

SUBCHAPTER H—ASSISTANCE REGULATIONS

PART 600—FINANCIAL ASSISTANCE RULES

Subpart A—General

- Sec.
- 600.1 Purpose.
 - 600.2 Applicability.
 - 600.3 Definitions.
 - 600.4 Deviations.
 - 600.5 Selection of award instrument.
 - 600.6 Eligibility.
 - 600.7 Small and disadvantaged and women-owned business participation.
 - 600.8 Program announcements.
 - 600.9 [Reserved].
 - 600.10 Form and content of applications.
 - 600.11 Intergovernmental review.
 - 600.12 Generally applicable requirements.
 - 600.13 Merit review.
 - 600.15 Authorized uses of information.
 - 600.16 Legal authority and effect of an award.
 - 600.17 Contents of award.
 - 600.18 Recipient acknowledgement of award.
 - 600.19 Notification to unsuccessful applicants.
 - 600.20 Maximum DOE obligation.
 - 600.21 Access to records.
 - 600.22 Disputes and appeals.
 - 600.23 Debarment and suspension.
 - 600.24 Noncompliance.
 - 600.25 Suspension and termination.
 - 600.26 Funding.
 - 600.27 [Reserved].
 - 600.28 Restrictions on lobbying.
 - 600.29 Fixed obligation awards.
 - 600.30 Cost sharing.
 - 600.31 Research misconduct.

Subpart B—Uniform Administrative Requirements for Grants and Cooperative Agreements With Institutions of Higher Education, Hospitals, and Other Non-profit Organizations

GENERAL

- 600.100 Purpose.
- 600.101 Definitions.
- 600.102 Effect on other issuances.
- 600.103 Deviations.
- 600.104 Subawards.

PRE-AWARD REQUIREMENTS

- 600.110 Purpose.
- 600.111 Pre-award policies.
- 600.112 Forms for applying for Federal assistance.
- 600.113 Debarment and suspension.
- 600.114 Special award conditions.
- 600.115 Metric system of measurement.

- 600.116 Resource Conservation and Recovery Act.
- 600.117 Certifications and representations.

POST-AWARD REQUIREMENTS

Financial and Program Management

- 600.120 Purpose of financial and program management.
- 600.121 Standards for financial management systems.
- 600.122 Payment.
- 600.123 Cost sharing or matching.
- 600.124 Program income.
- 600.125 Revision of budget and program plans.
- 600.126 Non-Federal audits.
- 600.127 Allowable costs.
- 600.128 Period of availability of funds.

Property Standards

- 600.130 Purpose of property standards.
- 600.131 Insurance coverage.
- 600.132 Real property.
- 600.133 Federally-owned and exempt property.
- 600.134 Equipment.
- 600.135 Supplies and other expendable property.
- 600.136 Intangible property.
- 600.137 Property trust relationship.

Procurement Standards

- 600.140 Purpose of procurement standards.
- 600.141 Recipient responsibilities.
- 600.142 Codes of conduct.
- 600.143 Competition.
- 600.144 Procurement procedures.
- 600.145 Cost and price analysis.
- 600.146 Procurement records.
- 600.147 Contract administration.
- 600.148 Contract provisions.
- 600.149 Resource Conservation and Recovery Act (RCRA).

Reports and Records

- 600.150 Purpose of reports and records.
- 600.151 Monitoring and reporting program performance.
- 600.152 Financial reporting.
- 600.153 Retention and access requirements for records.

Termination and Enforcement

- 600.160 Purpose of termination and enforcement.
- 600.161 Termination.
- 600.162 Enforcement.

AFTER-THE-AWARD REQUIREMENTS

- 600.170 Purpose.
- 600.171 Closeout procedures.

Department of Energy

Pt. 600

- 600 172 Subsequent adjustments and continuing responsibilities.
- 600 173 Collection of amounts due.

ADDITIONAL PROVISIONS

APPENDIX A TO SUBPART B TO PART 600—CONTRACT PROVISIONS

Subpart C—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

GENERAL

- 600 200 Purpose and scope of this subpart
- 600 201 Scope of §§600 200 through 600 205
- 600 202 Definitions.
- 600 203 Applicability.
- 600 204 Effect on other issuances
- 600 205 Additions and exceptions.

PRE-AWARD REQUIREMENTS

- 600 210 Forms for applying for grants.
- 600 211 State plans.
- 600 212 Special grant or subgrant conditions for "high-risk" recipients

POST-AWARD REQUIREMENTS

Financial Administration

- 600 220 Standards for financial management systems.
- 600 221 Payment.
- 600 222 Allowable costs.
- 600 223 Period of availability of funds
- 600 224 Matching or cost sharing
- 600 225 Program income.
- 600 226 Non-Federal audit

Changes Property and Subawards

- 600 230 Changes.
- 600 231 Real property
- 600 232 Equipment
- 600 233 Supplies.
- 600 234 Copyrights
- 600 235 Subawards to debarred and suspended parties.
- 600 236 Procurement.
- 600 237 Subgrants

Reports Records Retention, and Enforcement

- 600 240 Monitoring and reporting program performance.
- 600 241 Financial reporting.
- 600 242 Retention and access requirements for records.
- 600 243 Enforcement
- 600 244 Termination for convenience.

After-the-Grant Requirements

- 600 250 Closeout.
- 600 251 Later disallowances and adjustments.
- 600 252 Collection of amounts due.

Entitlements [Reserved]

Subpart D—Administrative Requirements for Grants and Cooperative Agreements With For-Profit Organizations

GENERAL

- 600 301 Purpose.
- 600 302 Definitions.
- 600 303 Deviations.
- 600 304 Special award conditions.
- 600 305 Debarment and suspension.
- 600 306 Metric system of measurement

POST-AWARD REQUIREMENTS

Financial and Program Management

- 600 310 Purpose of financial and program management.
- 600 311 Standards for financial management systems.
- 600 312 Payment.
- 600 313 Cost sharing or matching
- 600 314 Program income.
- 600 315 Revision of budget and program plans.
- 600 316 Audits
- 600 317 Allowable costs.
- 600 318 Fee and profit.

Property Standards

- 600 320 Purpose of property standards.
- 600 321 Real property and equipment
- 600 322 Federally owned property.
- 600 323 Property management system
- 600 324 Supplies.
- 600 325 Intellectual property.

Procurement Standards

- 600 330 Purpose of procurement standards.
- 600 331 Requirements

Reports and Records

- 600 340 Purpose of reports and records.
- 600 341 Monitoring and reporting program and financial performance.
- 600 342 Retention and access requirements for records

Termination and Enforcement

- 600 350 Purpose of termination and enforcement.
- 600 351 Termination
- 600 352 Enforcement
- 600 353 Disputes and appeals

AFTER-THE-AWARD REQUIREMENTS

- 600 360 Purpose.
- 600 361 Closeout procedures.
- 600 362 Subsequent adjustments and continuing responsibilities.
- 600 363 Collection of amounts due.

ADDITIONAL PROVISIONS

- 600 380 Purpose

§ 600.1

600 381 Special provisions for Small Business Innovation Research Grants.

APPENDIX A TO SUBPART D TO PART 600—PATENT AND DATA PROVISIONS

APPENDIX B TO SUBPART D TO PART 600—CONTRACT PROVISIONS

Subpart E [Reserved]**Subpart F—Eligibility Determination for Certain Financial Assistance Programs—General Statement of Policy**

600 500 Purpose and scope.

600 501 Definitions

600 502 What must DOE determine.

600 503 Determining the economic interest of the United States

600 504 Information an applicant must submit

600 505 Other information DOE may consider

APPENDIX A TO PART 600—GENERALLY APPLICABLE REQUIREMENTS

APPENDIX B TO PART 600—AUDIT REPORT DISTRIBUTIBLES

AUTHORITY: 42 U.S.C. 7101 *et seq.*; 31 U.S.C. 6301-6308; 50 U.S.C. 2401 *et seq.*, unless otherwise noted.

Subpart A—General

SOURCE: 61 FR 7166, Feb 26 1996 unless otherwise noted.

§ 600.1 Purpose.

This part implements the Federal Grant and Cooperative Agreement Act, Pub. L. 95-224, as amended by Pub. L. 97-258 (31 U.S.C. 6301-6308), and establishes uniform policies and procedures for the award and administration of DOE grants and cooperative agreements. This subpart (Subpart A) sets forth the general policies and procedures applicable to the award and administration of grants, cooperative agreements, and technology investment agreements. The specific guidance for technology investment agreements is contained in part 603.

[61 FR 7166, Feb 26, 1996, as amended at 70 FR 69253 Nov 15 2005]

§ 600.2 Applicability.

(a) Except as otherwise provided by Federal statute or program rule, this part applies to applications, solicitations, and new, continuation, and renewal awards (and any subsequent subawards).

(b) Any new, continuation, or renewal award (and any subsequent subaward) shall comply with any applicable Federal statute, Federal rule, Office of Management and Budget (OMB) Circular and Governmentwide guidance in effect as of the date of such award

(c) Financial assistance to foreign entities is governed, to the extent appropriate, by this part and by the administrative requirements and cost principles applicable to their respective recipient type, e.g. governmental, non-profit, commercial.

§ 600.3 Definitions.

Amendment means the written document executed by a DOE contracting officer that changes one or more terms or conditions of an existing financial assistance award.

Award means the written document executed by a DOE Contracting Officer, after an application is approved, which contains the terms and conditions for providing financial assistance to the recipient.

Budget period means the interval of time, specified in the award, into which a project is divided for budgeting and funding purposes.

Continuation award means an award for a succeeding or subsequent budget period after the initial budget period of either an approved project period or renewal thereof

Contract means a written procurement contract executed by a recipient or subrecipient for the acquisition of property or services under a financial assistance award.

Contracting Officer means the DOE official authorized to execute awards on behalf of DOE and who is responsible for the business management and non-program aspects of the financial assistance process.

DOE Patent Counsel means the Department of Energy Patent Counsel assisting the Contracting Officer in the review and coordination of patents and data related items.

Financial assistance means the transfer of money or property to a recipient or subrecipient to accomplish a public purpose of support or stimulation authorized by Federal statute. For purposes of this part, financial assistance

Department of Energy

§ 600.4

instruments are grants and cooperative agreements and subawards.

Head of Contracting Activity or HCA means a DOE official with senior management authority for the award and administration of financial assistance instruments within one or more DOE organizational elements

Merit review means a thorough, consistent, and objective examination of applications based on pre-established criteria by persons who are independent of those submitting the applications and who are knowledgeable in the field of endeavor for which support is requested.

Nonprofit organization means any corporation, trust, foundation, or institution which is entitled to exemption under section 501(c)(3) of the Internal Revenue Code, or which is not organized for profit and no part of the net earnings of which inure to the benefit of any private shareholder or individual (except that the definition of "nonprofit organization" at 48 CFR 27.301 shall apply for patent matters set forth at §§ 600.136 and 600.325)

Program rule means a rule issued by a DOE program office for the award and administration of financial assistance which may describe the program's purpose or objectives, eligibility requirements for applicants, types of program activities or areas to be supported, evaluation and selection process, cost sharing requirements, etc. These rules usually supplement the generic policies and procedures for financial assistance contained in this part.

Project means the set of activities described in an application, State plan, or other document that is approved by DOE for financial assistance (whether such financial assistance represents all or only a portion of the support necessary to carry out those activities.)

Project period means the total period of time indicated in an award during which DOE expects to provide financial assistance. A project period may consist of one or more budget periods and may be extended by DOE.

Recipient means the organization, individual, or other entity that receives an award from DOE and is financially accountable for the use of any DOE funds or property provided for the performance of the project, and is legally

responsible for carrying out the terms and conditions of the award.

Renewal award means an award which adds one or more additional budget periods to an existing project period.

Research and development means all research activities, both basic and applied, and all development activities that are supported at universities, colleges, and other non-profit institutions and commercial organizations. "Research" is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. The term research also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function. "Development" is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes.

[61 FR 7166, Feb. 26, 1996 as amended at 64 FR 56420 Oct 20 1999; 68 FR 50650 Aug 21, 2003]

§ 600.4 Deviations.

(a) *General.* (1) A deviation is the use of any policy, procedure, form, standard, term, or condition which varies from a requirement of this part, or the waiver of any such requirement, unless such use or waiver is authorized or precluded by Federal statute. The use of optional or discretionary provisions of this part including special restrictive conditions used in accordance with §§ 600.114 and 600.212, are not deviations. Awards to foreign entities and the waiver of the cost sharing requirements in § 600.30 are not subject to this section.

(2) A single-case deviation is a deviation which applies to one financial assistance transaction and one applicant, recipient, or subrecipient only.

(3) A class deviation is a deviation which applies to more than one financial assistance transaction, applicant, recipient, or subrecipient.

§ 600.5

(b) The DOE officials specified in paragraph (c) of this section may authorize a deviation only upon a written determination that the deviation is—

(1) Necessary to achieve program objectives;

(2) Necessary to conserve public funds;

(3) Otherwise essential to the public interest; or

(4) Necessary to achieve equity

(c) *Approval procedures.* (1) A deviation request must be in writing and must be submitted to the responsible DOE Contracting Officer. An applicant for a subaward or a subrecipient shall submit any such request through the recipient.

(2) Except as provided in paragraph (c)(3) of this section—

(i) A single-case deviation may be authorized by the responsible HCA.

(ii) A class deviation may be authorized by the Director, Procurement and Assistance Management or designee.

(3) Whenever the approval of OMB, other Federal agency, or other DOE office is required to authorize a deviation, the proposed deviation must be submitted to the Director, Procurement and Assistance Management or designee for concurrence prior to submission to the authorizing official.

(d) *Notice.* Whenever a request for a class deviation is approved, DOE shall publish a notice in the FEDERAL REGISTER at least 15 days before the class deviation becomes effective. Whenever a class deviation is contained in a proposed program rule, the preamble to the proposed rule shall describe the purpose and scope of the deviation.

(e) *Subawards.* A recipient may use a deviation in a subaward only with the prior written approval of a DOE Contracting Officer

[61 FR 7166, Feb. 26, 1996 as amended at 64 FR 56420, Oct. 20, 1999; 68 FR 50650, Aug. 21, 2003]

§ 600.5 Selection of award instrument.

(a) If DOE has administrative discretion in the selection of the award instrument, the DOE decision as to whether the relationship is principally one of procurement or financial assistance shall be made pursuant to the Federal Grant and Cooperative Agreement Act as codified at 31 U.S.C. 6301-

10 CFR Ch. II (1-1-07 Edition)

6306. A grant or cooperative agreement shall be the appropriate instrument, in accordance with this part, when the principal purpose of the relationship is the transfer of money or property to accomplish a public purpose of support or stimulation authorized by Federal statute. In selecting the type of financial assistance instrument, DOE shall limit involvement between itself and the recipient in the performance of a project to the minimum necessary to achieve DOE program objectives.

(b) When it is anticipated that substantial involvement will be necessary between DOE and the recipient during performance of the contemplated activity, the award instrument shall be a cooperative agreement rather than a grant. Every cooperative agreement shall explicitly state the substantial involvement anticipated between DOE and the recipient during the performance of the project. Substantial involvement exists if:

(1) Responsibility for the management, control, or direction of the project is shared by DOE and the recipient; or

(2) Responsibility for the performance of the project is shared by DOE and the recipient

(c) Providing technical assistance or guidance of a programmatic nature to a recipient does not constitute substantial involvement if:

(1) the recipient is not required to follow such guidance;

(2) the technical assistance or guidance is not expected to result in continuing DOE involvement in the performance of the project; or

(3) The technical assistance or guidance pertains solely to the administrative requirements of the award.

(d) In cooperative agreements, DOE has the right to intervene in the conduct or performance of project activities for programmatic reasons. Intervention includes the interruption or modification of the conduct or performance of project activities. Suspension or termination of the cooperative agreement under §§ 600.162 and 600.243 does not constitute intervention in the conduct or performance of project activities

§ 600.6 Eligibility.

(a) *General.* DOE shall solicit applications for financial assistance in a manner which provides for the maximum amount of competition feasible.

(b) *Restricted eligibility.* If DOE restricts eligibility, an explanation of why the restriction of eligibility is considered necessary shall be included in the solicitation, program rule, or published notice. Except when authorized by statute or program rule, if the aggregate amount of DOE funds available for award under a solicitation or published notice is \$1,000,000 or more, such restriction of eligibility shall be supported by a written determination initiated by the program office and approved by an official no less than two levels above the initiating program official and concurred in by the Contracting Officer and legal counsel. Where the amount of DOE funds is less than \$1,000,000, the cognizant HCA and the Contracting Officer may approve the determination.

(c) *Noncompetitive financial assistance.* DOE may award a grant, cooperative agreement, or technology investment agreement on a noncompetitive basis only if the application satisfies one or more of the following selection criteria:

(1) The activity to be funded is necessary to the satisfactory completion of, or is a continuation or renewal of, an activity presently being funded by DOE or another Federal agency, and for which competition for support would have a significant adverse effect on continuity or completion of the activity.

(2) The activity is being or would be conducted by the applicant using its own resources or those donated or provided by third parties; however, DOE support of that activity would enhance the public benefits to be derived and DOE knows of no other entity which is conducting or is planning to conduct such an activity.

(3) The applicant is a unit of government and the activity to be supported is related to performance of a governmental function within the subject jurisdiction, thereby precluding DOE provision of support to another entity.

(4) The applicant has exclusive domestic capability to perform the activ-

ity successfully, based upon unique equipment, proprietary data, technical expertise, or other such unique qualifications

(5) The award implements an agreement between the United States Government and a foreign government to fund a foreign applicant

(6) Time constraints associated with a public health, safety, welfare or national security requirement preclude competition.

(7) The proposed project was submitted as an unsolicited proposal and represents a unique or innovative idea, method, or approach which would not be eligible for financial assistance under a recent, current, or planned solicitation, and if, as determined by DOE, a competitive solicitation would not be appropriate.

(8) The responsible program Assistant Secretary, Deputy Administrator, or other official of equivalent authority determines that a noncompetitive award is in the public interest. This authority may not be delegated.

(d) *Approval requirements.* Determinations of noncompetitive awards shall be approved, prior to award by the initiating program official, by the responsible program Assistant Secretary (or official of equivalent authority) or designee, who shall be not less than two organizational levels above that of the project officer, by the Contracting Officer and shall be concurred in by local legal counsel. Where the amount of DOE funds is less than \$1,000,000 for a noncompetitive financial assistance award, the determination shall be approved by the cognizant HCA and the Contracting Officer. Concurrence for a particular award or class of awards of \$1,000,000 or less may be waived by local legal counsel.

(e) *Documentation requirements.* A determination of noncompetitive financial assistance (normally prepared by the responsible program official) explaining the basis for the proposed noncompetitive award shall be placed in the award file.

[61 FR 7166, Feb. 26, 1996, as amended at 64 FR 56420, Oct. 20, 1999; 66 FR 34784 July 2, 2001; 70 FR 69253 Nov. 15, 2005]

§ 600.7

10 CFR Ch. II (1-1-07 Edition)

§ 600.7 Small and disadvantaged and women-owned business participation.

(a) DOE encourages the participation in financial assistance awards of small businesses including those owned by socially and economically disadvantaged individuals and women, of historically black colleges, and of colleges and universities with substantial minority enrollments.

(b) For definitions of the terms in paragraph (a) of this section, see the Higher Education Act of 1965, and 15 U.S.C. 644 as amended by the Federal Acquisition Streamlining Act (FASA), and implementing regulations under FASA issued by the Office of Federal Procurement Policy.

(c) When entering into contracts under financial assistance awards, recipients and subrecipients shall comply with the requirements of Section 600.144 or Section 600.236, as applicable.

§ 600.8 Program announcements.

(a) *General.* Program announcements include any issuance used to announce funding opportunities that would result in the award of a discretionary grant, cooperative agreement, or technology investment agreement, whether it is called a program announcement, program notice, solicitation, broad agency announcement, research announcement, notice of program interest, or something else.

(1) A Program Assistant Secretary (or official of equivalent authority) may annually issue a program notice describing research areas in which financial assistance is being made available. Such notice shall also state whether the research areas covered by the notice are to be added to those listed in a previously issued program rule. If they are to be included, then applications received as a result of the notice may be treated as having been in response to that previously published program rule. If they are not to be included, then applications received in response to the notice are to be treated as unsolicited applications. Solicitations may be issued by a DOE Contracting Officer or program office with prior concurrence of the contracting office.

