

(A) If one of the purposes of the award is to assist you or the subrecipient in the acquisition of equipment, buildings, or land, you may count the aggregate fair market value of the donated property toward cost sharing or matching.

(B) If the award's purposes instead include only the support of activities that require the use of equipment, buildings, or land, you may only charge depreciation unless you obtain our prior approval to count as cost sharing or matching the fair market value of equipment or other capital assets and fair rental charges for land.

ii. The values of the donated property must be determined in accordance with the usual accounting policies of the entity to which the third party transferred title to the property, with the qualifications specified in 2 CFR 200.306(i)(1) and (2) for donated land and buildings and donated equipment, respectively.

c. *Use of space donated by third parties.* If a third party makes space available for use by you or a subrecipient, the value that you may count toward cost sharing or matching may not exceed the fair rental value of comparable space as established by an independent appraisal, as described in 2 CFR 200.306(i)(3).

d. *Equipment loaned by third parties.* If a third party loans equipment for use by you or a subrecipient, the value that you may count toward cost sharing or matching may not exceed its fair rental value.

#### APPENDIX G TO PART 1128—TERMS AND CONDITIONS FOR FMS ARTICLE VII, “PROGRAM INCOME”

Unless a DoD Component revises the wording of Section A or E or reserves Section D, as permitted by §§1128.710 through 1128.725, a DoD Component's general terms and conditions must use the following wording for FMS Article VII.

##### FMS ARTICLE VII. PROGRAM INCOME (DECEMBER 2014)

*Section A. Definition.* The term “program income” as used in this award:

1. Is gross income that:
  - a. You earn that is directly generated by a supported activity or earned as a result of this award; or
  - b. A subrecipient earns as a result of a subaward you make under this award.
2. Includes, but is not limited to, income earned under this award from:
  - a. Fees for services performed;
  - b. The use or rental of real or personal property acquired under any Federal award and currently administered under this award;
  - c. The sale of commodities or items fabricated under this award;

d. License fees and royalties on patents and copyrights; and

e. Payments of principal and interest on loans made with Federal award funds.

3. Does not include for purposes of this award any:

a. Interest earned on advance payments, disposition of which is addressed in FMS Article II;

b. Proceeds from the sale of real property, equipment or supplies, which is addressed in PROP Articles III and IV;

c. Rebates, credits, discounts, and interest earned on any of them; and

d. Governmental revenues, including any taxes, special assessments, levies, fines and similar revenues you raise.

*Section B. Encouragement to earn program income.* You are encouraged to earn program income under this award when doing so does not interfere with the program or project the award supports.

*Section C. Costs of generating program income.* You may deduct costs incidental to the generation of program income from the amount that you use in accordance with Section E of this Article, as long as those costs are not charged to this award (which includes their being counted toward any cost sharing or matching you are required to provide).

*Section D. License fees and royalties.* You have no obligations to the Federal Government with respect to program income earned under this award from license fees and royalties for patents or patent applications, copyrights, trademarks, or inventions developed or produced under the award.

*Section E. Use of program income.*

1. You must use any program income that you earn during the period of performance under this award to increase the amount of the award (the sum of the Federal share and any cost sharing or matching you are required to provide), thereby increasing the amount budgeted for the project. The program income must be used for the purposes and under the terms and conditions of the award.

2. Your use of the additional funding is subject to the terms and conditions of this award, including:

a. FMS Article II concerning your use of balances of program income before you request additional funds from us; and

b. FMS Article III concerning allowability of costs for which the funds may be used.

3. You must report on each Federal Financial Report (SF-425) that you submit in accordance with REP Article II the program income that you earn and any that you use during the reporting period covered by that SF-425.

*Section F. Duration of accountability for program income.* The requirements concerning disposition of program income in Section E of this Article apply only to program income

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you earn during the period of performance. There are no requirements under this award applicable to program income you earn after the end of the period of performance.

### **PART 1130—PROPERTY ADMINISTRATION: GENERAL AWARD TERMS AND CONDITIONS**

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

APPENDIX B TO PART 1130—TERMS AND CONDITIONS FOR PROP ARTICLE II, “PROPERTY MANAGEMENT SYSTEM”

APPENDIX C TO PART 1130—TERMS AND CONDITIONS FOR PROP ARTICLE III, “USE AND DISPOSITION OF REAL PROPERTY”

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APPENDIX F TO PART 1130—TERMS AND CONDITIONS FOR PROP ARTICLE VI, “INTANGIBLE PROPERTY”

AUTHORITY: 5 U.S.C. 301 and 10 U.S.C. 113.

SOURCE: 85 FR 51171, Aug. 19, 2020, unless otherwise noted.

#### **§ 1130.1 Purpose of this part.**

(a) This part specifies standard wording of general terms and conditions concerning equipment, supplies, and real, intangible, and federally owned property.

(b) It thereby implements OMB guidance in 2 CFR 200.310 through 200.316, as that guidance applies to general terms and conditions of grants and cooperative agreements.

#### **§ 1130.2 Applicability of this part.**

The types of awards and entities to which this part and other parts in this subchapter apply are described in the subchapter overview at 2 CFR 1126.2.

#### **§ 1130.3 Exceptions from requirements of this part.**

Exceptions are permitted from the administrative requirements in this part only as described at 2 CFR 1126.3.