

§ 600.251

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§ 600.251 Later disallowances and adjustments.

GENERAL

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.

[53 FR 8045, 8087, Mar. 11, 1988. Redesignated at 59 FR 53264, Oct. 21, 1994, as amended at 61 FR 7166, Feb. 26, 1996]

§ 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:

- (1) Making an administrative offset against other requests for reimbursements,
- (2) Withholding advance payments otherwise due to the grantee, or
- (3) Other action permitted by law.

(b) Except where otherwise provided by statutes or regulations, the Federal agency will charge interest on an overdue debt in accordance with the Federal Claims Collection Standards (4 CFR Ch. II). The date from which interest is computed is not extended by litigation or the filing of any form of appeal.

Entitlements [Reserved]

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

SOURCE: 68 FR 50650, Aug. 21, 2003, unless otherwise noted.

§ 600.301 Purpose.

(a) This subpart prescribes administrative requirements for awards to for-profit organizations.

(b) Applicability to prime awards and subawards is as follows:

(1) *Prime awards*: DOE contracting officers must apply the provisions of this part to awards to for-profit organizations. Contracting officers must not impose requirements that are in addition to, or inconsistent with, the requirements provided in this part, except:

(i) In accordance with the deviation procedures or special award conditions in § 600.303 or § 600.304, respectively; or

(ii) As required by Federal statute, Executive order, or Federal regulation implementing a statute or Executive order.

(2) *Subawards*. (i) Any legal entity (including any State, local government, university or other nonprofit organization, as well as any for-profit entity) that receives an award from DOE must apply the provisions of this part to subawards with for-profit organizations.

(ii) For-profit organizations that receive prime awards covered by this part must apply to each subaward the administrative requirements that are applicable to the particular type of subrecipient (*e.g.*, 10 CFR part 600, subpart B, contains requirements for institutions of higher education, hospitals, or other nonprofit organizations and 10 CFR part 600, subpart C, specifies requirements for subrecipients that are States or local governments).

§ 600.302 Definitions.

In addition to the definitions used in subpart A of this part, the following are definitions of terms as used in this subpart:

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

Applied research means efforts that seek to determine and exploit the potential of scientific discoveries or improvements in technology, and is directed toward the development of new materials, devices, methods, and processes.

Basic research means efforts directed solely toward increasing knowledge or understanding in science and engineering.

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.

Cost sharing or matching means that portion of project or program costs not borne by the Federal Government.

Demonstration means a project designed to determine the technical feasibility and economic potential of a technology on either a pilot plant or a prototype scale.

Development means efforts to create or advance new technology or demonstrate the viability of applying existing technology to new products and processes.

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

DOE means the Department of Energy, including the National Nuclear Security Administration (NNSA).

Equipment means tangible, non-expendable personal property charged directly to the award having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.

Excess property means property under the control of any DOE Headquarters or field office that, as determined by the head thereof, is no longer required for its needs or the discharge of its responsibilities.

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 un-

obligated funds from prior funding periods.

Federally owned property means property in the possession of, or directly acquired by, the Government and subsequently made available to the recipient.

Funding period means the period of time when Federal funding is available for obligation by the recipient.

Incremental funding means a method of funding a grant or cooperative agreement where the funds initially obligated to the award are less than the total amount of the award, and DOE anticipates making additional obligations of funds when appropriated funds become available.

Obligations means the amount 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 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 for 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:

- (1) Tangible, having physical existence (*i.e.*, equipment and supplies); or
- (2) Intangible, having no physical existence, such as patents, copyrights, data, and software.

Prior approval means written or electronic approval by an authorized official evidencing prior consent.

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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. 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 Federal funds is not program income. Except as otherwise provided in 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.

Property means real property and personal property (equipment, supplies, and intellectual property), unless otherwise stated.

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

Small award means an award not exceeding the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently \$100,000).

Small business concern means a small business as defined at section 2 of Pub. L. 85–536 (16 U.S.C. 632) and the implementing regulations of the Administrator of the Small Business Administration. The criteria and size standards for small business concerns are contained in 13 CFR part 121.

Subaward means financial assistance in the form of money, or property in lieu of money, provided 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 the term does not include procurement of goods and services or any form of as-

sistance which is not included in the definition of “award” in this part.

Subrecipient means the legal entity to which a subaward is made and which is accountable to the recipient for the use of the funds or property provided.

Supplies means tangible, expendable personal property that is charged directly to the award and that has a useful life of less than one year or an acquisition cost of less than \$5,000 per unit.

Suspension means an action by DOE that temporarily withdraws Federal sponsorship under an award, pending corrective action by the recipient or pending a decision to terminate the award by DOE. Suspension of an award is a separate action from suspension of a recipient under 10 CFR part 1036.

Termination means the cancellation of an award, in whole or in part, under an agreement at any time prior to either:

(1) The date on which all work under an award is completed; or

(2) The date on which Federal sponsorship ends, as provided in the award document or any supplement or amendment thereto.

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.

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.

§ 600.303 Deviations.

(a) *Individual deviations.* Individual deviations affecting only one award are subject to the procedures stated in 10 CFR 600.4

(b) *Class deviations.* Class deviations affecting more than one financial assistance transaction are subject to the procedures states in 10 CFR 600.4.