(2) DOE must post synopses of its program announcements and modifications to the announcements at the Grants.gov Internet site, using the standard data elements/format except for:

(i) Announcements of funding opportunities for awards less than \$25,000 for which 100 percent of eligible applicants live outside of the United States.

(ii) Single source announcements of funding opportunities which are specifically directed to a known recipient.

(b) *Subawards.* In accordance with the provisions of the applicable statute and program rules, if a DOE financial assistance program involves the award of financial assistance by a recipient to a subrecipient, the recipient shall provide sufficient advance notice so that potential subrecipients may prepare timely applications and secure prerequisite reviews and approvals.

(c) *Announcement format.* DOE must use the government-wide standard format to publish program announcements of funding opportunities.

[61 FR 7166, Feb. 26, 1996, as amended at 69 FR 7867 Feb. 20, 2004; 70 FR 69254 Nov. 15, 2005]

§ 600.9 [Reserved]

§ 600.10 Form and content of applications.

(a) *General.* Applications shall be required for all financial assistance projects or programs.

(b) *Forms.* Applications shall be on the form and in the number of copies specified in a program rule, the program announcement, or these regulations. (See also §§ 600.112 and 600.210.) For unsolicited applications, a guide for preparation and submission is available from U.S. Department of Energy Federal Energy Technology Center, Attn: Unsolicited Proposal Manager, Post Office Box 10940, Pittsburgh PA, 15236-0940.

(c) *Contents of an application.* In general, a financial assistance application shall include:

(1) A facesheet containing basic identifying information. The facesheet shall be the Standard Form (SF)424 or other approved DOE application form;

Department of Energy

§ 600.15

(2) A detailed narrative description of the proposed project, including the objectives of the project and the applicant's plan for carrying it out;

(3) A budget with supporting justification; and

(4) Any required preaward assurances

(d) *Incomplete applications.* DOE may return an application that:

(1) Is not signed, either in writing or electronically, by an official authorized to bind the applicant; or

(2) Omits any information or documentation required by statute, program rule, or the solicitation, if the nature of the omission precludes review of the application.

(e) *Supplemental information.* During the review of a complete application DOE may request the submission of additional information only if the information is essential to evaluate the application

[61 FR 7166, Feb. 26, 1996, as amended at 64 FR 56420 Oct 20 1999; 69 FR 7867, Feb 20 2004]

§ 600.11 Intergovernmental review.

Intergovernmental review of DOE financial assistance shall be conducted in accordance with 10 CFR part 1005

§ 600.12 Generally applicable requirements.

(a) Except as expressly exempted by Federal statute or program rule, recipients and subrecipients of DOE financial assistance shall comply with all generally applicable requirements to which they are subject. Generally applicable requirements include, but are not limited to, the requirements of this part Federal statutes, the OMB Circulars and other Governmentwide guidance implemented by this part, Executive Orders, and the requirements identified in appendix A of this part.

(b) Provisions shall be made to design and construct all buildings, in which DOE funds are used, to meet appropriate seismic design and construction standards. Seismic codes and standards meeting or exceeding the provisions of each of the model codes listed in this paragraph are considered to be appropriate for purposes of this part. These codes provide a level of seismic safety that is substantially equivalent to the

National Earthquake Hazards Reduction Program (NEHRP) Recommended Provisions for the Development of Seismic Regulations for New Buildings, 1988 Edition (Federal Emergency Management Administration 222 and 223). Revisions of these model codes that are substantially equivalent to or exceed the then current or immediately preceding edition of the NEHRP Recommended Provisions (which are updated triennially) shall be considered to be appropriate standards. The model codes are as follows:

(1) 1991 Uniform Building Code, of the International Council of Building Officials,

(2) 1992 Supplement to the National Building Code, of the Building Officials and Code Administrators International.

(3) 1992 Amendments to the Standard Building Code, of the Southern Building Code Congress International

§ 600.13 Merit review.

(a) It is the policy of DOE that discretionary financial assistance be awarded through a merit-based selection process. A merit review means a thorough, consistent, and objective examination of applications based on pre-established criteria by persons who are independent of those submitting the applications and who are knowledgeable in the field of endeavor for which support is requested

(b) Each program office must establish a merit review system covering the financial assistance programs it administers. Merit review of financial assistance applications is intended to be advisory and is not intended to replace the authority of the project/program official with responsibility for deciding whether an award will be made.

[64 FR 56420, Oct. 20, 1999]

§ 600.15 Authorized uses of information.

(a) *General.* Information contained in applications shall be used only for evaluation purposes unless such information is generally available to the public or is already the property of the Government. The Trade Secrets Act, 18 U.S.C. 1905, prohibits the unauthorized disclosure by Federal employees of

§ 600.16

trade secret and confidential business information.

(b) *Treatment of application information.* (1) An application may include technical data and other data, including trade secrets and/or privileged or confidential commercial or financial information, which the applicant does not want disclosed to the public or used by the Government for any purpose other than application evaluation. To protect such data, the applicant should specifically identify each page including each line or paragraph thereof containing the data to be protected and mark the cover sheet of the application with the following Notice as well as referring to the Notice on each page to which the Notice applies:

Notice of Restriction on Disclosure and Use
of Data

The data contained in pages _____ of this application have been submitted in confidence and contain trade secrets or proprietary information and such data shall be used or disclosed only for evaluation purposes provided that if this applicant receives an award as a result of or in connection with the submission of this application, DOE shall have the right to use or disclose the data herein to the extent provided in the award. This restriction does not limit the Government's right to use or disclose data obtained without restriction from any source including the applicant.

(2) Unless a solicitation specifies otherwise DOE shall not refuse to consider an application solely on the basis that the application is restrictively marked.

(3) Data (or abstracts of data) marked with the Notice under paragraph (b)(1) of this section shall be retained in confidence and used by DOE or its designated representatives as specified in § 600.13 solely for the purpose of evaluating the proposal. The data so marked shall not be disclosed or used for any other purpose except to the extent provided in any resulting award, or to the extent required by law, including the Freedom of Information Act (5 U.S.C. 552) (10 CFR part 1004). The Government shall not be liable for disclosure or use of unmarked data and may use or disclose such data for any purpose.

[61 FR 7166, Feb. 26, 1996, as amended at 68 FR 50650 Aug 21 2003]

10 CFR Ch. II (1-1-07 Edition)

§ 600.16 Legal authority and effect of an award.

(a) A DOE financial assistance award is valid only if it is in writing and is signed, either in writing or electronically, by a DOE Contracting Officer.

(b) DOE funds awarded under a grant, cooperative agreement, or technology investment agreement shall be obligated as of the date the DOE Contracting Officer signs the award; however, the recipient is not authorized to incur costs under an award prior to the beginning date of the budget period shown in the award except as may be authorized in accordance with §§ 600.125(e), 600.230, 600.317(b), or 603.830 of this part. The duration of the DOE financial obligation shall not extend beyond the expiration date of the budget period shown in the award unless authorized by a DOE Contracting Officer by means of a continuation or renewal award or other extension of the budget period.

