

# Grant Closeout Handbook

**Department of Assessment & Development  
Office of Grants Compliance**



# CLOSING OUT

Finishing a grant project is just as important as starting one. In many cases, the way close-out procedures are handled, such as timely submission of final reports and the quality of those reports can have a direct effect on the chances for future funding.

There are seven areas of management that need particular attention at the close of a funded project: budget, personnel, purchasing activities, inventory, files, final reports, and document storage. The Grants Compliance Officer will contact the Project Director six months prior to the end of the grant to discuss an expenditure plan. A close-out meeting will also be scheduled at least two months prior to the end of the grant.

**Budget:** Six months prior to the end of the grant, review encumbrances and projected expenses. Accounts will be closed after the grant's ending date and staff may no longer make charges against the grant account.

**Personnel:** Two months prior to the grant end date, complete termination paperwork (310 forms for AC Human Resources) for all staff and if required, submit payroll changes for staff members transferred to other cost centers.

**Purchasing activities:** Two months prior to the grant end date, finalize all equipment purchases, match equipment purchases with requisitions, and check receipt of items. Make sure all goods and services have been received prior to the end of the grant although payment may occur soon after the end of the grant.

**Inventory:** At least two weeks prior to the grant end date, ensure that all grant-funded equipment and supply items (both IT and Fixed Assets) are on campus to allow ample time for review and determination of remaining useful life.

**Grant files:** Review grant documents, personnel records, purchase orders and requisitions, and budget records, including necessary documentation for changes. A general sprucing up is usually in order after the last burst of grant activity. Remember, auditors are the ones who may next be burrowing through these documents.

**Final reports:** Final Reports (both programmatic and fiscal) are the responsibility of the Project Director before reassignment to other duties or termination of the grant. The Grant Accountant will provide the Project Director with a copy of fiscal reports sent to the funding agency. Copies of narrative reports and fiscal reports **MUST** be sent to the Office of Grants.

Double and triple check all **publications** to be certain that the funding source is credited before printing is approved.

Do not make unusual expenditures at the end of the project. Purchases of supplies or equipment may be disallowed by auditors if they occur too late in the program to be legitimately needed by the project, e.g. **supplanting**.

Work with the Office of Grants regarding **storage** arrangements for grant/contract files. Arrange for appropriate storage if the project is not a continuing one or if a logical responsible party to the files is not on the horizon.

**Check with the Office of Grants to verify that they have copies of all documents, e.g. both programmatic and fiscal reports.**

## Close-out Checklist

There are seven areas of management that need particular attention at the close of a funded project: budget, personnel, purchasing activities, inventory, grant files, final reports, and document storage.

### **Pre-Close-out**

- Date\_\_\_\_\_ Six months prior to grant end: Meet with AC's Grants Compliance Officer about projected expenditure plan
- Date\_\_\_\_\_ At least two months prior: Set date for closeout meeting with Grants Compliance Officer

### **Budget:**

- Date\_\_\_\_\_ Six months prior, review all encumbrances and projected expenditures.
- Date\_\_\_\_\_ One month prior, inform staff in writing that no more charges can be made against the grant account so that accounts may be closed at grant end.

### **Personnel:**

- Date\_\_\_\_\_ Two months prior, complete 310 form termination paperwork for all staff.
- Date\_\_\_\_\_ Two months prior, if required, complete payroll changes for staff members being transferred to other cost centers.

### **Purchasing activities/Inventory:**

- Date\_\_\_\_\_ Two months prior, finalize all equipment purchases, match equipment purchases with requisitions, and check receipt of items.
- Date\_\_\_\_\_ One month prior, make sure all goods and services will be/have been received by the grant end date, although payment may occur soon after grant end.
- Date\_\_\_\_\_ At least two weeks prior, ensure that all grant equipment and supplies are accounted for and on campus for IT and Fixed Assets' review.

**Grant files:**

- Date\_\_\_\_\_ Two months prior, review grant documents, personnel records, purchase orders and requisitions, and budget records, including necessary documentation for changes.

