

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 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 SSA.

(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 \$5000 or more, the recipient may retain the equipment for other uses provided that compensation is made to SSA or its successor. The amount of compensation will 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 must request disposition instructions from SSA. SSA 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 will be reported to the General Services Administration by SSA to determine whether a requirement for the equipment exists in other Federal agencies. SSA 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 must sell the equipment and reimburse SSA 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 is 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 will 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, SSA will reimburse the recipient for such costs incurred in its disposition.

(4) SSA 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 a transfer will be subject to the following standards:

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

(ii) SSA must 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 SSA fails to issue disposition instructions within the 120 calendar day period, the recipient must apply the standards of this section, as appropriate.

(iii) When SSA exercises its right to take title, the equipment will be subject to the provisions for federally-owned equipment.

§ 435.35 Supplies and other expendable property.

(a) Title to supplies and other expendable property will vest in the recipient upon acquisition. If there is a residual inventory of unused supplies

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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 will be computed in the same manner as for equipment.

(b) The recipient may 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.

§ 435.36 Intangible property.

(a) *Copyright.* The recipient may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under an award. SSA 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) *Patents and inventions.* 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) *Rights of Federal Government.* 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) *FOIA requests for research data.* (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, SSA shall request, and the recipi-

ent 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 SSA obtains the research data solely in response to a FOIA request, SSA may charge the requester a reasonable fee equaling the full incremental cost of obtaining the research data. This fee should reflect costs incurred by SSA, the recipient, and applicable subrecipients. This fee is in addition to any fees SSA may assess under the FOIA (5 U.S.C. 552(a)(4)(A)).

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

(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.