SUBCHAPTER H—ASSISTANCE REGULATIONS

PART 600—FINANCIAL ASSISTANCE RULES

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§ 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 policies and procedures applicable to the award and administration of grants and cooperative agreements.

§ 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.
§ 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 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.

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 “non-profit organization” at 48 CFR 27.301 shall apply to the use of the patent clause at Section 600.27).

Objective merit review means a thorough, consistent and independent examination of applications based on pre-established criteria by persons knowledgeable in the field of endeavor for which support is requested.

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...
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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.

§ 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 or the patent requirements of §600.27 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.

(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. Any proposed single-case deviation from the requirements of §600.27 concerning patents or data shall be referred to the DOE Patent Counsel for review and concurrence prior to submission to the HCA.

(ii) A class deviation may be authorized by the Deputy Assistant Secretary for Procurement and Assistance Management or designee. Any proposed class deviation from the requirements of §600.27 concerning patents or data shall be forwarded through the Assistant General Counsel for Technology Transfer and Intellectual Property 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 Deputy Assistant Secretary for 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.

§ 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. 6301-6306. 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 or cooperative 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 activity successfully, based upon unique equipment, proprietary data, technical expertise, or other such unique qualifications.
§ 600.8 Solicitation.

(a) General. A solicitation for financial assistance applications shall be in the form of a program rule or other publicly available document which invites the submission of applications by a common due date or within a prescribed period of time.

(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 shall publish either a copy or a notice of the availability of a financial assistance solicitation in the Federal Register. DOE shall publish solicitations or notices in the Commerce Business Daily when potential applicants include for-profit organizations or when there is the potential for significant contracting opportunities under the resulting financial assistance awards.
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.

Contents of solicitation. Each solicitation shall provide information as may be necessary to allow potential applicants to decide whether to submit an application, to understand how applications will be evaluated, and to know what the obligations of a recipient would be. At a minimum, each solicitation must include:

1. A control number assigned by the issuing DOE office;
2. The amount of money available for award and, if appropriate, the expected size of individual awards broken down by areas of priority or emphasis, and the expected number of awards;
3. The type of award instrument or instruments to be used;
4. The Catalog of Federal Domestic Assistance number for the program;
5. Who is eligible to apply;
6. The expected duration of DOE support or the period of performance;
7. An application form or the format to be used, location for application submission, and number of copies required;
8. The name of the responsible DOE Contracting Officer (or, for program notices or solicitations issued by the program office, the program office contact) to contact for additional information, and, as appropriate, an address where application forms may be obtained;
9. Whether loans are available under the DOE Minority Economic Impact (MEI) loan program, 10 CFR part 800, to finance the cost of preparing a financial assistance application, and, if MEI loans are available, a general description of the eligibility requirements for such a loan, a reference to Catalog of Federal Domestic Assistance Number 81.063, and the name and address of the DOE office from which additional information and loan application forms can be obtained;
10. Appropriate periods or due dates for submission of applications and a statement describing the consequences of late submission. If programs have established a series of due dates to allow for the comparison of applications against each other, these dates shall be indicated in the solicitation;
11. The types of projects or activities eligible for support;
12. Evaluation criteria and the weight or relative importance of each, which may include one or more of the following or other criteria, as appropriate:
   a. Qualifications of the applicant’s personnel who will be working on the project;
   b. Adequacy of the applicant’s facilities and resources;
   c. Cost-effectiveness of the project;
   d. Adequacy of the project plan or methodology;
   e. Management capability of the applicant;
   f. Sources of financing available to the project. Any requirement concerning cost sharing shall be clearly stated (See also § 600.30, Cost Sharing). Cost sharing is generally encouraged. However, unless cost sharing is required by the solicitation, it shall not be considered in the evaluation process and shall be considered only at the time the award is negotiated.
   g. Relationship of the proposed project to the objectives of the solicitation;
13. A listing of program policy factors, if any, indicating the relative importance of each, if appropriate. Examples of program policy factors are:
   a. Geographic distribution;
   b. Diverse types and sizes of applicant entities;
   c. A diversity of methods, approaches, or kinds of work; and
   d. Projects which are complementary to other DOE programs or projects;
14. References to or copies of:
   a. Statutory authority for the program;
   b. Applicable rules, including the appropriate subparts of this part;
   c. Other terms and conditions applicable to awards to be made under the solicitation, including allowable and unallowable costs and reporting requirements;
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§ 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 or in the format and in the number of copies specified in a program rule, in the solicitation, or in these regulations. (See also §§ 600.112 and 600.210.) For unsolicited applications, a guide for preparation and submission is available from Field/Headquarters Support Division, Office of Procurement and Assistance Management, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

(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;

(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.

§ 600.9 Notice of program interest.

(a) General. (1) DOE may publish periodic Notices of Program Interest in the Federal Register and other media, as appropriate, which describes broad, general, technical problems and areas of investigation for which DOE may award grants or cooperative agreements.

(2) DOE shall evaluate any application submitted under a Notice of Program Interest as an unsolicited application.

(b) Contents. The notice shall include:

(1) A brief description of the areas of interest for which DOE may provide financial assistance;

(2) A statement about how resulting applications will be evaluated and the criteria for selection and funding; (3) An expiration date with an explanation that such a date does not represent a common deadline for applications but rather that applications may be submitted at any time before the notice expires; and

(4) The location for application submission.
§ 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,


§ 600.13 Objective merit review.

(a) General. (1) It is the policy of DOE that any financial assistance be awarded through a merit-based selection process. Objective merit review means a thorough, consistent and independent examination of applications based on pre-established criteria by persons knowledgeable in the field of endeavor for which support is requested.

(2) Each program office must establish an objective merit review system covering the financial assistance programs it administers. Objective 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. It is expected that the cognizant project/program officer(s) who will select or be in the direct chain of supervision recommending selection or rejection of applications will not be a part of the objective review group. The objective merit review system must set forth the relationship between the reviewing individuals, or the review committees or groups, program/project management involved with directly advising the selection official with respect to program/project policy considerations and the selection official who has the final decision-making authority. In defining this relationship, the system must set out, as a minimum, the decision-making and documentation processes to be followed by the selection official in accepting or rejecting objective merit review recommendations.

(b) Each formal review system must contain the following elements:

(1) Basic review standards. Applications should undergo an initial review for conformance with technical and administrative requirements stated in the notice or solicitation and for funding availability. For applications which pass the initial review, the DOE evaluation shall be in accordance with stated evaluation criteria set forth in the applicable program rule or notice, solicitation, or, where appropriate, the unsolicited proposal criteria in §600.6(c)(7).

(2) Applications which have successfully completed an initial review are normally subjected to an objective merit review by a group comprised of three or more professionally and technically qualified persons. This advisory
§ 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 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 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).
§ 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 or cooperative 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) or 600.230 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.

§ 600.17 Contents of award.

Each financial assistance award 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 rights, duties, obligation, and responsibilities of DOE and the recipient, consistent with the requirements of this part.

§ 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 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)(1) 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)(2) 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...
§ 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 10 CFR part 1036.

§ 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 §§600.121(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.
§ 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 a 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.
§ 600.26 Funding.

(a) General. The project period during which DOE expects to provide award support for an approved project shall be specified on the Notice of Financial Assistance Award (DOE Form 4600.1).

(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 form 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 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.

§ 600.27 Patent and data provisions.

(a) General. Financial assistance shall be awarded and administered by DOE in compliance with the patent and data provisions of this section (See also §§600.136 and 600.234.) To the extent not otherwise provided in this part, the policies, procedures and clauses referenced for contracts in 48 CFR part 927 and 41 CFR part 9-9 shall normally be applicable to the award and administration of Departmental grants and cooperative agreements. Copies of 41 CFR part 9-9 are available by contacting the DOE Patent Counsel.

(b) Required clauses. In all solicitations and awards both for the support of research, development, and demonstration and for other efforts, the DOE Contracting Officer shall consult the DOE Patent Counsel for applicable patent and data clauses from those listed below and/or for modifications thereto. In reading each 48 CFR part 27 and 48 CFR part 952 patent and data clause selected for inclusion in a solicitation or award, the term “contract” when referring to a prime contract shall be read as “award.” The term “contractor” shall be read as referring
to the “awardee.” The term “subcontract” shall be read as “subaward or a procurement contract under an award or subaward and/or a procurement subcontract under an awardee’s or subawardee’s contract.” The term “Acquisition” with respect to the Long Form Patent Rights Clause shall be read as “Retention.” The terms “offerors” and “quoters” shall be read as “applicants,” and “proposal” and “quotation” shall be read as “application.”

(1) Patent clauses—(i) (Short Form Patent Clause). Incorporate the clause at 48 CFR 952.227-11 for awards to a domestic small business firm or nonprofit organization as defined at 48 CFR 27.301. In accordance with 35 U.S.C. 202(a)(ii), the DOE may issue an exceptional circumstances determination. To implement any exceptional circumstances determination, DOE will modify 48 CFR 952.227-11 to retain greater rights in subject inventions. Such modifications will be only to the extent necessary to implement the exceptional circumstances determination.

(ii) (Long Form Patent Clause). For awards to a large business firm or other organization, other than a domestic small business firm or nonprofit organization as set forth in 48 CFR 27.301, incorporate the clause at 48 CFR 952.227-13.

(iii) The notice of Right to Request Patent Waiver at 48 CFR 952.227-84 shall also be inserted in all solicitations to advise applicants of their rights to request in advance of, or within 30 days after the award is signed, a waiver of all or any part of the rights of the United States with respect to subject inventions. For unsolicited applications, DOE shall provide this notice to the applicant prior to award.

(2) Data clauses (includes copyright provisions)—(i) Rights in data—General. (A) Incorporate 48 CFR 52.227-14 with its Alternate V and with the definitional paragraph (a) and paragraph (d)(3) of 48 CFR 927.409(a)(1). Solicitations shall also include the Representation of Limited Rights Data and Restricted Computer Software provision at 48 CFR 52.227-15. Contracting officers shall treat rights in data matters in accordance with 48 CFR 927.4.

(B) In awards for grants and cooperative agreements with institutions of higher education, hospitals, and other non-profit organizations, the clause referred to in paragraph (b)(2)(ii)(A) of this section shall be revised by deleting paragraph (d)(3) and inserting the following paragraph (c) in lieu of paragraphs (c) of that clause: the following paragraph (c) will be used in lieu of the provisions in 48 CFR 52.227-14(c):

(c) Copyright. (1) Data first produced in the performance of the award. Except as otherwise specifically provided in this award, the recipient may establish claim to copyright subsisting in any data first produced in the performance of this award. When claim to copyright is made, the Recipient shall affix the applicable copyright notice of 17 U.S.C. 401 or 402 and acknowledgement of Government sponsorship (including award number) to the data when such data are delivered to the Government, as well as when the data are published or deposited for registration as a published work in the U.S. Copyright Office. The recipient grants to the Government 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. The right to publish includes the right to publicly distribute. The right to use the work for Federal purposes includes the right to prepare derivative works.

(C) If programmatic needs on a particular award require the delivery to the Government of limited rights data or restricted computer software, Alternates II or III of 48 CFR 52.227-14 shall also be added.

(ii) Restriction on disclosure and use of data. Insert the Notice at § 600.15(b)(1) in all solicitations.

(iii) Rights to application data. As discussed at § 600.15(b)(5), incorporate 48 CFR 52.227-23.

(iv) Additional data requirements. Incorporate 48 CFR 52.227-16. In the event all technical data requirements are known in advance of and are set forth in the agreement or, the award is for the performance of basic or applied research and is to be performed solely by a university or college as discussed in 48 CFR 27.406(b). 48 CFR 52.227-16 does not need to be incorporated.

(3) Authorization and consent. Incorporate 48 CFR 52.227-1 or Alternates I or II, as appropriate, in accordance with the guidelines in 48 CFR 927.201-1 and 48 CFR 27.201.
§ 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 where 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 designate.

(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.

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

Source: 59 FR 53266, Oct. 21, 1994, unless otherwise noted.
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.

Program income means gross income earned by the recipient that is directly generated by a supported activity or earned as a result of the award (see exclusions in §600.124(e) and (h)). Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under federally-funded projects, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights, and interest on loans made with award funds. Interest earned on advances of DOE funds is not program income. Except as otherwise provided in this subpart, program regulations, or the terms and conditions of the award, program income does not include the receipt of principal on loans, rebates, credits, discounts, etc., or interest earned on any of them.

Project costs means all allowable costs, as set forth in the applicable Federal cost principles, incurred by a recipient and the value of the contributions made by third parties in accomplishing the objectives of the award during the project period.

Project period means the period established in the award document during which DOE sponsorship begins and ends.

Property means, unless otherwise stated, real property, equipment, intangible property and debt instruments.

Real property means land, including land improvements, structures and appurtenances thereto, but excludes movable machinery and equipment.

Recipient means an organization receiving financial assistance directly from DOE to carry out a project or program. The term includes public and private institutions of higher education, public and private hospitals, and other quasi-public and private non-profit organizations such as, but not limited to, community action agencies, research institutes, educational associations, and health centers. The term shall include commercial organizations which are recipients, subrecipients, or contractors or subcontractors of recipients or subrecipients. The term does not include government-owned contractor-operated facilities or research centers providing continued support for mission-oriented, large-scale programs that are government-owned or controlled, or are designated as federally-funded research and development centers.

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. “Research” is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. “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. 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.

Small award means a grant or cooperative agreement not exceeding the small purchase threshold fixed at 41 U.S.C. 403(11) (currently $25,000).
§ 600.102 Effect on other issuances.

For awards subject to this subpart, all administrative requirements of codified program regulations, program manuals, handbooks and other non-regulatory materials which are inconsistent with the requirements of this subpart shall be superseded, except to the extent they are required by statute, or authorized in accordance with the deviations provision in §600.4.

§ 600.103 Deviations.

The deviation provisions of §600.4 apply to this subpart.

§ 600.104 Subawards.

Unless sections of this subpart specifically exclude subrecipients from coverage, all DOE recipients, including State, local and Indian tribal governments, shall apply the provisions of this subpart to subrecipients performing work under awards if such subrecipients are institutions of higher education, hospitals, other non-profit organizations or commercial organizations. Thus, this subpart is applicable to those types of organizations regardless of the type of recipient receiving the primary award. State and local government subrecipients are subject to the provisions of 10 CFR part 600, subpart C, “Uniform Administrative

Subaward means an award of financial assistance in the form of money, or property in lieu of money, made under an award by a recipient to an eligible subrecipient or by a subrecipient to a lower tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include procurement of goods and services nor does it include any form of assistance which is excluded from the definition of “award” above.

Subrecipient means the legal entity to which a subaward is made and which is accountable to the recipient for the use of the funds provided. The term may include foreign or international organizations (such as agencies of the United Nations).

Supplies means all personal property excluding equipment, intangible property, and debt instruments as defined in this section, and inventions of a contractor conceived or first actually reduced to practice in the performance of work under a funding agreement (“subject inventions”), as defined in 37 CFR part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements.”

Suspension means an action by DOE that temporarily withdraws DOE sponsorship under an award, pending corrective action by the recipient or pending a decision to terminate the award by the DOE. Suspension of an award is a separate action from suspension under DOE regulations implementing E.O.’s 12549 and 12689, “Debarment and Suspension” (see 10 CFR part 1036).

Termination means the cancellation of DOE sponsorship, in whole or in part, under an agreement at any time prior to the date of completion.

Third party in-kind contributions means the value of non-cash contributions provided by non-Federal third parties. Third party in-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.

Unliquidated obligations, for financial reports prepared on a cash basis, means the amount of obligations incurred by the recipient that have not been paid. For reports prepared on an accrued expenditure basis, they represent the amount of obligations incurred by the recipient for which an outlay has not been recorded.

Unobligated balance means the portion of the funds authorized by DOE that has not been obligated by the recipient and is determined by deducting the cumulative obligations from the cumulative funds authorized.

Unrecovered indirect cost means the difference between the amount awarded and the amount which could have been awarded under the recipient’s approved negotiated indirect cost rate.

Working capital advance means a procedure whereby funds are advanced to the recipient to cover its estimated disbursement needs for a given initial period.

§ 600.102 Effect on other issuances.

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§ 600.110 Purpose.
Sections 600.111 through 600.117 prescribe forms and instructions and other pre-award matters to be used in applying for DOE awards.

§ 600.111 Pre-award policies.
(a) Use of Grants and Cooperative Agreements, and Contracts. In each instance, the DOE shall decide on the appropriate award instrument (i.e., grant, cooperative agreement, or contract). The Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301-08) governs the use of grants, cooperative agreements and contracts. A grant or cooperative agreement shall be used only when the principal purpose of a transaction is to accomplish a public purpose of support or stimulation authorized by Federal statute. The statutory criterion for choosing between grants and cooperative agreements is that for the latter, “substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement.” Contracts shall be used when the principal purpose is acquisition of property or services for the direct benefit or use of the Federal Government.

(b) Public Notice and Priority Setting. DOE will, whenever practical, notify the public of its intended funding priorities for discretionary grant programs, unless funding priorities are established by Federal statute.

§ 600.112 Forms for applying for Federal assistance.
(a) General. An application for an award shall be on the form or in the format specified in a program rule, in the solicitation, or in these regulations (see § 600.10). When the SF-424 form is not used, DOE shall indicate whether the application is subject to review by the State under E.O. 12372. DOE may also require applicants to complete:

(1) The Notice of Energy RD&D Project (DOE Form 538) if the application is for a research, development, or demonstration project; or

(2) The Federal Assistance Management Summary Report (DOE F 4600.5) or the Federal Assistance Milestone Plan (DOE F 4600.3) as a baseline plan in accordance with the terms and conditions of award if required by program rule or the solicitation. If a solicitation other than a program rule requires the use of one or both of these forms, the solicitation shall contain an explanation of how the information to be provided relates to the objectives of the program.

(b) Budgetary information. DOE may request and the applicant shall submit the minimum budgetary information necessary to evaluate the costs of the proposed project.

(1) Applicants for research awards, other than State, local, or Indian tribal governments, will use DOE budget forms ERF 4620.1 and ERF 4620.1A. All other applicants shall use the budget formats established in the solicitation or program regulations.

(2) DOE may, subsequent to receipt of an application, request additional information from an applicant when necessary for clarification or to make informed preaward determinations.

(c) Continuation and renewal applications. DOE may require that an application for a continuation or renewal award (see § 600.26(b) and (c)) be made in the format or on the forms authorized by paragraphs (a) and (b) of this section.

§ 600.113 Debarment and suspension.
Recipients shall comply with the nonprocurement debarment and suspension common rule implementing E.O.'s 12549 and 12689, “Debarment and Suspension,” 10 CFR part 1036. This common rule restricts subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

§ 600.114 Special award conditions.
(a) If an applicant or recipient has a history of poor performance, is not financially stable, has a management
§ 600.115 Metric system of measurement.

The Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act (15 U.S.C. 205) declares that the metric system is the preferred measurement system for U.S. trade and commerce. The Act requires each Federal agency to establish a date or dates in consultation with the Secretary of Commerce, when the metric system of measurement will be used in the agency's procurements, grants, and other business-related activities. Metric implementation may take longer where the use of the system is initially impractical or likely to cause significant inefficiencies in the accomplishment of federally-funded activities. DOE will follow the provisions of E.O. 12770, “Metric Usage in Federal Government Programs.”


Under the Act (Pub. L. 94-580 codified at 42 U.S.C. 6962), any State agency or agency of a political subdivision of a State which is using appropriated Federal funds must comply with section 6002. Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency (EPA) (40 CFR parts 247-254). Accordingly, State and local institutions of higher education, hospitals, and non-profit organizations that receive direct Federal awards or other Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to the EPA guidelines.

§ 600.117 Certifications and representations.

Unless prohibited by statute or codified regulation, each Federal awarding agency is authorized and encouraged to allow recipients to submit certifications and representations required by statute, executive order, or regulation on an annual basis, if the recipients have ongoing and continuing relationships with the agency. Annual certifications and representations shall be signed by responsible officials with the authority to ensure recipients' compliance with the pertinent requirements.

Post-Award Requirements

Financial and Program Management

§ 600.120 Purpose of financial and program management.

Sections 600.121 through 600.128 prescribe standards for financial management systems, methods for making payments and rules for satisfying cost sharing and matching requirements, accounting for program income, budget revision approvals, making audits, determining allowability of cost, and establishing fund availability.

§ 600.121 Standards for financial management systems.

(a) Recipients shall relate financial data to performance data and develop unit cost information whenever practical. For awards that support research, it should be noted that it is generally not appropriate to develop unit cost information.
§ 600.122 Payment.

(a) Payment methods shall minimize the time elapsing between the transfer of funds from the United States Treasury and the issuance or redemption of checks, warrants, or payment by other means by the recipients. Payment methods of State agencies or instrumentalities shall be consistent with Treasury-State CMIA agreements or default procedures codified at 31 CFR part 205, “Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs.”

(b) Recipients will be paid in advance, provided they maintain or demonstrate the willingness to maintain:

(1) Written procedures that minimize the time elapsing between the transfer of funds and disbursement by the recipient, and
(2) Financial management systems that meet the standards for fund control and accountability as established in §600.121. Cash advances to a recipient organization shall be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as administratively feasible to the actual disbursements by the recipient organization for direct program or project costs and the proportionate share of any allowable indirect costs.

(c) Whenever possible, advances shall be consolidated to cover anticipated cash needs for all awards made by the DOE to the recipient.

(1) Advance payment mechanisms include, but are not limited to, Treasury check and electronic funds transfer.

(2) Advance payment mechanisms are subject to 31 CFR part 205.

(3) Recipients may submit requests for advances and reimbursements at least monthly when electronic fund transfers are not used.

(d) Requests for Treasury check advance payment shall be submitted on SF-270, “Request for Advance or Reimbursement,” or other forms as may be authorized by OMB. This form is not to be used when Treasury check advance payments are made to the recipient automatically through the use of a predetermined payment schedule or if precluded by special DOE instructions for electronic funds transfer.

(e) Reimbursement is the preferred method when the requirements in paragraph (b) of this section cannot be met. DOE may also use this method on any construction agreement, or if the major portion of the construction project is accomplished through private market financing or Federal loans, and the Federal assistance constitutes a minor portion of the project.

(1) When the reimbursement method is used, DOE shall make payment within 30 days after receipt of the billing, unless the billing is improper.

(2) Recipients are authorized to submit requests for reimbursement at least monthly when electronic funds transfers are not used.

(f) If a recipient cannot meet the criteria for advance payments and DOE has determined that reimbursement is not feasible because the recipient lacks sufficient working capital, DOE may provide cash on a working capital advance basis. Under this procedure, DOE advances cash to the recipient to cover its estimated disbursement needs for an initial period generally geared to the recipient’s disbursement cycle. Thereafter, DOE reimburses the recipient for its actual cash disbursements. The working capital advance method of payment will not be used for recipients unwilling or unable to provide timely advances to their subrecipient to meet the subrecipient’s actual cash disbursements.

(g) To the extent available, recipients shall disburse funds available from repayments to and interest earned on a revolving fund, program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments.

(h) Unless otherwise required by statute, DOE will not withhold payments for proper charges made by recipients at any time during the project period unless paragraph (h)(1) or (h)(2) of this section apply.

(1) A recipient has failed to comply with the project objectives, the terms and conditions of the award, or DOE reporting requirements.

(2) The recipient or subrecipient is delinquent in a debt to the United States. Under such conditions, the Federal awarding agency may, upon reasonable notice, inform the recipient that payments shall not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal Government is liquidated. Before withholding any payment, DOE shall notify the recipient that payments shall not be made for obligations incurred after a specified date, which shall ordinarily be no sooner than 30 days from the date of the notice, until the recipient corrects the noncompliance or pays the indebtedness to the Federal government.

(i) Standards governing the use of banks and other institutions as depositaries of funds advanced under awards are as follows.
(1) Except for situations described in paragraph (i)(2) of this section, DOE shall not require separate depository accounts for funds provided to a recipient or establish any eligibility requirements for depositories for funds provided to a recipient. However, recipients shall be able to account for the receipt, obligation and expenditure of funds.

(2) Advances of Federal funds shall be deposited and maintained in insured accounts whenever possible.

(j) Consistent with the national goal of expanding the opportunities for women-owned and minority-owned business enterprises, recipients are encouraged to use women-owned and minority-owned banks (a bank which is owned at least 50 percent by women or minority group members).