**Final Reports:**

- Date\_\_\_\_\_ Submit a copy of final reports, both programmatic and fiscal, to the Office of Grants for archival purposes.

**Document Storage:**

- Date\_\_\_\_\_ Two months prior, work with the Office of Grants regarding storage arrangements for retention of grant files, records and other documentation.

**General:**

- Double and triple check publications to be certain that the funding source is credited before printing is approved.
- Avoid supplanting issues: **Do NOT make unusual expenditures at the end of the grant project.**
  - Purchases of supplies or equipment may be disallowed by auditors if they occur too late in the program to be legitimately needed by the project.

# RECORDS RETENTION

## **Did you know?**

AC's policies for records management and records retention differ with each area of the college. AC's Records Retention Schedule for grants and contracts can be found on the Public (P:) drive.

*How long should grant reports and similar records be retained?*

- Financial, performance and compliance reports submitted to grant or subgrantor agencies need to be kept 5 years after the fiscal year end of the date of the final expenditure report.
- Supporting documentation for financial, performance, and compliance reports submitted to grant or subgrantor agencies also needs to be kept 5 years after the fiscal year end of the final expenditure report.

Question: Grant ABC ended on July 31, 2007, and submitted the final expenditure report to its funding agency on October 31, 2007 (FY 2008). **When is the designated “destroy date” for Grant ABC’s reports and supporting documentation?**

Answer: AC's 2008 fiscal year ended on August 31, 2008. All ABC grant records need to be retained 5 years after 8/31/2008, making the destroy date **8/31/2013**.

These retention requirements are important to know, especially for those Project Directors whose grants are either continuously funded (not just “one-time” awards like GEAR UP or CCRAA) or can be resubmitted as a new award.

# EQUIPMENT & SUPPLIES

## **Amarillo College (AC) usage and disposal policies for federally-funded equipment\* and supplies\*\***

\*Per OMB, federally-funded equipment is defined as an item with a per-unit cost of \$5,000.00 or more.

\*\*Per OMB, federally-funded supplies are defined as items with a per-unit cost of \$4,999.99 or less.

### **EQUIPMENT**

During the time that the AC grant/contract which purchased the equipment is **active**, the following usage policies will apply:

**Title to equipment acquired by AC with Federal funds shall vest in AC, subject to the following conditions:**

- 1) AC shall use the equipment in the grant project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. AC shall not encumber the equipment without approval of the Federal awarding agency.
- 2) During the time that equipment is used on the grant project for which it was acquired, AC will make it available for use on other projects if such other use will not interfere with the work on the grant project for which the equipment was originally acquired.
  - First preference will be given to other programs sponsored by the Federal awarding agency that financed the equipment
  - Second preference will be given to 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 shall be permissible if authorized by the Federal awarding agency.

3) When no longer needed for the original grant project, AC shall use the equipment in connection with its other federally-sponsored activities, in the following order of priority:

- First priority: those AC activities sponsored by the Federal awarding agency which funded the original project
- Second priority: those AC activities sponsored by other Federal awarding agencies

### **SUPPLIES**

During the time that the AC grant/contract which purchased the supplies and other expendable property is **active**, the following usage policies will apply:

**Title to supplies and other expendable property shall vest in AC upon acquisition.** Per AC policy, first priority for usage will be given to the grant project which originally purchased the supplies. If supplies are unused by the original grant project, AC may distribute the supplies to other college programs, whether federally-funded or not.

### **EQUIPMENT**

After the AC grant project that purchased the equipment has been **completed/terminated**, the following retention and/or disposal policies will apply:

When AC 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 \$5000 or more, AC may retain the equipment for other uses provided that compensation is made to the original Federal awarding agency or its successor.
  - The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the equipment.
- If AC has no need for the equipment, the recipient shall request disposition instructions from the Federal awarding agency.

