

Department of Energy

§ 605.18

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.) Fees shall not be paid to other entities except as a deviation from 10 CFR part 600, nor shall fees be paid under awards in support of conferences.

(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 pay-

ment 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 in writing immediately. If the recipient believes any information developed or acquired may be classifiable, 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 sub-

mit 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