



## Proposal & Award Policies & Procedures Guide

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### CHAPTER IX - GRANTEE STANDARDS

NSF encourages the increased involvement of academic researchers and educators with industry and private entrepreneurial ventures, but recognizes that such interactions carry with them an increased risk of conflicts of interests. AAG Chapter IV.A contains NSF's policy on conflict of interest.

2 CFR § 200 prescribes three separate sets of standards related to the financial and program management of Federal grants, each governing a different area: financial management, property management, and procurement management. Chapter **IX.C**, **IX.D** and **IX.E** implement these standards, and extend their applicability to all types of grantees of NSF grants, including for-profit organizations.

#### A. Conflict of Interest Policies

1. NSF requires each grantee organization employing more than fifty persons to maintain an appropriate written and enforced policy on conflict of interest and that all conflicts of interest for each award be managed, reduced or eliminated prior to the expenditure of the award funds. If the organization carries out agency-funded research through subrecipients or collaborators, the organization must take reasonable steps to ensure that:

- a. the entity has its own policies in place that meet the requirements of this policy; or
- b. investigators working for such entities follow the policies of the primary organization.

Guidance for development of such policies has been issued by university associations and scientific societies.

2. An organizational conflict of interest policy should require that each investigator disclose to a responsible representative of the organization all significant financial interests of the investigator (including those of the investigator's spouse and dependent children): (i) that would reasonably appear to be affected by the research or educational activities funded or proposed for funding by NSF; or (ii) in entities whose financial interests would reasonably appear to be affected by such activities.

The term "investigator" means the PI/PD, co-PI/co-PDs, and any other person identified on the proposed project who is responsible for the design, conduct, or reporting of research or educational activities funded or proposed for funding by NSF.

The term "significant financial interest" means anything of monetary value, including, but not limited to, salary or other payments for services (e.g., consulting fees or honoraria); equity interest (e.g., stocks, stock options or other ownership interests); and intellectual

property rights (e.g., patents, copyrights and royalties from such rights).

The term does not include:

- a. salary, royalties or other remuneration from the proposing organization;
- b. any ownership interests in the organization, if the organization is an applicant under the Small Business Innovation Research Program or Small Business Technology Transfer Program;
- c. income from seminars, lectures, or teaching engagements sponsored by public or non-profit entities;
- d. income from service on advisory committees or review panels for public or nonprofit entities;
- e. an equity interest that, when aggregated for the investigator and the investigator's spouse and dependent children, meets both of the following tests: does not exceed \$10,000 in value as determined through reference to public prices or other reasonable measures of fair market value, and does not represent more than a 5% ownership interest in any single entity; or
- f. salary, royalties or other payments that, when aggregated for the investigator and the investigator's spouse and dependent children, are not expected to exceed \$10,000 during the prior twelve-month period.

3. An organizational policy must ensure that investigators have provided all required financial disclosures at the time the proposal is submitted to NSF. It must also require that those financial disclosures are updated during the period of the award, either on an annual basis, or as new reportable significant financial interests are obtained.

4. An organizational policy must designate one or more persons to review financial disclosures, determine whether a conflict of interest exists, and determine what conditions or restrictions, if any, should be imposed by the organization to manage, reduce or eliminate such conflict of interest. A conflict of interest exists when the reviewer(s) reasonably determines that a significant financial interest could directly and significantly affect the design, conduct, or reporting of NSF-funded research or educational activities.

Examples of conditions or restrictions that might be imposed to manage, reduce or eliminate conflicts of interest include, but are not limited to:

- a. public disclosure of significant financial interests;
- b. monitoring of research by independent reviewers;
- c. modification of the research plan;
- d. disqualification from participation in the portion of the NSF-funded research that would be affected by significant financial interests;
- e. divestiture of significant financial interests; or
- f. severance of relationships that create conflicts.

If the reviewer(s) determines that imposing conditions or restrictions would be either

ineffective or inequitable, and that the potential negative impacts that may arise from a significant financial interest are outweighed by interests of scientific progress, technology transfer, or the public health and welfare, then the reviewer(s) may allow the research to go forward without imposing such conditions or restrictions.

5. The organizational policy must include adequate enforcement mechanisms, and provide for sanctions where appropriate.

6. The organizational policy must include arrangements for keeping NSF's Office of the General Counsel (OGC) appropriately informed if the organization finds that it is unable to satisfactorily manage a conflict of interest and if the organization finds that research will proceed without the imposition of conditions or restrictions when a conflict of interest exists.<sup>51</sup>

When OGC is notified of an unmanageable conflict of interest by a grantee, OGC will conduct the following review:

a. Examine a copy of the organization's conflict of interest policy to ascertain if the policy includes procedures for addressing unmanageable conflicts.

b. Contact the grantee organization's representative to determine what actions the organization plans/has taken with respect to the reported unmanageable conflict of interest, ensuring consistency with their conflict of interest policy.

c. Request confirmation from the grantee when proposed actions have been accomplished.

7. Organizations must maintain records of all financial disclosures and of all actions taken to resolve conflicts of interest for at least three years beyond the termination or completion of the grant to which they relate, or until the resolution of any NSF action involving those records, whichever is longer.

## **B. Responsible Conduct of Research (RCR)**

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### **1. Background**

The responsible and ethical conduct of research (RCR) is critical for excellence, as well as public trust, in science and engineering. Consequently, education in RCR is considered essential in the preparation of future scientists and engineers. Section 7009 of the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science (COMPETES) Act (42 USC 1862o-1) requires that "each institution that applies for financial assistance from the Foundation for science and engineering research or education describe in its grant proposal a plan to provide appropriate training and oversight in the responsible and ethical conduct of research to undergraduate students, graduate students, and postdoctoral researchers participating in the proposed research project."

The language specified below provides NSF's implementation of Section 7009.

### **2. Institutional Responsibilities**

a. a. An institution must have a plan in place to provide appropriate training and oversight in the responsible and ethical conduct of research to undergraduates, graduate students, and postdoctoral researchers who will be supported by NSF to conduct research. As noted

in **Chapter II.C.1e**, institutional certification to this effect is required for each proposal.

b. While training plans are not required to be included in proposals submitted to NSF, institutions are advised that they are subject to review, upon request.

c. An institution must designate one or more persons to oversee compliance with the RCR training requirement.

d. Institutions are responsible for verifying that undergraduate students, graduate students, and postdoctoral researchers supported by NSF to conduct research have received training in the responsible and ethical conduct of research.

## **C. Financial Management Systems Standards**

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NSF grantees are required to have financial management systems which meet the requirements of 2 CFR § 200.302.

## **D. Property Management Standards**

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2 CFR §§ 200.310-316 prescribe standards for managing and disposing of property furnished by the Federal government or whose cost was charged to a project supported by a Federal grant. In the rare instances where NSF grants involve the acquisition of real property, the real property standards of 2 CFR § 200.311 are applicable to such NSF grants. NSF implementation of the OMB standards on intangible property is contained in **Chapter XI.D**.

Title to materials developed and supplies purchased under an NSF grant will vest in the grantee, subject to the conditions identified in paragraph 2. below.

2 CFR § 200.312 contains a special category of "exempt property." Under that provision, any Federal agency which has statutory authority (such as NSF) may vest title in an institution of higher education, hospital or other non-profit organization without further obligation to the Federal government and under conditions the agency considers appropriate. NSF's authority is provided by the Federal Technology Transfer Act (15 USC 3710.)

### **1. Title to Equipment**

#### **a. Title to Equipment - Non-Profit Organizations**

(i) Normal Situations. Unless otherwise specified in the grant, title to equipment purchased or fabricated with NSF grant funds by a college or university or other non-profit organization will vest in the grantee organization upon acquisition. Such equipment is considered "exempt property" (see **Chapter IX.D**) and subject to the conditions of **Chapter IX.D.2**.

(ii) Special Situations. In special situations the grant may require that title to equipment purchased, acquired or fabricated by the grantee with NSF funds pass directly to the government upon acquisition.

#### **b. Title to Equipment – For-Profit Organizations**

Unless otherwise specified in the grant, title to equipment purchased or fabricated with NSF grant funds by a small business or other for-profit organization will vest in the

government. Such equipment will be acquired and used in accordance with **Chapter IX.D.2**, and managed in accordance with **Chapter IX.D.4**.

## **2. Conditions for Acquisition and Use of Equipment**

a. Grantee Assurance. The grantee will assure each purchase of equipment is:

- (i) necessary for the research or activity supported by the grant;
- (ii) not otherwise reasonably available and accessible;
- (iii) of the type normally charged as a direct cost to sponsored agreements; and
- (iv) acquired in accordance with organizational practice.

b. General Purpose Equipment. Expenditures for general purpose equipment are typically not available for support.

c. Equipment Usage. Equipment Usage. The equipment must remain in use for the specific project for which it was obtained in accordance with 2 CFR § 200.313 unless the provision in 2 CFR § 200.313(c)(4) applies.

d. Equipment Sharing. The equipment must be shared on other projects or programs in accordance with 2 CFR § 200.313(c)(1).

e. Property Management Standards. The grantee shall maintain a property management system which, at a minimum, meets the requirements of 2 CFR § 200.313(d).

f. Competition. In accordance with 2 CFR § 200.313(c)(3), grantees shall not use equipment 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 statute, for as long as the Federal Government retains an interest in the equipment.

g. Right to Transfer Title.

(i) In accordance with 2 CFR § 200.313(e), 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 to a third party named by the Federal government.

(ii) In such cases where NSF elects to transfer the title, disposition instructions will be issued no later than 120 days after the end date of the NSF-supported project for which it was acquired.

## **3. Principles Relating to the Use of NSF-Supported Research Instrumentation and Facilities**

The following principles on use of NSF-supported instrumentation and facilities were adopted by the NSB:

The National Science Foundation seeks the maximum productive use of the Nation's scientific instrumentation and research expertise. Ensuring that the highest quality instrumentation, facilities, and services are available to scientific users, both academic and industrial, is a key requirement, as are harmonious relations and cooperation between industry and universities. Private research

and testing laboratories, as well as university, government, and industrial laboratories, have a contribution to make.

The National Science Board recognizes that there may be circumstances where NSF grantees use NSF-supported research instrumentation to provide services in commerce for a fee, to an extent that such practice, (1) detracts from the performance of their obligation under the grant, and/or (2) may have a material and deleterious effect on the success of private companies engaged in the provision of equivalent services. It is contrary to the NSF's intent for grantees to use NSF-supported research instrumentation or facilities to provide services for a fee in competition with private companies in a manner that is prohibited by 2 CFR § 200.313(c)(3).

Grantees should implement the above principles and related grant conditions in a reasonable manner. Grantees are expected to provide fair and adequate consideration of any complaints about use of instrumentation and facilities.

#### **4. Property Management Standards When Title Retained by NSF**

In the event that title to equipment or property is vested in the Federal government, such property shall be marked, tagged or segregated in such a manner as to indicate clearly its ownership by the government. Unless otherwise provided in the grant, such government property shall be used only for the performance of the project. The grantee shall submit an annual inventory report by NSF grant number of such property having an original acquisition cost of \$5,000 or more, to the NSF Property Administrator, Division of Administrative Services (DAS). A physical inventory of Government-Owned Equipment (GOE) shall be conducted every two years pursuant to 2 CFR § 200.313(d)(2). Upon expiration of the grant, the grantee shall report the property to the Property Section for further agency utilization. (See **Chapter IX.D.5**.)

#### **5. Excess Government Personal Property**

##### **a. Policy**

(i) As a means of expanding the ability of grantees to accomplish NSF objectives while conserving supply and equipment funds, NSF will continue to sponsor the transfer of excess government personal property to NSF grantees.

(ii) Excess government personal property includes all types of personal equipment and materials (except consumable items such as drugs, paint, etc.), new or used, owned by the Federal government and no longer needed by the holding agency, but having additional useful life. Under regulations established by the General Services Administration (GSA), the agency charged with operating this program, excess government personal property may be reported to, or requested from, GSA by other Federal agencies, including NSF.

(iii) NSF will sponsor the transfer of excess government personal property to eligible organizations under one of the following conditions:

(a) the use of the property significantly furthers an NSF grant-supported activity;

(b) the property is such that it would have been procured under the grant for which property is being requested if additional grant funds had been available;

(c) the property is used as part of the grant activity and subsequently for research or science education purposes; or

(d) the property is classified by GSA as scientific or engineering research equipment and has a unit acquisition cost of \$1,000 or more. (See **Chapter IX.D.5.f.**)

### **b. Eligibility**

Eligible organizations are NSF grantees that are public or private colleges or universities or non-profit organizations whose primary purpose is the conduct of research or science education activities. State and municipal governments, public health units, hospitals, for-profit firms and individual PI/PDs are not eligible for excess government personal property under NSF sponsorship.

### **c. Procedures**

(i) To access a worldwide inventory of available excess personal property, an eligible grantee should contact the Property Administrator (**fsrpts@nsf.gov**), DAS to become a registered user of GSAXcess® (GSA's online personal property system located at: **<http://gsaxcess.gov/>**).

(ii) Grantees can visit GSAXcess® to screen for items that are necessary to accomplish the NSF supported project by searching GSA's inventory and adding items to the Selection Cart. Excess personal property is reported by Category (Federal Supply Classification (FSC)) and includes the item control number, name, location, quantity available, and unit of issue, original acquisition cost, surplus release date and condition of items posted. In some instances a photograph of the property item is available.

(iii) Materials and equipment so selected should be inspected whenever possible (see **Chapter IX.D.5.d**), or the holding Federal agency should be contacted by the grantee to verify the condition of the items, because interpretation of condition codes can vary among agencies.

(iv) If the condition of the item is acceptable, the grantee should freeze items by Checkout of the Selection Cart to generate a Transfer Control Number/SF 122, *Transfer Order Excess Personal Property*.

(v) The grantee should next submit the SF 122, *Transfer Order Excess Personal Property* and a separate written justification statement, if necessary, to the Property Administrator, DAS. The justification will explain why the property is needed to reduce the cost or enhance the performance under the specific grant for which the property is requested.

(vi) SF 122 should be signed by either the PI/PD or the AOR. The following information should also be provided on each SF 122:

(a) name of grantee;

(b) grant number;

(c) grant end date;

(d) the statement "The above equipment is requested for use by the grantee in support of research or education as outlined in the grant"; and

(e) the statement "Transfer is in accordance with the provisions of 41 CFR §101.43." The

grantee should also verify the automatic release date with GSA to preclude loss of property before the transaction is processed.

(vii) The written justification should detail the scientific need for the equipment as it relates to the particular grant under which the equipment is to be used, and should cite the conditions of this section as being binding upon the grantee, should the property be acquired.

(viii) Upon receipt by NSF, the SF 122 will be reviewed and forwarded to the appropriate GSA Office. Items are usually allocated on a first come, first served basis. Since GSA may have several freezes on a piece of equipment, first come, first served is interpreted as the first approved SF 122 received by the GSA office and designated Area Property Officer (APO). However, preference will be given by GSA to agencies which do not grant title to equipment. As confirmation of approval, the grantee will receive copies of the SF 122 from the GSA APO. If the request is disapproved, it will be returned to the grantee with an appropriate explanation.

(ix) Upon receipt of the requested property, the grantee should immediately return a copy of the SF 122 to NSF as evidence of delivery. Cancellations by GSA, or nonreceipt within a reasonable period of time should also be reported to NSF after follow-up inquiries have been made to GSA.

#### **d. Visiting Holding Agency Facilities**

(i) Under current GSA regulations all non-Federal grantee representatives wishing to visit holding agency facilities to screen or freeze government excess personal property must receive prior certification from GSA. Because of current security protocols, the holding agency may require written authorization for access.

(ii) The number of screeners on a grant should be limited to no more than two persons. The primary screener should be the PI/PD. However, if the PI/PD finds it impossible to screen, he/she may designate, in writing, a substitute.

(iii) Normally, certification will be on a regional basis; however, NSF will, under certain circumstances, sponsor grantee representatives who need to make interregional visits in order to secure equipment not readily available within their region.

#### **e. Dollar Limitation**

To ensure equitable distribution of excess government personal property, grantees may be authorized to acquire property under each NSF grant up to a total acquisition cost equal to the dollar value of that particular grant. Any request for excess property which causes the total to exceed the value of the grant will require additional justification beyond that requested in **Chapter IX.D.5.c**. A higher percentage of excess property requested under a particular grant by a grantee must be approved by an administrative level in NSF which is higher than the cognizant Program Officer. NSF will give full consideration to all factors in determining whether to approve transfers of excess property above the dollar value of a given grant. Grantees are therefore urged to be selective in their requests for excess government personal property to limit quantities of each item where possible and to avoid stockpiling items for future use.

#### **f. Restrictions**

(i) NSF will sponsor the transfer of excess government personal equipment to eligible



organizations only under project grants. As defined in the GSA regulations, "project grants" refers to grants made for specific purposes with established termination dates, e.g., grants made to specific organizations to perform specific tasks within set time frames and costs. No excess property may be acquired on behalf of conference, publication-support grants or travel grants. In addition, on "summer-type training grants," no property may be acquired after the training period has terminated. Further, grantees should exercise careful judgment on the appropriateness of requesting excess personal property when only a short period of time exists between the date of the property request and the completion or successful accomplishment of the NSF-supported activity. GSA will consider items of personal property as research equipment for transfer without reimbursement to NSF for use by a grantee when the property requested has a unit acquisition cost of \$1,000 or more and is within Federal Supply Classification Groups:

- (a) 12 Fire Control Equipment;
- (b) 14 Guided Missiles;
- (c) 43 Pumps and Compressors;
- (d) 48 Valves;
- (e) 58 Communication, Detection and Coherent Radiation Equipment;
- (f) 59 Electrical and Electronic Equipment Components;
- (g) 65 Medical, Dental and Veterinary Equipment and Supplies;
- (h) 66 Instruments and Laboratory Equipment;
- (i) 67 Photographic Equipment;
- (j) 68 Chemical and Chemical Products; or
- (k) 70 General Purpose Automatic Data Processing Equipment, Software, Supplies and Support Equipment.

Automatic data processing equipment must be acquired under the provisions in 41 CFR § 201.23.

(ii) GSA will give consideration to the transfer without reimbursement of items of excess property in other Federal supply classification groups and items with a unit acquisition cost of less than \$1,000, when NSF certifies that the item requested is a component part of or related to a piece of research equipment or is an otherwise difficult to acquire item needed for scientific or engineering research. Items of property determined by GSA to be common-use or general purpose property, regardless of classification or unit acquisition cost, shall not be transferred to a grantee for the purpose of cannibalization, unless the granting agency sends with the transfer request a supporting statement which clearly indicates that disassembly of the requested item for secondary use of its component parts, or for repair and maintenance of a similar item, has greater potential benefit than utilization of the item in its existing form and that a clear cost savings to the government will result, subject to final determination by GSA.

#### **g. Costs**

Excess government personal property is usually secured without cost. However, the

grantee should specify the method of shipment and must pay all costs of packing, transportation and subsequent installation, rehabilitation and maintenance if required. Grant funds may be used to pay such costs.

#### **h. Title**

Title to excess government personal property obtained by colleges, universities, and other non-profit grantees through NSF sponsorship remains with the government until the property is delivered to the grantee organization. Upon delivery, the grantee should forward to NSF a receipted SF 122 which clearly lists the items of property actually obtained by the grantee. Unless NSF informs the grantee to the contrary, when this SF 122 is received at NSF, title to all property acquired will automatically pass to and be vested in the grantee organization, subject to the understanding that the property will be used for research or for science education purposes as long as it has a useful life. At such time as the property is no longer useful for such purposes, it may be disposed of in accordance with organizational practices, but any proceeds therefrom shall be used by the grantee solely for research or science education purposes. Under certain conditions, such as when highly specialized equipment is involved, NSF may retain title to excess property. When such a condition exists, NSF will inform the grantee. Excess government personal property may not be transferred to a foreign country without the express written approval of the Grants Officer.

#### **i. Accountability and Recordkeeping**

(i) While no particular type of classification of accounts or inventory system is required, NSF expects that the responsible officials of the grantee organization will exercise careful stewardship of excess government personal property acquired in support of projects undertaken with NSF's financial assistance. In accordance with **Chapter IX.D.5.e**, relating to the dollar limitation on the amount of excess government personal property provided by NSF, grantees should maintain appropriate inventory procedures that will enable them to identify those requests which require more extensive administrative and scientific justification. In those cases where title to excess government personal property remains with the government, the grantee must maintain suitable records to identify its location, description, utilization and value. The use of excess government personal property under an NSF grant is subject to inspection and audit by representatives of NSF at all reasonable times during the life of the grant under which the property was acquired.

(ii) Further details may be obtained from the Property Administrator, Division of Administrative Services, National Science Foundation, 4201 Wilson Boulevard, Room 295, Arlington, VA 22230.

### **E. Procurement Standards**

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NSF grantees shall adhere to the requirements of 2 CFR §§ 200.317-326 which prescribes standards for use by grantees in establishing procedures for the procurement of supplies and other expendable property, equipment, real property and other services with Federal funds.

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<sup>51</sup>Grantee notifications of conflict of interest that cannot be managed, reduced, or eliminated and awardee notifications of situations where research will proceed without the imposition of conditions or restrictions when a conflict of interest exists, must be signed

and submitted by the AOR via use of NSF's electronic systems. **Back to Text**

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