- The Federal awarding agency shall 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 shall be reported to the General Services Administration by the Federal awarding agency to determine whether a requirement for the equipment exists in other Federal agencies.
- The Federal awarding agency shall issue instructions to AC no later than 120 calendar days after the AC's request and the following procedures shall govern:
  1. If so instructed or if disposition instructions are not issued within 120 calendar days after AC's request, AC shall sell the equipment and reimburse the Federal awarding agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, AC shall be permitted to deduct and retain from the Federal share \$500 or ten percent of the proceeds, whichever is less, for AC's selling and handling expenses.
  2. If AC is instructed to ship the equipment elsewhere, AC shall be reimbursed by the Federal Government by an amount which is computed by applying the percentage of AC'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 AC is instructed to otherwise dispose of the equipment, AC shall be reimbursed by the Federal awarding agency for such costs incurred in its disposition.
  4. The Federal awarding 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 AC in writing.

(ii) The Federal awarding agency shall issue disposition instructions within 120 calendar days after receipt of a final inventory. The final inventory shall list all equipment acquired with grant funds and federally-owned equipment. If the Federal awarding agency fails to issue disposition instructions within the 120 calendar day period, AC shall apply the standards of this section, as appropriate.

- When the Federal awarding agency exercises its right to take title the equipment shall be subject to the provisions for federally-owned equipment.

Institutional Example: For the SSS - Washington Street Campus grant (ending date 8/31/2010), the order of distribution for the fixed assets and computer equipment is as follows:

**First priority/first right of refusal: Existing SSS programs on 9/1/10**

- SSS-STEM and SSS-Health Science 2010 - 2015 awards
- SSS-Moore County Campus 2010 – 2015 award

**Second priority: Other existing TRIO programs**

- GEAR UP

**Third priority: Other existing Department of Education grant programs**

- HEP 2010 – 2015 award

**Fourth priority: Other existing federal grant programs**

**Fifth priority: AC Department/Division for which the equipment was originally purchased**

- Access Division first, followed by the rest of Student Services

**Sixth priority: Other AC departments/divisions to be determined by IT Division and Fixed Assets Inventory**

## **SUPPLIES**

After the AC grant project which purchased the supplies (and other expendable property) has been **completed/terminated**, the following retention and/or disposal policies will apply:

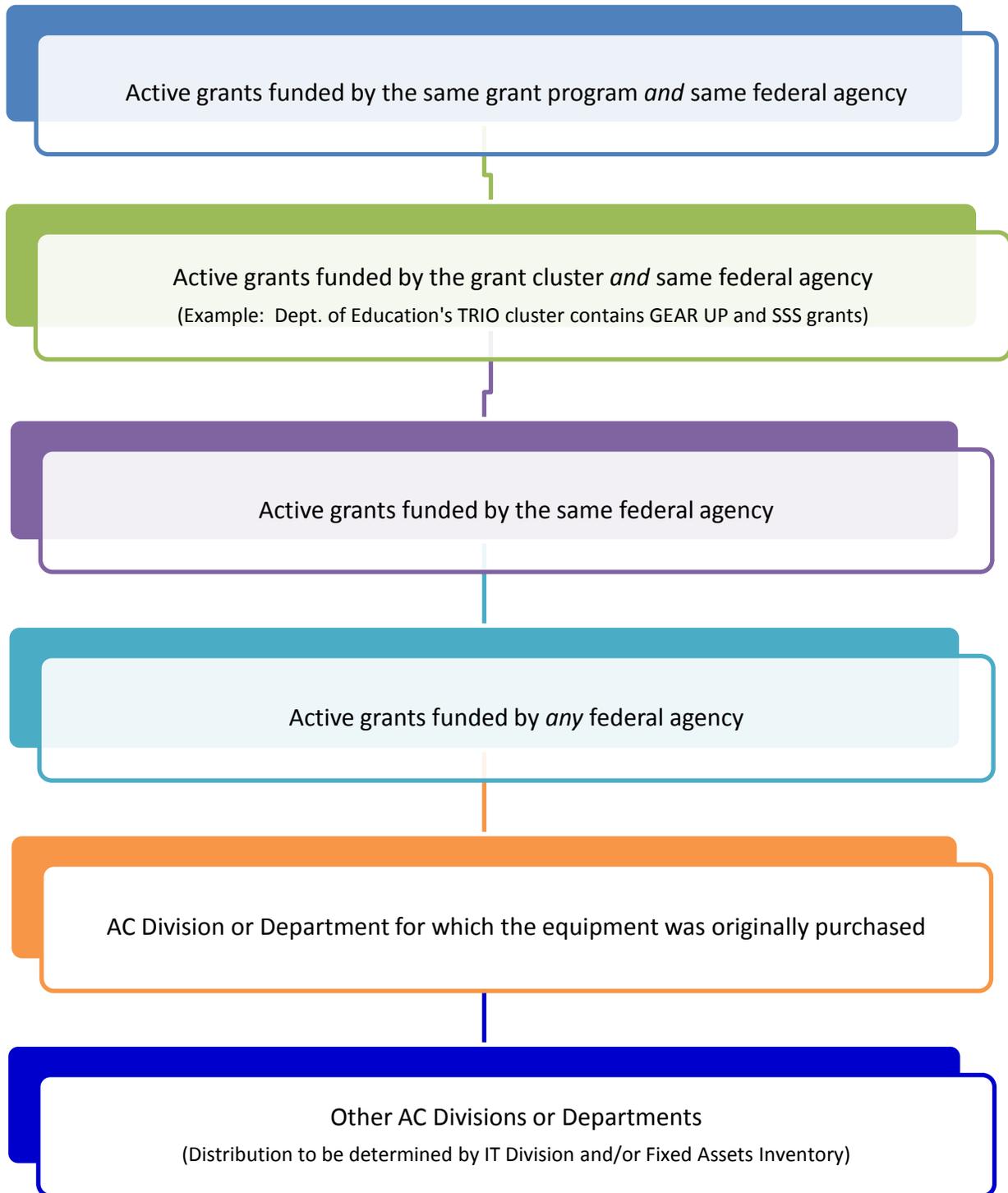
**Title to supplies and other expendable property shall vest in AC upon acquisition.**

If there is an inventory of unused supplies exceeding \$5000 in total aggregate value upon termination or completion of the grant program and the supplies are not needed for any other federally-sponsored program, AC shall either retain the supplies for use on non-Federal sponsored activities or sell them.

- In either case (retaining the supplies or selling them), AC shall compensate the Federal Government for its share. The amount of compensation shall be computed in the same manner as for equipment.

AC 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.

## Amarillo College Hierarchy of grant equipment distribution upon grant closeout



# Closeout Procedures

## Texas Workforce Commission (TWC) Skills Development Fund Contracts

### **Preparing for Closeout**

All requirements set forth in the signed SDF contract should be successfully met prior to contract closeout. These include, but are not limited to, the following:

- 85% or more of the total number of trainees outlined in the contract must be trained.
- 85% or more of the total trainee hours outlined in the contract must be achieved.
- 85% or more of the total number of trainees outlined in the contract must meet the 90-day employment retention requirement (a participant must be retained 90 days after the end date of his or her last training course). If the 90-day period has not been reached by the contract end date, the trainee is considered a successful completer, per TWC.
  - Trainees that have not reached the 90-day retention period by the end of the contract must be listed on the closeout narrative report for TWC.
- The SDF business partner must provide all necessary trainee data in order for AC to prepare and submit the final TIF and narrative reports.
  - All trainee occupations should match those occupations listed in the contract.
  - All trainee wages must fall within the wage range listed in the contract.
  - All courses should match those courses listed in the contract.
- The SDF business partner must provide verification to AC that the payroll information provided to TWC is accurate.
  - This verification can either be in the form of a certified letter from the business partner's authorized representative or a certification from an independent auditor.

### **Early Closeout due to early completion of performance measures**

Per TWC, an SDF contract may be closed out prior to the grant's end date if the above performance measures are successfully met.

### **Financial Reimbursement – final 20% of grant award**

TWC's financial reimbursement to AC for the final 20% of the SDF grant award is subject to successful submission of the TIF and Narrative closeout reports **and** TWC's final review of the contract objectives.

