

# SEATTLE UNIVERSITY



## Disposal of Equipment Purchased with Sponsor Funds

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Policy and Procedures Manual

As of August 11, 2014

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## **I. Policy Statement**

An essential component of the administration of sponsored research at Seattle University is the responsible stewardship of assets used in support of the University's research. The Controller's Office, the Office of Research Services and Sponsored Projects (ORSSP), the dean's offices, and the principal investigator (PI) or the department/center must work cooperatively to assure that the University properly follows Federal administrative requirements, acquisition regulations and agency or sponsor-specific conditions governing the disposition of Federal property. The Associate Provost for Research & Graduate Education oversees the Seattle University research enterprise on behalf of the Provost.

## **II. Determination of Ownership and Disposition of Property**

Before a department/center or PI takes steps to dispose of equipment purchased with sponsor funds and used in sponsored research, ORSSP and the Controller's Office must first determine whether the sponsor or the University owns the property in question. The guidance within this section is based on the Federal OMB regulations and should be considered in conjunction with the agency implementation guidelines in Section III.

### **Non-Federal Sponsors**

Ownership of any equipment purchased with non-Federal funds will generally be specified in the award agreement, whether the agreement is for a research grant or contract. Non-Federal sponsors may also include conditions in award agreements that place constraints on both the use and disposal of research equipment. By honoring these conditions, the University fulfills obligations to the sponsor that it has assumed under the award agreement.

Title to the property may vest in either the sponsor or the University. If the University is granted title under the agreement, the department/center and investigator should contact the Controller's Office for the disposal of surplus equipment, provided that the sponsor does not place restrictions on the disposal of the equipment. If the sponsor retains title, the disposal of the sponsor-owned equipment should be managed in a manner consistent with the conditions contained in the agreement and the wishes of the sponsor.

### **Federal Owned Property - OMB A-110, §33(a)(1) and (2)**

Title to Federally owned property remains vested in the Federal Government, unless the Federal agency sponsor declares the property to be "excess" or designates it as "exempt property." Federally-titled property generally enters into the control of the University when the cost for a research-related asset is charged to a Federal grant or contract that contains provisions that vest title to the asset in the Government. Federally owned property may come into custody of the University when excess government-owned equipment is acquired from the Federal Government or from a third party using equipment purchased with Federal funds and under terms that vest title in the Federal Government. Federally-titled equipment acquired under one sponsored program award to the University and subsequently transferred to another University award remains subject to the restrictions imposed on such government property.

At the conclusion of the project or when the property is no longer necessary for the project, the principal investigator or department/center must notify ORSSP that the equipment is available for further agency utilization. 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. Appropriate disposition instructions shall then be issued to the University by the Federal awarding agency.

### **Exempt Federal Property - OMB A-110, §33(b)**

A Federal agency may, with proper statutory authority, designate property purchased with Federal funds “exempt property.” Such a designation allows title to the property to vest in the University, but may still subject the University to compliance with conditions established by the Federal agency with respect to the use and disposition of the property. If, however, the agency places no restrictions on the equipment, the University obtains title without further obligations to the Federal Government with respect to it.

### **University-vested Equipment - OMB A-110, §34**

Generally, if equipment is purchased with Federal funds but not designated as federally owned property under an award agreement, title will vest in the University. The Federal Government, however, retains an interest in the equipment, and therefore restricts the use and disposition of the equipment. The University is precluded from encumbering the equipment without the prior authorization of the Federal awarding agency. [§34(a)-(c)]

When the equipment is no longer needed for the original project, the University shall use it in connection with its other federally sponsored activities. Priority is given first to activities funded by the awarding agency that sponsored the original project and then to activities sponsored by other Federal agencies. [§34(c)] For equipment with a current per unit fair market value of \$5,000 or more, the University may retain the equipment for other uses, provided that compensation is made to the original awarding agency. Compensation is to be calculated by applying the percentage of Federal participation in the cost of the original project to the current fair market value of the equipment. [§34(g)] .

If it becomes necessary to replace the original equipment, the University may, with the approval of the awarding agency, use the equipment to be replaced as a trade-in or use the proceeds from its sale to offset the costs of the new equipment. If authorized to sell the equipment, whether to use the proceeds for the purchase of replacement equipment or for other purposes, the University is required to use sales procedures that ensure competition and result in the highest possible return. [§34(e), (f)(6)]

See Section VIII within to further describe sales procedures and required documentation of each sale.

