

## Department of Energy

## § 600.29

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 guidance in 48 CFR 927.201-1 and 48 CFR 27.201.

(4) *Patent indemnity.* Incorporate the clause set forth in 48 CFR 52.227-3, as appropriate, in accordance with the guidance in 48 CFR 27.203-1 and 48 CFR 27.203-3.

(5) *Filing of patent applications—Classified subject matter.* Incorporate the following paragraphs in any solicitation or award which covers, or is likely to cover, classified subject matter:

### Classified Inventions

(a) The recipient shall not file or cause to be filed on any invention or discovery conceived or first actually reduced to practice in the course of or under this award in any country other than the United States, an application or registration for a patent without first obtaining written approval of the Contracting Officer.

(b) When filing a patent application in the United States on any invention or discovery conceived of or first actually reduced to practice in the course of or under this award, the subject matter of which is classified for reasons of security, the awardee shall observe all applicable security regulations covering the transmission of classified subject matter. When transmitting the patent application to the United States Patent and Trademark Office, the awardee shall, by separate letter, identify by agency and agree-

ment number the award(s) which require security classification markings to be placed on the application.

(6) *Notice and assistance regarding patent and copyright infringement.* Incorporate the clause at 48 CFR 52.227-2, in accordance with the guidance in 48 CFR 27.202, in all awards in excess of \$100,000 for construction, research, development, and demonstration work which is to be performed within the United States, its possessions, or Puerto Rico.

(7) *Royalty information.* Incorporate 48 CFR 52.227-6.

(8) *Refund of royalties.* As discussed in 48 CFR 927.206, incorporate the clause at 48 CFR 952.227-9 in solicitations and awards where the Contracting Officer believes royalties will have to be paid by the awardees or subawardee or contractor at any tier.

(9) *Subawards and contracts under award.* The recipient shall include the applicable clauses of this section in any subaward or contract awarded under the award and assure that the applicable clauses are also included by subrecipients in contracts.

[61 FR 7166, Feb. 26, 1996, as amended at 63 FR 10503, Mar. 4, 1998; 64 FR 4029, Jan. 27, 1999]

### § 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.

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(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 when 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 designee.

(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

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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.

#### GENERAL

### § 600.100 Purpose.

This subpart implements OMB Circular A-110 and establishes uniform administrative requirements for grants and agreements awarded to institutions of higher education, hospitals, and other non-profit and commercial organizations. It also establishes rules governing subawards to institutions of higher education, hospitals, and non-profit and commercial organizations (including grants and cooperative agreements administered by State, local and Indian Tribal governments).

### § 600.101 Definitions.

*Accrued expenditures* means the charges incurred by the recipient during a given period requiring the provision of funds for:

(1) Goods and other tangible property received;

(2) Services performed by employees, contractors, subrecipients, and other payees; and,

(3) Other amounts becoming owed under programs for which no current services or performance is required.

*Accrued income* means the sum of:

(1) Earnings during a given period from services performed by the recipient, and goods and other tangible property delivered to purchasers, and