## **Closeout Documents for submission**

- 1) The final Narrative report is not cumulative, but should contain the following:
  - Description of progress toward grant objectives completed during the final month of the SDF contract
  - List of those trainees who have successfully completed training, but have not yet reached the 90-day retention period. (These are counted as successful completers, but TWC wants a list of these trainees.)
  - Other pertinent information, as needed.
    - As an example, for the NWTSH SDF contract, AC will submit a comprehensive table containing the following information as of 2/28/10:
      - 1) a complete course listing
      - 2) number of trainees successfully completing each course
      - 3) number of trainees who have submitted testing applications
      - 4) number of trainees who have taken their certification exam
      - 5) number of trainees who have successfully passed their exam and have earned their certification
- 2) The final TIF report is cumulative and should contain TWC's required information for **all** project trainees.
  - Include cumulative 90-day retention information and list any employee termination dates on or before the grant end date
  - Review to ensure that wage information falls within the targeted range
  - Review to ensure that all courses match the approved grant course list
  - Review to ensure that all occupations match the approved grant occupation list
- 3) SDF business partner's written verification letter to Cara Crowley, AC Director of Grants, confirming that submitted payroll and prevailing wage information is correct.
- 4) If applicable, a TIF report must be submitted detailing any project trainees who, as of the contract end date, did not meet the prevailing wage listed in the contract. If any employees meet these criteria, a separate TIF report must be submitted to TWC listing only those employees whose pay level falls below the prevailing wage listed in the contract.

## OMB Circular A-110 – 2 CFR Part 215

### \_\_\_\_.71 [Closeout procedures.](#)

(a) Recipients shall submit, within 90 calendar days after the date of completion of the award, all financial, performance, and other reports as required by the terms and conditions of the award. The Federal awarding agency may approve extensions when requested by the recipient.

(b) Unless the Federal awarding agency authorizes an extension, a recipient shall liquidate all obligations incurred under the award not later than 90 calendar days after the funding period or the date of completion as specified in the terms and conditions of the award or in agency implementing instructions.

(c) The Federal awarding agency shall make prompt payments to a recipient for allowable reimbursable costs under the award being closed out.

(d) The recipient shall promptly refund any balances of unobligated cash that the Federal awarding agency has advanced or paid and that is not authorized to be retained by the recipient for use in other projects. OMB Circular A-129 governs unreturned amounts that become delinquent debts.

(e) When authorized by the terms and conditions of the award, the Federal awarding agency shall make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.

(f) The recipient shall account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with Sections \_\_\_\_31 through \_\_\_\_37.

(g) In the event a final audit has not been performed prior to the closeout of an award, the Federal awarding agency shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

### \_\_\_\_.72 [Subsequent adjustments and continuing responsibilities.](#)

(a) The closeout of an award does not affect any of the following.

(1) The right of the Federal awarding agency to disallow costs and recover funds on the basis of a later audit or other review.

(2) The obligation of the recipient to return any funds due as a result of later refunds, corrections, or other transactions.

(3) Audit requirements in Section \_\_\_\_26.

(4) Property management requirements in Sections \_\_\_\_31 through \_\_\_\_37.

(5) Records retention as required in Section \_\_\_\_53.

(b) After closeout of an award, a relationship created under an award may be modified or ended in whole or in part with the consent of the Federal awarding agency and the recipient, provided the responsibilities of the recipient referred to in paragraph \_\_\_\_73(a), including those for property management as applicable, are considered and provisions made for continuing responsibilities of the recipient, as appropriate.

#### \_\_\_\_73 [Collection of amounts due.](#)

(a) Any funds paid to a recipient in excess of the amount to which the recipient is finally determined to be entitled under the terms and conditions of the award constitute a debt to the Federal Government. If not paid within a reasonable period after the demand for payment, the Federal awarding agency may reduce the debt by (1), (2) or (3).

(1) Making an administrative offset against other requests for reimbursements.

(2) Withholding advance payments otherwise due to the recipient.

(3) Taking other action permitted by statute.