***The principal investigator or unit should contact ORSSP if there is to be any change in the status of the equipment purchased with Federal funds.***

### III. Agency Implementation of Federal Equipment Disposition Guidelines

#### National Science Foundation (NSF)

Unless otherwise specified in the grant document, NSF considers equipment purchased or fabricated with NSF funds exempt and subject to few disposition restrictions as stated in *NSF Policy Manual Section 543*. Specifically, the equipment must remain in use for the specific project for which it was obtained in accordance with Section 34(c) of OMB Circular A-110. In addition, NSF may identify items of equipment having a unit acquisition cost of \$5,000 or more where NSF reserves the right to transfer the title to the Federal Government or a third party; in these cases, disposition instructions will be issued no later than 120 calendar days after the expiration of the NSF project.

#### U.S. Public Health Service (PHS)

Unless otherwise specified in the grant document, PHS considers equipment purchased under grants for basic or applied research to be exempt. PHS does retain the right to transfer title to items of equipment having a unit acquisition cost of \$1,000 or more and to require submission of a final inventory that lists all equipment acquired with PHS funds. This exemption does not apply to other equipment purchased under other types of grants (i.e., training grants). Non-exempt equipment is subject to almost identical disposition requirements as stated in Section 34 of OMB Circular A-110. (*PHS Grants Policy Handbook and 45 CFR Part 74*)

#### Department of Defense (DoD)

The *DoD Grant and Agreement Regulations* state that DoD components should, when statutory authority exists, consider equipment purchased with DoD funds exempt. The *Regulations* do state that the DoD component may establish conditions for vesting title to exempt property. (*32 CFR Part 32*). Each DoD granting agency has currently established its own disposition guidance:

1. Unless specified otherwise in the grant document, the U.S. Army Research Office vests title to equipment purchased under grant funds upon acquisition to the grantee subject to the provisions of OMB Circular-110, however, ARO does not specify whether it considers equipment exempt. (*ARO General Terms and Conditions for Grant Awards to Educational Institutions*)
2. The Office of Naval Research vests title without further obligation to the government unless otherwise stated in the grant document. (*ONR Guide to Programs 1996*)
3. The Air Force Office of Scientific Research simply states that title to equipment shall vest in the grantee, but does not specify whether equipment is considered exempt. (*AFOSR Terms and Conditions, January 1997*)

#### Department of Energy (DOE)

DOE regulations permit the vesting of title to equipment without further obligation under a grant or cooperative agreement for basic or applied research in a non-profit institution of higher education. DOE program regulations or the terms and conditions of award may establish provisions for vesting title to exempt property. Should such conditions not be established and the recipient has no need for the equipment, the recipient shall request disposition instructions from DOE. If DOE does not issue

disposition instructions within 120 calendar days of receipt of the request or receipt of the final inventory, title to the property shall vest in the recipient without further obligation to the government. (10 CFR Part 600.133) Equipment not considered to be exempt is subject to provisions of 10 CFR Part 600.134 (which are essentially identical to OMB Circular A-110, Section 34.)

### **National Aeronautics and Space Administration (NASA)**

Special purpose and general purpose equipment costing in excess of \$5,000 (unless a lower threshold has been established by the grantee) acquired by the grantee under a grant or cooperative agreement for the purpose of research shall be titled to the grantee as “exempt” without further obligation to NASA, including reporting of the equipment, in accordance with §1260.133(b) (NASA Grant and Cooperative Agreement Regulations, October 2000) (NASA Grant Conditions October 2000)

### **Department of Education**

The Department of Education has implemented A-110 verbatim. Unless specifically noted on the grant document, equipment purchased off of Department of Education funds should be considered non-exempt and subject to the disposition requirements of A-110. (Education Department General Administrative Regulations, January 1997)

## **IV. Equipment Disposition under the Federal Procurement Regulations (Federal Contracts)**

Equipment purchased under a Federal contract for research is generally governed by Federal Acquisition Regulations (FAR) 52.245-5, Alternate II (June 2007) [*Title under Cost-Reimbursement or Time-and-Material Contracts or Cost-Reimbursable contract line items under Fixed-Price contracts.*], which allows title to government property (and other tangible personal property) purchased with funds available for research and having an acquisition cost of less than \$5,000 to vest in the University upon acquisition or as soon thereafter as feasible (provided that the Contractor obtained the Contracting Officer’s approval before each acquisition). Title to property purchased with funds available for research and having an acquisition cost of \$5,000 or more shall vest as set forth as described in the controlling contract. For equipment vested with the University, there are no disposition requirements. For all other equipment purchased under contract funds and for government-furnished property, disposition instructions must be obtained from the Contracting Officer. Failure to do so may be considered a breach of the contract.

