

University of Rochester Equipment Disposition Guidelines

The following guidelines should be used when disposing of University of Rochester equipment, and are to be used in conjunction with the University's *Policy and Procedures for Surplus Property* located on the Purchasing Web Site www.urmc.rochester.edu/purchasing/SurplusIndex.cfm.

Methods of Disposition:

In general, equipment may be disposed of in the following manner:

- Trade-in
- Cannibalized Equipment
- Disposed/Scrapped Equipment
- Sold Equipment
- Returned to Vendor
- Stolen Equipment

Departments wishing to sell equipment must follow the procedures outlined in the University's Surplus Property Program and guidelines established by external sponsors. Departments should seek the assistance of Purchasing Services.

Disposing of Equipment Purchased with External Funds

Prior to disposing of any equipment, it must be determined if the University has any obligations to a third-party sponsor with respect to the equipment. If equipment was purchased under sponsored funding, it must be determined whether the equipment is:

- sponsor-owned: equipment purchases made with contract funding are generally sponsor-owned, however, in rare situations this condition may also apply to grants;
- university-owned: most equipment purchased under grants or gifts is University-owned.

After determining who has title to equipment, it must be ascertained whether the project that the equipment was purchased for is still on-going. If the project is still on-going, the University normally has an obligation to utilize the equipment for the purposes of the project, or perhaps to make the equipment available to other federally-assisted projects.

If it is determined that the sponsored project has ended and the University retains title to the surplus property, the University may still have obligations with respect to the equipment. **Note: It is the University's policy that in no instances should federal funding be used to buy surplus equipment that was originally purchased with federal funding.**

Because the requirements of equipment disposition differ slightly among granting agencies, a summary of federal regulations has been provided as an attachment to these guidelines.

Disposing of Federally-Owned Equipment

As indicated in the attached summary of federal regulations, the federal government may retain title to equipment purchased under awards. Typically, this happens when work is done at a government facility, under cooperative agreements and under contracts.

Retention by the University of federally-owned property may occur when a contract is completed or terminated provided that the government has approved the transfer of title to the University. Normally, it is the University's responsibility to request that title be transferred upon completion of the project or that it be "abandoned in place" at the University. Upon completion of the project, Property Accounting will notify the Principal Investigator to determine whether transfer of title is appropriate. Any request to transfer title will be sent to the agency by Property Accounting, with a copy to ORPA.

If title to federally-owned property remains vested in the federal government when the property is no longer needed, the University shall report the property to the federal awarding agency for federal 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 instructions shall be issued to the University by the federal awarding agency.

It is the responsibility of the University to notify, in writing, the federal agency when federally-owned property is lost, damaged, destroyed or consumed. It is the responsibility of the Principal Investigator and Department to notify Property Accounting of such incidents; notification to the agency will be done by Property Accounting. Failure to inform the federal agency may result in University liability to the government with subsequent appropriate reimbursement.

Oversight of Equipment Control

The University has delegated the oversight of equipment control to Property Accounting. Disposition of equipment must be coordinated through this office. When necessary, the Office of Research and Project Administration should be consulted when disposing of equipment purchased with sponsored funds.

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**University of Rochester
Equipment Disposition Guidelines**

Federal Disposition Guidelines

The following summarizes the disposition guidelines of OMB Circular A-110, the University's major granting agencies and federal procurement regulation.

OMB Circular A-110

OMB Circular A-110 is the *Administrative Requirements for Grants And Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations*. This circular applies to all federal agencies and is implemented by agency regulation and policy.

Section 33 of OMB Circular A-110 establishes "exempt" property. This is a very important concept and the text of Section 33(b) reads as follows:

"The federal awarding agency has the option to vest title to property acquired with federal funds in the recipient without further obligations to the federal government and under conditions the federal awarding agency considers appropriate. Such property is "exempt property". Should a federal awarding agency not establish conditions, title to exempt property upon acquisition shall vest in the recipient without further obligation to the federal government."

Typically, the University's major sponsors will declare equipment purchased from grant funds exempt, yet retain certain restrictions found in Section 34 of OMB Circular A-110. For equipment not considered exempt, most agencies have implemented Section 34 of A-110 essentially unchanged.

The following requirements with respect to non-exempt equipment and its disposition are taken from OMB Circular A-110, **Section 34** and summarized in the following table:

Use in other Federal Programs	(c) ... When <i><equipment></i> is not longer needed for the original project or program, the recipient shall use the equipment in connection with its other federally-sponsored activities, in the following order of priority: (i) activities sponsored by the federal awarding agency which funded the original project, then (ii) activities sponsored by other federal awarding agencies.
Use of Proceeds	(e) When acquiring replacement equipment, the recipient may use the equipment to be replaced as trade-in or sell the equipment and use the proceeds to offset the costs of the replacement equipment subject to the approval of the federal government. (f)(6) Where the recipient is authorized or required to sell the equipment, proper sales procedures shall be established which provide for competition to the highest extent practicable and result in the highest possible return.
Disposition Instructions and Reservation of Right to Transfer	(g) When the recipient no longer needs the equipment, the equipment may be used for other activities in accordance with the following standards ... If the recipient has no need for the equipment, the recipient shall request disposition instructions from the federal awarding agency ... The awarding agency shall issue instructions to the recipient no later than 120 calendar days after the recipient's request and the following procedures shall govern. (1) If so instructed or if disposition instructions are not issued with 120

	<p>calendar days after the recipient's request, the recipient shall sell the equipment and reimburse the federal awarding agency an amount computed by applying to the sales proceeds the percentage of federal participation in the costs of the original project or program. However, the recipient shall be 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.</p> <p>(2) If the recipient is instructed to ship the equipment elsewhere, the recipient shall 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.</p> <p>(3) If the recipient is instructed to otherwise dispose of the equipment, the recipient shall be reimbursed by the federal awarding agency for such costs incurred by its disposition.</p> <p>(4) The federal awarding agency may preserve the right to transfer title to the federal government or a third party ... within 120 days after receipt of final inventory.</p>
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PHS Implementation

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 HHS 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*)

NSF Implementation

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 supported project.

DoD Implementation

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*)

DOE Implementation

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.

NASA Implementation

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 Implementation

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*)

Federal Procurement Regulation

Federal contracts are subject to Federal Acquisition Regulations (FAR). The specific regulation that governs equipment is normally FAR 52.245-5, Government Property - Alternate I (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts).

The provision of FAR 52.245-5, Alternate I, does allow for equipment purchased with funds available for research to vest in the Contractor. Under the strictest implementation of the clause, title is vested with the contractor to equipment having an acquisition cost of less than \$5,000, provided that the Contractor obtained the Contracting Officer's approval before each acquisition. Title to equipment purchased with funds available for research and having an acquisition cost of \$5,000 or more vests as set forth in the schedule of the contract. For equipment vested with the Contractor, 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.

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