(k) Recipients shall maintain advances of Federal funds in interest bearing accounts, unless paragraph (k)(1), (2) or (3) of this section apply.

(1) The recipient receives less than $120,000 in Federal awards per year.

(2) The best reasonably available interest bearing account would not be expected to earn interest in excess of $250 per year on Federal cash balances.

(3) The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.

(l) For those entities where CMIA and its implementing regulations do not apply, interest earned on Federal advances deposited in interest bearing accounts shall be remitted annually to the HHS Payment Management System through an electronic medium such as the FEDWIRE Deposit system. Recipients which do not have this capability should use a check. The address is the Department of Health and Human Services, Payment Management System, P.O. Box 6021, Rockville, MD 20852. Interest amounts up to $250 per year may be retained by the recipient for administrative expense. State universities and hospitals shall comply with CMIA, as it pertains to interest. If an entity subject to CMIA uses its own funds to pay pre-award costs for discretionary awards without prior written approval from the Federal awarding agency, it waives its right to recover the interest under CMIA.

(m) Except as noted elsewhere in this subpart, only the following forms shall be authorized for the recipients in requesting advances and reimbursements. Federal agencies shall not require more than an original and two copies of these forms.

(1) SF-270, Request for Advance or Reimbursement. Each Federal awarding agency shall adopt the SF-270 as a standard form for all nonconstruction programs when electronic funds transfer or predetermined advance methods are not used. Federal awarding agencies, however, have the option of using this form for construction programs in lieu of the SF-271, “Outlay Report and Request for Reimbursement for Construction Programs.”

(2) SF-271, Outlay Report and Request for Reimbursement for Construction Programs. Each Federal awarding agency shall adopt the SF-271 as the standard form to be used for requesting reimbursement for construction programs. However, a Federal awarding agency may substitute the SF-270 when the Federal awarding agency determines that it provides adequate information to meet Federal needs.

(n) The DOE may convert a recipient from advance payment to reimbursement whenever the recipient no longer meets the criteria for advance payment specified in paragraph (b) of this section. Any such conversion may be accomplished only after the DOE has advised the recipient in writing of the reasons for the proposed action and has provided a period of at least 30 days within which the recipient may take corrective action or provide satisfactory assurances of its intention to take such action.

(o) With prior DOE approval and in accordance with written DOE instructions, a recipient may assign to a bank, trust company or other financing institution, including any Federal lending agency, reimbursement by Treasury check due from DOE under the following conditions:

(1) The award provides for reimbursement totaling $1,000 or more;

(2) The assignment covers all amounts payable under the award that have not already been paid;
§ 600.123 Cost sharing or matching.

(a) All cost sharing or matching contributions, including cash and third party in-kind, shall meet all of the following criteria:

(1) Are verifiable from the recipient’s records.

(2) Are not included as contributions for any other federally-assisted project or program.

(3) Are necessary and reasonable for proper and efficient accomplishment of project or program objectives.

(4) Are allowable under the applicable cost principles.

(5) Are not paid by the Federal Government under another award, except where authorized by Federal statute to be used for cost sharing or matching.

(6) Are provided for in the approved budget.

(7) Conform to other provisions of this subpart, as applicable.

(b) Unrecovered indirect costs may be included as part of cost sharing or matching.

(c) Values for recipient contributions of services and property shall be established in accordance with the applicable cost principles. If DOE authorizes recipients to donate buildings or land for construction/facilities acquisition projects or long-term use, the value of the donated property for cost sharing or matching shall be the lesser of either paragraph (c)(1) or (2) of this section.

(1) The certified value of the remaining life of the property recorded in the recipient’s accounting records at the time of donation.

(2) The current fair market value. However, when there is sufficient justification, DOE may approve the use of the current fair market value of the donated property, even if it exceeds the certified value at the time of donation to the project.

(d) Volunteer services furnished by professional and technical personnel, consultants, and other skilled and unskilled labor may be counted as cost sharing or matching if the service is an integral and necessary part of an approved project or program. Rates for volunteer services shall be consistent with those paid for similar work in the recipient’s organization. In those instances in which the required skills are not found in the recipient organization, rates shall be consistent with those paid for similar work in the labor market in which the recipient competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, allowable, and allocable may be included in the valuation.

(e) When an employer other than the recipient furnishes the services of an employee, these services shall be valued at the employee’s regular rate of pay (plus an amount of fringe benefits that are reasonable, allowable, and allocable, but exclusive of overhead costs), provided these services are in the same skill for which the employee is normally paid.

(f) Donated supplies may include such items as office supplies, laboratory supplies or workshop and classroom supplies. Value assessed to donated supplies included in the cost sharing or matching share shall be reasonable and shall not exceed the fair market value of the property at the time of the donation.

(g) The method used for determining cost sharing or matching for donated equipment, buildings and land for which title passes to the recipient may differ according to the purpose of the award, if either paragraph (g)(1) or (2) of this section apply.

(1) If the purpose of the award is to assist the recipient in the acquisition of equipment, buildings or land, the total value of the donated property may be claimed as cost sharing or matching.
(2) If the purpose of the award is to support activities that require the use of equipment, buildings or land, normally only depreciation or use charges for equipment and buildings may be made. However, the full value of equipment or other capital assets and fair rental charges for land may be allowed, provided that DOE has approved the charges.

(h) The value of donated property shall be determined in accordance with the usual accounting policies of the recipient, with the following qualifications.

(1) The value of donated land and buildings shall not exceed its fair market value at the time of donation to the recipient as established by an independent appraiser (e.g., certified real property appraiser or General Services Administration representative) and certified by a responsible official of the recipient.

(2) The value of donated equipment shall not exceed the fair market value of equipment of the same age and condition at the time of donation.

(3) The value of donated space shall not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality.

(4) The value of loaned equipment shall not exceed its fair rental value.

(i) The following requirements pertain to the recipient's supporting records for in-kind contributions from third parties.

(1) Volunteer services shall be documented and, to the extent feasible, supported by the same methods used by the recipient for its own employees.

(2) The basis for determining the valuation for personal service, material, equipment, buildings and land shall be documented.

(j) DOE shall specify in the solicitation or in the program rule, if any, any cost sharing requirement. The award document shall be specific as to whether the cost sharing is based on a minimum amount for the recipient or on a percentage of total costs.

(k) If DOE requires that a recipient provide cost sharing which is not required by statute or which exceeds a statutory minimum, DOE shall state in the program rule or solicitation the reasons for requiring such cost sharing, recommended or required levels of cost sharing, and the circumstances under which the requirement for cost sharing may be waived or adjusted during any negotiation.

(l) Whenever DOE negotiates the amount of cost sharing, DOE may take into account such factors as the use of program income (see §600.124), patent rights, and rights in data. Foregone fee or profit shall not be considered in establishing the extent of cost sharing.

§ 600.124 Program income.

(a) The standards set forth in this section shall be used to account for program income related to projects financed in whole or in part with DOE funds.

(b) Except as provided in paragraph (h) of this section, program income earned during the project period shall be retained by the recipient and, in accordance with program regulations or the terms and conditions of the award, shall be used in one or more of the following ways.

(1) Added to funds committed to the project and used to further eligible project objectives.

(2) Used to finance the non-DOE share of the project.

(3) Deducted from the total project allowable cost in determining the net allowable costs on which the share of costs is based.

(c) When DOE authorizes the disposition of program income as described in paragraphs (b)(1) or (b)(2) of this section, program income in excess of any limits stipulated shall be used in accordance with paragraph (b)(3) of this section.

(d) In the event that the program regulations or the terms and conditions of the award do not specify how program income is to be used, paragraph (b)(3) of this section shall apply automatically to all projects or programs except research. For awards that support research, paragraph (b)(1) of this section shall apply automatically unless the award indicates another alternative in the terms and conditions, the recipient is subject to special award conditions, as indicated in
§ 600.125 Revision of budget and program plans.

(a) The budget plan is the financial expression of the project or program as approved during the award process. It includes the sum of the Federal and non-Federal share when there are cost sharing requirements. It shall be related to performance for program evaluation purposes whenever appropriate.

(b) Recipients are required to report deviations from budget and program plans, and request prior approvals for budget and program plan revisions, in accordance with this section.

(c) For nonconstruction awards, recipients shall request prior approvals from the DOE for one or more of the following program or budget related reasons.

(1) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).

(2) Change in a key person specified in the application or award document.

(3) The absence for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.

(4) The need for additional Federal funding.

(5) If required by program regulations, the transfer of amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa.


(7) The transfer of funds allotted for training allowances (direct payment to trainees) to other categories of expense.

(8) Unless described in the application and funded in the approved awards, the subaward, transfer or contracting out of any work under an award. This provision does not apply to the purchase of supplies, material, equipment or general support services.

(d) No other prior approval requirements for specific items may be imposed unless a deviation has been approved in accordance with §600.4.

(e) Except for requirements listed in paragraphs (c)(1) and (c)(4) of this section, program regulations may waive cost-related and administrative prior written approvals required by this subpart and its Appendices. Such waivers may include authorizing recipients to do any one or more of the following.

(1) Incur pre-award costs 90 calendar days prior to award without prior approval or more than 90 calendar days with the prior approval of DOE. All pre-award costs are incurred at the recipient’s risk (i.e., DOE is under no obligation to reimburse such costs if for any reason the recipient does not receive an award or if the award is less
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than anticipated and inadequate to cover such costs.

(2) Initiate a one-time extension of the expiration date of the final budget period of the project of up to 12 months unless one or more of the following conditions apply:

(i) The terms and conditions of award prohibit the extension.

(ii) The extension requires additional Federal funds.

(iii) The extension involves any change in the approved objectives or scope of the project.

(iv) The extension is being exercised merely for the purpose of using unobligated balances. For one-time extensions, the recipient must notify the DOE in writing with the supporting reasons and revised expiration date at least 10 days before the expiration date specified in the award.

(3) Carry forward unobligated balances to subsequent funding periods.

(4) For awards that support research, unless the terms and conditions of award provide otherwise, the prior approval requirements described in paragraph (e) of this section are automatically waived (i.e., recipients need not obtain such prior approvals) unless one of the conditions included in §600.125(e)(2) applies.

(5) For continuation awards within a multiple year project in support of research, prior to receipt of continuation funding, preaward expenditures by recipients are not subject to the limitation or approval requirements of §600.125(e)(1). Nevertheless, incurring by the recipient does not impose any obligation on DOE if a continuation award is not subsequently made, or if an award is made for a lesser amount than the recipient expected.

(f) Program regulations may restrict the transfer of funds among direct cost categories or programs, functions and activities for awards in which DOE’s share of the project exceeds $100,000 and the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total budget as last approved by DOE. However, no program regulation shall permit a transfer that would cause any Federal appropriation or part thereof to be used for purposes other than those consistent with the original intent of the appropriation.

(g) All other changes to nonconstruction budgets, except for the changes described in paragraph (j) of this section, do not require prior approval.

(h) For construction awards, recipients shall request prior written approval promptly from the Contracting Officer for budget revisions whenever paragraph (h) (1), (2) or (3) of this section apply.

(1) The revision results from changes in the scope or the objective of the project or program.

(2) The need arises for additional Federal funds to complete the project.

(3) A revision is desired which involves specific costs for which prior written approval requirements may be imposed consistent with applicable OMB cost principles listed in §600.127.

(i) Except in accordance with the deviation procedures in 600.4 or as may be provided for in program regulations, no other prior approval requirements for specific items will be imposed by DOE.

(j) When DOE makes an award that provides support for both construction and nonconstruction work, DOE may require the recipient to request prior approval from DOE before making any fund or budget transfers between the two types of work supported.

(k) For both construction and nonconstruction awards, recipients shall notify DOE in writing promptly whenever the amount of Federal authorized funds is expected to exceed the needs of the recipient for the project period by more than $5000 or five percent of the Federal award, whichever is greater. This notification shall not be required if an application for additional funding is submitted for a continuation award.

(l) Requests for budget revisions may be made by letter.

(m) Within 30 calendar days from the date of receipt of the request for budget revisions, DOE shall review the request and notify the recipient whether the budget revisions have been approved. If the revision is still under consideration at the end of 30 calendar days, DOE shall inform the recipient in writing of the date when the recipient may expect the decision.

(n) DOE approval or disapproval of a request for a budget or project revision
(a) A request by a subrecipient for prior approval shall be addressed in writing to the recipient. The recipient shall promptly review such request and shall approve or disapprove the request in writing within 30 days from the date of the recipient’s request for the revision. A recipient shall not approve any budget or project revision which is inconsistent with the purpose or terms and conditions of the DOE award. If the revision requested by the subrecipient would result in a change to the recipient’s approved budget or approved project which requires DOE prior approval, the recipient shall obtain DOE approval before approving such revision.

(b) The Contracting Officer may audit, or cause to be audited, awards to individuals whenever and in the degree of detail he/she deems necessary. The Contracting Officer shall rely on available audit reports in determining the need for and scope of such audits.


§ 600.127 Allowable costs.

(a) General. For each kind of recipient, there is a set of Federal principles for determining allowable costs. Allowability of costs shall be determined in accordance with the cost principles applicable to the entity incurring the costs. Thus, allowability of costs incurred by State, local or federally-recognized Indian tribal governments is determined in accordance with the provisions of OMB Circular A-87, “Cost Principles for State and Local Governments.” The allowability of costs incurred by non-profit organizations is determined in accordance with the provisions of OMB Circular A-122, “Cost Principles for Non-Profit Organizations.” The allowability of costs incurred by hospitals is determined in accordance with the provisions of Appendix E of 45 CFR part 74, “Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals.” The allowability of costs incurred by commercial organizations and those non-profit organizations listed in Attachment C to Circular A-122 is determined in accordance with the provisions of the Federal Acquisition Regulation (FAR) at 48 CFR part 31.

(b) Indirect costs. Unless restricted by Federal statute or program rule, DOE shall provide for the reimbursement of appropriate indirect costs.

(1) DOE shall include an amount for indirect costs in an award only if the applicant requests reimbursement of such costs and—

(i) Submits evidence that a cognizant Federal agency has been assigned to establish indirect cost rates for the applicant and indicates or provides evidence that—

(A) A current agreement containing an applicable approved indirect cost
rate(s) covering all or part of the budget period for which DOE may provide funding has been established; or

(B) An indirect cost proposal has been submitted to the cognizant agency in order to establish an applicable approved indirect cost rate(s) covering all or part of the budget period for which DOE may provide funding; or

(C) An indirect cost proposal covering all or part of the budget period and applicable to the activities for which DOE may provide funding will be submitted to the cognizant agency for approval no later than three months after the beginning date of the initial budget period of the DOE award or, for subsequent budget periods, in accordance with any schedule established by the cognizant agency; or

(ii) If not assigned to a cognizant agency, the applicant includes, in the application, data that is current, complete, accurate, and sufficient to allow the Contracting Officer to determine a rate(s) for indirect costs. If the total approved budget will not exceed $100,000 or if the amount requested for indirect costs does not exceed $5,000, DOE may waive the requirement for negotiation of a rate and, in lieu thereof, provide a reasonable allowance for such costs.

(2) Indirect cost proposals shall be prepared and submitted in accordance with the applicable Federal cost principles and instructions from the cognizant agency or from DOE, as appropriate.

(3) If a subaward under an award or subaward provides for the payment of indirect costs, the recipient or subrecipient shall be responsible for negotiating appropriate indirect costs, using the cost principles applicable to the subrecipient or contractor, unless the subrecipient or contractor has negotiated an applicable rate directly with DOE or another Federal department or agency. DOE may review and audit the procedures a recipient or subrecipient uses in conducting indirect cost negotiations.

(c) Fee or profit. No increment above cost may be paid to a recipient or subrecipient under a DOE award or subaward, except for SBIR recipients, as provided in §600.181(d)(3). A fee or profit may be paid to a contractor providing goods or services under a contract with a recipient or subrecipient.

§ 600.128 Period of availability of funds.

Where a funding period is specified, a recipient may charge to the award only allowable costs resulting from obligations incurred during the funding period and any pre-award costs authorized by DOE.

Property Standards

§ 600.130 Purpose of property standards.

Sections 600.131 through 600.137 set forth uniform standards governing management and disposition of property furnished by the Federal Government or whose cost was charged to a project supported by a Federal award. Recipients shall observe these standards under awards and shall not impose additional requirements, unless specifically required by Federal statute or program regulations. The recipient may use its own property management standards and procedures provided it observes the provisions of §§600.131 through 600.137.

§ 600.131 Insurance coverage.

Recipients shall, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired with DOE funds as provided to property owned by the recipient. Federally-owned property need not be insured unless required by the terms and conditions of the award.

§ 600.132 Real property.

Unless otherwise provided by statute or program regulations, the requirements concerning the use and disposition of real property acquired in whole or in part under awards are as follows.

(a) Title to real property shall vest in the recipient subject to the condition that the recipient shall use the real property for the authorized purpose of the project as long as it is needed and shall not encumber the property without approval of DOE.

(b) The recipient shall obtain written approval by DOE for the use of real property in other federally-sponsored projects when the recipient determines
§ 600.133 Federally-owned and exempt property.

(a) Federally-owned property.

(1) Title to federally-owned property remains vested in the Federal Government. Recipients shall submit annually an inventory listing of federally-owned property in their custody to DOE. Upon completion of the award or when the property is no longer needed, the recipient shall report the property to DOE for further Federal agency utilization.

(2) If DOE has no further need for the property, it shall be declared excess and reported to the General Services Administration, unless DOE has statutory authority to dispose of the property by alternative methods (e.g., the authority provided by the Federal Technology Transfer Act (15 U.S.C. 3710 (i)) to donate research equipment to educational and non-profit organizations in accordance with E.O. 12821, “Improving Mathematics and Science Education in Support of the National Education Goals.”) Appropriate instructions shall be issued to the recipient by DOE.

(b) Exempt property. When statutory authority exists, DOE may vest title to property acquired with Federal funds in the recipient without further obligation to the Federal Government and under conditions DOE considers appropriate. For example, under 31 U.S.C. 6306, DOE may so vest title to tangible personal property under a grant or cooperative agreement for basic or applied research in a nonprofit institution of higher education or in a nonprofit organization whose primary purpose is conducting scientific research. Such property is “exempt property.” Program regulations or the terms and conditions of award may establish provisions for vesting title to exempt property. Should such conditions not be established and the recipient has no need for the equipment, the recipient shall request disposition instructions from DOE. If DOE does not issue disposition instructions within 120 calendar days of receipt of the request, title to the property shall vest in the recipient without further obligation to the Federal Government. If, at the end of the project, DOE fails to issue disposition instructions within 120 calendar days of the receipt of a final inventory, title to the property shall vest in the recipient without further obligation to the Federal Government.

§ 600.134 Equipment.

(a) Title to equipment acquired by a recipient with Federal funds shall vest in the recipient, subject to conditions of this section.

(b) The recipient shall not use equipment acquired with Federal funds to provide services to non-Federal outside

that the property is no longer needed for the purpose of the original project. Use in other projects shall be limited to those under federally-sponsored projects (i.e., awards) or programs that have purposes consistent with those authorized for support by DOE.

(c) When the real property is no longer needed as provided in paragraphs (a) and (b) of this section, the recipient shall request disposition instructions from DOE or its successor Federal awarding agency. DOE will give one or more of the following disposition instructions:

(1) The recipient may be permitted to retain title without further obligation to the Federal Government after it compensates the Federal Government for that percentage of the current fair market value of the property attributable to the Federal participation in the project.

(2) The recipient may be directed to sell the property under guidelines provided by DOE and pay the Federal Government for that percentage of the current fair market value of the property attributable to the Federal participation in the project.

(3) The recipient may be directed to transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the recipient shall be entitled to compensation for its attributable percentage of the current fair market value of the property.
organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute, for as long as the Federal Government retains an interest in the equipment.

(c) The recipient shall use the equipment in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds and shall not encumber the property without approval of DOE. When no longer needed for the original project or program, the recipient shall use the equipment in connection with its other federally-sponsored activities, in the following order of priority:

(1) Activities sponsored by DOE, then
(2) Activities sponsored by other Federal agencies.

(d) During the time that equipment is used on the project or program for which it was acquired, the recipient shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the equipment was originally acquired. First preference for such other use shall be given to other projects or programs sponsored by DOE that financed the equipment; second preference shall be given to projects or programs sponsored by other Federal awarding agencies. If the equipment is owned by the Federal Government, use on other activities not sponsored by the Federal Government shall be permissible if authorized by DOE. User charges shall be treated as program income.

(e) When acquiring replacement equipment, the recipient may use the equipment to be replaced as trade-in or sell the equipment and use the proceeds to offset the costs of the replacement equipment subject to the approval of DOE.

(f) The recipient’s property management standards for equipment acquired with Federal funds and federally-owned equipment shall include all of the following:

(1) Equipment records shall be maintained accurately and shall include the following information:
   (i) A description of the equipment.
   (ii) Manufacturer’s serial number, model number, Federal stock number, national stock number, or other identification number.
   (iii) Source of the equipment, including the award number.
   (iv) Whether title vests in the recipient or the Federal Government.
   (v) Acquisition date (or date received, if the equipment was furnished by the Federal Government) and cost.
   (vi) Information from which one can calculate the percentage of Federal participation in the cost of the equipment (not applicable to equipment furnished by the Federal Government).
   (vii) Location and condition of the equipment and the date the information was reported.
   (viii) Unit acquisition cost.
   (ix) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates DOE for its share.
   (2) Equipment owned by the Federal Government shall be identified to indicate Federal ownership.

(3) A physical inventory of equipment shall be taken and the results reconciled with the equipment records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the equipment.

(4) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated and fully documented; if the equipment was owned by the Federal Government, the recipient shall promptly notify DOE.

(5) Adequate maintenance procedures shall be implemented to keep the equipment in good condition.

(6) Where the recipient is authorized or required to sell the equipment, proper sales procedures shall be established which provide for competition to the extent practicable and result in the highest possible return.

(g) When the recipient no longer needs the equipment, the equipment
may be used for other activities in accordance with the following standards. Equipment with a current per-unit fair market value of less than $5000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency. For equipment with a current per-unit fair market value of $5000 or more, the recipient may retain the equipment for other uses provided that compensation is made to the original Federal awarding agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the equipment. If the recipient has no need for the equipment, the recipient shall request disposition instructions from DOE. DOE shall determine whether the equipment can be used to meet DOE’s requirements. If no requirement exists within DOE, the availability of the equipment shall be reported to the General Services Administration by DOE to determine whether a requirement for the equipment exists in other Federal agencies. DOE will issue instructions to the recipient no later than 120 calendar days after the recipient’s request and the following procedures shall govern.

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the recipient’s request, the recipient shall sell the equipment and reimburse DOE an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the recipient shall be permitted to deduct and retain from the Federal share $500 or ten percent of the proceeds, whichever is less, for the recipient’s selling and handling expenses.

(2) If the recipient is instructed to ship the equipment elsewhere, the recipient shall be reimbursed by the Federal Government by an amount which is computed by applying the percentage of the recipient’s participation in the cost of the original project or program to the current fair market value of the equipment, plus any reasonable shipping or interim storage costs incurred.

(3) If the recipient is instructed to otherwise dispose of the equipment, the recipient shall be reimbursed by DOE for such costs incurred in its disposition.

(h) DOE reserves the right, at the end of a project, to transfer the title to the Federal Government or to a third party named by DOE when such third party is otherwise eligible under existing statutes. Such transfer shall be subject to the following standards.

(1) The equipment shall be appropriately identified in the award or otherwise made known to the recipient in writing.

(2) DOE shall issue disposition instructions within 120 calendar days after receipt of a final inventory. The final inventory shall list all equipment acquired with award funds and federally-owned equipment. If DOE fails to issue disposition instructions within the 120 calendar day period, the provisions of § 600.134(g)(1) apply.

(3) When DOE exercises its right to take title, the equipment shall be subject to the provisions for federally-owned equipment.

§ 600.135 Supplies and other expendable property.

(a) Title to supplies and other expendable property shall vest in the recipient upon acquisition. If there is a residual inventory of unused supplies exceeding $5000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other federally-sponsored project or program, the recipient shall retain the supplies for use on non-Federal sponsored activities or sell them, but shall, in either case, compensate the Federal Government for its share. The amount of compensation shall be computed in the same manner as for equipment.