[61 FR 7166, Feb. 26, 1996, as amended at 70 FR 69254 Nov. 15, 2005]

§ 600.17 Contents of award.

Each grant and cooperative agreement awarded under this part shall be made on a Notice of Financial Assistance Award (DOE F 4600.1) which contains basic identifying and funding information together with attachments including a budget, any special terms and conditions, and any other provisions necessary to establish the respective right, duties, obligation, and responsibilities of DOE and the recipient, consistent with the requirements of this part.

[61 FR 7166, Feb. 26, 1996, as amended at 70 FR 69254 Nov. 15, 2005]

§ 600.18 Recipient acknowledgement of award.

(a) After signature by the DOE Contracting Officer, the award shall be sent to the recipient. The recipient shall acknowledge acceptance by returning a copy signed either in writing or electronically. No DOE funds shall be disbursed until the award document signed by the recipient is received by DOE.

(b) In the event a recipient declines an award, DOE shall deobligate the

Department of Energy

§ 600.22

funds obligated by the award after providing the applicant with at least two weeks written notice of DOE's intention to deobligate.

(c) After the recipient acknowledges the award, the terms and conditions of the award may be amended only upon the written request or with the written concurrence of the recipient unless the amendment is one which DOE may make unilaterally in accordance with a program rule or this part

§ 600.19 Notification to unsuccessful applicants.

DOE shall promptly notify in writing each applicant whose application has not been selected for award or whose application cannot be funded because of the unavailability of appropriated funds. If the application was not selected, the written notice shall briefly explain why the application was not selected and, if for grounds other than unavailability of funds, shall offer the unsuccessful applicant the opportunity for a more detailed explanation upon request

§ 600.20 Maximum DOE obligation.

(a) The maximum DOE obligation to the recipient is—

(1) For monetary awards, the amount shown in the award as the amount of DOE funds obligated, and

(2) Any designated property.

(b) DOE shall not be obligated to make any additional, supplemental, continuation, renewal, or other award for the same or any other purpose.

§ 600.21 Access to records.

(a) In addition to recipient and subrecipient responsibilities relative to access to records specified in §§ 600.153 and 600.242, for any negotiated contract or subcontract in excess of \$10,000 under a grant or cooperative agreement, DOE the Comptroller General of the United States, the recipient and the subrecipient (if the contract was awarded under a financial assistance subaward), or any of their authorized representatives shall have the right of access to any books, documents, papers, or other records of the contractor or subcontractor which are pertinent to that contract or subcontract, in

order to make audit, examination, excerpts, and copies.

(b) The right of access may be exercised for as long as the applicable records are retained by the recipient, subrecipient, contractor, or subcontractor.

§ 600.22 Disputes and appeals.

(a) *Informal dispute resolution.* Whenever practicable, DOE shall attempt to resolve informally any dispute over the award or administration of financial assistance. Informal resolution, including resolution through an alternative dispute resolution mechanism, shall be preferred over formal procedures available in 10 CFR Part 1024 to the extent practicable

(b) *Alternative dispute resolution (ADR).* Before issuing a final determination in any dispute in which informal resolution has not been achieved, the Contracting Officer shall suggest that the other party consider the use of voluntary consensual methods of dispute resolution, such as mediation. The DOE dispute resolution specialist is available to provide assistance for such disputes, as are trained mediators of other federal agencies. ADR may be used at any stage of a dispute.

(c) *Final determination.* Whenever a dispute is not resolved informally or through an alternative dispute resolution process, DOE shall mail (by certified mail) a brief written determination signed by a Contracting Officer, setting forth DOE's final disposition of such dispute. Such determination shall contain the following information:

(1) A summary of the dispute, including a statement of the issues and of the positions taken by the Department and the party or parties to the dispute; and

(2) The factual, legal and, if appropriate, policy reasons for DOE's disposition of the dispute.

(d) *Right of appeal.* (1) Except as provided in paragraph (f)(1) of this section the final determination under paragraph (c) of this section may be appealed to the Financial Assistance Appeals Board (the Board) in accordance with the procedures set forth in 10 CFR part 1024.

(2) If the final determination under paragraph (c) of this section involves a

dispute over which the Board has jurisdiction as provided in paragraph (f)(2) of this section, the Contracting Officer's determination shall state that, with respect to such dispute, the determination shall be the final decision of the Department unless, within 60 days, a written notice of appeal is filed.

(3) If the final determination under paragraph (c) of this section involves a dispute over which the Board has no jurisdiction as provided in paragraph (f)(1) of this section, the Contracting Officer's determination shall state that, effective immediately or on a later date specified therein, the determination shall, with respect to such dispute, be the final decision of the Department.

(e) *Effect of appeal.* The filing of an appeal with the Board shall not stay any determination or action taken by DOE which is the subject of the appeal. Consistent with its obligation to protect the interests of the Federal Government, DOE may take such authorized actions as may be necessary to preserve the status quo pending decision by the Board, or to preserve its ability to provide relief in the event the Board decides in favor of the appellant.

(f) *Review on appeal.* (1) The Board shall have no jurisdiction to review:

(i) Any preaward dispute (except as provided in paragraph (f)(2)(ii) of this section) including use of any special restrictive condition pursuant to §§ 600.114 or 600.212;

(ii) DOE denial of a request for a deviation under §§ 600.4, 600.103, or 600.205 of this part;

(iii) DOE denial of a request for a budget revision or other change in the approved project under §§ 600.125, 600.127, 600.222, or 600.230 of this part or under another term or condition of the award;

(iv) Any DOE action authorized under §§ 600.162(a) (1), (2), (3) or (5); or §§ 600.243 (a)(1), (a)(3) for suspensions only; or § 600.162(a)(4) or § 600.243(a)(4) for actions disapproving renewal applications or other requests for extension of time or additional funding for the same project when related to recipient noncompliance, or such actions authorized by program rule;

(v) Any DOE decision about an action requiring prior DOE approval under § 600.144, or § 600.236 of this part or under another term or condition of the award;

(vi) A DOE decision not to make a continuation award, which decision is based on the insufficiency of available appropriations;

(vii) Any matter which is under the jurisdiction of the Patent Compensation Board (10 CFR 780.3);

(viii) Any matter which may be heard by the Invention Licensing Appeals Board (10 CFR 781.65 and 781.66); and

(ix) Any other dispute not described in paragraph (f)(2) of this section.

(2) In addition to any right of appeal established by program rule, or by the terms and conditions (not inconsistent with paragraph (f)(1) of this section) of an award the Board shall have jurisdiction to review:

(i) A DOE determination that the recipient has failed to comply with the applicable requirements of this part, the program statute or rules, or other terms and conditions of the award;

(ii) A DOE decision not to make a continuation award based on any of the determinations described in paragraph (f)(2)(i) of this section;

(iii) Termination of an award for cause, in whole or in part, by DOE;

(iv) A DOE determination that an award is void or invalid;

(v) The application by DOE of an indirect cost rate; and

(vi) DOE disallowance of costs.

