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

§ 600.3 Definitions.

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

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

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

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

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

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

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

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

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