(b) The recipient shall not use supplies 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 Federal statute as long as the Federal Government retains an interest in the supplies.
§ 600.136 Intangible property.

(a) Recipients that are institutions of higher education, hospitals, and other non-profit organizations are subject to the following:

(1) The recipient may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under an award. DOE 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.

(2) Recipients are subject to applicable regulations governing patents and inventions. (See 10 CFR 600.27)

(3) DOE has the right to:
   (i) Obtain, reproduce, publish or otherwise use the data first produced under an award.
   (ii) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.
(4) Title to intangible property and debt instruments acquired under an award or subaward vests upon acquisition in the recipient. The recipient shall use that property for the originally-authorized purpose, and the recipient shall not encumber the property without approval of DOE. When no longer needed for the originally authorized purpose, disposition of the intangible property shall occur in accordance with the provisions of §600.134(g).

(b) Recipients that are commercial entities shall follow the provisions set forth at 10 CFR 600.27.

§ 600.137 Property trust relationship.

Real property, equipment, intangible property and debt instruments that are acquired or improved with Federal funds shall be held in trust by the recipient as trustee for the beneficiaries of the project or program under which the property was acquired or improved. Recipients shall record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with Federal funds and that use and disposition conditions apply to the property.

§ 600.140 Purpose of procurement standards.

Sections 600.141 through 600.148 set forth standards for use by recipients in establishing procedures for the procurement of supplies and other expendable property, equipment, real property and other services with Federal funds. These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal statutes and executive orders. No additional procurement standards or requirements shall be imposed by DOE upon recipients, unless specifically required by Federal statute or executive order or in accordance with the deviation procedures of §600.4.

§ 600.141 Recipient responsibilities.

The standards contained in this section do not relieve the recipient of the contractual responsibilities arising under its contract(s). The recipient is the responsible authority, without recourse to DOE regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of an award or other agreement. This includes disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of statute are to be referred to such Federal, State or local authority as may have proper jurisdiction.

§ 600.142 Codes of conduct.

The recipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest...
§ 600.143 Competition.

All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The recipient shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the recipient, price, quality and other factors considered. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the recipient. Any and all bids or offers may be rejected when it is in the recipient’s interest to do so.

§ 600.144 Procurement procedures.

(a) All recipients shall establish written procurement procedures. These procedures shall provide for, at a minimum, that paragraphs (a)(1), (2) and (3) of this section apply.

(1) Recipients avoid purchasing unnecessary items.

(2) Where appropriate, an analysis is made of lease and purchase alternatives to determine which would be the most economical and practical procurement.

(3) Solicitations for goods and services provide for all of the following.

(i) A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.

(ii) Requirements which the bidder/offeror must fulfill and all other factors to be used in evaluating bids or proposals.

(iii) A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.

(iv) The specific features of “brand name or equal” descriptions that bidders are required to meet when such items are included in the solicitation.

(v) The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.

(vi) Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

(b) Positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women’s business enterprises, whenever possible. Recipients of DOE awards shall take all of the following steps to further this goal.

(1) Ensure that small businesses, minority-owned firms, and women’s business enterprises are used to the fullest extent practicable.

(2) Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women’s business enterprises.

(3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women’s business enterprises.

(4) Encourage contracting with consortia of small businesses, minority-
owned firms and women’s business enterprises when a contract is too large for one of these firms to handle individually.

(5) Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Department of Commerce’s Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women’s business enterprises.

(c) The type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) shall be determined by the recipient but shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved. The “cost-plus-a-percentage-of-cost” or “percentage of construction cost” methods of contracting shall not be used.

(d) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources. In certain circumstances, contracts with certain parties are restricted by DOE’s implementation, in 10 CFR part 1036, of E.O.’s 12549 and 12689, “Debarment and Suspension.”

(e) Recipients shall, on request, make available for DOE, pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc., when any of the following conditions apply.

(1) A recipient’s procurement procedures or operation fails to comply with the procurement standards in this subpart.

(2) The procurement is expected to exceed the small purchase threshold fixed at 41 U.S.C. 403 (11) (currently $25,000) and is to be awarded without competition or only one bid or offer is received in response to a solicitation.

(3) The procurement, which is expected to exceed the small purchase threshold, specifies a “brand name” product.

(4) The proposed award over the small purchase threshold is to be awarded to other than the apparent low bidder under a sealed bid procurement.

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the amount of the small purchase threshold.

(f) By agreement of the recipient or subrecipient and the contractor, if consistent with the recipient’s or subrecipient’s usual business practices and applicable state and local law, any contract to which this section applies may provide for the payment of interest penalties on amounts overdue under such contract except that—

(1) In no case shall any obligation to pay such interest penalties be construed to be an obligation of the Federal government, and

(2) Any payment of such interest penalties may not be made from DOE funds nor be counted toward meeting a cost sharing requirement of a DOE award.

§ 600.145 Cost and price analysis.

Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

§ 600.146 Procurement records.

Procurement records and files for purchases in excess of the small purchase threshold shall include the following at a minimum:

(a) Basis for contractor selection,

(b) Justification for lack of competition when competitive bids or offers are not obtained, and

(c) Basis for award cost or price.
§ 600.147 Contract administration.

A system for contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely follow up of all purchases. Recipients shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract.

§ 600.148 Contract provisions.

The recipient shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. The following provisions shall also be applied to subcontracts.

(a) Contracts in excess of the small purchase threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.

(b) All contracts in excess of the small purchase threshold shall contain suitable provisions for termination by the recipient, including the manner by which termination shall be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(c) Except as otherwise required by statute, an award that requires the contracting (or subcontracting) for construction or facility improvements shall provide for the recipient to follow its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds $100,000. For those contracts or subcontracts exceeding $100,000, DOE may accept the bonding policy and requirements of the recipient, provided the DOE has made a determination that the Federal Government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows.

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder shall, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor’s obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by statute of all persons supplying labor and material in the execution of the work provided for in the contract.

(4) Where bonds are required in the situations described herein, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR part 223, “Surety Companies Doing Business with the United States.”

(d) All negotiated contracts (except those for less than the small purchase threshold) awarded by recipients shall include a provision to the effect that the recipient, DOE, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

(e) All contracts, including small purchases, awarded by recipients and their contractors shall contain the procurement provisions of Appendix A to this subpart, as applicable.

§ 600.149 Resource Conservation and Recovery Act (RCRA).

Recipients’ procurements shall comply with applicable requirements of RCRA, as described at §600.116 of this subpart.
§ 600.150 Purpose of reports and records.
Sections 600.151 through 600.153 set forth the procedures for monitoring and reporting on the recipient’s financial and program performance and the necessary standard reporting forms. They also set forth record retention requirements.

§ 600.151 Monitoring and reporting program performance.
(a) Recipients are responsible for managing and monitoring each project, program, subaward, function or activity supported by the award. Recipients shall monitor subawards to ensure sub-recipients have met the audit requirements as delineated in §600.126.
(b) The terms and conditions of the award will prescribe the frequency with which the performance reports shall be submitted. Except as provided in paragraph (f) of this section, performance reports shall not be required more frequently than quarterly or less frequently than annually. Annual reports shall be due 90 calendar days after the award year; quarterly or semi-annual reports shall be due 30 days after the reporting period. DOE may require annual reports before the anniversary dates of multiple year awards in lieu of these requirements. The final performance reports are due 90 calendar days after the expiration or termination of the award.
(c) If inappropriate, a final technical or performance report shall not be required after completion of the project.
(d) When required, performance reports shall generally contain, for each award, brief information on each of the following:
   (1) A comparison of actual accomplishments with the goals and objectives established for the period, the findings of the investigator, or both. Whenever appropriate and the output of programs or projects can be readily quantified, such quantitative data should be related to cost data for computation of unit costs.
   (2) Reasons why established goals were not met, if appropriate.
   (3) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.
   DOE may specify in the award that the recipient provide this information on the Federal Assistance Program/Project Status Report (DOE F 4600.6), the technical reporting formats, or the Federal Assistance Management Summary Report. DOE may require that the Federal Assistance Management Summary Report be used as a performance report only when such use is authorized by program rule or the need for this form is explained in the solicitation. The requirements of this section concerning reporting frequency and deadlines shall apply to the Federal Assistance Management Summary Report. (See also §600.112 with regard to use of this form as part of the award application.)
   (e) Recipients shall not be required to submit more than the original and two copies of performance reports.
   (f) Recipients shall immediately notify DOE of developments that have a significant impact on the award-supported activities. Also, notification shall be given in the case of problems, delays, or adverse conditions which materially impair the ability to meet the objectives of the award. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.
   (g) DOE may make site visits, as needed.
   (h) DOE shall comply with applicable clearance requirements of 5 CFR part 1320 when requesting performance data from recipients.
   (i) Recipients may place performance reporting requirements on subawards consistent with the provisions of this section and shall require interim reporting in accordance with §600.151(f).

§ 600.152 Financial reporting.
(a) The following forms or such other forms as may be approved by OMB are authorized for obtaining financial information from recipients.
   (1) SF-269 or SF-269A, Financial Status Report.
   (i) Recipients shall use the SF-269 or SF-269A to report the status of funds for all nonconstruction projects or programs, except that DOE has the option
§ 600.152

of not requiring the SF-269 or SF-269A when the SF-270, Request for Advance or Reimbursement, or SF-272, Report of Federal Cash Transactions, is determined to provide adequate information to meet DOE needs. However, a final SF-269 or SF-269A shall be required at the completion of the project when the SF-270 is used only for advances.

(ii) The terms and conditions of award shall prescribe whether the report shall be on a cash or accrual basis. DOE may require accrual reporting only if such reporting is required by program statute or rule. If the award requires accrual information and the recipient’s accounting records are not normally kept on the accrual basis, the recipient shall not be required to convert its accounting system, but shall develop such accrual information through best estimates based on an analysis of the documentation on hand.

(iii) DOE shall determine the frequency of the Financial Status Report for each project or program, considering the size and complexity of the particular project or program. However, the report shall not be required more frequently than quarterly or less frequently than annually. A final report shall be required at the completion of the agreement.

(iv) DOE shall require recipients to submit the SF-269 or SF-269A (an original and no more than two copies) no later than 30 days after the end of each specified reporting period for quarterly and semi-annual reports, and 90 calendar days following the end of each quarter for annual and final reports. Extensions of reporting due dates may be approved by the DOE upon request of the recipient.


(i) When funds are advanced, each recipient shall submit the SF-272 and, when necessary, its continuation sheet, SF-272a. DOE will use this report to monitor cash advanced to recipients and to obtain disbursement information for each agreement with the recipients.

(ii) Recipients shall forecast Federal cash requirements in the “Remarks” section of the report.

(iii) When practical and deemed necessary, DOE may require recipients to report in the “Remarks” section the amount of cash advances received in excess of three days. Recipients shall provide short narrative explanations of actions taken to reduce the excess balances.

(iv) Recipients shall be required to submit not more than the original and two copies of the SF-272 15 calendar days following the end of each quarter. DOE may require a monthly report from those recipients receiving advances totaling $1 million or more per year.

(v) DOE may waive the requirement for submission of the SF-272 for any one of the following reasons:

(A) When monthly advances do not exceed $25,000 per recipient, provided that such advances are monitored through other forms contained in this section;

(B) If, in the contracting officer’s opinion, the recipient’s accounting controls are adequate to minimize excessive Federal advances;

(C) When electronic payment mechanisms provide adequate data.

(b) When DOE needs additional information or more frequent reports, the following shall be observed:

(1) When additional information is needed to comply with legislative requirements, DOE shall issue instructions to require recipients to submit such information under the “Remarks” section of the reports.

(2) When DOE determines that a recipient’s accounting system does not meet the standards in §600.121, additional pertinent information to further monitor awards may be obtained upon written notice to the recipient until such time as the system is brought up to standard. DOE, in obtaining this information, shall comply with report clearance requirements of 5 CFR part 1320.

(3) Contracting officers are encouraged to shade out any line item on any report if not necessary.

(4) DOE may accept the identical information from the recipients in machine readable format or computer printouts or electronic outputs in lieu of prescribed formats.

(5) Computer or electronic outputs may be provided to recipients when that expedites or contributes to the accuracy of reporting.
§ 600.153 Retention and access requirements for records.

(a) This section sets forth requirements for record retention and access to records for awards to recipients. DOE shall not impose any other record retention or access requirements upon recipients, unless such requirements are established in program regulations.

(b) Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of three years from the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, as authorized by DOE. The only exceptions are the following:

1. If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.

2. Records for real property and equipment acquired with Federal funds shall be retained for 3 years after final disposition.

3. When records are transferred to or maintained by DOE, the 3-year retention requirement is not applicable to the recipient.

4. Indirect cost rate proposals, cost allocations plans, and related records, for which retention requirements are specified in §600.153(g).

(c) Copies of original records may be substituted for the original records if authorized by DOE.

(d) DOE shall request transfer of certain records to its custody from recipients when it determines that the records possess long term retention value. However, in order to avoid duplicate recordkeeping, DOE may make arrangements for recipients to retain any records that are continuously needed for joint use.

(e) DOE, the Inspector General, Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to a recipient’s personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but shall last as long as records are retained.

(f) Unless required by statute, DOE shall place no restrictions on recipients that limit public access to the records of recipients that are pertinent to an award, except when DOE can demonstrate that such records shall be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to DOE.

(g) Paragraphs (g)(1) and (g)(2) of this section apply to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

1. If submitted for negotiation. If the recipient submits to the Federal agency responsible for negotiating the recipient’s indirect cost rate or the subrecipient submits to the recipient the proposal, plan, or other computation to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts on the date of such submission.

2. If not submitted for negotiation. If the recipient is not required to submit to the cognizant Federal agency or the subrecipient is not required to submit to the recipient the proposal, plan, or other computation for negotiation purposes, then the 3-year retention period for the proposal, plan, or other computation and its supporting records starts at the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

(h) If, by the terms and conditions of the award, the recipient or subrecipient—
(1) Is accountable for program income earned or received after the end of the project period or after the termination of an award or subaward, or
(2) If program income earned during the project period is required to be applied to costs incurred after the end of the project period or after termination of an award or subaward, the record retention period shall start on the last day of the recipient’s or subrecipient’s fiscal year in which such income was earned or received or such costs were incurred. All other program income records shall be retained in accordance with § 600.153(b).

Termination and Enforcement

§ 600.160 Purpose of termination and enforcement.
Sections 600.161 and 600.162 set forth uniform suspension, termination and enforcement procedures.

§ 600.161 Termination.
(a) Awards may be terminated in whole or in part only if paragraph (a) (1), (2) or (3) of this section apply.
(1) By DOE, if a recipient materially fails to comply with the terms and conditions of an award.
(2) By DOE with the consent of the recipient, in which case the two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.
(3) By the recipient upon sending to DOE written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if DOE determines in the case of partial termination that the reduced or modified portion of the award will not accomplish the purposes for which the award was made, it may terminate the award in its entirety under either paragraph (a) (1) or (2) of this section.
(b) If costs are allowed under an award, the responsibilities of the recipient after termination, as appropriate.

§ 600.162 Enforcement.
(a) Remedies for noncompliance. If a recipient materially fails to comply with the terms and conditions of an award, whether stated in a Federal statute, regulation, assurance, application, or notice of award, DOE may, in addition to imposing any of the special conditions outlined in § 600.114, take one or more of the following actions, as appropriate in the circumstances.
(1) Temporarily withhold cash payments pending correction of the deficiency by the recipient or more severe enforcement action by DOE.
(2) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
(3) Wholly or partly suspend or terminate the current award.
(4) Withhold further awards for the project or program.
(5) Take other remedies that may be legally available.
(b) Hearings and appeals. In taking an enforcement action, DOE shall provide the recipient an opportunity for hearing, appeal, or other administrative proceeding to which the recipient is entitled under any statute or regulation applicable to the action involved.
(c) Effects of suspension and termination. Costs of a recipient resulting from obligations incurred by the recipient during a suspension or after termination of an award are not allowable unless the awarding agency expressly authorizes them in the notice of suspension or termination or subsequently. Other recipient costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if paragraph (c) (1) and (2) of this section apply.
(1) The costs result from obligations which were properly incurred by the recipient before the effective date of suspension or termination, are not in anticipation of it, and in the case of a termination, are noncancellable.
(2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.


(d) Relationship to debarment and suspension. The enforcement remedies identified in this section, including suspension and termination, do not preclude a recipient from being subject to debarment and suspension under 10 CFR part 1036.

AFTER-THE-AWARD REQUIREMENTS

§ 600.170 Purpose.

Sections 600.171 through 600.173 contain closeout procedures and other procedures for subsequent disallowances and adjustments.

§ 600.171 Closeout procedures.

(a) Recipients shall submit, within 90 calendar days after the date of completion of the award, all financial, performance, and other reports as required by the terms and conditions of the award. DOE may approve extensions when requested by the recipient.

(b) Unless DOE authorizes an extension, a recipient shall liquidate all obligations incurred under the award not later than 90 calendar days after the funding period or the date of completion as specified in the terms and conditions of the award or in agency implementing instructions.

(c) DOE shall make prompt payments to a recipient for allowable reimbursable costs under the award being closed out.

(d) The recipient shall promptly refund any balances of unobligated cash that DOE has advanced or paid and that is not authorized to be retained by the recipient for use in other projects. OMB Circular A-129 governs unreturned amounts that become delinquent debts.

(e) When authorized by the terms and conditions of the award, DOE shall make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.

(f) The recipient shall account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with §§600.131 through 600.137.

(g) In the event a final audit has not been performed prior to the closeout of an award, DOE shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

§ 600.172 Subsequent adjustments and continuing responsibilities.

(a) The closeout of an award does not affect any of the following.

(1) The right of DOE to disallow costs and recover funds on the basis of a later audit or other review.

(2) The obligation of the recipient to return any funds due as a result of later refunds, corrections, or other transactions.

(3) Audit requirements in §600.126.

(4) Property management requirements in §§600.131 through 600.137.

(5) Records retention as required in §600.153.

(b) After closeout of an award, a relationship created under an award may be modified or ended in whole or in part with the consent of DOE and the recipient, provided the responsibilities of the recipient referred to in paragraph 600.173(a), including those for property management as applicable, are considered and provisions made for continuing responsibilities of the recipient, as appropriate.

§ 600.173 Collection of amounts due.

(a) Any funds paid to a recipient in excess of the amount to which the recipient is finally determined to be entitled under the terms and conditions of the award constitute a debt to the Federal Government. If not paid within a reasonable period after the demand for payment, DOE may reduce the debt by paragraph (a) (1), (2) or (3) of this section.

(1) Making an administrative offset against other requests for reimbursements.

(2) Withholding advance payments otherwise due to the recipient.

(3) Taking other action permitted by statute.

(b) Except as otherwise provided by law, DOE shall charge interest on an overdue debt in accordance with 4 CFR Chapter II, "Federal Claims Collection Standards."
§ 600.180  ADDITIONAL PROVISIONS

§ 600.180 Purpose.

The purpose of “Additional Provisions” is to provide additional rules for certain types of recipients which are otherwise covered by 10 CFR part 600, subpart B when they are performing under Small Business Innovation Research grants.

§ 600.181 Special provisions for Small Business Innovation Research Grants.

(a) General. This section contains provisions applicable to the Small Business Innovation Research (SBIR) Program. This codifies six class deviations pertaining to the SBIR program. Phase I SBIR Awards. Phase I SBIR awards may be made on a fixed obligation basis, subject to the following requirements:

(1) While proposed costs must be analyzed in detail to ensure consistency with applicable cost principles, incurred costs are not subject to regulation by the standards of cost allowability;

(2) Although detailed budgets are submitted by a recipient and reviewed by DOE for purposes of establishing the amount to be awarded, budget categories are not stipulated in making an award;

(3) Prior approval from the DOE for rebudgeting among categories by the recipient is not required. Prior approval from DOE is also required in situations involving sole source or single bid procurements as provided in § 600.181(d)(2). Prior approval from DOE is required for variations from the requirement under the SBIR program that no more than one-third of Phase I work can be done by subcontractors or consortium partners;

(4) Pre-award expenditure approval is not required;

(5) Payments are to be made in the same manner as other financial assistance (see § 600.122), except that, when determined appropriate by the cognizant program official and contracting officer, a lump sum payment may be made. If a lump sum payment is made, the award must be conditioned to require the recipient to return to DOE amounts remaining unexpended at the end of the project if those amounts exceed $500;

(6) Recipients will 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. Should the activity or effort not be carried out, the recipient would be expected to make appropriate reimbursements;

(7) Requirements for periodic reports may be established for each award so long as they are consistent with § 600.151;

(8) Changes in principal investigator or project leader, scope of effort, or institution, require the prior approval of DOE.

(b) Provisions Applicable to Phase I SBIR Awards. Phase I SBIR awards may be made for a single budget period of 24 months.

(c) Provisions Applicable to Phase II SBIR Awards. Phase II SBIR awards may be made for a single budget period of 24 months.

(d) Provisions Applicable to Phase I and Phase II SBIR Awards.

(1) The prior approval of the cognizant DOE Contracting Officer is required before the final budget period of the project period may be extended without additional funds;

(2) A recipient or subrecipient must receive the prior written approval of the awarding party before entering into any sole source contract or a contract where only one bid or proposal is received when the value of the contract is expected to exceed $25,000 in the aggregate.

(3) A fee or profit may be paid to SBIR recipients.

APPENDIX A TO SUBPART B TO PART 600—CONTRACT PROVISIONS

All contracts, awarded by a recipient including small purchases, shall contain the following provisions as applicable:


with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building, Housing, and Service Projects Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.

3. Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7)—When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than $2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.

4. Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333)—Where applicable, all contracts awarded by recipients in excess of $2000 for construction contracts and in excess of $2500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. Rights to Inventions Made Under a Contract or Agreement—Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

6. Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended—Contracts and subcontracts of amounts in excess of $100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).


8. Debarment and Suspension (E.O.s 12549 and 12689)—Contract awards that exceed the small purchase threshold and certain other contract awards shall not be made to parties listed on the procurement portion of the General Services Administration’s List of parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principals.
§ 600.200 Purpose and scope of this subpart.

This subpart establishes uniform administrative rules for Federal grants and cooperative agreements and subawards to State, local and Indian tribal governments.

§ 600.201 Scope of §§ 600.200 through 600.205.

This section contains general rules pertaining to this part and procedures for control of exceptions from this subpart.

§ 600.202 Definitions.

As used in this part:

Accrued expenditures mean the charges incurred by the grantee during a given period requiring the provision of funds for: (1) Goods and other tangible property received; (2) services performed by employees, contractors, subgrantees, subcontractors, and other payees; and (3) other amounts becoming owed under programs for which no current services or performance is required, such as annuities, insurance claims, and other benefit payments.

Accrued income means the sum of: (1) Earnings during a given period from services performed by the grantee and goods and other tangible property delivered to purchasers, and (2) amounts becoming owed to the grantee for which no current services or performance is required, such as annuities, insurance claims, and other benefit payments.

Acquisition cost of an item of purchased equipment means the net invoice unit price of the property 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 grantee’s regular accounting practices.

Administrative requirements mean those matters common to grants in general, such as financial management, kinds and frequency of reports, and retention of records. These are distinguished from programmatic requirements, which concern matters that can be treated only on a program-by-program or grant-by-grant basis, such as kinds of activities that can be supported by grants under a particular program.

Awarding agency means (1) with respect to a grant, the Federal agency, and (2) with respect to a subgrant, the party that awarded the subgrant.

Cash contributions means the grantee’s cash outlay, including the outlay of money contributed to the grantee or subgrantee by other public agencies and institutions, and private organizations and individuals. When authorized by Federal legislation, Federal funds received from other assistance agreements may be considered as grantee or subgrantee cash contributions.

Contract means (except as used in the definitions for grant and subgrant in this section and except where qualified by Federal) a procurement contract under a grant or subgrant, and means a procurement subcontract under a contract.

Cost sharing or matching means the value of the third party in-kind contributions and the portion of the costs of a federally assisted project or program not borne by the Federal Government.

Cost-type contract means a contract or subcontract under a grant in which the contractor or subcontractor is paid on the basis of the costs it incurs, with or without a fee.

Equipment means tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. A grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.
Expenditure report means: (1) For non-construction grants, the SF-269 “Financial Status Report” (or other equivalent report); (2) for construction grants, the SF-271 “Outlay Report and Request for Reimbursement” (or other equivalent report).