(3) In reviewing disputes authorized under paragraph (f)(2) of this section, the Board shall be bound by the applicable law, statutes, and rules, including the requirements of this part, and by the terms and conditions of the award.

(4) The decision of the Board shall be the final decision of the Department

§ 600.23 Debarment and suspension.

Applicants recipients, subrecipients, and contractors under financial assistance awards may be debarred and suspended for the causes and in accordance with the procedures set forth in 2 CFR part 901

[61 FR 7166, Feb. 26, 1996, as amended at 70 FR 69254, Nov. 15, 2005; 71 FR 70460, Dec. 5, 2006]

Department of Energy

§ 600.25

§ 600.24 Noncompliance.

(a) Except for noncompliance with nondiscrimination requirements under 10 CFR part 1040, whenever DOE determines that a recipient has not complied with the applicable requirements of this part, with the requirements of any applicable program statute or rule, or with any other term or condition of the award, a DOE Contracting Officer shall provide to the recipient (by certified mail, return receipt requested) a written notice setting forth:

(1) The factual and legal bases for the determination of noncompliance;

(2) The corrective actions and the date (not less than 30 days after the date of the notice) by which they must be taken.

(3) Which of the actions authorized under §§ 600.122(n), 600.162(a) or § 600.243(a) of this part DOE may take if the recipient does not achieve compliance within the time specified in the notice, or does not provide satisfactory assurances that actions have been initiated which will achieve compliance in a timely manner.

(b) DOE may take any of the actions set forth in § 600.122(n), § 600.162(a), or § 600.243(a) of this part concurrent with the written notice required under paragraph (a) of this section or with less than 30 days written notice to the recipient whenever:

(1) There is evidence the award was obtained by fraud;

(2) The recipient ceases to exist or becomes legally incapable of performing its responsibilities under the financial assistance award; or

(3) There is a serious mismanagement or misuse of financial assistance award funds necessitating immediate action.

[61 FR 7166, Feb. 26, 1996, as amended at 64 FR 56420, Oct. 20, 1999]

§ 600.25 Suspension and termination.

(a) *Suspension and termination for cause.* DOE may suspend or terminate an award for cause on the basis of:

(1) A noncompliance determination under §§ 600.24, 600.122(n), 600.162(a), or § 600.243(a); or

(2) An suspension or debarment of the awardee under § 600.23.

(b) *Notification requirements.* Except as provided in § 600.24, 600.162(a), or

§ 600.243(a) before suspending or terminating an award for cause, DOE shall mail to the awardee (by certified mail, return receipt requested) a separate written notice in addition to that required by §§ 600.24(a), 600.162(a), or § 600.243(a) at least ten days prior to the effective date of the suspension or termination. Such notice shall include, as appropriate:

(1) The factual and legal bases for the suspension or termination;

(2) The effective date or dates of the DOE action;

(3) If the action does not apply to the entire award, a description of the activities affected by the action;

(4) Instructions concerning which costs shall be allowable during the period of suspension, or instructions concerning allowable termination costs, including in either case, instructions concerning any subgrants or contracts;

(5) Instructions concerning required final reports and other closeout actions for terminated awards (see §§ 600.170 through 600.173 and §§ 600.250 through 600.252);

(6) A statement of the awardee's right to appeal a termination for cause pursuant to § 600.22; and

(7) The dated signature of a DOE Contracting Officer.

(c) *Suspension.* (1) Unless DOE and the awardee agree otherwise, no period of suspension shall exceed 90 days.

(2) DOE may cancel the suspension at any time, up to and including the date of expiration of the period of suspension, if the awardee takes satisfactory corrective action before the expiration date of the suspension or gives DOE satisfactory evidence that such corrective action will be taken.

(3) If the suspension has not been cancelled by the expiration date of the period of suspension, the awardee shall resume the suspended activities or project unless, prior to the expiration date, DOE notifies the awardee in writing that the period of suspension shall be extended consistent with paragraph (c)(1) of this section or that the award shall be terminated.

(4) As of the effective date of the suspension, DOE shall withhold further payments and shall allow new obligations incurred by the awardee during the period of suspension only if such

costs were authorized in the notice of suspension or in a subsequent letter.

(5) If the suspension is cancelled or expires and the award is not terminated, DOE shall reimburse the awardee for any authorized allowable costs incurred during the suspension and, if necessary, may amend the award to extend the period of performance.

(d) *Termination by mutual agreement.* In addition to any situation where a termination for cause pursuant to §§ 600.24, 600.160 through 600.162 or §§ 600.243 through 600.244 is appropriate, either DOE or the awardee may initiate a termination of an award (or portion thereof) as described in this paragraph. If the awardee initiates a termination, the awardee must notify DOE in writing and specify the awardee's reasons for requesting the termination, the proposed effective date of the termination, and, in the case of a partial termination, a description of the activities to be terminated, and an appropriate budget revision. DOE shall terminate an award or portion thereof under this paragraph only if both parties agree to the termination and the conditions under which it shall occur. If DOE determines that the remaining activities under a partially terminated award would not accomplish the purpose for which the award was originally awarded, DOE may terminate the entire award.

(e) *Effect of termination.* The awardee shall incur no new obligations after the effective date of the termination of an award (or portion thereof), and shall cancel as many outstanding obligations as possible. DOE shall allow full credit to the awardee for the DOE share of noncancellable obligations properly incurred by the awardee prior to the effective date of the termination.

(f) *Subgrants.* Awardees shall follow the policies and procedures in this section and in §§ 600.24, 600.160 through 600.162 or §§ 600.243 through 600.244 for suspending and terminating subgrants.

§ 600.26 Funding.

(a) *General.* The project period during which DOE expects to provide award support for an approved project shall be specified in the award document.

(b) *Budget period and continuation awards.* If the project period is 12 months or less, the budget period and the project period shall be coextensive. Multiyear awards, including formula awards, shall generally be funded annually within the approved project period. Funding for each budget period within the project period shall be contingent on DOE approval of a continuation application submitted in accordance with a schedule specified by DOE. A continuation application shall include:

(1) A statement of technical progress or status of the project to date;

(2) A detailed description of the awardee's plans for the conduct of the project during the coming year; and

(3) A detailed budget for the upcoming budget period, including an estimate of unobligated balances. A detailed budget need not be submitted if the new or renewal application contained future-year budgets sufficiently detailed to allow DOE to review and approve the categories and elements of cost. Should the award have a change in scope or significant change in the budget, DOE may request a detailed budget.

(4) DOE shall review a continuation application for the adequacy of the awardee's progress and planned conduct of the project in the subsequent budget period. DOE shall not require a continuation application to compete against any other application. The amount and award of continuation funding is subject to the availability of appropriations.

(c) *Renewal awards.* Discretionary renewal awards may be made either on the basis of a solicitation or on a non-competitive basis. If DOE proposes to restrict eligibility for a discretionary renewal award to the incumbent grantee, the noncompetitive award must be justified in accordance with § 600.6(b)(2). Renewal applications must be submitted no later than 6 months prior to the scheduled expiration of the project period unless a program rule or other published instruction establishes a different application deadline.

