

## § 1130.610

## 2 CFR Ch. XI (1–1–24 Edition)

copyright under grants and cooperative agreements.

(b) *DoD implementation.* DoD implements 2 CFR 200.315(b) through award terms and conditions that specify recipient and DoD rights with respect to copyrightable works.

(c) *Award terms and conditions.* A DoD Component's general terms and conditions must use the wording appendix F to this part provides for Section A of PROP Article VI to affirm the recipient's right to assert copyright in works it develops or otherwise acquires under an award, as well as DoD's right to use the works for Federal purposes.

### § 1130.610 Inventions developed under awards.

(a) *OMB guidance.* OMB guidance in 2 CFR 200.315(c) states that recipients of grants and cooperative agreements are subject to applicable regulations concerning patents and inventions, including Department of Commerce regulations at 37 CFR part 401.

(b) *DoD implementation.* In implementing 2 CFR 200.315(c) for awards for the performance of experimental, developmental, or research work, DoD:

(1) Extends to other entities the patent rights provisions of chapter 18 of Title 35 of the U.S. Code and 37 CFR part 401 that directly apply to small business firms and nonprofit organizations. This broadened applicability is in accordance with the February 18, 1983, Presidential memorandum on Government patent policy, referred to in Executive Order 12591, "Facilitating Access to Science and Technology."

(2) Establishes a requirement for recipients to provide final reports listing all subject inventions under their awards or stating there were none, a requirement that 37 CFR 401.5(f)(1) provides as an agency option.

(3) Incorporates the prohibition in 35 U.S.C. 212 on asserting Federal Government rights in inventions made by recipients of scholarships, fellowships, training grants, or other awards made primarily for educational purposes.

(c) *Award terms and conditions.* (1) *Awards for research, developmental, or experimental work.* A DoD Component's general terms and conditions for awards for the performance of experimental, developmental, or research

work funded in whole or in part by the Federal Government must include the wording appendix F to this part provides for Section B of PROP Article VI, with one permitted exception. The exception is that a DoD Component may reserve or substitute alternative wording for paragraph B.2.b of Section B of PROP Article VI, as appropriate, if it elects to:

(i) Omit the requirement for final invention reports;

(ii) Substitute "120 calendar days" for "90 calendar days" to provide an additional 30 days for recipient's submissions of final reports after the end date of the period of performance; or

(iii) Include a requirement for recipients to submit information about each patent application they submit for a subject invention, interim listings of all subject inventions, or both, which the Department of Commerce regulations at 37 CFR 401.5(f)(2) and (3) permit agencies to require.

(2) *Awards for primarily educational purposes.* A DoD Component's general terms and conditions for awards to support scholarships or fellowships, training grants, or other awards for primarily educational purposes must replace the wording appendix F to this part provides for Section B of PROP Article VI with an alternative award provision stating that the Federal Government will have no rights to inventions made by recipients.

(3) *Awards for other purposes.* A DoD Component developing general terms and conditions for awards other than those described in paragraphs (c)(1) and (2) of this section should:

(i) Consult its intellectual property counsel if it anticipates that recipients may develop patentable inventions under its awards, to identify any applicable statutes or regulations and determine an appropriate substitute for the wording appendix F to this part provides for Section B of PROP Article VI; or

(ii) Reserve Section B of PROP Article VI if it does not expect development of any patentable inventions under those awards.

Department of Defense

Pt. 1130, App. A

**§ 1130.615 Data produced under awards.**

(a) *OMB guidance.* OMB guidance in 2 CFR 200.315(d) and (e) addresses rights in data under grants and cooperative agreements.

(b) *DoD implementation.* DoD implements 2 CFR 200.315(d) and (e) through award terms and conditions.

(c) *Award terms and conditions—(1) General.* A DoD Component's general terms and conditions must include the wording appendix F to this part provides for Section C of PROP Article VI.

(2) *Exception.* A DoD Component may reserve paragraph C.2 of Section C of PROP Article VI in its general terms and conditions if:

(i) Those terms and conditions will not be used for research awards; and

(ii) The DoD Component determines that no research data as defined in 2 CFR 200.315 will be generated under the awards using those terms and conditions.

**§ 1130.620 Intangible property acquired, but not developed or produced, under awards.**

(a) *OMB guidance.* OMB guidance in 2 CFR 200.315(a) addresses use and disposition of intangible property that is acquired under grants and cooperative agreements (in addition to vesting of title, which is implemented in § 1130.105 and appendix A to this part).

(b) *DoD implementation.* DoD implements 2 CFR 200.315(a) through award terms and conditions that govern use and disposition of intangible property that is acquired, but not developed or produced, under awards.

(c) *Award terms and conditions.* A DoD Component's general terms and conditions must include the wording appendix F to this part provides for Section D of PROP Article VI.

APPENDIX A TO PART 1130—TERMS AND CONDITIONS FOR PROP ARTICLE I, “TITLE TO PROPERTY”

Unless a DoD Component inserts or adds wording or reserves sections of the article, as provided in §§ 1130.105 through 1130.125, a DoD Component's general terms and conditions must use the following wording for PROP Article I.

PROP ARTICLE I. TITLE TO PROPERTY.  
(DECEMBER 2014)

*Section A. Title to property acquired under this award.*

1. *General.* Other than any property identified in paragraph A.2 of this section as exempt property:

a. Title to real property, equipment, and supplies that you acquire (whether by purchase, construction or fabrication, development, or otherwise) and charge as direct project costs under this award vests in you, the recipient. Title to intangible property that you acquire (other than by developing or producing it) under this award also vests in you.

b. That title is a conditional title, subject to the terms and conditions in PROP Articles II–IV, Section D of PROP Article VI, and REP Article III of this award.

c. There is a Federal interest in the property, other than intangible property that you develop or produce under the award. For real property, equipment, and intangible property, we retain this Federal interest until final disposition of the property under PROP Article III (for real property), PROP Article IV (for equipment and supplies), or Section D of PROP Article VI (for intangible property that is acquired, other than by developing or producing it), a period that in some cases may extend beyond closeout of this award.

2. *Exempt property.* [Reserved]

*Section B. Property trust relationship.*

1. *Basic requirement.* Other than intangible property that you develop or produce under the award, you hold any real property, equipment, or intangible property that you acquire or improve under this award in trust for the beneficiaries of the project or program that you are carrying out under the award.

2. *Notices of record.* [Reserved]

*Section C. Federally owned property.* Title to any federally owned property that we provide to you under this award (or for which accountability is transferred to this award from another Federal award) remains with the Federal Government.

*Section D. Federal interest in donated real property or equipment.* If real property or equipment is acquired under this award through your donation of the property to the project or program (*i.e.*, counting the value of the remaining life of the property recorded in your accounting records or the fair market value as permitted under FMS Article VI of this award as part of your share of project costs to meet any cost sharing or matching requirements, rather than charging depreciation):

1. The Federal Government acquires through that donation an interest in the real property or equipment, the value of which at any given time is the product of: