

Appendix A
OMB Uniform Guidance excerpt

SOURCE: 2 CFR § 200.315 (amended October 2, 2024)
<https://www.ecfr.gov/current/title-2/part-200/section-200.315>

§ 200.315 *Intangible property.*

- (a) Title to intangible property acquired under a Federal award vests upon acquisition in the recipient or subrecipient. The recipient or subrecipient must use that intangible property for the originally authorized purpose and must not encumber the property without the approval of the Federal agency or pass-through entity. When no longer needed for the originally authorized purpose, disposition of the intangible property must occur in accordance with the provisions in § 200.313(e).
- (b) To the extent permitted by law, the recipient or subrecipient may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a Federal award. The Federal agency reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes and to authorize others to do so. This includes the right to require recipients and subrecipients to make such works available through agency-designated public access repositories.
- (c) The recipient or subrecipient is subject to applicable regulations governing patents and inventions, including government-wide regulations in 37 CFR part 401.
- (d) The Federal Government has the right to:
 - (1) Obtain, reproduce, publish, or otherwise use the data produced under a Federal award; and
 - (2) Authorize others to receive, reproduce, publish, or otherwise use the data for Federal purposes.
- (e)
 - (1) The recipient or subrecipient must provide research data relating to published research findings produced under the Federal award and that were used by the Federal Government in developing an agency action that has the force and effect of law if requested by the Federal agency in response to a Freedom of Information Act (FOIA) request. When the Federal agency obtains the research data solely in response to a FOIA request, the Federal agency may charge the requester a fee for the cost of obtaining the research data. This fee should reflect the costs incurred by the Federal agency and the recipient or subrecipient. This fee is in addition to any fees the Federal agency may assess under the FOIA (5 U.S.C.

Legal Pathways to Open Access

552(a)(4)(A)).

- (2) Published research findings mean:
 - (i) Research findings published in a peer-reviewed scientific or technical journal; or
 - (ii) Research findings publicly cited by a Federal agency in developing an agency action that has the force and effect of law.
- (3) Research data means the recorded factual material commonly accepted in the scientific community as necessary to validate research findings. Research data does not include any of the following:
 - (i) Preliminary analyses, drafts of scientific papers, plans for future research, peer reviews, or communications with colleagues. This “recorded” material excludes physical objects (for example, laboratory samples).
 - (ii) Trade secrets, commercial information, materials necessary to be held confidential by a researcher until they are published, or similar information which is protected under law; and
 - (iii) Personnel, medical, and other personally identifiable information that, if disclosed, would constitute an invasion of personal privacy. Information that could identify a particular person in a research study is not considered research data.
- (f) Federal agencies should work with recipients to maximize public access to Federally funded research results and data in a manner that protects data providers' confidentiality, privacy, and security. Agencies should provide guidance to recipients to make restricted-access data available through a variety of mechanisms. FOIA may not be the most appropriate mechanism for providing access to intangible property, including Federally funded research results and data.