

Department of Energy

§ 603.105

603.910 Access to a for-profit participant's records.

603.915 Access to a nonprofit participant's records.

TERMINATION AND ENFORCEMENT

603.920 Termination and enforcement requirements.

Subpart H—Executing the Award

603.1000 Contracting officer's responsibilities at time of award.

THE AWARD DOCUMENT

603.1005 General responsibilities.

603.1010 Substantive issues.

603.1015 Execution.

REPORTING INFORMATION ABOUT THE AWARD

603.1020 File documents.

Subpart I—Post-Award Administration

603.1100 Contracting officer's post-award responsibilities.

603.1105 Advance payments or payable milestones.

603.1110 Other payment responsibilities.

603.1115 Single audits.

603.1120 Award-specific audits.

Subpart J—Definitions of Terms Used in this Part

603.1205 Advance.

603.1210 Articles of collaboration.

603.1215 Assistance.

603.1220 Award-specific audit.

603.1225 Cash contributions.

603.1230 Commercial firm.

603.1235 Consortium.

603.1240 Cooperative agreement.

603.1245 Cost sharing.

603.1250 Data.

603.1255 Equipment.

603.1260 Expenditure-based award.

603.1265 Expenditures or outlays.

603.1270 Grant.

603.1275 In-kind contributions.

603.1280 Institution of higher education.

603.1285 Intellectual property.

603.1290 Participant.

603.1295 Periodic audit.

603.1300 Procurement contract.

603.1305 Program income.

603.1310 Program official.

603.1315 Property.

603.1320 Real property.

603.1325 Recipient.

603.1330 Supplies.

603.1335 Termination.

603.1340 Technology investment agreement.

APPENDIX A TO PART 603—APPLICABLE FEDERAL STATUTES, EXECUTIVE ORDERS, AND GOVERNMENT-WIDE REGULATIONS

APPENDIX B TO PART 603—FLOW DOWN REQUIREMENTS FOR PURCHASES OF GOODS AND SERVICES

AUTHORITY: 42 U.S.C. 7101 et seq.; 31 U.S.C. 6301-6308; 50 U.S.C. 2401 et seq., unless otherwise noted.

SOURCE: 70 FR 69254, Nov. 15, 2005, unless otherwise noted.

EFFECTIVE DATE NOTE: At 70 FR 69254, Nov. 15, 2005, part 603 was added, effective Mar. 15, 2006.

Subpart A—General

§ 603.100 Purpose.

This part establishes uniform policies and procedures for the implementation of DOE's "other transaction" authority and for award and administration of a technology investment agreement (TIA).

§ 603.105 Description.

(a) A TIA is a special type of assistance instrument used to increase involvement of commercial firms in the Department of Energy's (DOE) research, development and demonstration (RD&D) programs. A TIA, like a cooperative agreement, requires substantial Federal involvement in the technical or management aspects of the project. A TIA may be either a type of cooperative agreement or a type of assistance transaction other than a cooperative agreement, depending on the intellectual property provisions. A TIA is either:

(1) A type of cooperative agreement with more flexible provisions tailored for commercial firms (as distinct from a cooperative agreement subject to all of the requirements in 10 CFR 600), but with intellectual property provisions in full compliance with the DOE intellectual property statutes (i.e., Bayh-Dole statute and 42 U.S.C. 2182 and 5908, as implemented in 10 CFR 600.325). The authority to award this type of TIA is 42 U.S.C. 7256(a), as well as any program-specific statute that provides authority to award cooperative agreements; or

(2) An assistance transaction other than a cooperative agreement, if its intellectual property provisions vary from the Bayh-Dole statute and 42 U.S.C. 2182 and 5908, which require the

§ 603.110

Government to retain certain intellectual property rights and require differing treatment between large businesses and nonprofit organizations or small businesses. The authority to award this type of TIA is 42 U.S.C. 7256(g), as well as any program-specific statute that provides authority to award assistance agreements.

(b) The two types of TIAs have similar requirements, except for the intellectual property requirements. If the contracting officer determines there is a unique, exceptional need to vary from the standard intellectual property requirements in 10 CFR 600.325, the TIA becomes an assistance transaction other than a cooperative agreement.

§ 603.110 Use of TIAs.

The ultimate goal for using a TIA is to broaden the technology base available to meet DOE mission requirements and foster within the technology base new relationships and practices to advance the national economic and energy security of the United States, to promote scientific and technological innovation in support of that mission, and to ensure the environmental clean-up of the national nuclear weapons complex. A TIA therefore is designed to:

(a) Reduce barriers to participation in RD&D programs by commercial firms that deal primarily in the commercial marketplace. A TIA allows contracting officers to tailor Government requirements and lower or remove barriers if it can be done with proper stewardship of Federal funds.

(b) Promote new relationships among performers in the technology base. Collaborations among commercial firms that deal primarily in the commercial marketplace, firms that regularly perform on the DOE RD&D programs and nonprofit organizations can enhance overall quality and productivity.

(c) Stimulate performers to develop and use new business practices and disseminate best practices throughout the technology base.

§ 603.115 Approval requirements.

An officer of the Department who has been appointed by the President by and with the advice and consent of the Senate and who has been delegated the au-

10 CFR Ch. II (1–1–06 Edition)

thority from the Secretary must approve the award of a TIA and may perform other functions of the Secretary as set forth in 42 U.S.C. 7256(g). This authority may not be re-delegated. The DOE or National Nuclear Security Administration (NNSA) Senior Procurement Executive also must concur in the award of a TIA.

§ 603.120 Contracting officer warrant requirements.

A contracting officer may award or administer a TIA only if the contracting officer's warrant authorizes the award or administration of a TIA.

§ 603.125 Applicability of other parts of the DOE Assistance Regulations.

(a) TIAs are explicitly covered in this part and 10 CFR part 600, subpart A—General. 10 CFR part 600, subpart A, addresses general matters that relate to assistance instruments.

(b) Three additional parts of the DOE Assistance Regulations apply to TIAs, although they do not mention a TIA explicitly. They are:

(1) 10 CFR part 601—lobbying restrictions apply by law (31 U.S.C. 1352) to a TIA that is a cooperative agreement and as a matter of DOE policy to a TIA that is an assistance transaction other than a cooperative agreement.

(2) 10 CFR part 606—debarment and suspension requirements apply because they cover nonprocurement instruments in general; and

(3) 10 CFR part 607—drug-free workplace (financial assistance) requirements apply because they cover all assistance instruments.

(c) Other portions of 10 CFR part 600 apply to a TIA as referenced in part 603.

Subpart B—Appropriate Use of Technology Investment Agreements

§ 603.200 Contracting officer responsibilities.

Contracting officers may use a TIA only in appropriate situations. To do so, the use of a TIA must be justified based on:

(a) The nature of the project, as discussed in § 603.205;