(b) Except as otherwise provided by law, the Federal awarding agency shall charge interest on an overdue debt in accordance with 4 CFR Chapter II, "Federal Claims Collection Standards."

## Referenced in Closeout Procedures

### \_\_\_\_.26 **Non-Federal audits.**

(a) Recipients and subrecipients that are institutions of higher education or other non-profit organizations (including hospitals) shall be subject to the audit requirements contained in the Single Audit Act Amendments of 1996 (31 USC 7501-7507) and revised OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

(b) State and local governments shall be subject to the audit requirements contained in the Single Audit Act Amendments of 1996 (31 USC 7501-7507) and revised OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

(c) For-profit hospitals not covered by the audit provisions of revised OMB Circular A-133 shall be subject to the audit requirements of the Federal awarding agencies.

(d) Commercial organizations shall be subject to the audit requirements of the Federal awarding agency or the prime recipient as incorporated into the award document.

\_\_\_\_.31 **Insurance coverage.** Recipients shall, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired with Federal funds as provided to property owned by the recipient. Federally-owned property need not be insured unless required by the terms and conditions of the award.

\_\_\_\_.32 **Real property.** Each Federal awarding agency shall prescribe requirements for recipients concerning the use and disposition of real property acquired in whole or in part under awards. Unless otherwise provided by statute, such requirements, at a minimum, shall contain the following.

(a) Title to real property shall vest in the recipient subject to the condition that the recipient shall use the real property for the authorized purpose of the project as long as it is needed and shall not encumber the property without approval of the Federal awarding agency.

(b) The recipient shall obtain written approval by the Federal awarding agency 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 shall be limited to those under federally-sponsored projects (i.e., awards) or programs that have purposes consistent with those authorized for support by the Federal awarding agency.

(c) When the real property is no longer needed as provided in paragraphs (a) and (b), the recipient shall request disposition instructions from the Federal awarding agency or its successor Federal awarding agency. The Federal awarding agency shall 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 Federal awarding agency 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 shall 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.

### **\_\_\_\_.33 Federally-owned and exempt property.**

(a) Federally-owned property.

(1) Title to federally-owned property remains vested in the Federal Government. Recipients shall submit annually an inventory listing of federally-owned property in their custody to the Federal awarding

agency. Upon completion of the award or when the property is no longer needed, the recipient shall report the property to the Federal awarding agency for further Federal agency utilization.

(2) If the Federal awarding agency has no further need for the property, it shall be declared excess and reported to the General Services Administration, unless the Federal awarding 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 E.O. 12821, "Improving Mathematics and Science Education in Support of the National Education Goals.") Appropriate instructions shall be issued to the recipient by the Federal awarding agency.

(b) Exempt property. When statutory authority exists, the Federal awarding agency has the option to vest title to property acquired with Federal funds in the recipient without further obligation to the Federal Government and under conditions the Federal awarding agency considers appropriate. Such property is "exempt property." Should a Federal awarding agency not establish conditions, title to exempt property upon acquisition shall vest in the recipient without further obligation to the Federal Government.

#### **\_\_\_\_.34 Equipment.**

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

(b) The recipient shall 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 shall 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 shall not encumber the property without approval of the Federal awarding agency. When no longer needed for the original project or program, the recipient shall use the equipment in connection with its other federally-sponsored activities, in the

following order of priority: (i) Activities sponsored by the Federal awarding agency which funded the original project, then (ii) 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 shall 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 shall be given to other projects or programs sponsored by the Federal awarding agency that financed the equipment; second preference shall 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 shall be permissible if authorized by the Federal awarding agency. User charges shall 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 approval of the Federal awarding agency.

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

(1) Equipment records shall be maintained accurately and shall 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 Federal awarding agency for its share.

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

(3) A physical inventory of equipment shall be taken and the results reconciled with the equipment 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 equipment.

