



December 4, 2023

Submitted via Regulations.gov

Re: AUTM Comments for OMB Docket OMB-2023-0017 (Guidance for Grants and Agreements)

AUTM – the association representing individuals involved in the technology transfer profession – wishes to comment on two sections of this docket relating to the handling of intangible property. We believe there are unintended consequences from the proposed language as it relates to intangible property created using federal dollars. Here are our concerns:

Section 200.315. Intangible Property

AUTM agrees with the larger comments provided by COGR regarding the ambiguity of proposed changes to that section of OMB guidance. We are concerned that the new definition of “encumbrance” implies that federal approval would need to be sought for patent and copyright owners to license their works. This also conflicts with the Bayh-Dole Act for federally funded inventions as stated at 37 CFR.

We agree with COGR that the language should be restored to the original text from 2 CFR 200.

Section 200.316. Property Trust Relationship

Here again, AUTM supports concerns raised by COGR that the purpose of this section of 2 CFR 200 is unclear. To the extent it applies to intangible property, it is inconsistent with current law. We join COGR’s recommendation that this section be deleted or clarified, so that it does not conflict with regulations in 37 CFR Part 401.

AUTM members work at universities and non-profit research institutions across the nation. Patents and copyrights are crucial for them to attract the investment capital needed to move these technologies from the lab to the marketplace. Any ambiguity about ownership issues in such transfers would be severely problematic.

Thank you for your attention to our views.

Sincerely,

A handwritten signature in black ink that reads "Stephen J. Susalka".

Stephen J. Susalka, Ph.D.
Chief Executive Officer