(d) *Extensions.* Unless otherwise specified in the award terms and conditions, recipients of financial assistance awards, except recipients of SBIR

Department of Energy

§ 600.30

awards (See § 600.181), may extend the expiration date of the final budget period of the project (thereby extending the project period) if additional time beyond the established expiration date is needed to assure adequate completion of the original scope of work within the funds already made available. A single extension, which shall not exceed twelve (12) months, may be made for this purpose, and must be made prior to the originally established expiration date. The recipient must notify the cognizant DOE Contracting Officer in the awarding office in writing within ten (10) days of making the extension.

[61 FR 7166, Feb. 26, 1996, as amended at 70 FR 69254 Nov. 15, 2005]

§ 600.27 [Reserved]

§ 600.28 Restrictions on lobbying.

Procedures regarding restrictions on lobbying activities of applicants and recipients are contained in 10 CFR 601.110

§ 600.29 Fixed obligation awards.

(a) *General.* This section contains provisions applicable to the award of financial assistance instruments on a fixed amount basis. Under a fixed obligation award, funds are issued in support of a project without a requirement for Federal monitoring of actual costs subsequently incurred.

(b) *Provisions applicable to fixed obligation awards.* Financial assistance awards may be made on a fixed obligation basis subject to the following requirements:

(1) Each fixed obligation award may neither exceed \$100,000 nor exceed one year in length.

(2) Programs which require mandatory cost sharing are not eligible.

(3) Proposed costs must be analyzed in detail to ensure consistency with applicable cost principles.

(4) Budget categories are not stipulated in making an award. However, budgets are submitted by an applicant and reviewed for purposes of establishing the amount to be awarded.

(5) Payments must be made in the same manner as other financial assistance awards, except that when determined appropriate by the cognizant

program official and contracting officer a lump sum payment may be made.

(6) Recipients must certify in writing to the contracting officer at the end of the project that the activity was completed or the level of effort was expended, however should the activity or effort not be carried out, the recipient would be expected to make appropriate reimbursements.

(7) Periodic reports may be established for each award so long as they are not more frequently than quarterly.

(8) Changes in principal investigator or project leader, scope of effort, or institution, must receive the prior approval of the Department.

§ 600.30 Cost sharing.

In addition to the requirements of § 600.123 or § 600.224, the following requirements apply to research, development, and demonstration projects:

(a) When DOE awards financial assistance for research, development, and demonstration projects where the primary purpose of the project is the ultimate commercialization and utilization of technology by the private sector and when there are reasonable expectations that the recipient will receive significant present or future economic benefits beyond the instant award as a result of the performance of the project, cost sharing shall be required. Unless the cost sharing is required by statute, a waiver of the requirement on a single-case or class basis may be approved by the cognizant Program Assistant Secretary or designee.

(b) Except as provided in section 3002 of the Energy Policy Act of 1992, 42 U.S.C. 13542, or program rule, DOE will decide, on a case-by-case basis, the amount of cost sharing required for a particular project.

(c) Factors in addition to those specified in § 600.123 or § 600.224, which may be considered when negotiating cost sharing for research, development, and demonstration projects include the potential benefits to a recipient resulting from the project and the length of time before a project is likely to be commercially successful.

§ 600.31 Research misconduct.

(a) A recipient is responsible for maintaining the integrity of research of any kind under an award from DOE including the prevention, detection, and remediation of research misconduct, and the conduct of inquiries, investigations, and adjudication of allegations of research misconduct in accordance with the requirements of this section.

(b) For purposes of this section, the following definitions are applicable:

Adjudication means a formal review of a record of investigation of alleged research misconduct to determine whether and what corrective actions and sanctions should be taken.

Fabrication means making up data or results and recording or reporting them.

Falsification means manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.

Finding of Research Misconduct means a determination, based on a preponderance of the evidence, that research misconduct has occurred. Such a finding requires a conclusion that there has been a significant departure from accepted practices of the relevant research community and that it be knowingly intentionally, or recklessly committed.

Inquiry means information gathering and initial fact-finding to determine whether an allegation or apparent instance of misconduct warrants an investigation.

Investigation means the formal examination and evaluation of the relevant facts.

Plagiarism means the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

Research means all basic, applied, and demonstration research in all fields of science, medicine, engineering, and mathematics, including, but not limited to, research in economics, education, linguistics, medicine, psychology, social sciences statistics, and research involving human subjects or animals.

Research misconduct means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results, but does not include honest error or differences of opinion.

Research record means the record of all data or results that embody the facts resulting from scientists' inquiries, including, but not limited to, research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, internal reports, and journal articles.

(c) Unless otherwise instructed by the contracting officer, the recipient must conduct an initial inquiry into any allegation of research misconduct. If the recipient determines that there is sufficient evidence to proceed to an investigation, it must notify the contracting officer and, unless otherwise instructed, the recipient must:

(1) Conduct an investigation to develop a complete factual record and an examination of such record leading to either a finding of research misconduct and an identification of appropriate remedies or a determination that no further action is warranted;

(2) Inform the contracting officer if an initial inquiry supports an investigation and, if requested by the contracting officer thereafter, keep the contracting officer informed of the results of the investigation and any subsequent adjudication. When an investigation is complete, the recipient will forward to the contracting officer a copy of the evidentiary record, the investigative report, any recommendations made to the recipient's adjudicating official, and the adjudicating official's decision and notification of any corrective action taken or planned, and the subject's written response to the recommendations (if any).

(3) If the investigation leads to a finding of research misconduct, conduct an adjudication by a responsible official who was not involved in the inquiry or investigation and is separated organizationally from the element which conducted the investigation. The adjudication must include a review of the investigative record and, as warranted, a determination of appropriate corrective actions and sanctions.

(d) The Department may elect to act in lieu of the recipient in conducting an inquiry or investigation into an allegation of research misconduct if the contracting officer finds that:

(1) The research organization is not prepared to handle the allegation in a manner consistent with this section;

(2) The allegation involves an entity of sufficiently small size that it cannot reasonably conduct the inquiry;

(3) DOE involvement is necessary to ensure the public health, safety, and security, or to prevent harm to the public interest; or,

(4) The allegation involves possible criminal misconduct.

(e) DOE reserves the right to pursue such remedies and other actions as it deems appropriate, consistent with the terms and conditions of the award instrument and applicable laws and regulations. However, the recipient's good faith administration of this section and the effectiveness of its remedial actions and sanctions shall be positive considerations and shall be taken into account as mitigating factors in assessing the need for such actions. If DOE pursues any such action, it will inform the subject of the action of the outcome and any applicable appeal procedures.

