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§ 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 Requirements for Grants and Cooperative Agreements to State and Local Governments."

PRE-AWARD REQUIREMENTS

§ 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

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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

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in the format or on the forms authorized by paragraphs (a) and (b) of this section.

[59 FR 53266, Oct. 21, 1994, as amended at 61 FR 7165, Feb. 26, 1996]

§ 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 system that does not meet the standards prescribed in this subpart, has not conformed to the terms and conditions of a previous award, or is not otherwise responsible, DOE may impose additional requirements as needed, without regard to the deviation provisions of § 600.4. Such applicant or recipient will be notified in writing as to the nature of the additional requirements, the reason why the additional requirements are being imposed, the nature of the corrective action needed, and the time allowed for completing the corrective actions. Reconsideration of the additional requirements may be requested at any time. Any special conditions shall be promptly removed once the conditions that prompted them have been corrected.

(b) A recipient may place a special restrictive condition, as specified in paragraph (a) of this section, in a subaward. In any such case, the recipient must notify DOE in writing within 15 days of the subaward. DOE shall decide whether to notify OMB and other interested parties.

§ 600.115 Metric system of measurement.

The Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act (15 U.S.C. 205) de-

clares 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."

§ 600.116 Resource Conservation and Recovery Act.

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.