Federally recognized Indian tribal government means the governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any Native village as defined in section 3 of the Alaska Native Claims Settlement Act, 85 Stat 688) certified by the Secretary of the Interior as eligible for the special programs and services provided by him through the Bureau of Indian Affairs.

Government means a State or local government or a federally recognized Indian tribal government.

Grant means an award of financial assistance, including cooperative agreements, in the form of money, or property in lieu of money, by the Federal Government to an eligible grantee. The term does not include technical assistance which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations. Also, the term does not include assistance, such as a fellowship or other lump sum award, which the grantee is not required to account for.

Grantee means the government to which a grant is awarded and which is accountable for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant award document.

Local government means a county, municipality, city, town, township, local public authority (including any public and Indian housing agency under the United States Housing Act of 1937) school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under state law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

Obligations means the amounts of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a given period that will require payment by the grantee during the same or a future period.

OMB means the United States Office of Management and Budget.

Outlays (expenditures) mean 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 actual cash disbursement for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the amount of cash advances and payments made to contractors and subgrantees. For reports prepared on an accrued expenditure basis, outlays are the sum of actual cash disbursements, the amount of indirect expense incurred, the value of in-kind contributions applied, and the new increase (or decrease) in the amounts owed by the grantee for goods and other property received, for services performed by employees, contractors, subgrantees, subcontractors, and other payees, and other amounts becoming owed under programs for which no current services or performance are required, such as annuities, insurance claims, and other benefit payments.

Percentage of completion method refers to a system under which payments are made for construction work according to the percentage of completion of the work, rather than to the grantee’s cost incurred.

Prior approval means documentation evidencing consent prior to incurring specific cost. For the Department of Energy, this must be signed by a Contracting Officer.

Real property means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

Share, when referring to the awarding agency’s portion of real property, equipment or supplies, means the same percentage as the awarding agency’s portion of the acquiring party’s total costs under the grant to which the acquisition costs under the grant to which the acquisition cost of the property was charged. Only costs are to be counted—not the value of third-party in-kind contributions.
State means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments. The term does not include any public and Indian housing agency under United States Housing Act of 1937.

Subgrant means an award of financial assistance in the form of money, or property in lieu of money, made under a grant by a grantee to an eligible subgrantee. The term includes financial assistance when provided by contractual legal agreement, but does not include procurement purchases, nor does it include any form of assistance which is excluded from the definition of grant in this subpart.

Subgrantee means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided.

Supplies means all tangible personal property other than "equipment" as defined in this subpart.

Suspension means depending on the context, either (1) temporary withdrawal of the authority to obligate grant funds pending corrective action by the grantee or subgrantee or a decision to terminate the grant, or (2) an action taken by a suspending official in accordance with agency regulations implementing E.O. 12549 to immediately exclude a person from participating in grant transactions for a period, pending completion of an investigation and such legal or debarment proceedings as may ensue.

Termination means permanent withdrawal of the authority to obligate previously-awarded grant funds before that authority would otherwise expire. It also means the voluntary relinquishment of that authority by the grantee or subgrantee. Termination does not include: (1) Withdrawal of funds awarded on the basis of the grantee's underestimate of the unobligated balance in a prior period; (2) withdrawal of the unobligated balance as of the expiration of a grant; (3) refusal to extend a grant or award additional funds, to make a competing or noncompeting continuation, renewal, extension, or supplemental award; or (4) voiding of a grant upon determination that the award was obtained fraudulently, or was otherwise illegal or invalid from inception.

Terms of a grant or subgrant mean all requirements of the grant or subgrant, whether in statute, regulations, or the award document.

Third party in-kind contributions mean property or services which benefit a federally assisted project or program and which are contributed by non-Federal third parties without charge to the grantee, or a cost-type contractor under the grant agreement.

Unliquidated obligations for reports prepared on a cash basis mean the amount of obligations incurred by the grantee that has not been paid. For reports prepared on an accrued expenditure basis, they represent the amount of obligations incurred by the grantee for which an outlay has not been recorded.

Unobligated balance means the portion of the funds authorized by the Federal agency that has not been obligated by the grantee and is determined by deducting the cumulative obligations from the cumulative funds authorized.

§ 600.203 Applicability.

(a) General. Sections 600.400 through 600.452 of this subpart apply to all grants and subgrants to governments, except where inconsistent with Federal statutes or with regulations authorized in accordance with the exception provision of §600.405, or:

(1) Grants and subgrants to State and local institutions of higher education or State and local hospitals.

(2) The block grants authorized by the Omnibus Budget Reconciliation Act of 1981 (Community Services; Preventive Health and Health Services; Alcohol, Drug Abuse, and Mental Health Services; Maternal and Child Health Services; Social Services; Low-Income Home Energy Assistance; States' Program of Community Development Block Grants for Small Cities; and Elementary and Secondary Education other than programs administered by the Secretary of Education under Title
Department of Energy

§ 600.205

V, Subtitle D, Chapter 2, Section 583—
the Secretary's discretionary grant program) and Titles I–III of the Job
Training Partnership Act of 1982 and under the Public Health Services Act
(Section 1921), Alcohol and Drug Abuse
Treatment and Rehabilitation Block
Grant and part C of Title V, Mental
Health Service for the Homeless Block
Grant).

(3) Entitlement grants to carry out
the following programs of the Social
Security Act:

(i) Aid to Needy Families with De-
pendent Children (Title IV–A of the
Act, not including the Work Incentive
Program (WIN) authorized by section
402(a)(19)(G); HHS grants for WIN are
subject to this subpart);

(ii) Child Support Enforcement and
Establishment of Paternity (Title IV–D
of the Act);

(iii) Foster Care and Adoption Assist-
ance (Title IV–E of the Act);

(iv) Aid to the Aged, Blind, and Dis-
abled (Titles I, X, XIV, and XVI–AABD
of the Act); and

(v) Medical Assistance (Medicaid)
(Title XIX of the Act) not including the
State Medicaid Fraud Control program
authorized by section 1902(a)(6)(B).

(4) Entitlement grants under the fol-
lowing programs of The National
School Lunch Act:

(i) School Lunch (section 4 of the
Act),

(ii) Commodity Assistance (section 6
of the Act),

(iii) Special Meal Assistance (section 11
of the Act),

(iv) Summer Food Service for Chil-
dren (section 13 of the Act), and

(v) Child Care Food Program (section
17 of the Act).

(5) Entitlement grants under the fol-
lowing programs of The Child Nutri-
tion Act of 1966:

(i) Special Milk (section 3 of the Act),

(ii) School Breakfast (section 4 of the
Act).

(6) Entitlement grants for State Ad-
mnistrative expenses under The Food
Stamp Act of 1977 (section 16 of the
Act).

(7) A grant for an experimental, pilot,
or demonstration project that is also
supported by a grant listed in para-
graph (a)(3) of this section;

(8) Grant funds awarded under sub-
section 412(e) of the Immigration and
Nationality Act (8 U.S.C. 1522(e)) and
subsection 501(a) of the Refugee Edu-
cation Assistance Act of 1980 (Pub. L.
96–422, 94 Stat. 1809), for cash assist-
ance, medical assistance, and supple-
mental security income benefits to ref-
ugees and entrants and the administra-
tive costs of providing the assistance
and benefits;

(9) Grants to local education agencies
under 20 U.S.C. 236 through 241–1(a),
and 242 through 244 (portions of the Im-
 pact Aid program), except for 20 U.S.C.
238(d)(2)(c) and 240(f) (Entitlement In-
crease for Handicapped Children); and

(10) Payments under the Veterans
Administration's State Home Per Diem
Program (38 U.S.C. 641(a)).

(b) Entitlement programs. Entitlement
programs enumerated above in
§ 600.403(a) (3) through (8) are subject to
subpart E.

[53 FR 8045, 8087, Mar. 11, 1988, as amended at
54 FR 23960, June 5, 1989]

§ 600.204 Effect on other issuances.

All other grants administration pro-
visions of codified program regula-
tions, program manuals, handbooks
and other nonregulatory materials
which are inconsistent with this sub-
part are superseded, except to the ex-
tent they are required by statute, or
authorized in accordance with the ex-
ception provision in § 600.205.

[53 FR 8045, 8087, Mar. 11, 1988. Redesignated
at 59 FR 53264, Oct. 21, 1994, as amended at 61
FR 7165, Feb. 26, 1996]

§ 600.205 Additions and exceptions.

(a) For classes of grants and grantees
subject to this subpart, Federal agen-
cies may not impose additional admin-
istrative requirements except in codi-
ﬁed regulations published in the Fed-
eral Register.

(b) Exceptions for classes of grants or
grantees may be authorized only by
OMB.

(c) Exceptions on a case-by-case basis
and for subgrantees may be authorized
by the affected Federal agencies.

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§ 600.210 Forms for applying for grants.

(a) Scope. (1) This section prescribes forms and instructions to be used by governmental organizations (except hospitals and institutions of higher education operated by a government) in applying for grants. This section is not applicable, however, to formula grant programs which do not require applicants to apply for funds on a project basis.

(2) This section applies only to applications to Federal agencies for grants, and is not required to be applied by grantees in dealing with applicants for subgrants. However, grantees are encouraged to avoid more detailed or burdensome application requirements for subgrants.

(b) Authorized forms and instructions for governmental organizations. (1) In applying for grants, applicants shall only use standard application forms or those prescribed by the granting agency with the approval of OMB under the Paperwork Reduction Act of 1980.

(2) Applicants are not required to submit more than the original and two copies of preapplications or applications.

(3) Applicants must follow all applicable instructions that bear OMB clearance numbers. Federal agencies may specify and describe the programs, functions, or activities that will be used to plan, budget, and evaluate the work under a grant. Other supplementary instructions may be issued only with the approval of OMB to the extent required under the Paperwork Reduction Act of 1980. For any standard form, except the SF-424 facesheet, Federal agencies may shade out or instruct the applicant to disregard any line item that is not needed.

(4) When a grantee applies for additional funding (such as a continuation or supplemental award) or amends a previously submitted application, only the affected pages need be submitted. Previously submitted pages with information that is still current need not be resubmitted.

§ 600.211 State plans.

(a) Scope. The statutes for some programs require States to submit plans before receiving grants. Under regulations implementing Executive Order 12372, “Intergovernmental Review of Federal Programs,” States are allowed to simplify, consolidate and substitute plans. This section contains additional provisions for plans that are subject to regulations implementing the Executive order.

(b) Requirements. A State need meet only Federal administrative or programmatic requirements for a plan that are in statutes or codified regulations.

(c) Assurances. In each plan the State will include an assurance that the State shall comply with all applicable Federal statutes and regulations in effect with respect to the periods for which it receives grant funding. For this assurance and other assurances required in the plan, the State may:

(1) Cite by number the statutory or regulatory provisions requiring the assurances and affirm that it gives the assurances required by those provisions,

(2) Repeat the assurance language in the statutes or regulations, or

(3) Develop its own language to the extent permitted by law.

(d) Amendments. A State will amend a plan whenever necessary to reflect: (1) New or revised Federal statutes or regulations or (2) a material change in any State law, organization, policy, or State agency operation. The State will obtain approval for the amendment and its effective date but need submit for approval only the amended portions of the plan.

§ 600.212 Special grant or subgrant conditions for “high-risk” recipients.

(a) A grantee or subgrantee may be considered “high risk” if an awarding agency determines that a grantee or subgrantee:

(1) Has a history of unsatisfactory performance, or

(2) Is not financially stable, or
(3) Has a management system which does not meet the management standards set forth in this subpart, or
(4) Has not conformed to terms and conditions of previous awards, or
(5) Is otherwise not responsible; and if the awarding agency determines that an award will be made, special conditions and/or restrictions shall correspond to the high risk condition and shall be included in the award.

(b) Special conditions or restrictions may include:
(1) Payment on a reimbursement basis;
(2) Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given funding period;
(3) Requiring additional, more detailed financial reports;
(4) Additional project monitoring;
(5) Requiring the grantee or subgrantee to obtain technical or management assistance; or
(6) Establishing additional prior approvals.

(c) If an awarding agency decides to impose such conditions, the awarding official will notify the grantee or subgrantee as early as possible, in writing, of:
(1) The nature of the special conditions/restrictions;
(2) The reason(s) for imposing them;
(3) The corrective actions which must be taken before they will be removed and the time allowed for completing the corrective actions and
(4) The method of requesting reconsideration of the conditions/restrictions imposed.

[53 FR 8045, 8087, Mar. 11, 1988, as amended at 59 FR 53265, Oct. 21, 1994]

§ 600.220 Standards for financial management systems.

(a) A State must expend and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees, and cost-type contractors, must be sufficient to—

(1) Permit preparation of reports required by this part and the statutes authorizing the grant, and
(2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

(b) The financial management systems of other grantees and subgrantees must meet the following standards:

(1) Financial reporting. Accurate, current, and complete disclosure of the financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the grant or subgrant.

(2) Accounting records. Grantees and subgrantees must maintain records which adequately identify the source and application of funds provided for financially-assisted activities. These records must contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.

(3) Internal control. Effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Grantees and subgrantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.

(4) Budget control. Actual expenditures or outlays must be compared with budgeted amounts for each grant or subgrant. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant or subgrant agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.

(5) Allowable cost. Applicable OMB cost principles, agency program regulations, and the terms of grant and subgrant agreements will be followed in determining the reasonableness, allowability, and allocability of costs.

(6) Source documentation. Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and
§ 600.221 Payment.

(a) Scope. This section prescribes the basic standard and the methods under which a Federal agency will make payments to grantees, and grantees will make payments to subgrantees and contractors.

(b) Basic standard. Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or subgrantee, in accordance with Treasury regulations at 31 CFR part 205.

(c) Advances. Grantees and subgrantees shall be paid in advance, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and their disbursement by the grantee or subgrantee.

(d) Reimbursement. Reimbursement shall be the preferred method when the requirements in paragraph (c) of this section are not met. Grantees and subgrantees may also be paid by reimbursement for any construction grant. Except as otherwise specified in regulation, Federal agencies shall not use the percentage of completion method to pay construction grants. The grantee or subgrantee may use that method to pay its construction contractor, and if it does, the awarding agency’s payments to the grantee or subgrantee will be based on the grantee’s or subgrantee’s actual rate of disbursement.

(e) Working capital advances. If a grantee cannot meet the criteria for advance payments described in paragraph (c) of this section, and the Federal agency has determined that reimbursement is not feasible because the grantee lacks sufficient working capital, the awarding agency may provide cash or a working capital advance basis. Under this procedure the awarding agency shall advance cash to the grantee to cover its estimated disbursement needs for an initial period generally geared to the grantee’s disbursing cycle. Thereafter, the awarding agency shall reimburse the grantee for its actual cash disbursements. The working capital advance method of payment shall not be used by grantees or subgrantees if the reason for using such method is the unwillingness or inability of the grantee to provide timely advances to the subgrantee to meet the subgrantee’s actual cash disbursements.

(f) Effect of program income, refunds, and audit recoveries on payment. (1) Grantees and subgrantees shall disburse repayments to and interest earned on a revolving fund before requesting additional cash payments for the same activity. (2) Except as provided in paragraph (f)(1) of this section, grantees and subgrantees shall disburse program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments.

(g) Withholding payments. (1) Unless otherwise required by Federal statute, awarding agencies shall not withhold payments for proper charges incurred by grantees or subgrantees unless—
(i) The grantee or subgrantee has failed to comply with grant award conditions or
(ii) The grantee or subgrantee is indebted to the United States.

(2) Cash withheld for failure to comply with grant award conditions, but without suspension of the grant, shall be released to the grantee upon subsequent compliance. When a grant is suspended, payment adjustments will be made in accordance with §600.243(c).

(3) A Federal agency shall not make payment to grantees for amounts that are withheld by grantees or subgrantees from payment to contractors to assure satisfactory completion of work. Payments shall be made by the Federal agency when the grantees or subgrantees actually disburse the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.

(h) Cash depositories. (1) Consistent with the national goal of expanding the opportunities for minority business enterprises, grantees and subgrantees are encouraged to use minority banks (a bank which is owned at least 50 percent by minority group members). A list of minority owned banks can be obtained from the Minority Business Development Agency, Department of Commerce, Washington, DC 20230.

(2) A grantee or subgrantee shall maintain a separate bank account only when required by Federal-State agreement.

(i) Interest earned on advances. Unless there are statutory provisions to the contrary, grantees and subgrantees shall promptly, but at least quarterly, remit to the Federal agency interest earned on advances. The grantee or subgrantee may keep interest amounts up to $100 per year for administrative expenses.

§600.222 Allowable costs.

(a) Limitation on use of funds. Grant funds may be used only for:

(1) The allowable costs of the grantees, subgrantees and cost-type contractors, including allowable costs in the form of payments to fixed-price contractors; and

(2) Reasonable fees or profit to cost-type contractors but not any fee or profit (or other increment above allowable costs) to the grantee or subgrantee.

(b) Applicable cost principles. For each kind of organization, there is a set of Federal principles for determining allowable costs. Allowable costs will be determined in accordance with the cost principles applicable to the organization incurring the costs. The following chart lists the kinds of organizations and the applicable cost principles.

<table>
<thead>
<tr>
<th>For the costs of</th>
<th>Use the principles in</th>
</tr>
</thead>
<tbody>
<tr>
<td>State, local or Indian tribal government</td>
<td>OMB Circular A–87.</td>
</tr>
<tr>
<td>Private nonprofit organization other than an (1) institution of higher education, (2) hospital, or (3) organization named in OMB Circular A–122 as not subject to that circular.</td>
<td>OMB Circular A–122.</td>
</tr>
<tr>
<td>For-profit organization other than a hospital and an organization named in OMB Circular A–122 as not subject to that circular.</td>
<td>45 CFR 931.2</td>
</tr>
<tr>
<td>Hospitals</td>
<td>48 CFR part 74, Appendix E</td>
</tr>
</tbody>
</table>

§600.223 Period of availability of funds.

(a) General. Where a funding period is specified, a grantee may charge to the award only costs resulting from obligations of the funding period unless carryover of unobligated balances is permitted, in which case the carryover balances may be charged for costs resulting from obligations of the subsequent funding period.

(b) Liquidation of obligations. A grantee must liquidate all obligations incurred under the award not later than 90 days after the end of the funding period (or as specified in a program regulation) to coincide with the submission of the annual Financial Status Report (SF–269). The Federal agency may extend this deadline at the request of the grantee.
§ 600.224  Matching or cost sharing.

(a) Basic rule: Costs and contributions acceptable. With the qualifications and exceptions listed in paragraph (b) of this section, a matching or cost sharing requirement may be satisfied by either or both of the following:

(1) Allowable costs incurred by the grantee, subgrantee or a cost-type contractor under the assistance agreement. This includes allowable costs borne by non-Federal grants or by others cash donations from non-Federal third parties.

(2) The value of third party in-kind contributions applicable to the period to which the cost sharing or matching requirements applies.

(b) Qualifications and exceptions—(1) Costs borne by other Federal grant agreements. Except as provided by Federal statute, a cost sharing or matching requirement may not be met by costs borne by another Federal grant. This prohibition does not apply to income earned by a grantee or subgrantee from a contract awarded under another Federal grant.

(2) General revenue sharing. For the purpose of this section, general revenue sharing funds distributed under 31 U.S.C. 6702 are not considered Federal grant funds.

(3) Cost or contributions counted towards other Federal costs-sharing requirements. Neither costs nor the values of third party in-kind contributions may count towards satisfying a cost sharing or matching requirement of a grant agreement if they have been or will be counted towards satisfying a cost sharing or matching requirement of another Federal grant agreement, a Federal procurement contract, or any other award of Federal funds.

(4) Costs financed by program income. Costs financed by program income, as defined in §600.425, shall not count towards satisfying a cost sharing or matching requirement unless they are expressly permitted in the terms of the assistance agreement. (This use of general program income is described in §600.225(g).)

(5) Services or property financed by income earned by contractors. Contractors under a grant may earn income from the activities carried out under the contract in addition to the amounts earned from the party awarding the contract. No costs of services or property supported by this income may count toward satisfying a cost sharing or matching requirement unless other provisions of the grant agreement expressly permit this kind of income to be used to meet the requirement.

(6) Records. Costs and third party in-kind contributions counting towards satisfying a cost sharing or matching requirement must be verifiable from the records of grantees and subgrantee or cost-type contractors. These records must show how the value placed on third party in-kind contributions was derived. To the extent feasible, volunteer services will be supported by the same methods that the organization uses to support the allocability of regular personnel costs.

(7) Special standards for third party in-kind contributions. (i) Third party in-kind contributions count towards satisfying a cost sharing or matching requirement only where, if the party receiving the contributions were to pay for them, the payments would be allowable costs.

(ii) Some third party in-kind contributions are goods and services that, if the grantee, subgrantee, or contractor receiving the contribution had to pay for them, the payments would have been an indirect costs. Cost sharing or matching credit for such contributions shall be given only if the grantee, subgrantee, or contractor has established, along with its regular indirect cost rate, a special rate for allocating to individual projects or programs the value of the contributions.

(iii) A third party in-kind contribution to a fixed-price contract may count towards satisfying a cost sharing or matching requirement only if it results in:

(A) An increase in the services or property provided under the contract (without additional cost to the grantee or subgrantee) or

(B) A cost savings to the grantee or subgrantee.

(iv) The values placed on third party in-kind contributions for cost sharing or matching purposes will conform to the rules in the succeeding sections of this subpart. If a third party in-kind contribution is a type not treated in
those sections, the value placed upon it shall be fair and reasonable.

(c) Valuation of donated services—(1) Volunteer services. Unpaid services provided to a grantee or subgrantee by individuals will be valued at rates consistent with those ordinarily paid for similar work in the grantee’s or subgrantee’s organization. If the grantee or subgrantee does not have employees performing similar work, the rates will be consistent with those ordinarily paid by other employers for similar work in the same labor market. In either case, a reasonable amount for fringe benefits may be included in the valuation.

(2) Employees of other organizations. When an employer other than a grantee, subgrantee, or cost-type contractor furnishes free of charge the services of an employee in the employee’s normal line of work, the services will be valued at the employee’s regular rate of pay exclusive of the employee’s fringe benefits and overhead costs. If the services are in a different line of work, paragraph (c)(1) of this section applies.

(d) Valuation of third party donated supplies and loaned equipment or space. (1) If a third party donates supplies, the contribution will be valued at the market value of the supplies at the time of donation.

(2) If a third party donates the use of equipment or space in a building but retains title, the contribution will be valued at the fair rental rate of the equipment or space.

(e) Valuation of third party donated equipment, buildings, and land. If a third party donates equipment, buildings, or land, and title passes to a grantee or subgrantee, the treatment of the donated property will depend upon the purpose of the grant or subgrant, as follows:

(1) Awards for capital expenditures. If the purpose of the grant or subgrant is to assist the grantee or subgrantee in the acquisition of property, the market value of that property at the time of donation may be counted as cost sharing or matching.

(2) Other awards. If assisting in the acquisition of property is not the purpose of the grant or subgrant, paragraphs (e)(2) (i) and (ii) of this section apply:

(i) If approval is obtained from the awarding agency, the market value at the time of donation of the donated equipment or buildings and the fair rental rate of the donated land may be counted as cost sharing or matching. In the case of a subgrant, the terms of the grant agreement may require that the approval be obtained from the Federal agency as well as the grantee. In all cases, the approval may be given only if a purchase of the equipment or rental of the land would be approved as an allowable direct cost. If any part of the donated property was acquired with Federal funds, only the non-federal share of the property may be counted as cost-sharing or matching.

(ii) If approval is not obtained under paragraph (e)(2)(i) of this section, no amount may be counted for donated land, and only depreciation or use allowances may be counted for donated equipment and buildings. The depreciation or use allowances for this property are not treated as third party in-kind contributions. Instead, they are treated as costs incurred by the grantee or subgrantee. They are computed and allocated (usually as indirect costs) in accordance with the cost principles specified in § 600.222. In the same way as depreciation or use allowances for purchased equipment and buildings. The amount of depreciation or use allowances for donated equipment and buildings is based on the property’s market value at the time it was donated.

(f) Valuation of grantee or subgrantee donated real property for construction/acquisition. If a grantee or subgrantee donates real property for a construction or facilities acquisition project, the current market value of that property may be counted as cost sharing or matching. If any part of the donated property was acquired with Federal funds, only the non-federal share of the property may be counted as cost sharing or matching.

(g) Appraisal of real property. In some cases under paragraphs (d), (e) and (f) of this section, it will be necessary to establish the market value of land or a building or the fair rental rate of land or of space in a building. In these cases, the Federal agency may require the market value or fair rental value be set by an independent appraiser, and that
§ 600.225  Program income.

(a) General. Grantees are encouraged to earn income to defray program costs. Program income includes income from fees for services performed, from the use or rental of real or personal property acquired with grant funds, from the sale of commodities or items fabricated under a grant agreement, and from payments of principal and interest on loans made with grant funds. Except as otherwise provided in regulations of the Federal agency, program income does not include interest on grant funds, rebates, credits, discounts, refunds, etc. and interest earned on any of them.

(b) Definition of program income. Program income means gross income received by the grantee or subgrantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period. “During the grant period” is the time between the effective date of the award and the ending date of the award reflected in the final financial report.

(c) Cost of generating program income. If authorized by Federal regulations or the grant agreement, costs incident to the generation of program income may be deducted from gross income to determine program income.

(d) Governmental revenues. Taxes, special assessments, levies, fines, and other such revenues raised by a grantee or subgrantee are not program income unless the revenues are specifically identified in the grant agreement or Federal agency regulations as program income.

(e) Royalties. Income from royalties and license fees for copyrighted material, patents, and inventions developed by a grantee or subgrantee is program income only if the revenues are specifically identified in the grant agreement or Federal agency regulations as program income. (See §600.234.)

(f) Property. Proceeds from the sale of real property or equipment will be handled in accordance with the requirements of §§600.231 and 600.232.

(g) Use of program income. Program income shall be deducted from outlays which may be both Federal and non-Federal as described below, unless the Federal agency regulations or the grant agreement specify another alternative (or a combination of the alternatives). In specifying alternatives, the Federal agency may distinguish between income earned by the grantee and income earned by subgrantees and between the sources, kinds, or amounts of income. When Federal agencies authorize the alternatives in paragraphs (g) (2) and (3) of this section, program income in excess of any limits stipulated shall also be deducted from outlays.

(1) Deduction. Ordinarily program income shall be deducted from total allowable costs to determine the net allowable costs. Program income shall be used for current costs unless the Federal agency authorizes otherwise. Program income which the grantee did not anticipate at the time of the award shall be used to reduce the Federal agency and grantee contributions rather than to increase the funds committed to the project.

(2) Addition. When authorized, program income may be added to the funds committed to the grant agreement by the Federal agency and the grantee. The program income shall be used for the purposes and under the conditions of the grant agreement.

(3) Cost sharing or matching. When authorized, program income may be used to meet the cost sharing or matching requirement of the grant agreement. The amount of the Federal grant award remains the same.

(h) Income after the award period. There are no Federal requirements governing the disposition of program income earned after the end of the award period (i.e., until the ending date of the final financial report, see paragraph (a) of this section), unless the terms of the agreement or the Federal agency regulations provide otherwise.

§ 600.230 Changes.

(a) General. Grantees and subgrantees are permitted to rebudget within the approved direct cost budget to meet unanticipated requirements and may make limited program changes to the approved project. However, unless waived by the awarding agency, certain types of post-award changes in budgets and projects shall require the prior written approval of the awarding agency.

(b) Relation to cost principles. The applicable cost principles (see § 600.222) contain requirements for prior approval of certain types of costs. Except where waived, those requirements apply to all grants and subgrants even if paragraphs (c) through (f) of this section do not.

(c) Budget changes—(1) Nonconstruction projects. Except as stated in other regulations or an award document, grantees or subgrantees shall obtain prior written approval for any budget revision which

(i) Any revision which would result in the need for additional funding.

(ii) Unless waived by the awarding agency, cumulative transfers among direct cost categories, or, if applicable, among separately budgeted programs, projects, functions, or activities which exceed or are expected to exceed ten percent of the current total approved budget, whenever the awarding agency's share exceeds $100,000.

(iii) Transfer of funds allotted for training allowances (i.e., from direct payments to trainees to other expense categories).

(2) Construction projects. Grantees and subgrantees shall obtain prior written approval for any budget revision which

(5) Require each subgrantee to permit independent auditors to have access to the records and financial statements.

(c) Auditor selection. In arranging for audit services, § 600.236 shall be followed.

Changes, Property, and Subawards

§ 600.226 Non-Federal audit.

(a) Basic rule. Grantees and subgrantees are responsible for obtaining audits in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations." The audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits.

(b) Subgrantees. State or local governments, as those terms are defined for purposes of the Single Audit Act Amendments of 1996, that provide Federal awards to a subgrantee, which expends $300,000 or more (or other amount as specified by OMB) in Federal awards in a fiscal year, shall:

(1) Determine whether State or local subgrantees have met the audit requirements of the Act and whether subgrantees covered by OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," have met the audit requirements of the Act. Commercial contractors (private for-profit and private and governmental organizations) providing goods and services to State and local governments are not required to have a single audit performed. State and local governments should use their own procedures to ensure that the contractor has complied with laws and regulations affecting the expenditure of Federal funds;

(2) Determine whether the subgrantee spent Federal assistance funds in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subgrantee made in accordance with the Act, Circular A-110, or through other means (e.g., program reviews) if the subgrantee has not had such an audit;

(3) Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instance of noncompliance with Federal laws and regulations;

(4) Consider whether subgrantee audits necessitate adjustment of the grantee's own records; and

(5) Require each subgrantee to permit independent auditors to have access to the records and financial statements.

(c) Auditor selection. In arranging for audit services, § 600.236 shall be followed.

§ 600.231 Real property.

(a) Title. Subject to the obligations and conditions set forth in this section, title to real property acquired under a grant or subgrant will vest upon acquisition in the grantee or subgrantee respectively.

(b) Use. Except as otherwise provided by Federal statutes, real property will be used for the originally authorized purposes as long as needed for that purposes, and the grantee or subgrantee shall not dispose of or encumber its title or other interests.

(c) Disposition. When real property is no longer needed for the originally authorized purpose, the grantee or subgrantee will request disposition instructions from the awarding agency. The instructions will provide for one of the following alternatives:

(1) Retention of title. Retain title after compensating the awarding agency. The amount paid to the awarding agency may not require prior approval for any budget revision which is not described in paragraph (c) of this section.

(f) Requesting prior approval. Request for prior approval of any budget revision will be in the same budget form as the one used in its application and shall be accompanied by a narrative justification for the proposed revision.

2. A request for a prior approval under the applicable Federal cost principles (see § 600.222) may be made by letter.

3. A request by a subgrantee for prior approval will be addressed in writing to the grantee. The grantee will promptly review such request and shall approve or disapprove the request in writing. A grantee will not approve any budget or project revision which is inconsistent with the purpose or terms and conditions of the Federal grant to the grantee. If the request requested by the subgrantee would result in a change to the grantee’s approved project which requires Federal prior approval, the grantee will obtain the Federal agency’s approval before approving the subgrantee’s request. [53 FR 8045, 8087, Mar. 11, 1988. Redesignated at 59 FR 53264, Oct. 21, 1994, as amended at 61 FR 7166, Feb. 26, 1996]
awarding agency’s percentage of participation in the cost of the original purchase to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the grant is still active, the net proceeds from sale may be offset against the original cost of the property. When a grantee or subgrantee is directed to sell property, sales procedures shall be followed that provide for competition to the extent practicable and result in the highest possible return.

(3) Transfer of title. Transfer title to the awarding agency or to a third-party designated/approved by the awarding agency. The grantee or subgrantee shall be paid an amount calculated by applying the grantee or subgrantee’s percentage of participation in the purchase of the real property to the current fair market value of the property.

§ 600.232 Equipment.

(a) Title. Subject to the obligations and conditions set forth in this section, title to equipment acquired under a grant or subgrant will vest upon acquisition in the grantee or subgrantee respectively.

(b) States. A State will use, manage, and dispose of equipment acquired under a grant by the State in accordance with State laws and procedures. Other grantees and subgrantees will follow paragraphs (c) through (e) of this section.

(c) Use. (1) Equipment shall be used by the grantee or subgrantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency.

(2) The grantee or subgrantee shall also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the awarding agency. User fees should be considered if appropriate.

(3) Notwithstanding the encouragement in §600.225(a) to earn program income, the grantee or subgrantee must not use equipment acquired with grant funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted or contemplated by Federal statute.

(4) When acquiring replacement equipment, the grantee or subgrantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to the approval of the awarding agency.

(d) Management requirements. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, as a minimum, meet the following requirements:

(1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

(2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.

(3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated.

(4) Adequate maintenance procedures must be developed to keep the property in good condition.

(5) If the grantee or subgrantee is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

(e) Disposition. When original or replacement equipment acquired under a grant or subgrant is no longer needed for the original project or program or
§ 600.233 Supplies.

(a) Title. Title to supplies acquired under a grant or subgrant will vest, upon acquisition, in the grantee or subgrantee respectively.

(b) Disposition. If there is a residual inventory of unused supplies exceeding $5,000 in total aggregate fair market value upon termination or completion of the award, and if the supplies are not needed for any other federally sponsored programs or projects, the grantee or subgrantee shall compensate the awarding agency for its share.

§ 600.234 Copyrights.

The Federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:

(a) The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and

(b) Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.

§ 600.235 Subawards to debarred and suspended parties.

Grantees and subgrantees must not make any award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, “Debarment and Suspension.”

§ 600.236 Procurement.

(a) States. When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders.

for other activities currently or previously supported by a Federal agency, disposition of the equipment will be made as follows:

(1) Items of equipment with a current per-unit fair market value of less than $5,000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency.

(2) Items of equipment with a current per unit fair market value in excess of $5,000 may be retained or sold and the awarding agency shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the awarding agency’s share of the equipment.

(3) In cases where a grantee or subgrantee fails to take appropriate disposition actions, the awarding agency may direct the grantee or subgrantee to take excess and disposition actions.

(f) Federal equipment. In the event a grantee or subgrantee is provided federally-owned equipment:

(1) Title will remain vested in the Federal Government.

(2) Grantees or subgrantees will manage the equipment in accordance with Federal agency rules and procedures, and submit an annual inventory listing.

(3) When the equipment is no longer needed, the grantee or subgrantee will request disposition instructions from the Federal agency.

(g) Right to transfer title. The Federal awarding agency may reserve the right to transfer title to the Federal Government or a third party named by the awarding agency when such a third party is otherwise eligible under existing statutes. Such transfers shall be subject to the following standards:

(1) The property shall be identified in the grant or otherwise made known to the grantee in writing.

(2) The Federal awarding agency shall issue disposition instructions within 120 calendar days after the end of the Federal support of the project for which it was acquired. If the Federal awarding agency fails to issue disposition instructions within the 120 calendar-day period the grantee shall follow § 600.232(e).

(3) When title to equipment is transferred, the grantee shall be paid an amount calculated by applying the percentage of participation in the purchase to the current fair market value of the property.

and their implementing regulations. Other grantees and subgrantees will follow paragraphs (b) through (i) in this section.

(b) Procurement standards. (1) Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(2) Grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

(i) The employee, officer or agent,
(ii) Any member of his immediate family,
(iii) His or her partner, or
(iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

(4) Grantee and subgrantee procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(5) To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

(6) Grantees and subgrantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(7) Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(8) Grantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(9) Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(10) Grantees and subgrantees will use time and material type contracts only—

(i) After a determination that no other contract is suitable, and
(ii) If the contract includes a ceiling price that the contractor exceeds at its own risk.

(11) Grantees and subgrantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the grantee or subgrantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee or subgrantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

(12) Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:

(i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and

(ii) Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or subgrantee.

(c) Competition. (1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of §600.236. Some of the situations considered to be restrictive of competition include but are not limited to:

(i) Placing unreasonable requirements on firms in order for them to qualify to do business,

(ii) Requiring unnecessary experience and excessive bonding,

(iii) Noncompetitive pricing practices between firms or between affiliated companies.

(iv) Noncompetitive awards to consultants that are on retainer contracts,

(v) Organizational conflicts of interest,

(vi) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance of other relevant requirements of the procurement, and

(vii) Any arbitrary action in the procurement process.

(2) Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:

(i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and

(ii) Identify all requirements which the offerors must fulfill and all other
factors to be used in evaluating bids or proposals.

(4) Grantees and subgrantees will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period.

(d) Methods of procurement to be followed. (1) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at $100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

(2) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in §600.236(d)(2)(i) apply.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

(A) A complete, adequate, and realistic specification or purchase description is available;

(B) Two or more responsible bidders are willing and able to compete effectively and for the business; and

(C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

(A) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;

(B) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;

(C) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(D) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(E) Any or all bids may be rejected if there is a sound documented reason.

(3) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;

(ii) Proposals will be solicited from an adequate number of qualified sources;

(iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;

(iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(v) Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It
cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(4) Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

(i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:

(A) The item is available only from a single source;
(B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
(C) The awarding agency authorizes noncompetitive proposals; or
(D) After solicitation of a number of sources, competition is determined inadequate.

(ii) Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.

(iii) Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.

(e) Contracting with small and minority firms, women's business enterprise and labor surplus area firms. (1) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

(2) Affirmative steps shall include:

(i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
(ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
(iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
(iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
(v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and
(vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.

(f) Contract cost and price. (1) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

(2) Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
(3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see §600.422). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.

(4) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

(g) Awarding agency review. (1) Grantees and subgrantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(2) Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:

(i) A grantee's or subgrantee's procurement procedures or operation fails to comply with the procurement standards in this section; or

(ii) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or

(iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product; or

(iv) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

(3) A grantee or subgrantee will be exempt from the pre-award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.

(i) A grantee or subgrantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.

(ii) A grantee or subgrantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or subgrantee that it is complying with these standards. A grantee or subgrantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.

(h) Bonding requirements. For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is
one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(i) Contract provisions. A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

(1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)

(2) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of $10,000)

(3) Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of $10,000 by grantees and their contractors or subgrantees)

(4) Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 9). (Construction contracts in excess of $2000 awarded by grantees and subgrantees when required by Federal grant program legislation)

(5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by grantees and subgrantees in excess of $2000, and in excess of $2500 for other contracts which involve the employment of mechanics or laborers)

(7) Notice of awarding agency requirements and regulations pertaining to reporting.

(8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.

(9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.

(10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

(11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

(12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 5). (Contracts, subcontracts, and subgrants of amounts in excess of $100,000)

(13) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued by the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).


§ 600.237 Subgrants.

(a) States. States shall follow state law and procedures when awarding and
Department of Energy

§ 600.240

Monitoring and reporting program performance.

(a) Monitoring by grantees. Grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function or activity.

(b) Nonconstruction performance reports. The Federal agency may, if it decides that performance information available from subsequent applications contains sufficient information to meet its programmatic needs, require the grantee to submit a performance report only upon expiration or termination of grant support. Unless waived by the Federal agency this report will be due on the same date as the final Financial Status Report.

(1) Grantees shall submit annual performance reports unless the awarding agency requires quarterly or semi-annual reports. However, performance reports will not be required more frequently than quarterly. Annual reports shall be due 90 days after the grant year, quarterly or semi-annual reports shall be due 30 days after the reporting period. The final performance report will be due 90 days after the expiration or termination of grant support. If a justified request is submitted by a grantee, the Federal agency may extend the due date for any performance report. Additionally, requirements for unnecessary performance reports may be waived by the Federal agency.

(2) Performance reports will contain, for each grant, brief information on the following:

(i) A comparison of actual accomplishments to the objectives established for the period. Where the output of the project can be quantified, a computation of the cost per unit of output may be required if that information will be useful.
(ii) The reasons for slippage if established objectives were not met.
(iii) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(3) Grantees will not be required to submit more than the original and two copies of performance reports.

(4) Grantees will adhere to the standards in this section in prescribing performance reporting requirements for subgrantees.

(c) Construction performance reports. For the most part, on-site technical inspections and certified percentage-of-completion data are relied on heavily by Federal agencies to monitor progress under construction grants and subgrants. The Federal agency will require additional formal performance reports only when considered necessary, and never more frequently than quarterly.

(d) Significant developments. Events may occur between the scheduled performance reporting dates which have significant impact upon the grant or subgrant supported activity. In such cases, the grantee must inform the Federal agency as soon as the following types of conditions become known:

(1) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

(2) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more beneficial results than originally planned.

(e) Federal agencies may make site visits as warranted by program needs.

(f) Waivers, extensions. (1) Federal agencies may waive any performance report required by this part if not needed.

(2) The grantee may waive any performance report from a subgrantee when not needed. The grantee may extend the due date for any performance report from a subgrantee if the grantee will still be able to meet its performance reporting obligations to the Federal agency.

§ 600.241 Financial reporting.

(a) General. (1) Except as provided in paragraphs (a) (2) and (5) of this section, grantees will use only the forms specified in paragraphs (a) through (e) of this section, and such supplementary or other forms as may from time to time be authorized by OMB, for:

(ii) Submitting financial reports to Federal agencies, or

(ii) Requesting advances or reimbursements when letters of credit are not used.

(2) Grantees need not apply the forms prescribed in this section in dealing with their subgrantees. However, grantees shall not impose more burdensome requirements on subgrantees.

(3) Grantees shall follow all applicable standard and supplemental Federal agency instructions approved by OMB to the extent required under the Paperwork Reduction Act of 1980 for use in connection with forms specified in paragraphs (b) through (e) of this section. Federal agencies may issue substantive supplementary instructions only with the approval of OMB. Federal agencies may shade out or instruct the grantee to disregard any line item that the Federal agency finds unnecessary for its decisionmaking purposes.

(4) Grantees will not be required to submit more than the original and two copies of forms required under this subpart.

(5) Federal agencies may provide computer outputs to grantees to expedite or contribute to the accuracy of reporting. Federal agencies may accept the required information from grantees in machine usable format or computer printouts instead of prescribed forms.

(6) Federal agencies may waive any report required by this section if not needed.

(7) Federal agencies may extend the due date of any financial report upon receiving a justified request from a grantee.

(b) Financial Status Report—(1) Form. Grantees will use Standard Form 269 or 269A, Financial Status Report, to report the status of funds for all non-construction grants and for construction grants when required in accordance with § 600.241(e)(2)(iii).
(2) Accounting basis. Each grantee will report program outlays and program income on a cash or accrual basis as prescribed by the awarding agency. If the Federal agency requires accrual information and the grantee's accounting records are not normally kept on the accrual basis, the grantee shall not be required to convert its accounting system but shall develop such accrual information through and analysis of the documentation on hand.

(3) Frequency. The Federal agency may prescribe the frequency of the report for each project or program. However, the report will not be required more frequently than quarterly. If the Federal agency does not specify the frequency of the report, it will be submitted annually. A final report will be required upon expiration or termination of grant support.

(4) Due date. When reports are required on a quarterly or semiannual basis, they will be due 30 days after the reporting period. When required on an annual basis, they will be due 90 days after the grant year. Final reports will be due 90 days after the expiration or termination of grant support.

(c) Federal Cash Transactions Report—
(1) Form. (i) For grants paid by letter or credit, Treasury check advances or electronic transfer of funds, the grantee will submit the Standard Form 272, Federal Cash Transactions Report, and when necessary, its continuation sheet, Standard Form 272a, unless the terms of the award exempt the grantee from this requirement.

(ii) These reports will be used by the Federal agency to monitor cash advanced to grantees and to obtain disbursement or outlay information for each grant from grantees. The format of the report may be adapted as appropriate when reporting is to be accomplished with the assistance of automatic data processing equipment provided that the information to be submitted is not changed in substance.

(2) Forecasts of Federal cash requirements. Forecasts of Federal cash requirements may be required in the “Remarks” section of the report.

(3) Cash in hands of subgrantees. When considered necessary and feasible by the Federal agency, grantees may be required to report the amount of cash advances in excess of three days’ needs in the hands of their subgrantees or contractors and to provide short narrative explanations of actions taken by the grantee to reduce the excess balances.

(4) Frequency and due date. Grantees must submit the report no later than 15 working days following the end of each quarter. However, where an advance either by letter of credit or electronic transfer of funds is authorized at an annualized rate of one million dollars or more, the Federal agency may require the report to be submitted within 15 working days following the end of each month.

(d) Request for advance or reimbursement—(1) Advance payments. Requests for Treasury check advance payments will be submitted on Standard Form 270, Request for Advance or Reimbursement. (This form will not be used for drawdowns under a letter of credit, electronic funds transfer or when Treasury check advance payments are made to the grantee automatically on a predetermined basis.)

(2) Reimbursements. Requests for reimbursement under nonconstruction grants will also be submitted on Standard Form 270. (For reimbursement requests under construction grants, see paragraph (e)(1) of this section.)

(e) Outlay report and request for reimbursement for construction programs—(1) Grants that support construction activities paid by reimbursement method. (i) Requests for reimbursement under construction grants will be submitted on Standard Form 271, Outlay Report and Request for Reimbursement for Construction Programs. Federal agencies may, however, prescribe the Request for Advance or Reimbursement form, specified in §600.241(d), instead of this form.

(ii) The frequency for submitting reimbursement requests is treated in §600.41(b)(3).

(2) Grants that support construction activities paid by letter of credit, electronic funds transfer or Treasury check advance. (i) When a construction grant is paid by letter of credit, electronic...
funds transfer or Treasury check advances, the grantee will report its outlays to the Federal agency using Standard Form 271, Outlay Report and Request for Reimbursement for Construction Programs. The Federal agency will provide any necessary special instruction. However, frequency and due date shall be governed by §600.241(b) (3) and (4).

(ii) When a construction grant is paid by Treasury check advances based on periodic requests from the grantee, the advances will be requested on the form specified in §600.241(d).

(iii) The Federal agency may substitute the Financial Status Report specified in §600.241(b) for the Outlay Report and Request for Reimbursement for Construction Programs.

(3) Accounting basis. The accounting basis for the Outlay Report and Request for Reimbursement for Construction Programs shall be governed by §600.241(b)(2).

§600.242 Retention and access requirements for records.

(a) Applicability. (1) This section applies to all financial and programmatic records, supporting documents, statistical records, and other records of grantees or subgrantees which are:

(i) Required to be maintained by the terms of this subpart, program regulations or the grant agreement, or

(ii) Otherwise reasonably considered as pertinent to program regulations or the grant agreement.

(2) This section does not apply to records maintained by contractors or subcontractors. For a requirement to place a provision concerning records in certain kinds of contracts, see §600.436(i)(10).

(b) Length of retention period. (1) Except as otherwise provided, records must be retained for three years from the starting date specified in paragraph (c) of this section.

(2) If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whenever is later.

(3) To avoid duplicate recordkeeping, awarding agencies may make special arrangements with grantees and subgrantees to retain any records which are continuously needed for joint use. The awarding agency will request transfer of records to its custody when it determines that the records possess long-term retention value. When the records are transferred to or maintained by the Federal agency, the 3-year retention requirement is not applicable to the grantee or subgrantee.

(c) Starting date of retention period—(1) General. When grant support is continued or renewed at annual or other intervals, the retention period for the records of each funding period starts on the day the grantee or subgrantee submits to the awarding agency its single or last expenditure report for that period. However, if grant support is continued or renewed quarterly, the retention period for each year’s records starts on the day the grantee submits its expenditure report for the last quarter of the Federal fiscal year. In all other cases, the retention period starts on the day the grantee submits its final expenditure report. If an expenditure report has been waived, the retention period starts on the day the report would have been due.

(2) Real property and equipment records. The retention period for real property and equipment records starts from the date of the disposition or replacement at the direction of the awarding agency.

(3) Records for income transactions after grant or subgrant support. In some cases grantees must report income after the period of grant support. Where there is such a requirement, the retention period for the records pertaining to the earning of the income starts from the end of the grantee’s fiscal year in which the income is earned.

(4) Indirect cost rate proposals, cost allocations plans, etc. This paragraph applies to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of
costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(i) If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the grantee) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

(ii) If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the grantee) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

(d) Substitution of microfilm. Copies made by microfilming, photocopying, or similar methods may be substituted for the original records.

(e) Access to records—(1) Records of grantees and subgrantees. The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.

(2) Expiration of right of access. The rights of access in this section must not be limited to the required retention period but shall last as long as the records are retained.

(f) Restrictions on public access. The Federal Freedom of Information Act (5 U.S.C. 552) does not apply to records unless required by Federal, State, or local law, grantees and subgrantees are not required to permit public access to their records.

§ 600.243 Enforcement.

(a) Remedies for noncompliance. If a grantee or subgrantee materially fails to comply with any term of an award, whether stated in a Federal statute or regulation, an assurance, in a State plan or application, a notice of award, or elsewhere, the awarding agency may take one or more of the following actions, as appropriate in the circumstances:

(1) Temporarily withhold cash payments pending correction of the deficiency by the grantee or subgrantee or more severe enforcement action by the awarding agency,

(2) Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance,

(3) Wholly or partly suspend or terminate the current award for the grantee's or subgrantee's program,

(4) Withhold further awards for the program, or

(5) Take other remedies that may be legally available.

(b) Hearings, appeals. In taking an enforcement action, the awarding agency will provide the grantee or subgrantee an opportunity for such hearing, appeal, or other administrative proceeding to which the grantee or subgrantee is entitled under any statute or regulation applicable to the action involved.

(c) Effects of suspension and termination. Costs of grantee or subgrantee resulting from obligations incurred by the grantee or subgrantee during a suspension or after termination of an award are not allowable unless the awarding agency expressly authorizes them in the notice of suspension or termination or subsequently. Other grantee or subgrantee costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:

(1) The costs result from obligations which were properly incurred by the grantee or subgrantee before the effective date of suspension or termination, are not in anticipation of it, and, in the case of a termination, are noncancellable, and,

(2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

(d) Relationship to debarment and suspension. The enforcement remedies identified in this section, including suspension and termination, do not preclude grantee or subgrantee from
§ 600.244 Termination for convenience.

Except as provided in §600.443 awards may be terminated in whole or in part only as follows:
(a) By the awarding agency with the consent of the grantee or subgrantee in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated, or
(b) By the grantee or subgrantee upon written notification to the awarding agency, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated.

However, if, in the case of a partial termination, the awarding agency determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the awarding agency may terminate the award in its entirety under either §600.243 or paragraph (a) of this section.

§ 600.245 Closeout.

(a) General. The Federal agency will close out the award when it determines that all applicable administrative actions and all required work of the grant has been completed.
(b) Reports. Within 90 days after the expiration or termination of the grant, the grantee must submit all financial, performance, and other reports required as a condition of the grant. Upon request by the grantee, Federal agencies may extend this timeframe. These may include but are not limited to:
(1) Final performance or progress report.
(2) Financial Status Report (SF 269) or Outlay Report and Request for Reimbursement for Construction Programs (SF 271) (as applicable).
(3) Final request for payment (SF -270) (if applicable).
(4) Invention disclosure (if applicable).
(5) Federally-owned property report.

In accordance with §600.232(f), a grantee must submit an inventory of all federally owned property (as distinct from property acquired with grant funds) for which it is accountable and request disposition instructions from the Federal agency of property no longer needed.

(c) Cost adjustment. The Federal agency will, within 90 days after receipt of reports in paragraph (b) of this section, make upward or downward adjustments to the allowable costs.

(d) Cash adjustments. (1) The Federal agency will make prompt payment to the grantee for allowable reimbursable costs.
(2) The grantee must immediately refund to the Federal agency any balance of unobligated (unencumbered) cash advanced that is not authorized to be retained for use on other grants.

§ 600.251 Later disallowances and adjustments.

The closeout of a grant does not affect:
(a) The Federal agency’s right to disallow costs and recover funds on the basis of a later audit or other review;
(b) The grantee’s obligation to return any funds due as a result of later refunds, corrections, or other transactions;
(c) Records retention as required in §600.242;
(d) Property management requirements in §§600.231 and 600.232; and
(e) Audit requirements in §600.226.

§ 600.252 Collection of amounts due.

(a) Any funds paid to a grantee in excess of the amount to which the grantee is finally determined to be entitled under the terms of the award constitute a debt to the Federal Government. If not paid within a reasonable period after demand, the Federal agency may reduce the debt by:
Department of Energy

§ 600.502 What must DOE determine.

A company shall be eligible to receive an award of financial assistance under a covered program only if DOE finds that—

(a) Consistent with §600.503, the company's participation in a covered program would be in the economic interest of the United States; and

(b) The company is either—

(1) A United States-owned company; or

(2) Incorporated or organized under the laws of any State and has a parent company which is incorporated or organized under the laws of a country which—

(i) Affords to the United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those authorized under the Act; and

(ii) Affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and

Entitlements [Reserved]

Subpart D-E [Reserved]

Subpart F—Eligibility Determination for Certain Financial Assistance Programs—General Statement of Policy

SOURCE: 60 FR 65514, Dec. 20, 1995, unless otherwise noted.

§ 600.500 Purpose and scope.

This subpart implements section 2306 of the Energy Policy Act of 1992, 42 U.S.C. 13525, and sets forth a general statement of policy, including procedures and interpretations, for the guidance of implementing DOE officials in making mandatory pre-award determinations of eligibility for financial assistance under Titles XX through XXIII of that Act.

§ 600.501 Definitions.

The definitions in §600.3 of this part, including the definition of the term “financial assistance,” are applicable to this subpart. In addition, as used in this subpart:


Company means any business entity other than an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. § 501 (c)(3)).

Covered program means a program under Titles XX through XXIII of the Act. (A list of covered programs, updated periodically as appropriate, is maintained and published by the Department of Energy.)

Parent company means a company that:

(1) Exercises ultimate ownership of the applicant company either directly, by ownership of a majority of that company's voting securities, or indirectly, by control over a majority of that company's voting securities through one or more intermediate subsidiary companies or otherwise, and

(2) Is not itself subject to the ultimate ownership control of another company.

United States means the several States, the District of Columbia, and all commonwealths, territories, and possessions of the United States.

United States-owned company means:

(1) A company that has majority ownership by individuals who are citizens of the United States, or

(2) A company organized under the laws of a State that either has no parent company or has a parent company organized under the laws of a State.

Voting security has the meaning given the term in the Public Utility Holding Company Act (15 U.S.C. 15b(17)).
§ 600.503 Determining the economic interest of the United States.

In determining whether participation of an applicant company in a covered program would be in the economic interest of the United States under §600.502(a), DOE may consider any evidence showing that a financial assistance award would be in the economic interest of the United States including, but not limited to—

(a) Investments by the applicant company and its affiliates in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States);

(b) Significant contributions to employment in the United States by the applicant company and its affiliates; and

(c) An agreement by the applicant company, with respect to any technology arising from the financial assistance being sought—

(1) To promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry); and

(2) To procure parts and materials from competitive suppliers.

§ 600.504 Information an applicant must submit.

(a) Any applicant for financial assistance under a covered program shall submit with the application for financial assistance, or at such later time as may be specified by DOE, evidence for DOE to consider in making findings required under §600.502(a) and findings concerning ownership status under §600.502(b).

(b) If an applicant for financial assistance is submitting evidence relating to future undertakings, such as an agreement under §600.503(c) to promote manufacture in the United States of products resulting from a technology developed with financial assistance or to procure parts and materials from competitive suppliers, the applicant shall submit a representation affirming acceptance of these undertakings. The applicant should also briefly describe its plans, if any, for any manufacturing of products arising from the program-supported research and development, including the location where such manufacturing is expected to occur.

(c) If an applicant for financial assistance is claiming to be a United States-owned company, the applicant must submit a representation affirming that it falls within the definition of that term provided in §600.501.

(d) DOE may require submission of additional information deemed necessary to make any portion of the determination required by §600.502.

§ 600.505 Other information DOE may consider.

In making the determination under §600.502(b)(2), DOE may—

(a) Consider information on the relevant international and domestic law obligations of the country of incorporation of the parent company of an applicant;

(b) Consider information relating to the policies and practices of the country of incorporation of the parent company with respect to:

(1) The eligibility criteria for, and the experience of United States-owned company participation in, energy-related research and development programs;

(2) Local investment opportunities afforded to United States-owned companies; and

(3) Protection of intellectual property rights of United States-owned companies;

(c) Seek and consider advice from other federal agencies, as appropriate;

(d) Consider any publicly available information in addition to the information provided by the applicant.

Apppendix A to Part 600—Generally Applicable Requirements

Socioeconomic Policy Requirements

Nondiscrimination in Federally Assisted Programs, 10 CFR part 1040 (45 FR 40514, June 13, 1980), as proposed to be amended by 46 FR 40546 (October 6, 1981).
Department of Energy


Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended (42 U.S.C. 4581).


Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151 et seq.).


Sec. 306, Clean Air Act, as amended (42 U.S.C. 7606c).


Title XIV, Public Health Service Act, as amended (42 U.S.C. 300f et seq.).


10 CFR part 1022, “Protection of Wetlands and Floodplains.”


Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.).


Protection of Human Subjects, 10 CFR part 745.

Federal Laboratory Animal Welfare Act (7 U.S.C. 2131 et seq.) (9 CFR parts 1, 2, and 3).

Lead-Based Paint Prohibition (42 U.S.C. 4831(b)).

Sec. 7(b), Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(b)).


Administrative and Fiscal Policy Requirements


OMB Circular A–88, Coordinating Indirect Cost Rates and Audit at Educational Institutions.

OMB Circular A–73, Audit of Federal Operations and Programs.


OMB Circular A–128, Audits of State and Local Governments.


APPENDIX B TO PART 600—AUDIT REPORT DISTRIBUTEES


Distributee: Manager, Western Region, Office of Inspector General, U.S. Department of Energy, P.O. Box 5400, Albuquerque, New Mexico 87115.


[50 FR 42363, Oct. 18, 1985; 51 FR 4297, Feb. 4, 1986]

PART 601—NEW RESTRICTIONS ON LOBBYING

Subpart A—General

Sec. 601.100 Conditions on use of funds.

601.105 Definitions.

601.110 Certification and disclosure.
Subpart A—General

§ 601.100 Conditions on use of funds.

(a) No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b) Each person who requests or receives from an agency a Federal contract, grant, loan, or cooperative agreement shall file with that agency a certification, set forth in appendix A, that the person has not made, and will not make, any payment prohibited by paragraph (a) of this section.

(c) Each person who requests or receives from an agency a Federal contract, grant, loan, or a cooperative agreement shall file with that agency a disclosure form, set forth in appendix B, if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (a) of this section if paid for with appropriated funds.

(d) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a statement, set forth in appendix A, whether that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.

(e) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a disclosure form, set forth in appendix B, if that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.

Subpart B—Activities by Own Employees

Subpart C—Activities by Other Than Own Employees

Subpart D—Penalties and Enforcement

Subpart E—Exemptions

Subpart F—Agency Reports

APPENDIX A TO PART 601—CERTIFICATION REGARDING LOBBYING

APPENDIX B TO PART 601—DISCLOSURE FORM TO REPORT LOBBYING


SOURCE: 55 FR 6737 and 6746, Feb. 26, 1990, unless otherwise noted.

CROSS REFERENCE: See also Office of Management and Budget notice published at 54 FR 52306, Dec. 20, 1989.

§ 601.105 Definitions.

For purposes of this part:

(a) Agency, as defined in 5 U.S.C. 552(f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101(1).

(b) Covered Federal action means any of the following Federal actions:

(1) The awarding of any Federal contract;

(2) The making of any Federal grant;

(3) The making of any Federal loan;
Department of Energy § 601.105

(4) The entering into of any cooperative agreement; and,

(5) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Covered Federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan. Loan guarantees and loan insurance are addressed independently within this part.

(c) Federal contract means an acquisition contract awarded by an agency, including those subject to the Federal Acquisition Regulation (FAR), and any other acquisition contract for real or personal property or services not subject to the FAR.

(d) Federal cooperative agreement means a cooperative agreement entered into by an agency.

(e) Federal grant means an award of financial assistance in the form of money, or property in lieu of money, by the Federal Government or a direct appropriation made by law to any person. The term does not include technical assistance which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, loan insurance, interest subsidies, insurance, or direct United States cash assistance to an individual.

(f) Federal loan means a loan made by an agency. The term does not include loan guarantee or loan insurance.

(g) Indian tribe and tribal organization have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B). Alaskan Natives are included under the definitions of Indian tribes in that Act.

(h) Influencing or attempting to influence means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

(i) Loan guarantee and loan insurance means an agency's guarantee or insurance of a loan made by a person.

(j) Local government means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

(k) Officer or employee of an agency includes the following individuals who are employed by an agency:

(1) An individual who is appointed to a position in the Government under title 5, U.S. Code, including a position under a temporary appointment;

(2) A member of the uniformed services as defined in section 101(3), title 37, U.S. Code;

(3) A special Government employee as defined in section 202, title 18, U.S. Code; and,

(4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, U.S. Code appendix 2.

(l) Person means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

(m) Reasonable compensation means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

(n) Reasonable payment means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

(o) Recipient includes all contractors, subcontractors at any tier, and subgrantees at any tier of the recipient of funds received in connection with a Federal contract, grant, loan, or cooperative agreement. The term excludes...
§ 601.110 Certification and disclosure.

(a) Each person shall file a certification, and a disclosure form, if required, with each submission that initiates agency consideration of such person for:

(1) Award of a Federal contract, grant, or cooperative agreement exceeding $100,000 or

(2) An award of a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding $150,000.

(b) Each person shall file a certification, and a disclosure form, if required, upon receipt by such person of:

(1) A Federal contract, grant, or cooperative agreement exceeding $100,000; or

(2) A Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding $150,000, unless such person previously filed a certification, and a disclosure form, if required, under paragraph (a) of this section.

(c) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraphs (a) or (b) of this section. An event that materially affects the accuracy of the information reported includes:

(1) A cumulative increase of $25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or

(2) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or,

(3) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

(d) Any person who requests or receives from a person referred to in paragraphs (a) or (b) of this section:

(1) A subcontract exceeding $100,000 at any tier under a Federal contract;

(2) A subgrant, contract, or subcontract exceeding $100,000 at any tier under a Federal grant;

(3) A contract or subcontract exceeding $100,000 at any tier under a Federal loan exceeding $150,000; or,

(4) A contract or subcontract exceeding $100,000 at any tier under a Federal cooperative agreement,

shall file a certification, and a disclosure form, if required, to the next tier above.

(e) All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in paragraphs (a) or (b) of this section. That person shall forward all disclosure forms to the agency.

(f) Any certification or disclosure form filed under paragraph (e) of this section shall be treated as a material representation of fact upon which all receiving tiers shall rely. All liability arising from an erroneous representation shall be borne solely by the tier.
Department of Energy

§ 601.205 Professional and technical services.

(a) The prohibition on the use of appropriated funds, in § 601.100 (a), does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract, grant, loan, or cooperative agreement.

(b) For purposes of paragraph (a) of this section, ‘professional and technical services’ shall be limited to advice and analysis directly applying any

§ 601.200 Agency and legislative liaison.

(a) The prohibition on the use of appropriated funds, in § 601.100 (a), does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract, grant, loan, or cooperative agreement.

(b) For purposes of paragraph (a) of this section, providing any information specifically requested by an agency or Congress is allowable at any time.

(c) For purposes of paragraph (a) of this section, the following agency and legislative liaison activities are allowable at any time only where they are not related to a specific solicitation for any covered Federal action:

(1) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person’s products or services, conditions or terms of sale, and service capabilities; and,

(2) Technical discussions and other activities regarding the application or adaptation of the person’s products or services for an agency’s use.

(d) For purposes of paragraph (a) of this section, the following agencies and legislative liaison activities are allowable only where they are prior to formal solicitation of any covered Federal action:

(1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and,

(3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.

(e) Only those activities expressly authorized by this section are allowable under this section.
professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client’s proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

(c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(d) Only those services expressly authorized by this section are allowable under this section.

§ 601.210 Reporting.

No reporting is required with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.
his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

(d) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(e) Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(f) Only those services expressly authorized by this section are allowable under this section.

Subpart D—Penalties and Enforcement

§ 601.400 Penalties.

(a) Any person who makes an expenditure prohibited herein shall be subject to a civil penalty of not less than $11,000 and not more than $110,000 for each such expenditure.

(b) Any person who fails to file or amend the disclosure form (see appendix B) to be filed or amended if required herein, shall be subject to a civil penalty of not less than $11,000 and not more than $110,000 for each such failure.

(c) A filing or amended filing on or after the date on which an administrative action for the imposition of a civil penalty is commenced does not prevent the imposition of such civil penalty for a failure occurring before that date. An administrative action is commenced with respect to a failure when an investigating official determines in writing to commence an investigation of an allegation of such failure.

(d) In determining whether to impose a civil penalty, and the amount of any such penalty, by reason of a violation by any person, the agency shall consider the nature, circumstances, extent, and gravity of the violation, the effect on the ability of such person to continue in business, any prior violations by such person, the degree of culpability of such person, the ability of the person to pay the penalty, and such other matters as may be appropriate.

(e) First offenders under paragraphs (a) or (b) of this section shall be subject to a civil penalty of $11,000, absent aggravating circumstances. Second and subsequent offenses by persons shall be subject to an appropriate civil penalty between $11,000 and $110,000, as determined by the agency head or his or her designee.

(f) An imposition of a civil penalty under this section does not prevent the United States from seeking any other remedy that may apply to the same conduct that is the basis for the imposition of such civil penalty.

§ 601.405 Penalty procedures.

Agencies shall impose and collect civil penalties pursuant to the provisions of the Program Fraud and Civil Remedies Act, 31 U.S.C. 3803 (except subsection (c)), 3804, 3805, 3806, 3807, 3808, and 3812, insofar as these provisions are not inconsistent with the requirements herein.

§ 601.410 Enforcement.

The head of each agency shall take such actions as are necessary to ensure that the provisions herein are vigorously implemented and enforced in that agency.

Subpart E—Exemptions

§ 601.500 Secretary of Defense.

(a) The Secretary of Defense may exempt, on a case-by-case basis, a covered Federal action from the prohibition whenever the Secretary determines, in writing, that such an exemption is in the national interest. The Secretary shall transmit a copy of each such written exemption to Congress.
§ 601.600 Semi-annual compilation.

(a) The head of each agency shall collect and compile the disclosure reports (see appendix B) and, on May 31 and November 30 of each year, submit to the Secretary of the Senate and the Clerk of the House of Representatives a report containing a compilation of the information contained in the disclosure reports received during the six-month period ending on March 31 or September 30, respectively, of that year.

(b) The report, including the compilation, shall be available for public inspection 30 days after receipt of the report by the Secretary and the Clerk.

(c) Information that involves intelligence matters shall be reported only to the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives in accordance with procedures agreed to by such committees. Such information shall not be available for public inspection.

(d) Information that is classified under Executive Order 12356 or any successor order shall be reported only to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives or the Committees on Foreign Relations and the House of Representatives (whichever such committees have jurisdiction of matters involving such information) and to the Committees on Appropriations of the Senate and the House of Representatives in accordance with procedures agreed to by such committees. Such information shall not be available for public inspection.

(e) The first semi-annual compilation shall be submitted on May 31, 1990, and shall contain a compilation of the disclosure reports received from December 23, 1989 to March 31, 1990.

(f) Major agencies, designated by the Office of Management and Budget (OMB), are required to provide machine-readable compilations to the Secretary of the Senate and the Clerk of the House of Representatives no later than with the compilations due on May 31, 1991. OMB shall provide detailed specifications in a memorandum to these agencies.

(g) Non-major agencies are requested to provide machine-readable compilations to the Secretary of the Senate and the Clerk of the House of Representatives.

(h) Agencies shall keep the originals of all disclosure reports in the official files of the agency.

§ 601.605 Inspector General report.

(a) The Inspector General, or other official as specified in paragraph (b) of this section, of each agency shall prepare and submit to Congress each year, commencing with submission of the President's Budget in 1991, an evaluation of the compliance of that agency with, and the effectiveness of, the requirements herein. The evaluation may include any recommended changes that may be necessary to strengthen or improve the requirements.

(b) In the case of an agency that does not have an Inspector General, the agency official comparable to an Inspector General shall prepare and submit the annual report, or, if there is no such comparable official, the head of the agency shall prepare and submit the annual report.

(c) The annual report shall be submitted at the same time the agency submits its annual budget justifications to Congress.

(d) The annual report shall include the following: All alleged violations relating to the agency's covered Federal actions during the year covered by the report, the actions taken by the head of the agency in the year covered by the report with respect to those alleged violations and alleged violations in previous years, and the amounts of civil penalties imposed by the agency in the year covered by the report.
Department of Energy

APPENDIX A TO PART 601—
CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $11,000 and not more than $110,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form L-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $11,000 and not more than $110,000 for each such failure.

## APPENDIX B TO PART 601—DISCLOSURE FORM TO REPORT LOBBYING

**DISCLOSURE OF LOBBYING ACTIVITIES**

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

(See reverse for public burden disclosure.)

<table>
<thead>
<tr>
<th>1. Type of Federal Action:</th>
<th>2. Status of Federal Action:</th>
<th>3. Report Type:</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. contract</td>
<td>a. bid/offer/application</td>
<td>a. initial filing</td>
</tr>
<tr>
<td>b. grant</td>
<td>b. initial award</td>
<td>b. material change</td>
</tr>
<tr>
<td>c. cooperative agreement</td>
<td>c. post-award</td>
<td>For Material Change Only:</td>
</tr>
<tr>
<td>d. loan</td>
<td></td>
<td>year ____________ quarter ______</td>
</tr>
<tr>
<td>e. loan guarantee</td>
<td></td>
<td>date of last report ________</td>
</tr>
<tr>
<td>f. loan insurance</td>
<td></td>
<td>______</td>
</tr>
</tbody>
</table>

4. Name and Address of Reporting Entity:
   - [ ] Prime  [ ] Subawardee
   - Tier ______, if known:

   Congressional District, if known:

5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:

   Congressional District, if known:

6. Federal Department/Agency:

7. Federal Program Name/Description:

   CFDA Number, if applicable: ______

8. Federal Action Number, if known:

9. Award Amount, if known:

   $ ______

10. a. Name and Address of Lobbying Entity (include address if individual, last name, first name, Bldg, St., city, state, zip):

    b. Individuals Performing Services (including address if different from No. 10a):

   ______

11. Amount of Payment (check all that apply):

    $ ________

   □ actual  □ planned

12. Form of Payment (check all that apply):

    □ a. cash

    □ b. in-kind; specify: nature ________  value ________

13. Type of Payment (check all that apply):

    □ a. retainer

    □ b. one-time fee

    □ c. commission

    □ d. contingent fee

    □ e. deferred

    □ f. other; specify: ________

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

15. Continuation Sheet(s) SF-LLL-A attached:  [ ] Yes  [ ] No

   Information requested through this form is authorized by Title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

   Signature: ____________________________

   Print Name: __________________________

   Title: ________________________________

   Telephone No.: ________________________ Date: __________

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Standard Form - 132
INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 7 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DOD-98-0041."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from item 10. Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.
§ 602.4 Deviations.

(a) Single-case deviations from this part may be authorized in writing by the Assistant Secretary for Environment, Safety and Health, the Head of the Contracting Activity, or their designees, upon the written request of DOE staff, an applicant for award, or a recipient. A request from an applicant or a recipient must be submitted to or through the cognizant contracting officer.

(b) Whenever a proposed deviation from this part would be a deviation from 10 CFR part 600, the deviation must also be authorized in accordance
§ 602.5 Epidemiology and Other Health Studies Financial Assistance Program.

(a) DOE may issue under this part awards for research, education/training, conferences, communication, and related activities in the Office of Environment, Safety and Health program areas set forth in paragraph (b) of this section.

(b) The program areas are:

1. Health experience of DOE and DOE contractor workers;
2. Health experience of populations living near DOE facilities;
3. Workers exposed to toxic substances, such as beryllium;
4. Use of biomarkers to recognize exposure to toxic substances;
5. Epidemiology and other health studies relating to energy production, transmission, and use (including electromagnetic fields) in the United States and abroad;
6. Compilation, documentation, management, use, and analysis of data for the DOE Comprehensive Epidemiologic Data Resource; and
7. Other systems or activities enhancing these areas, as well as other program areas as may be described by notice published in the FEDERAL REGISTER.

§ 602.6 Eligibility.

Any individual or entity other than a Federal agency is eligible for a grant or cooperative agreement. An unaffiliated individual is also eligible for a grant or cooperative agreement.

§ 602.7 Solicitation.

(a) The Catalog of Federal Domestic Assistance number for 10 CFR part 602 is 81.108 and its solicitation control number is EOHSFAP 10 CFR part 602.

(b) An application for a new or renewal award under this solicitation may be submitted at any time to DOE at the address specified in paragraph (c) of this section. New or renewal applications shall receive consideration for funding generally within 6 months but, in any event, no later than 12 months from the date of receipt by DOE.

(c) Except as otherwise provided in a notice of availability, applicants may obtain application forms, described in 602.8(b) of this part, and additional information from the Office of Epidemiology and Health Surveillance (EH-42), U.S. Department of Energy, Washington, DC 20585; (301) 903-5926, and shall submit applications to the same address.

(d) DOE will publish program notices in the FEDERAL REGISTER regarding the availability of epidemiology and other health studies financial assistance. DOE may also use other means of communication, as appropriate, such as the publication of notices of availability in trade and professional journals and news media.

(1) Each notice of availability shall cite this part and shall include:

(i) The Catalog of Federal Domestic Assistance number and solicitation control number of the program;
(ii) The amount of money available or estimated to be available for award;
(iii) The name of the responsible DOE program official to contact for additional information and an address where application forms may be obtained;
(iv) The address for submission of applications; and
(v) Any evaluation criteria in addition to those set forth in § 602.9 of this part.

(2) The notice of availability may also include any other relevant information helpful to applicants such as:

(i) Program objectives;
(ii) A project agenda or potential area of project initiatives;
(iii) Problem areas requiring additional effort; and
(iv) Any other information that identifies areas in which grants or cooperative agreements may be made.

(e) DOE is under no obligation to pay for any costs associated with the preparation or submission of applications.

(f) DOE reserves the right to fund, in whole or in part, any, all, or none of the applications submitted.

(g) To be considered for a renewal award under this part, an incumbent recipient shall submit a continuation or renewal application, as provided in § 602.8(c) and (h) of this part.
§ 602.8 Application requirements.

(a) An original and seven copies of the application for initial support must be submitted, except that State and local governments and Indian tribal governments shall not be required to submit more than the original and two copies of the application.

(b) Each new or renewal application in response to this part must include:

(1) An application face page, DOE Form 4650.2 (approved by OMB under OMB Control No. 1910-1400). However, the face page of an application submitted by a State or local government or an Indian tribal government shall be the face page of Standard Form 424 (approved by OMB under OMB Control Number 0348-0043).

(2) A detailed description of the proposed project, including its objectives, its relationship to DOE’s program, its impact on the environment, if any, and the applicant’s plan for carrying it out.

(3) Detailed information about the background and experience of the recipients of funds or, as appropriate, the principal investigator(s) (including references to publications), the facilities and experience of the applicant, and the cost-sharing arrangements, if any.

(4) A detailed budget for the entire proposed period of support with written justification sufficient to evaluate the itemized list of costs provided on the entire project. Applicants should note the following when preparing budgets:

   (i) Numerical details on items of cost provided by State and local government and Indian tribal government applicants shall be on Standard Form 424A, “Budget Information for Non-Construction Programs” (approved under OMB Control No. 0348-0044). All other applicants shall use budget forms ERF 4620.1 (approved by OMB under Control No. 1910-1400).

   (ii) DOE may, subsequent to receipt of an application, request the submission of additional information if the information is essential to evaluate the application.

(5) Any pre-award assurances required pursuant to 10 CFR parts 600 and 602.

(c) Applications for a renewal award must be submitted with an original and seven copies, except that State and local governments and Indian tribal government applicants are required to submit only an original and two copies (Approved by OMB under OMB Control Numbers 0348-00050348-0009.)

(d) The application must be signed by an official who is authorized to act for the applicant organization and to commit the applicant to comply with the terms and conditions of the award, if one is issued, or if unaffiliated, by the individual applicant. (See § 602.17(a)(1) for requirements on continuation awards.)

(e) DOE may return an application that does not include all information and documentation required by statute, this part, 10 CFR part 600, or the notice of availability, when the nature of the omission precludes review of the application.

(f) 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.

(g) In addition to including the information described in paragraphs (b), (c), and (d) of this section, an application for a renewal award must be submitted not later than 6 months before the expiration of the project period and must be on the same forms as required for initial applications. The renewal application must outline and justify a program and budget for the proposed project period, showing in detail the estimated cost of the proposed project, together with an indication of the amount of cost sharing, if any. The application shall also describe and explain the reasons for any change in the scope or objectives of the proposed project and shall compare and explain any difference between the estimates in the proposed budget and actual costs experienced as of the date of the application.

(h) DOE is not required to return an application to the applicant.

(i) Renewal applications must include a separate section that describes the results of work accomplished through the date of the renewal application and how such results relate to the activities proposed to be undertaken in the renewal period.
§ 602.9 Application evaluation and selection.

(a) Applications shall be evaluated for funding generally within 6 months, but in any event no later than 12 months, from the date of receipt by DOE. After DOE has held an application for 6 months, the applicant may, in response to DOE’s request, be required to revalidate the terms of the original application.

(b) DOE shall perform an initial evaluation of all applications to ensure that the information required by this part is provided, that the proposed effort is technically sound and feasible, and that the effort is consistent with program funding priorities. For applications that pass the initial evaluation, DOE shall review and evaluate each application received based on the criteria set forth below and in accordance with the Office of Environment, Safety and Health Merit Review System developed, as required, under DOE Financial Assistance Regulations, 10 CFR part 600.

(c) DOE shall select evaluators on the basis of their professional qualifications and expertise. To ensure credible and inclusive peer review of applications, every effort will be made to select evaluators apart from DOE employees and contractors. Evaluators shall be required to comply with all applicable DOE rules or directives concerning the use of outside evaluators.

(d) DOE shall evaluate new and renewal applications based on the following criteria that are listed in descending order of importance:

1. The scientific and technical merit of the proposed research;
2. The appropriateness of the proposed method or approach;
3. Competency of research personnel and adequacy of proposed resources;
4. Reasonableness and appropriateness of the proposed budget; and
5. Other appropriate factors consistent with the purpose of this part established and set forth in a Notice of Availability or in a specific solicitation.

(e) DOE shall also consider as part of the evaluation other available advice or information, as well as program policy factors, such as ensuring an appropriate balance among the program areas listed in § 602.5 of this part.

(f) In addition to the evaluation criteria set forth in paragraphs (d) and (e) of this section, DOE shall consider the recipient’s performance under the existing award during the evaluation of a renewal application.

(g) Selection of applications for award will be based upon the findings of the technical evaluations (including peer reviews, as specified in the Office of Environment, Safety and Health Merit Review System), the importance and relevance of the proposal to the Office of Environment, Safety and Health’s mission, and the availability of funds. Cost reasonableness and realism will also be considered.

(h) After the selection of an application, DOE may, if necessary, enter into negotiations with an applicant. Such negotiations are not a commitment that DOE will make an award.

§ 602.10 Additional requirements.

(a) A recipient performing research or related activities involving the use of human subjects must comply with DOE regulations in 10 CFR part 745, “Protection of Human Subjects,” and any additional provisions that may be included in the special terms and conditions of an award.

(b) A recipient performing research involving recombinant DNA molecules and/or organisms and viruses containing recombinant DNA molecules shall comply with the National Institutes of Health “Guidelines for Research Involving Recombinant DNA Molecules” (51 FR 16958, May 7, 1986), or such later revision of those guidelines, as may be published in the FEDERAL REGISTER. (The guidelines are available from the Office of Recombinant DNA Activities, National Institutes of Health, Building 31, Room BBB, Bethesda, MD 20892, or from the Office of Epidemiology and Health Surveillance, (EH-42), U.S. Department of Energy, Washington, DC 20585).

(c) A recipient performing research on warm-blooded animals shall comply with the Federal Laboratory Animal Welfare Act of 1966, as amended (7 USC 2131 et seq.), and the regulations promulgated thereunder by the Secretary
§ 602.14 Fee.

(a) Notwithstanding 10 CFR part 600, a fee may be paid, in appropriate circumstances, to a recipient that is a small business concern, as qualified under the criteria and size standards of 13 CFR part 121, in order to permit the concern to participate in the Epidemiology and Other Health Studies Financial Assistance Program. Whether or not it is appropriate to pay a fee shall be determined by the contracting officer, who shall, at a minimum, apply the following guidelines:

(1) Whether the acceptance of an award will displace other work that the small business is currently engaged in or committed to assume in the near future; or

(2) Whether the acceptance of an award will, in the absence of paying a fee, cause substantial financial distress to the business. In evaluating financial distress, the contracting officer shall balance current displacement against reasonable future benefit to the company. (If the award will result in the beneficial expansion of the existing business base of the company, then no fee would generally be appropriate.)

(b) To request a fee, a small business concern shall submit with its application a written self-certification that it is a small business concern qualified under the criteria and size standards in 13 CFR part 121. In addition, the application must state the amount of fee requested for the entire project period and the basis for requesting the amount and must also state why payment of a fee by DOE would be appropriate.

(c) If the contracting officer determines that payment of a fee is appropriate under paragraph (a) of this section, the amount of fee shall be that determined to be reasonable by the contracting officer. The contracting officer shall, at a minimum, apply the following guidelines in determining the fee amount:

(1) The fee base shall include the estimated allowable cost of direct salaries and wages and allocable fringe benefits. This fee base shall exclude all other direct and indirect costs.

(2) The fee amount expressed as a percentage of the appropriate fee base, pursuant to paragraph (c)(1) of this section, shall not exceed the percentage
rate of fee that would result if a Federal agency contracted for the same amount of salaries, wages, and allocable fringe benefits under a cost reimbursement contract.

(3) Fee amounts, determined pursuant to paragraphs (c)(1) and (c)(2) of this section, shall be appropriately reduced when:

(i) Advance payments are provided; and/or

(ii) Title to property acquired with DOE funds vests in the recipient (10 CFR part 600).

(d) Notwithstanding 10 CFR part 600, any fee awarded shall be a fixed fee and shall be payable on an annual basis in proportion to the work completed, as determined by the contracting officer, upon satisfactory submission and acceptance by DOE of the progress report. If the project period is shortened due to termination, or the project period is not fully funded, the fee shall be reduced by an appropriate amount.

§ 602.15 Indirect cost limitations.

Awards issued under this part for conferences and scientific/technical meetings will not include payment for indirect costs.

§ 602.16 National security.

Activities under the Epidemiology and Other Health Studies Financial Assistance Program are not expected to involve classified information (i.e., Restricted Data, Formerly Restricted Data, National Security Information). However, if in the opinion of the recipient or DOE such involvement becomes expected prior to the closeout of the award, the recipient or DOE shall notify the other in writing immediately. The recipient shall not provide the potentially classified information to anyone, including DOE officials with whom the recipient normally communicates, except the Director of Declassification, and shall protect such information as if it were classified until notified by DOE that a determination has been made that it does not require such handling. Correspondence that includes the specific information in question shall be sent by registered mail to the U.S. Department of Energy, Attn: Director of Declassification, NNI-50, Washington, DC 20585. If the information is determined to be classified, the recipient may wish to discontinue the project, in which case the recipient and DOE shall terminate the award by mutual agreement. If the award is to be terminated, all material deemed by DOE to be classified shall be forwarded to DOE in a manner specified by DOE for proper disposition. If the recipient and DOE wish to continue the award, even though classified information is involved, the recipient shall be requested to obtain both personnel and facility security clearances through the Office of Safeguards and Security for Headquarters awards or from the cognizant field office Division of Safeguards and Security for awards obtained through DOE field organizations. Costs associated with handling and protecting any such classified information shall be negotiated at the time that the determination to proceed is made.

§ 602.17 Continuation funding and reporting requirements.

(a) A recipient shall periodically report to DOE on the project’s progress in meeting the project objectives of the award. The following types of reports shall be used:

(1) Progress Reports. After issuance of an initial award, recipients must submit a satisfactory progress report to receive a continuation award for the remainder of the project period. The original and two copies of the required report must be submitted to the Office of Environment, Safety and Health program manager 90 days prior to the anticipated continuation funding date. The report should include results of work to date and emphasize findings and their significance to the field, and any real or anticipated problems. The report also should contain the following information: On the first page, provide the project title, principal investigator/project director name, period of time the report covers, name and address of recipient organization, DOE award number, the amount of unexpended funds, if any, that are anticipated to be left at the end of the current budget period. If the amount exceeds 10 percent of the funds available...
Department of Energy

§ 602.18 Dissemination of results.

(a) Recipients are encouraged to disseminate research results promptly. DOE reserves the right to utilize, and have others utilize to the extent it deems appropriate, the reports resulting from research awards.

(b) DOE may waive the technical reporting requirement of progress reports set forth in §602.17, if the recipient submits to DOE a copy of its own report that is published or accepted for publication in a recognized scientific or technical journal and that satisfies the information requirements of the program.

(c) Recipients are urged to publish results through normal publication channels in accordance with the applicable provisions of 10 CFR part 600.

(d) The article shall include an acknowledgement that the project was supported, in whole or in part, by a DOE award, and specify the award number, but state that such support does not constitute an endorsement by DOE of the views expressed in the article.

§ 602.19 Financial Status Report (FSR) (OMB No. 0348-0039). The FSR is required within 90 days after completion of each budget period. For budget periods exceeding 12 months, an FSR is also required within 90 days after this first 12 months unless waived by the contracting officer.

(b) DOE may extend the deadline date for any report if the recipient submits a written request before the deadline, that adequately justifies an extension.

(c) A table summarizing the various types of reports, time for submission, and number of copies is set forth in appendix A to this part. The schedule of reports shall be as prescribed in this table, unless the award document specifies otherwise. These reports shall be submitted by the recipient to the awarding office.

(d) DOE, or its authorized representatives, may make site visits, at any reasonable time, to review the project. DOE may provide such technical assistance as may be requested.

(e) Recipients may place performance reporting requirements on a subrecipient consistent with the provisions of this section.
§ 602.19 Records and data.

(a) In some cases, DOE will require submission of certain project records or data to facilitate mission-related activities. Recipients, therefore, must take adequate steps to ensure proper management, control, and preservation of all project records and data.

(b) Awardees must ensure that all project data is adequately documented. Documentation shall:

1. Reference software used to compile, manage, and analyze data;
2. Define all technical characteristics necessary for reading or processing the records;
3. Define file and record content and codes;
4. Describe update cycles or conditions and rules for adding or deleting information; and
5. Detail instrument calibration effects, sampling and analysis, space and time coverage, quality control measures, data algorithms and reduction methods, and other activities relevant to data collection and assembly.

(c) Recipients agree to comply with designated DOE records and data management requirements, including providing electronic data in prescribed formats and retention of specified records and data for eventual transfer to the Comprehensive Epidemiologic Data Resource or to another repository, as directed by DOE. Recipients will provide, as part of the final report, a description of records and data compiled during the project along with a plan for its preservation or disposition.

(d) Recipients agree to make project records and data available as soon as possible when requested by DOE.

APPENDIX A TO PART 602—SCHEDULE OF RENEWAL APPLICATIONS AND REPORTS

<table>
<thead>
<tr>
<th>Type</th>
<th>When due</th>
<th>Number of copies for awarding office</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Summary: 200 words on scope and purpose (Notice of Energy R&amp;D Project).</td>
<td>Immediately after a grant is awarded and with each application for renewal.</td>
<td>3</td>
</tr>
<tr>
<td>2. Renewal period ends .....................................................</td>
<td>6 months before the budget</td>
<td>8</td>
</tr>
<tr>
<td>3. Progress Report period (or as part of a renewal application).</td>
<td>90 days prior to the next budget period</td>
<td>3</td>
</tr>
<tr>
<td>4. Other progress reports, brief topical reports, etc. (Designated when significant results develop or when work has direct programmatic impact).</td>
<td>As deemed appropriate by DOE or the recipient</td>
<td>3</td>
</tr>
<tr>
<td>5. Reprints, Conference</td>
<td>Same as 4. above</td>
<td>3</td>
</tr>
<tr>
<td>6. Final report of the project</td>
<td>Within 90 days after completion</td>
<td>3</td>
</tr>
<tr>
<td>7. Financial Status Report (FSR)</td>
<td>Within 90 days after completion of the project period; for budget periods exceeding 12 months an FSR is also required within 90 days after the first 12-month period.</td>
<td>3</td>
</tr>
</tbody>
</table>

Note: Report types 5 and 6 require with submission two copies of DOE Form 1332.16, University-Type Contractor and Grantee Recommendations for Disposition of Scientific and Technical Document.
Department of Energy

§ 605.5 The Office of Energy Research Financial Assistance Program.

(a) DOE may issue, under the Office of Energy Research Financial Assistance Program, 10 CFR part 605, awards for basic and applied research, educational/training activities, conferences, and other related activities under the ER program areas set forth in paragraph (b) of this section and described in appendix A of this part.

(b) The Program areas are:

(1) Basic Energy Sciences
(2) Field Operations Management
(3) Fusion Energy
(4) Health and Environmental Research
(5) High Energy and Nuclear Physics
(6) Scientific Computing Staff
(7) Superconducting Super Collider
(8) University and Science Education Programs
(9) Program Analysis; and
(10) Other program areas of interest as may be described in a notice of availability published in the Federal Register.
§ 605.6 Eligibility.

Any university or other institution of higher education or other non-profit or for-profit organization, non-Federal agency, or entity is eligible for a grant or cooperative agreement. An unaffiliated individual also is eligible for a grant or cooperative agreement.

§ 605.7 [Reserved]

§ 605.8 Solicitation.

(a) The Catalog of Federal Domestic Assistance number for this program is 81.049, and its solicitation control number is ERFAP 10 CFR part 605.

(b) An application for a new or renewal award under this solicitation may be submitted at any time to DOE at the address specified in paragraph (c) of this section. New or renewal applications shall receive consideration for funding generally within 6 months but, in any event, no later than 12 months from the date of receipt by DOE.

(c) Applicants may obtain application forms, described in §605.9(b), and additional information from the Acquisition and Assistance Management Division, Office of Energy Research, ER-64, Department of Energy, Washington, DC 20585, (301) 903-5544, and shall submit applications to the same address.

(d) DOE shall publish annually, in the Federal Register, a notice of the availability of the Office of Energy Research Financial Assistance Program. DOE shall also publish notices or abbreviated notices of availability in trade and professional journals, and news media, and use other means of communication, as appropriate.

1. Each notice of availability shall cite this part and shall include:
   (i) The Catalog of Federal Domestic Assistance number and solicitation control number of the program;
   (ii) The amount of money available or estimated to be available for award;
   (iii) The name of the responsible DOE program official to contact for additional information, and an address where application forms may be obtained;
   (iv) The address for submission of applications; and
   (v) Any evaluation criteria in addition to those set forth in §605.10.

2. The notice of availability may also include any other relevant information helpful to applicants such as:
   (i) Program objectives,
   (ii) A project agenda or potential areas for project initiatives,
   (iii) Problem areas requiring additional effort, and
   (iv) Any other information which identifies areas in which grants or cooperative agreements may be made.

(e) DOE is under no obligation to pay for any costs associated with the preparation or submission of applications.

(f) DOE reserves the right to fund, in whole or in part, any, all, or none of the applications submitted.

(g) To be considered for a renewal award under this part, an incumbent recipient shall submit a renewal application as provided in §605.9 (c) and (h).

§ 605.9 Application requirements.

(a) An original and seven copies of the application for initial support must be submitted except that State governments, local governments, or Indian tribal governments shall not be required to submit more than the original and two copies of the application.

(b) Each new or renewal application in response to this part must include:

1. An application face page, DOE Form 4650.2 (approved by OMB under OMB Control No. 1910-1400). However, the facesheet of the application for State and local governments and Indian tribal government applicants shall be the facesheet of Standard Form (SF) 424 (approved by OMB under OMB Control Number 0348-0043).

2. A detailed description of the proposed project, including the objectives of the project, in relationship to DOE’s program and the applicant’s plan for carrying it out;

3. Detailed information about the background and experience of the principal investigator(s) (including references to publications), the facilities and experience of the applicant, and the cost-sharing arrangements, if any.

4. A detailed budget for the entire proposed period of support with written justification sufficient to evaluate the itemized list of costs provided on the entire project.
Department of Energy § 605.10

(i) Numerical details on items of cost provided by State and local government and Indian tribal government applicants shall be on Standard Form 424A, Budget Information for Non-Construction Programs (approved under OMB Control No. 0348-0044). All other applicants shall use budget form ERF 4620.1 (approved by OMB under Control No. 1910-1400).

(ii) DOE may, subsequent to receipt of an application, request additional budgetary information from an applicant when necessary for clarification or to make informed preaward determinations under 10 CFR part 600.

(5) Any preaward assurances required pursuant to 10 CFR parts 600 and 605.

(c) Applications for a renewal award must be submitted in an original and seven copies, except that State governments, local governments, or Indian tribes are required to submit only an original and two copies. (Approved by OMB under OMB Control Numbers 0348-0005-0348-0009).

(d) The application must be signed by an official who is authorized to act for the applicant organization and to commit the applicant to comply with the terms and conditions of the award, if one is issued, or if unaffiliated, by the individual applicant. (See § 605.19(a)(1) for requirements on continuation awards.)

(e) All applications which involve research, development, or demonstration activities when such activities:

(1) Have a unique geographic focus and are directly relevant to the governmental responsibilities of a State or local government within the geographic area;

(2) Necessitate the preparation of an Environmental Impact Statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq. (1976)); or

(3) Are to be initiated at a particular site or location and require unusual measures to limit the possibility of adverse exposure or hazard to the general public, are subject to the provisions of Executive Order 122972 and 10 CFR part 1005.

Anyone planning to submit such applications should contact ER for further information about compliance requirements.

(f) DOE may return an application which does not include all information and documentation required by statute, this part, 10 CFR part 600 or the notice of availability, when the nature of the omission precludes review of the application.

(g) During the review of the complete application, DOE may request the submission of additional information only if the information is essential to evaluate the application.

(h) In addition to including the information described in paragraphs (b), (c), and (d) of this section, an application for a renewal award must be submitted no later than six months prior to the scheduled expiration of the project period and must be on the same forms and include the same type of information as that required for initial applications. The renewal application must outline and justify a program and budget for the proposed project period, showing in detail the estimated cost of the proposed project, together with an indication of the amount of funds needed and the amount of cost sharing, if any. The application also shall describe and explain the reasons for any change in the scope or objectives of the proposed project, and shall compare and explain any difference between the estimates in the proposed budget and actual costs experienced as of the date of the application.

(i) DOE is not required to return to the applicant an application which is not selected or funded.

(j) Renewal applications must include a separate section that describes the results of work accomplished through the date of the renewal application and how such results relate to the activities proposed to be undertaken in the renewal period.

§ 605.10 Application evaluation and selection.

(a) Applications shall be evaluated for funding generally within 6 months but, in any event, no later than 12 months from the date of receipt by DOE. After DOE has held an application for 6 months, the applicant may, in response to DOE’s request, be required to revalidate the terms of the original application.
(b) DOE staff shall perform an initial evaluation of all applications to ensure that the information required by this part is provided, that the proposed effort is technically sound and feasible, and that the effort is consistent with program funding priorities. For applications which pass the initial evaluation, DOE shall review and evaluate each application received based on the criteria set forth below and in accordance with the Merit Review System developed as required under DOE Financial Assistance Regulations, 10 CFR part 600.

(c) DOE shall select evaluators on the basis of their professional qualifications and expertise. Evaluators shall be required to comply with all applicable DOE rules or directives concerning the use of outside evaluators.

(d) DOE shall evaluate new and renewal applications based on the following criteria which are listed in descending order of importance:

(1) Scientific and/or technical merit or the educational benefits of the project;
(2) Appropriateness of the proposed method or approach;
(3) Competency of applicant's personnel and adequacy of proposed resources;
(4) Reasonableness and appropriateness of the proposed budget; and
(5) Other appropriate factors established and set forth by ER in a notice of availability or in a specific solicitation.

(e) Also, DOE shall consider, as part of the evaluation, other available advice or information as well as program policy factors such as ensuring an appropriate balance among the program areas listed in §605.9(b) of this part.

(f) In addition to the evaluation criteria set forth in paragraphs (d) and (e) of this section, DOE shall consider the recipient's performance under the existing award during the evaluation of a renewal application.

(g) Selection of applications for award will be based upon the findings of the technical evaluations, the importance and relevance of the proposed application to ER's mission, and fund availability. Cost reasonableness and realism will also be considered to the extent appropriate.

(h) After the selection of an application, DOE may, if necessary, enter into negotiation with an applicant. Such negotiations are not a commitment that DOE will make an award.