Equipment acquired as a direct cost under a research contract with the Department of Energy is governed by Department of Energy Acquisition Regulation (DEAR), which implements and supplements the FAR. In contrast to FAR 52.245-5, Alternate II, DEAR 970.5245-1 – Property does not allow such property, which is considered “government property,” to vest in the University. The University shall make such disposition of this government property as the contracting officer may direct during the progress of the work or upon completion or termination of the contract.

## **V. Transfer of Equipment Between University Departments and Centers**

The University permits the sale or transfer of equipment to which the University has title from one department/center to another department/center. Before such transactions, both the Dean(s) and Associate Provost for Research & Graduate Education must approve the transactions and the Controller's Office must be notified. The transfer and use of equipment must not be prohibited by the provisions of the research agreement or by Federal guidelines and regulations for equipment used in research.

If equipment is purchased with funds from a Federal grant or contract but is not designated "Federally owned property" in the agreement, the sale or exchange of the equipment between departments/centers of the University remains subject to restrictions specified by the sponsoring agency in the agreement. The agency which originally funded the purchase or fabrication of the equipment in question may, for example, allow the transfer of the equipment between units but require that it be used to support research projects funded by the agency or used for other federally funded research efforts within the transferee unit. Departments/centers contemplating a transfer of federally funded equipment must contact ORSSP, which will work with the departments/centers to prepare a written proposal for transfer from the sponsor subject to approvals of the Dean and the Associate Provost for Research & Graduate Education.

## **VI. Transfer of Equipment Between the Seattle University and Another Academic Institution**

The University will not sell or otherwise transfer equipment to which it does not have legal title without the express authorization of the owner of the equipment. Transfer of University equipment to for-profit entities or non-profit entities not eligible to receive Federal property is not permitted.

In the event that a faculty member has obtained an appointment at another institution and wishes to transfer equipment used in his or her research to that institution, the University will determine whether a transfer is feasible, under the provisions of the applicable active or closed grant or contract, and equitable, given institutional investments in and demand by other University faculty for the equipment.

If an active grant is being transferred to another academic institution, equipment purchased on that grant during the active grant segment, may be transferred to the new institution in accordance with the terms and conditions of the grant. Should the University choose to retain the active grant, under either co-principal investigators remaining at the University or a new principal investigator, equipment necessary to the successful conduct of the research project in question will also be retained.

Equipment funded by a grant which is no longer active will be released only if the Dean certifies that the equipment is not needed by other investigators in the conduct of research at the University. Equipment purchased in whole or in part with University funds must remain at the University, unless the Dean verifies that it is not necessary for active or proposed research projects. If the University determines that equipment is not essential for the research efforts of its faculty, it may be transferred to the faculty member's new institution, which may be asked to pay a fair market value for the equipment.

In all cases, the requirements of the granting or contracting agency concerning the transfer of equipment will supersede University policy. Internal decisions related to transfer of research equipment are made by the Associate Provost for Research & Graduate Education in collaboration with the Controller, Counsel, and other offices as may be required.

## **VII. Disbursement of Funds Resulting from Transfer, Sale or Disposal of Equipment**

Funds resulting from transfer and sale proceeds must be used in accordance with the funding agency requirements and/or instructions, which may include returning sale proceeds back to the funding agency. These agency requirements are documented above in Section III. Additionally, the University must contact the awarding agency for authorization and instructions regarding the sale proceeds.

If the University is authorized to direct the use of the proceeds, the University shall use them on the original project. If the proceeds are no longer needed for the original project, the proceeds shall be reinvested in connection with the University's other federally sponsored activities. Priority is given first to activities funded by the awarding agency that sponsored the original project and then to activities by other Federal agencies. The determination regarding the allocation of the proceeds will be made by the both the Associate Provost for Research & Graduate Education on behalf of the Provost and the Dean of the college or school of the original project.

## **VIII. Documentation Requirements for Transfer, Sale or Disposal of Equipment**

To ensure that the University can document compliance with the OMB and the policy set forth herein, the following documentation is required to be submitted to the Controller's Office for each transfer, sale, or disposal of equipment (as applicable):

1. Correspondence from the awarding agency authorizing or instructing transfer, sale, or disposal of equipment
2. Completion of an Asset Transfer Form
3. Copy of check if University is receiving proceeds from the sale
4. Documentation regarding disbursement and use of proceeds including general ledger number and identification of expenditures from proceeds.

Further documentation could be required based on the events and circumstances of each sale. The department/college should work with the Controller's Office to ensure all appropriate documentation has been submitted. If the project is a subaward or pass-through grant from another entity, there may be additional requirements such as obtaining instructions from the sponsoring entity. The Department/centermost work with the Controller's Office regarding these circumstances.