

§ 600.330

of paragraphs (d)(2) and (3) of this section.

(f) *Rights in data—SBIR/STTR programs.* (1) If an applicant receives an award under the SBIR or STTR program, then the contracting officer must insert in the award the standard data clause in the General Terms and Conditions for SBIR Grants, entitled “Rights in Data—SBIR Program”.

(2) The data rights provisions for SBIR/STTR grants are contained in the award terms and conditions for SBIR grants located at <http://e-center.doe.gov> on the Professionals Homepage under Financial Assistance, Regulations and Guidance.

(g) *Authorization and consent.* (1) Work performed by a recipient under a grant is not subject to authorization and consent to the use of a patented invention, and the Government assumes no liability for patent infringement by the recipient under 28 U.S.C. 1498.

(2) Work performed by a recipient under a cooperative agreement is subject to authorization and consent to the use of a patented invention consistent with the principles set forth in 48 CFR 27.201-1.

(3) The contracting officer, in consultation with patent counsel, may also include clauses in the cooperative agreement addressing other patent matters related to authorization and consent, such as patent indemnification of the Government by recipient and notice and assistance regarding patent and copyright infringement. The policies and clauses for these other patent matters will be the same or consistent with those in 48 CFR part 927.

Procurement Standards

§ 600.330 Purpose of procurement standards.

Section 600.331 sets forth requirements necessary to ensure:

(a) Recipients’ procurements that use Federal funds comply with applicable Federal statutes, regulations, and executive orders.

(b) Proper stewardship of Federal funds used in recipients’ procurements.

§ 600.331 Requirements.

The following requirements pertain to recipients’ procurements funded in

whole or in part with Federal funds or with recipients’ cost-share or match:

(a) *Reasonable cost.* Recipients’ procurement procedures must use best commercial practices to ensure reasonable cost for procured goods and services. Recipients are encouraged to buy commercial items, if practicable.

(b) *Pre-award review of certain procurements.* If the contracting officer determines that there is a compelling need to perform a pre-award review of a specific transaction and the terms of the award identify the specific transaction and provide for such a review, then the recipient must obtain the contracting officer’s approval prior to awarding the transaction and must provide the contracting officer the following documents to review:

- (1) Request for proposals or invitation to bid, if any;
- (2) Cost estimate;
- (3) Proposal/bid;
- (4) Proposed award document; and
- (5) Summary of negotiations or justification for award.

(c) *Contract provisions.* (1) Contracts in excess of the simplified acquisition threshold must contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.

(2) All contracts in excess of the simplified acquisition threshold must contain suitable provisions for termination for default by the recipient and for termination due to circumstances beyond the control of the contractor.

(3) All negotiated contracts in excess of the simplified acquisition threshold must include a provision permitting access of DOE, the Inspector General, the Comptroller General of the United States, or any of their duly authorized representatives, to any books, documents, papers, and records of the contractor that are directly pertinent to a specific program, for the purpose of making audits, examinations, excerpts, transcriptions, and copies of such documents.

(4) All contracts, including those for amounts less than the simplified acquisition threshold, awarded by recipients and their contractors must contain the