

Department of Energy

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all Federally owned property in its custody, i.e., property furnished by the Federal Government, rather than acquired by the recipient with Federal funds under the award.

(b) *Insurance.* The recipient may not insure Federally owned property unless required by the terms and conditions of the award.

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

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

(i) Activities sponsored by DOE 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 must be assessed to those activities. For real property or equipment, the use charges must be at rates equivalent to those for which comparable real property or equipment may be leased.

(d) *Disposition or property.* Upon completion of the award, the recipient must submit to the contracting officer a final inventory of Federal owned property. DOE 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 through EADS, 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 authority under law, such as 15 U.S.C. 3710(i).

§ 600.323 Property management system.

The recipient's property management system must include the following:

(a) Property records must be maintained, to include the following information for property that is Federally owned, equipment that is acquired in whole or in part with Federal funds, or property or equipment that is used as cost sharing or matching:

(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 data 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) Federal owned equipment must be marked to indicate Federal ownership.

(c) A physical inventory must 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 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 property.

(d) A control system must be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of

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property must be investigated and fully documented. If the property is owned by the Federal Government, the recipient must promptly notify the Federal agency responsible for administering the property.

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

§ 600.324 Supplies.

(a) Title vests in the recipient upon acquisition of supplies acquired with Federal funds under an award.

(b) Upon termination or completion of the project or program, the recipient may 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 may retain the items for use on non-Federal sponsored activities or sell them, but must, in either case, compensate the Federal Government for its share.

§ 600.325 Intellectual property.

(a) *Scope.* This section sets forth the policies with regard to disposition of rights to data and to inventions conceived or first actually reduced to practice in the course of, or under, a grant or cooperative agreement with DOE.

(b) *Patents right—small business concerns.* In accordance with 35 U.S.C. 202, if the recipient is a small business concern and receives a grant, cooperative agreement, subaward, or contract for research, developmental, or demonstration activities, then, unless there are “exceptional circumstances” as described in 35 U.S.C. 202(e), the award must contain the standard clause in appendix A to this subpart, entitled “Patents Rights (Small Business Firms and Nonprofit Organizations)” which provides to the recipient the right to elect ownership of inventions made under the award.

(c) *Patent rights—other than small business concerns, e.g., large businesses—(1) No Patent Waiver.* Except as provided by paragraph (c)(2) of this section, if the recipient is a for-profit organization other than a small business concern, as defined in 35 U.S.C. 201(h) and receives an award or a subaward for re-

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search, development, and demonstration activities, then, pursuant to statute, the award must contain the standard clause in appendix A to this subpart, entitled “Patent Rights (Large Business Firms)—No Waiver” which provides that DOE owns the patent rights to inventions made under the award.

(2) *Patent Waiver Granted.* Paragraph (c)(1) of this section does not apply if:

(i) DOE grants a class waiver for a particular program under 10 CFR part 784;

(ii) The applicant requests and receives an advance patent waiver under 10 CFR part 784; or

(iii) A subaward is covered by a waiver granted under the prime award.

(3) *Special Provision.* Normally, an award will not include a background patent and data provision. However, under special circumstances, in order to provide heightened assurance of commercialization, a provision providing for a right to require licensing of third parties to background inventions, limited rights data and/or restricted computer software, may be included. Inclusion of a background patent and/or a data provision to assure commercialization will be done only with the written concurrence of the DOE program official setting forth the need for such assurance. An award may include the right to license the Government and third party contractors for special Government purposes when future availability of the technology would also benefit the government, e.g., clean-up of DOE facilities. The scope of any such background patent and/or data licensing provision is subject to negotiation.

(d) *Rights in data—general rule.* (1) Subject to paragraphs (d)(2) and (3) of this section, and except as otherwise provided by paragraphs (e) and (f) of this section or other law, any award under this subpart must contain the standard clause in appendix A to this subpart, entitled “Rights in Data—General”.

(2) Normally, an award will not require the delivery of limited rights data or restricted computer software. However, if the contracting officer, in consultation with DOE patent counsel