(f) In conducting the activities in paragraph (c) of this section, the recipient and the Department, if it elects to conduct the inquiry or investigation, shall adhere to the following guidelines:

(1) *Safeguards for information and subjects of allegations.* The recipient shall provide safeguards to ensure that individuals may bring allegations of research misconduct made in good faith to the attention of the recipient without suffering retribution. Safeguards include: protection against retaliation; fair and objective procedures for examining and resolving allegations; and diligence in protecting positions and reputations. The recipient shall also provide the subjects of allegations confidence that their rights are protected and that the mere filing of an allegation of research misconduct will not result in an adverse action. Safeguards include timely written notice regarding substantive allegations against them, a description of the allegation

and reasonable access to any evidence submitted to support the allegation or developed in response to an allegation and notice of any findings of research misconduct.

(2) *Objectivity and expertise.* The recipient shall select individual(s) to inquire, investigate, and adjudicate allegations of research misconduct who have appropriate expertise and have no unresolved conflict of interest. The individual(s) who conducts an adjudication must not be the same individual(s) who conducted the inquiry or investigation, and must be separate organizationally from the element that conducted the inquiry or investigation.

(3) *Timeliness.* The recipient shall coordinate, inquire, investigate and adjudicate allegations of research misconduct promptly, but thoroughly. Generally, an investigation should be completed within 120 days of initiation, and adjudication should be complete within 60 days of receipt of the record of investigation.

(4) *Confidentiality.* To the extent possible, consistent with fair and thorough processing of allegations of research misconduct and applicable law and regulation, knowledge about the identity of the subjects of allegations and informants should be limited to those with a need to know.

(5) *Remediation and sanction.* If the recipient finds that research misconduct has occurred, it shall assess the seriousness of the misconduct and its impact on the research completed or in process. The recipient must take all necessary corrective actions. Such action may include but are not limited to, correcting the research record and as appropriate imposing restrictions, controls, or other parameters on research in process or to be conducted in the future. The recipient must coordinate remedial actions with the contracting officer. The recipient must also consider whether personnel sanctions are appropriate. Any such sanction must be consistent with any applicable personnel laws, policies, and procedures, and must take into account the seriousness of the misconduct and its impact, whether it was done knowingly or intentionally, and whether it was an isolated event or pattern of conduct.

(g) By executing this agreement, the recipient provides its assurance that it has established an administrative process for performing an inquiry, mediating if possible, investigating, and reporting allegations of research misconduct; and that it will comply with its own administrative process and the requirements and definitions of 10 CFR part 733 for performing an inquiry, possible mediation, investigation and reporting of allegations of research misconduct.

(h) The recipient must insert or have inserted the substance of this section, including paragraph (g), in subawards at all tiers that involve research

[70 FR 37013 June 28 2005]

Subpart B—Uniform Administrative Requirements for Grants and Cooperative Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations

SOURCE: 59 FR 53266 Oct. 21 1994 unless otherwise noted

GENERAL

§ 600.100 Purpose.

This subpart implements OMB Circular A-110 and establishes uniform administrative requirements for grants and agreements awarded to institutions of higher education, hospitals, and other non-profit organizations. It also establishes rules governing subawards to institutions of higher education, hospitals, and non-profit organizations (including grants and cooperative agreements administered by State, local and Indian Tribal governments)

[59 FR 53266, Oct 21, 1994 as amended at 68 FR 50650 Aug 21 2003]

§ 600.101 Definitions.

Accrued expenditures means the charges incurred by the recipient during a given period requiring the provision of funds for:

(1) Goods and other tangible property received;

(2) Services performed by employees, contractors subrecipients, and other payees; and

(3) Other amounts becoming owed under programs for which no current services or performance is required

Accrued income means the sum of:

(1) Earnings during a given period from services performed by the recipient, and goods and other tangible property delivered to purchasers, and

(2) Amounts becoming owed to the recipient for which no current services or performance is required by the recipient

Acquisition cost of equipment means the net invoice price of the equipment, including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges, such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the recipient's regular accounting practices

Advance means a payment made by Treasury check or other appropriate payment mechanism to a recipient upon its request either before outlays are made by the recipient or through the use of predetermined payment schedules

Award means financial assistance that provides support or stimulation to accomplish a public purpose. Awards include grants and other agreements in the form of money or property in lieu of money, by DOE to an eligible recipient. The term does not include: technical assistance, which provides services instead of money; other assistance in the form of loans, loan guarantees, interest subsidies, or insurance; direct payments of any kind to individuals; and, contracts which are required to be entered into and administered under procurement laws and regulations

Cash contributions means the recipient's cash outlay, including the outlay of money contributed to the recipient by third parties.

Closeout means the process by which DOE determines that all applicable administrative actions and all required work of the award have been completed by the recipient and DOE.

Contract means a procurement contract under an award or subaward, and

a procurement subcontract under a recipient's or subrecipient's contract.

Cost sharing or matching means that portion of project or program costs not borne by DOE.

Date of completion means the date on which all work under an award is completed or the date on the award document, or any supplement or amendment thereto, on which DOE sponsorship ends.

Disallowed costs means those charges to an award that the DOE determines to be unallowable, in accordance with the applicable Federal cost principles or other terms and conditions contained in the award.

Equipment means tangible nonexpendable personal property including exempt property charged directly to the award having a useful life of more than one year and an acquisition cost of \$5000 or more per unit. However, consistent with recipient policy, lower limits may be established.

Excess property means property under the control of any Federal awarding agency that, as determined by the head thereof, is no longer required for its needs or the discharge of its responsibilities.

Exempt property means tangible personal property acquired in whole or in part with Federal funds, where the Federal awarding agency has statutory authority to vest title in the recipient without further obligation to the Federal Government. An example of exempt property authority is contained in the Federal Grant and Cooperative Agreement Act (31 U.S.C. 6306), for property acquired under an award to conduct basic or applied research by a non-profit institution of higher education or non-profit organization whose principal purpose is conducting scientific research.

Federal awarding agency means the Federal agency that provides an award to the recipient

Federal funds authorized means the total amount of Federal funds obligated by the Federal Government for use by the recipient. This amount may include any authorized carryover of unobligated funds from prior funding periods when permitted by agency regulations or agency implementing instructions.

Federal share of real property, equipment, or supplies means that percentage of the property's acquisition costs and any improvement expenditures paid with Federal funds

Funding period or budget period means the period of time when DOE funding is available for obligation by the recipient.

Intangible property and debt instruments means, but is not limited to, trademarks, copyrights, patents and patent applications and such property as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership, whether considered tangible or intangible.

Obligations means the amounts of orders placed, contracts and grants awarded, services received and similar transactions during a given period that require payment by the recipient during the same or a future period

Outlays or expenditures means charges made to the project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of indirect expense charged, the value of third party in-kind contributions applied and the amount of cash advances and payments made to subrecipients. For reports prepared on an accrual basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received, for services performed by employees, contractors, subrecipients and other payees and other amounts becoming owed under programs for which no current services or performance are required.

Personal property means property of any kind except real property. It may be tangible, having physical existence, or intangible, having no physical existence, such as copyrights, patents, or securities.

Prior approval means written approval by a contracting officer evidencing prior consent