§ 605.11 Additional requirements.

(a) A recipient performing research, development, or related activities involving the use of human subjects must comply with DOE regulations in 10 CFR part 745, “Protection of Human Subjects,” and any additional provisions which may be included in the Special Terms and Conditions of an award.

(b) A recipient performing research involving recombinant DNA molecules and/or organisms and viruses containing recombinant DNA molecules shall comply with the National Institutes of Health “Guidelines for Research Involving Recombinant DNA Molecules” (51 FR 16958, May 7, 1986), or such later revision of those guidelines as may be published in the Federal Register. (The guidelines are available from the Office of Recombinant DNA Activities, National Institutes of Health, Building 31, room 4B11, Bethesda, Maryland 20892.)

(c) Any recipient performing research on warm-blooded animals shall comply with the Federal Laboratory Animal Welfare Act of 1966, as amended (7 U.S.C. 2131 et seq.) and the regulations promulgated thereunder by the Secretary of Agriculture at 9 CFR chapter I, subchapter A, pertaining to the care, handling, and treatment of warm blooded animals held or used for research, teaching, or other activities supported by Federal awards. The recipient shall comply with the guidelines described in DHHS Publication No. [NIH] 86-23, “Guide for the Care and Use of Laboratory Animals,” or succeeding revised editions. (This guide is available from the Office for Protection from Research Risks, Office of the Director, National Institutes of Health, Building 31, room 4B09, Bethesda, Maryland 20892.)

§ 605.12 Funding.

(a) The project period during which DOE expects to provide support for an approved project under this part shall generally not exceed 3 years and may
§ 605.13 Cost sharing.

Cost sharing is not required nor will it be considered as a criterion in the evaluation and selection process unless otherwise provided under §605.10(d)(5).

§ 605.14 Limitation of DOE liability.

Awards under this part are subject to the requirement that the maximum DOE obligation to the recipient is the amount shown in the Notice of Financial Assistance Award as the amount of DOE funds obligated. DOE shall not be obligated to make any additional, supplemental, continuation, renewal or other awards for the same or any other purpose.

§ 605.15 Fee.

(a) Notwithstanding 10 CFR part 600, a fee may be paid, in appropriate circumstances, to a recipient which is a small business concern as qualified under the criteria and size standards of 13 CFR part 121 in order to permit the concern to participate in the ER Financial Assistance Program. Whether or not it is appropriate to pay a fee shall be determined by the Contracting Officer who shall, at a minimum, apply the following guidelines:

(1) Whether the acceptance of an award will displace other work the small business is currently engaged in or committed to assume in the near future; or

(2) Whether the acceptance of an award will, in the absence of paying a fee, cause substantial financial distress to the business. In evaluating financial distress, the Contracting Officer shall balance current displacement against reasonable future benefit to the company. (If the award will result in the beneficial expansion of the existing business base of the company, then no fee would generally be appropriate.)

(b) To request a fee, a small business concern shall submit with its application a written self certification that it is a small business concern qualified under the criteria and size standards in 13 CFR part 121. In addition, the application must state the amount of fee requested for the entire project period and the basis for requesting the amount, and must also state why payment of a fee by DOE would be appropriate.

(c) If the Contracting Officer determines that payment of a fee is appropriate under paragraph (a) of this section, the amount of fee shall be that determined to be reasonable by the Contracting Officer. The Contracting Officer shall, at a minimum, apply the following guidelines in determining the fee amount:

(1) The fee base shall include the estimated allowable cost of direct salaries and wages and allocable fringe benefits. This fee base shall exclude all other direct and indirect costs.

(2) The fee amount expressed as a percentage of the appropriate fee base pursuant to paragraph (c)(1) of this section, shall not exceed the percentage rate of fee that would result if a Federal agency contracted for the same amount of salaries, wages, and allocable fringe benefits under a cost reimbursement contract.

(3) Fee amounts, determined pursuant to paragraphs (c)(1) and (c)(2) of this section, shall be appropriately reduced when:

(i) Advance payments are provided; and/or

(ii) Title to property acquired with DOE funds vests in the recipient (10 CFR part 600).

(d) Notwithstanding 10 CFR part 600, any fee awarded shall be a fixed fee and shall be payable on an annual basis in proportion to the work completed, as determined by the Contracting Officer, upon satisfactory submission and acceptance by DOE of the progress report. If the project period is shortened due to termination, or the project period is not fully funded, the fee shall be reduced by an appropriate amount.
§ 605.16 Indirect cost limitations.

Awards issued under this part for conferences and scientific/technical meetings will not include payment for indirect costs.

§ 605.17 [Reserved]

§ 605.18 National security.

Activities under ER’s Financial Assistance Program shall not involve classified information (i.e., Restricted Data, formerly Restricted Data, National Security Information). However, if in the opinion of the recipient or DOE such involvement becomes expected prior to the closeout of the award, the recipient or DOE shall notify the other immediately. If the recipient believes any information developed or acquired may be classified, the recipient shall not provide the potentially classifiable information to anyone, including the DOE officials with whom the recipient normally communicates, except the Director of Classification, and shall protect such information as if it were classified until notified by DOE that a determination has been made that it does not require such handling. Correspondence which includes the specific information in question shall be sent by registered mail to U.S. Department of Energy, Attn: Director of Classification, DP-32, Washington, DC 20585. If the information is determined to be classified, the recipient may wish to discontinue the project in which case the recipient and DOE shall terminate the award by mutual agreement. If the award is to be terminated, all material deemed by DOE to be classified shall be forwarded to DOE, in a manner specified by DOE, for proper disposition. If the recipient and DOE wish to continue the award, even though classified information is involved, the recipient shall be required to obtain both personnel and facility security clearances through the Office of Safeguards and Security for Headquarters awards, or from the cognizant field office Division of Safeguards and Security for awards obtained through DOE field organizations. Costs associated with handling and protecting any such classified information shall be negotiated at the time that the determination to proceed is made.

§ 605.19 Continuation funding and reporting requirements.

(a) A recipient shall periodically report to DOE on the project’s progress in meeting the project objectives of the award. The following types of reports shall be used:

(1) Progress reports. After issuance of an initial award and if future support is recommended, recipients must submit a satisfactory progress report in order to receive continuation awards for the remainder of the project period. The original and two copies of the required report (generally not to exceed two pages per project or task) must be submitted to the ER program manager 90 days prior to the anticipated continuation funding date and contain the following information: on the first page, provide the project title, principal investigator/project director name, period of time report covers, name and address of recipient organization, DOE award number, the amount of unexpended funds, if any, that are anticipated to be left at the end of the current budget period, and if the amount exceeds 10 percent of the funds available for the budget period, provide information as to why the excess funds are anticipated to be available and how they will be used in the next budget period. Report should state whether aims have changed from original application and if they have, provided revised aims. Include results of work to date. Emphasize findings and their significance to the field, and any real or anticipated problems. A completed budget page must be submitted with the continuation progress report when a change to anticipated future costs will exceed 25 percent of the original recommended future budget.

(2) Notice of Energy R&D Project. A Notice of Energy R&D Project, DOE Form 1430.22, which summarizes the purpose and scope of the project, must be submitted in accordance with the Distribution and Schedule of Documents set forth at the end of this section. Copies of the form may be obtained from a DOE Contracting Office.
(3) Special reports. The recipient shall report the following events to DOE as soon after they occur as possible:

(i) Problems, delays, or adverse conditions which will materially affect the ability to attain project objectives, or prevent the meeting of time schedules and goals. The report must describe the remedial action the recipient has taken or plans to take and any action DOE should take to alleviate the problems.

(ii) Favorable developments or events which enable meeting time schedules and goals sooner or at less cost than anticipated or producing more beneficial results than originally projected.

(4) Final report. A final report summarizing the entire investigation must be submitted by the recipient within 90 days after the final project period ends or the award is terminated. Satisfactory completion of an award will be contingent upon the receipt of this report. The final report shall follow the same outline as a progress report. Manuscripts prepared for publication should be appended.

(5) Financial status report (FSR) (OMB No. 0348-0039). The FSR is required within 90 days after completion of each budget period; for budget periods exceeding 12 months, an FSR is also required within 90 days after this first 12 months unless waived by the Contracting Officer.

(b) DOE may extend the deadline date for any report if the recipient submits a written request before the deadline which adequately justifies an extension.

(c) A table summarizing the various types of reports, time for submission, number of copies is set forth below. The schedule of reports shall be as prescribed in this table, unless the award document specifies otherwise.

(d) DOE review of performance. DOE or its authorized representatives may make site visits, at any reasonable time, to review the project. DOE may provide such technical assistance as may be requested.

(e) Subrecipient progress reporting. Recipients may place progress reporting requirements on a subrecipient consistent with the provisions of this section.

§ 605.20 Dissemination of results.

(a) Recipients are encouraged to disseminate project results promptly. DOE reserves the right to utilize, and have others utilize, to the extent it deems appropriate, the reports resulting from awards.

(b) DOE may waive progress reporting requirements set forth in § 605.19, if the recipient submits to DOE a copy of its own report which is published or accepted for publication in a recognized scientific or technical journal and which satisfies the information requirements of the program.

(c) Recipients are urged to publish results through normal publication channels in accordance with the applicable provisions of 10 CFR part 600.

(d) The article shall include an acknowledgment that the project was supported, in whole or in part, by a DOE award, and specify the award number, but state that such support

<table>
<thead>
<tr>
<th>Type</th>
<th>When due</th>
<th>Number of copies to be submitted</th>
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<tbody>
<tr>
<td>1. Summary: 200 words on scope and purpose (Notice of Energy R&amp;D Project).</td>
<td>Immediately after award and with each application for renewal.</td>
<td>3</td>
</tr>
<tr>
<td>2. Renewal</td>
<td>6 months before the project period ends.</td>
<td>8</td>
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<tr>
<td>3. Progress Report</td>
<td>90 days prior to the next budget period (or as part of a renewal application).</td>
<td>3</td>
</tr>
<tr>
<td>4. Other progress reports, brief topical reports, etc. (Designated when significant results develop or when work has direct programmatic impact).</td>
<td>As deemed appropriate by the recipient.</td>
<td>3</td>
</tr>
<tr>
<td>5. Reprints, Conference papers.</td>
<td>Same as 4 above</td>
<td>3</td>
</tr>
<tr>
<td>6. Final Report</td>
<td>Within 90 days after termination of the project.</td>
<td>3</td>
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<tr>
<td>7. Financial Status Report (FSR).</td>
<td>Within 90 days after completion of the project period; for budget periods exceeding 12 months an FSR is also required within 90 days after the first 12-month period.</td>
<td>3</td>
</tr>
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Note: Report types 5 and 6 require with submission two copies of DOE Form 1332.16, University-Type Contractor and Grantee Recommendations for Disposition of Scientific and Technical Document.
APPENDIX A TO PART 605—THE ENERGY RESEARCH PROGRAM OFFICE DESCRIPTIONS

1. BASIC ENERGY SCIENCES

This program supports basic science research efforts in a variety of disciplines to broaden the energy supply and technological base knowledge. The major science division and its objectives are as follows:

(a) Energy Biosciences

The primary objective of this program is to generate a basis of understanding of fundamental biological mechanisms in the areas of microbial and microbiological sciences that will support biotechnology development related to energy. The research serves as the basic information foundation with respect to renewable resource productivity for fuels and chemicals, microbial conversions or renewable materials and biological systems for the conservation of energy. This office has special requirements on the submission of preapplications, when to submit, and the length of the preapplication/application; applicants are encouraged to contact the office regarding these requirements.

(b) Chemical Sciences

This program sponsors experimental and theoretical research on liquids, gases, plasmas, and solids. The focus is on their chemical properties and the interactions of their component molecules, atoms, ions, and electrons. The subprogram objective is to expand, through support of basic research, our knowledge in the various areas of chemistry; the long-term goal is to contribute new or improved processes for developing and using domestic energy resources in an efficient and environmentally sound manner. Disciplinary areas covered include physical, organic, and inorganic chemistry; chemical physics; atomic physics; photochemistry; radiation chemistry; thermodynamics; thermophysics; separations science; analytical chemistry; and actinide chemistry.

(c) Geosciences

The goal of this program is to develop a quantitative and predictive understanding of the energy-related aspects of processes within the earth and at the solar-terrestrial interface. The emphasis is on the upper levels of the earth’s crust and the focus is on geophysical imaging; fundamental properties of rocks, minerals, and fluids; scientific drilling; and sedimentary basin systems. The resulting improved understanding and knowledge base are needed to assist efforts in the utilization of the Nation’s energy resources in an environmentally acceptable fashion.

(d) Engineering Research

This program’s objectives are: (1) To extend the body of knowledge underlying current engineering practice in order to open new ways for enhancing energy savings and production, prolonging useful equipment life, and reducing costs while maintaining output and performance quality; and (2) to broaden the technical and conceptual base for solving future engineering problems in the energy technologies. Long-term research topics of current interest include: foundations of bioprocessing of fuels and energy related waste, fracture mechanics, experimental and theoretical studies of multiphase flows, intelligent machines, and diagnostics and control for plasma processing of materials.

(e) Materials Sciences

The objective of this program is to increase the understanding of phenomena and properties important to materials behavior that will contribute to meeting the needs of present and future energy technologies. It is comprised of the subfields metallurgy, ceramics, solid state physics, materials chemistry, and related disciplines where the emphasis is on the science of materials.

(f) Advanced Energy Projects

The objective of this program is to support exploratory research on novel concepts related to energy. The concepts may be in any field related to energy but must not fall into an area of programmatic responsibility of an existing ER technical program. The research is usually aimed at establishing the scientific feasibility of a concept and, where appropriate, at estimating its economic viability.

2. FIELD OPERATIONS MANAGEMENT

This office administers special purpose support programs that cut across DOE program areas. In conjunction with this activity, it supports related conferences, research, and training initiatives that further these areas of interest.

(a) Laboratory Technology Transfer Program

The ER Laboratory Technology Transfer (LTT) Program has dedicated funding which fulfills the legislative mandate to more effectively transfer research and technology from Energy Research laboratories to industry. By design, this program provides only partial funding for technology research projects and personnel exchanges with industry and universities. Mandatory cost-sharing
by industry and other partners ensures that cooperative projects will focus on those that generate real interest in the private sector and facilitate the transfer of technology. The program supports laboratory-industry personnel exchanges; comprehensive program evaluation; and cost-shared technology research, especially CRADAs to advance precompetitive research projects to a point where they can be evaluated for commercial applications. Other activities of the ER Laboratory Technology Transfer Program include coordinating technology transfer operations throughout the ER laboratory system; coordinating technology transfer elements of the institutional planning process; contributing to Departmental technology transfer policy development; and implementing appropriate outreach activities.

3. Fusion Energy

The magnetic fusion energy program is an applied research and development program whose goal is to develop the scientific and technological information required to design and construct magnetic fusion energy systems. This goal is pursued by three divisions, whose major functions are listed below.

(a) Applied Plasma Physics (APP)

This Division seeks to develop that body of physics knowledge which permits advance- ment of the fusion program on a sound basis. APP research programs provide: (1) The theoretical understanding of fusion plasmas necessary for interpreting results from present experiments, and the planning and design of future confinement devices; (2) the data on plasma properties, atomic physics and new diagnostic techniques for operational support of confinement experiments; research and development of Heavy Ion Fusion Accelerator (HIFAR) and reactor studies in support of the development of Inertial Fusion Energy (IFE).

(b) Confinement Systems

This Division has as its primary objective the conduct of research efforts to investigate and resolve basic physics issues associated with medium- to large-scale confinement devices. These devices are used to experimentally explore the limits of specific confinement concepts as well as to study associated physical phenomena. Specific areas of interest include: the production of increased plasma densities and temperatures; the understanding of the physical laws governing plasma energy transport and confinement scaling; equilibrium and stability of high plasma pressure; the investigation of plasma interaction with radio-frequency waves; and the study and control of particle transport in the plasma.

(c) Development and Technology

This Division supports research and development of the technology necessary for fabrication and operation of present and future plasma and fusion devices. The program also pursues R&D and system studies pertaining to critical feasibility issues of fusion technology and development.

4. Health and Environmental Research

The goals of this research program are as follows: (1) To provide, through basic and applied research, the scientific information required to identify, understand and anticipate the long-term health and environmental consequences of energy use and development; and (2) to utilize the Department's unique resources to solve major scientific problems in medicine, biology and the environment. The goals of the program are accomplished through the effort of its divisions, which are:

(a) Health Effects and Life Sciences Research

This is a broad program of basic and applied biological research. The objectives are: (1) To develop experimental information from biological systems for estimating or predicting risks of carcinogenesis, mutagenesis, and delayed toxicological effects associated with low level human exposures to energy-related radiations and chemicals; (2) to define mechanisms involved in the induction of biological damage following exposure to low levels of energy-related agents; (3) to develop new technologies for detecting and quantifying latent health effects associated with such agents; (4) to support fundamental research in structural biology user facilities at DOE laboratories; and (5) to create and apply new technologies and resources for characterizing the molecular nature of the human genome.

Increasing emphasis will be placed on: Understanding of mechanisms by which low level exposures to radiation and/or energy-related chemicals produce long-term health impacts; development of new technologies for estimating human health risks from low level exposures; development and application of technologies and approaches for cost-effective characterization of the human genome.

(b) Medical Applications and Biophysical Research

The objectives of this program comprise several areas: (1) To develop new concepts and techniques for detecting and measuring hazardous physical and chemical agents related to energy production; (2) to evaluate chemical and radiation exposures and dosimetry for health protection application; (3) to determine the physical and chemical mechanisms of radiation action in biological systems; and (4) to develop new instrumentation and technology for biological and biomedical...
research. In addition, Medical Application research is aimed at enhancing the beneficial applications of radiation, and radionuclides, in the diagnosis, study, and treatment of human diseases. This includes the development of new techniques for radioactive isotope production, labeled pharmaceuticals, imaging devices, and radiation beam applications for the improved diagnosis and therapy of human diseases or the study of human physiological processes. A new area of interest involves the integration of Nuclear Medicine and Molecular Biology. This includes development of radioisotopes and new molecular radiopharmaceutical probes specific to disease-associated targets for improved diagnosis and therapy.

(c) Environmental Sciences

The objectives of the program relate to environmental processes affected by energy production and use. For example, the program develops information on the physical, chemical and biological processes that cycle and transport energy-related material and nutrients through the atmosphere, and the ocean margin. Specific emphasis is placed on hydrological transport, mobility and degradation of energy-related contaminants by microorganisms in subsurface systems.

This program also addresses global environmental change from increases in atmospheric carbon dioxide and other greenhouse gases. The scope of the global change program encompasses the carbon cycle, climate modeling and diagnostics, ecosystem responses, the role of the ocean in global change and experiments to quantify the links between greenhouse gas increases and climate change. A new dimension of this program addresses the role of molecular biology in understanding the ecosystem response to global change.

5. HIGH ENERGY AND NUCLEAR PHYSICS

This program supports 90 percent of the U.S. efforts in high energy and nuclear physics. The objectives of these programs are indicated below:

(a) Nuclear Physics (Including Nuclear Data Program)

The primary objectives of this program are an understanding of the interactions and structures of atomic nuclei and nuclear matter at the most elementary level possible, and an understanding of the fundamental forces of nature as manifested in nuclear matter.

(b) High Energy Physics

The primary objectives of this program are to understand the nature and relationships among fundamental forces of nature and to understand the ultimate structure of matter in terms of the properties and interrelations of its basic constituents.

6. SCIENTIFIC COMPUTING STAFF

The goal of this program is to advance the understanding of the fundamental concepts of mathematics, statistics, and computer science underlying the complex mathematical models of the key physical processes involved in the research and development programs of DOE. Broad emphasis is given in three major categories: analytical and numerical methods, information analysis techniques, and advanced concepts.

7. SUPERCONDUCTING SUPER COLLIDER (SSC)

The goals of the Superconducting Super Collider are to build a proton-proton collider with an energy of 20 TeV per proton, to construct and operate experimental systems to study the interactions of these protons, to establish the premier international laboratory for high energy physics research, and to create a major resource for science education. The Office of the Superconducting Super Collider administers research grants associated with the SSC Laboratory's physics, accelerator, and associated technology research and development programs.

8. UNIVERSITY AND SCIENCE EDUCATION

The Office of University and Science Education supports a variety of science, mathematics and engineering education precollege through graduate programs aimed at strengthening the Nation's science education and research infrastructure. DOE's education mission has been expanded to include increasing emphasis on the precollege and general public literacy areas. Much of the support involves the use of the unique resources (scientists, facilities and equipment) at DOE's national laboratories and research facilities, and includes research and/or other "hands-on" opportunities for precollege and postsecondary students, teachers, and faculty members. In addition to programs centered in DOE facilities, a number of other educational activities are supported, including:

(a) Pre-Freshman Enrichment Program (PREP)

PREP supports projects at colleges and universities aimed at seeking out students, typically under-represented in science-based careers, during junior high school and early high school years (sixth through tenth grades) and providing these individuals with pre-freshman enrichment activities to identify, motivate and prepare them for science-based careers. Projects must include concentrated, integrated activities that enhance the student's understanding of science and mathematics, must have a summer component at least four
Within eligible States may apply for plans to conduct nationally competitive engineering manpower in energy-related areas designated States to develop science and technology. Planning committees to enhance the capabilities of the eligible program to Stimulate Competitive Research is considered in final selection of awards under the program. Federal funds to be provided will be considered in cost sharing requirements but the level of non-federal funds to be provided will be considered in final selection of awards under the program.

(c) University Research Instrumentation Program

The University Research Instrumentation Program has been developed as part of an interagency effort under the coordination of the Office of Science and Technology Policy to help alleviate the overall shortage of sophisticated state-of-the-art instruments required for advanced scientific and technical research at universities. The overall program objective is to assist university and college scientists in strengthening their capabilities to conduct long-term experimental scientific research in specific energy areas of direct interest to DOE through the acquisition of large scientific/technical pieces of equipment. Only those colleges and universities that currently have DOE funded research projects, which require the requested equipment, totalling at least $150,000 in the specific area will be selected (more complete eligibility guidelines and principal research areas of particular DOE interest in any given year are available from the program office). Smaller research instruments (less than $100,000 each) are not eligible for consideration in this program. No specific fraction of cost sharing is required but the level of non-Federal funds to be provided will be considered in final selection of awards under the program.

(d) Experimental Program To Stimulate Competitive Research

The purpose of the DOE Experimental Program to Stimulate Competitive Research is to enhance the capabilities of the eligible designated States to develop science and engineering manpower in energy-related areas and to conduct nationally competitive energy-related research. Planning committees within eligible States may apply for planning, implementation and/or training efforts (list of eligible States and activities to be supported in any given year as well as cost-sharing requirements are available from the program office). Separate applications for planning/implementation and graduate traineeships are required. Planning/implementation applications must contain information that details development of a Statewide improvement plan for energy-related research and human resources, while training grant applications must detail the need for energy-related specific and technical educational disciplines.

(e) Nuclear Engineering Research

The objective of this program is to support research efforts aimed at strengthening University-based nuclear engineering programs. Specific areas of basic and applied research of interest include, but are not limited to: (1) Material behavior in a radiation environment typical of advanced nuclear power plants; (2) real-time instrumentation that identifies and applies innovative measurements technologies in nuclear-related fields; (3) advanced nuclear reactor concepts; (4) applied nuclear sciences that address improvements in the applications of radiation and the understanding of the interaction of radiation with matter; (5) engineering science research applicable to advanced nuclear reactor concepts, industry safety and reliability concerns; (6) neutronics that address improvements in reactor computational methodologies and knowledge of the basic fission processes; and (7) nuclear thermal hydraulics that address improvements of models and analysis of thermal hydraulic behavior in an advanced nuclear reactor system.

(f) Used Energy-Related Laboratory Equipment (ERIE) Program

In accordance with DOE’s responsibility to encourage research and development in the energy area, grants of used energy-related laboratory equipment for use in energy-oriented educational programs in the life, physical and environmental sciences, and engineering are available to universities, colleges and other non-profit educational institutions of higher learning in the United States. An institution is not required to have a current DOE grant or contract in order to participate in this program. The program office should be contacted for specific information on how to access the list of eligible equipment under this program. The cost of care and handling incident to the grant must be borne by the institution.

9. PROGRAM ANALYSIS

The Office of Program Analysis conducts assessments to identify research opportunities in specific areas of interest to DOE programs.