported.

(8) 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 Federal Government for its share.

(b) Federally owned equipment shall be marked, to indicate Federal ownership.

(c) A physical inventory shall be taken and the results reconciled with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in

the accounting records shall be investigated to determine the causes of the difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.

(d) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of property shall be investigated and fully documented; if the property was owned by the Federal Government, the recipient shall promptly notify the Federal agency responsible for administering the property.

(e) Adequate maintenance procedures shall be implemented to keep the property in good condition.

§ 34.24 Supplies.

(a) Title shall vest in the recipient upon acquisition for supplies acquired with Federal funds under an award.

(b) Upon termination or completion of the project or program, the recipient shall retain any unused supplies. If the inventory of unused supplies exceeds \$5,000 in total aggregate value and the items are not needed for any other Federally sponsored project or program, the recipient shall retain the items for use on non-Federal sponsored activities or sell them, but shall, in either case, compensate the Federal Government for its share.

§ 34.25 Intellectual property developed or produced under awards.

(a) *Patents.* Grants and cooperative agreements with:

(1) Small business concerns shall comply with 35 U.S.C. Chapter 18, as implemented by 37 CFR part 401, which applies to inventions made under grants and cooperative agreements with small business concerns for research and development. 37 CFR 401.14 provides a standard clause that is required in such grants and cooperative agreements in most cases, 37 CFR 401.3 specifies when the clause shall be included, and 37 CFR 401.5 specifies how the clause may be modified and tailored.

(2) For-profit organizations other than small business concerns shall comply with 35 U.S.C. 210(c) and Executive Order 12591 (3 CFR, 1987 Comp., p.

220) (which codifies a Presidential Memorandum on Government Patent Policy, dated February 18, 1983).

(i) The Executive order states that, as a matter of policy, grants and cooperative agreements should grant to all for-profit organizations, regardless of size, title to patents made in whole or in part with Federal funds, in exchange for royalty-free use by or on behalf of the Government (i.e., it extends the applicability of 35 U.S.C. Chapter 18, to the extent permitted by law, to for-profit organizations other than small business concerns).

(ii) 35 U.S.C. 210(c) states that 35 U.S.C. Chapter 18 is not intended to limit agencies' authority to agree to the disposition of rights in inventions in accordance with the Presidential memorandum codified by the Executive order. It also states that such grants and cooperative agreements shall provide for Government license rights required by 35 U.S.C. 202(c)(4) and march-in rights required by 35 U.S.C. 203.

(b) *Copyright, data and software rights.* Requirements concerning data and software rights are as follows:

(1) The recipient may copyright any work that is subject to copyright and was developed under an award. DoD Components 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.

(2) Unless waived by the DoD Component making the award, the Federal Government has the right to:

(i) Obtain, reproduce, publish or otherwise use for Federal Government purposes the data first produced under an award.

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

PROCUREMENT STANDARDS

§ 34.30 Purpose of procurement standards.

Section 34.31 sets forth requirements necessary to ensure:

(a) Compliance of recipients' procurements that use Federal funds with applicable Federal statutes and executive orders.