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

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

(6) Where the recipient is authorized or required to sell the equipment, proper sales procedures shall 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 \$5000 or more, the recipient may retain the equipment for other uses provided that compensation is made to the original Federal awarding agency or its successor. The amount of

compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the equipment. If the recipient has no need for the equipment, the recipient shall request disposition instructions from the Federal awarding agency. The Federal awarding agency shall 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 shall be reported to the General Services Administration by the Federal awarding agency to determine whether a requirement for the equipment exists in other Federal agencies. The Federal awarding agency shall issue instructions to the recipient no later than 120 calendar days after the recipient's request and the following procedures shall govern.

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the recipient's request, the recipient shall sell the equipment and reimburse the Federal awarding agency 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 shall 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 shall 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 shall be reimbursed by the Federal awarding agency for such costs incurred in its disposition.

(4) The Federal awarding 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 recipient in writing.

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

(iii) When the Federal awarding agency exercises its right to take title, the equipment shall be subject to the provisions for federally-owned equipment.

#### **\_\_\_\_.35 Supplies and other expendable property.**

(a) Title to supplies and other expendable property shall vest 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 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 recipient 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.

#### **\_\_\_\_.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 Federal awarding agency(ies) 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.

(b) Recipients 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 Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements."

(c) The Federal Government has the right to:

- (1) obtain, reproduce, publish or otherwise use the data first produced under an award; 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 an award that were used by the Federal Government in developing an agency action that has the force and effect of law, the Federal awarding agency shall request, and the recipient 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 Federal awarding 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 recipient, 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: preliminary 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; or

(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.

(iii) *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) Title to intangible property and debt instruments acquired under an award or subaward vests upon acquisition in the recipient. The recipient shall use that property for the originally-authorized purpose, and the recipient shall not encumber the property without approval of the Federal awarding agency. When no longer needed for the originally authorized purpose, disposition of the intangible property shall occur in accordance with the provisions of paragraph \_\_\_\_34(g).

\_\_\_\_37 **Property trust relationship.** Real property, equipment, intangible property and debt instruments that are acquired or improved with Federal funds shall be held in trust by the recipient as trustee for the beneficiaries of the project or program under which the property was acquired or improved. Agencies may require recipients to record liens or other appropriate notices of record to

indicate that personal or real property has been acquired or improved with Federal funds and that use and disposition conditions apply to the property.

**\_\_\_\_.53 Retention and access requirements for records.**

(a) This section sets forth requirements for record retention and access to records for awards to recipients. Federal awarding agencies shall not impose any other record retention or access requirements upon recipients.

(b) Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of three years from the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, as authorized by the Federal awarding agency. The only exceptions are the following.

(1) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.

(2) Records for real property and equipment acquired with Federal funds shall be retained for 3 years after final disposition.

(3) When records are transferred to or maintained by the Federal awarding agency, the 3-year retention requirement is not applicable to the recipient.

(4) Indirect cost rate proposals, cost allocations plans, etc. as specified in paragraph \_\_\_\_53(g).

(c) Copies of original records may be substituted for the original records if authorized by the Federal awarding agency.

(d) The Federal awarding agency shall request transfer of certain records to its custody from recipients when it determines that the records possess long term retention value. However, in order to avoid duplicate recordkeeping, a Federal awarding agency may make arrangements for recipients to retain any records that are continuously needed for joint use.

(e) The Federal awarding agency, the Inspector General, Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but shall last as long as records are retained.

(f) Unless required by statute, no Federal awarding agency shall place restrictions on recipients that limit public access to the records of recipients that are pertinent to an award, except when the Federal awarding agency can demonstrate that such records shall be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to the Federal awarding agency.

(g) Indirect cost rate proposals, cost allocations plans, etc. Paragraphs (g)(1) and (g)(2) apply to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) If submitted for negotiation. If the recipient submits to the Federal awarding agency or the subrecipient submits to the recipient the proposal, plan, or other computation to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts on the date of such submission.

(2) If not submitted for negotiation. If the recipient is not required to submit to the Federal awarding agency or the subrecipient is not required to submit to the recipient the proposal, plan, or other computation for negotiation purposes, then the 3-year retention period for the proposal, plan, or other computation and its supporting records starts at the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.