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funds, as discussed in § 603.1105(b). For a TIA using milestone payments, it includes making any needed adjustments in future milestone payment amounts, as discussed in § 603.1105(c).

(d) Making continuation awards for subsequent budget periods, if the agreement includes separate budget periods. See 10 CFR 600.26(b). Any continuation award is contingent on availability of funds, satisfactory progress towards meeting the performance goals and milestones, submittal of required reports, and compliance with the terms and conditions of the award.

(e) Coordinating audit requests and reviewing audit reports for both single audits of participants' systems and any award-specific audits that may be needed, as discussed in §§ 603.1115 and 603.1120.

(f) Responding, after coordination with program officials and intellectual property counsel, to recipient requests for permission to assign or license intellectual property to entities that do not agree to manufacture substantially in the United States, as described in § 603.875(b). Before granting approval for any technology, the contracting officer must secure assurance that any such assignment is consistent with license rights for Government use of the technology, and that other conditions for any such transfer are met.

§ 603.1105 Advance payments or payable milestones.

The contracting officer must:

(a) For any expenditure-based TIA with advance payments or payable milestones, forward to the responsible payment office any interest that the recipient remits in accordance with § 603.820(b). The payment office will return the amounts to the Department of the Treasury's miscellaneous receipts account.

(b) For any expenditure-based TIA with advance payments, consult with the program official and consider whether program progress reported in periodic reports, in relation to reported expenditures, is sufficient to justify the continued authorization of advance payments under § 603.805(b).

(c) For any expenditure-based TIA using milestone payments, work with the program official at the completion

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of each payable milestone or upon receipt of the next business status report to:

(1) Compare the total amount of project expenditures, as recorded in the payable milestone report or business status report, with the projected budget for completing the milestone; and

(2) Adjust future payable milestones, as needed, if expenditures lag substantially behind what was originally projected and the contracting officer judges that the recipient is receiving Federal funds sooner than necessary for program purposes. Before making adjustments, the contracting officer should consider how large a deviation is acceptable at the time of the milestone. For example, suppose that the first milestone payment for a TIA is \$50,000, and that the awarding official set the amount based on a projection that the recipient would have to expend \$100,000 to reach the milestone (i.e., the original plan was for the recipient's share at that milestone to be 50% of project expenditures). If the milestone payment report shows \$90,000 in expenditures, the recipient's share at this point is 44% (\$40,000 out of the total \$90,000 expended, with the balance provided by the \$50,000 milestone payment of Federal funds). For this example, the contracting officer should adjust future milestones if a 6% difference in the recipient's share at the first milestone is judged to be too large, but not otherwise. Remember that milestone payment amounts are not meant to track expenditures precisely at each milestone and that a recipient's share will increase as it continues to perform RD&D and expend funds, until it completes another milestone to trigger the next Federal payment.

§ 603.1110 Other payment responsibilities.

Regardless of the payment method, the contracting officer should ensure that:

(a) The request complies with the award terms;

(b) Available funds are adequate to pay the request;

(c) The recipient will not have excess cash on hand, based on expenditure patterns; and

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(d) Payments are not withheld, except in one of the circumstances described in 10 CFR 600.312(g).

§ 603.1115 Single audits.

For audits of for-profit participant's systems, under §§ 603.640 through 603.660, the contracting officer is the focal point for ensuring that participants submit audit reports and for resolving any findings in those reports. The contracting officer's responsibilities regarding single audits of non-profit participant's systems are identified in the DOE "Guide to Financial Assistance."

§ 603.1120 Award-specific audits.

Guidance on when and how the contracting officer should request additional audits for an expenditure-based TIA is identical to the guidance in 10 CFR 600.316(d). If the contracting officer requires an award-specific examination or audit of a for-profit participant's records related to a TIA, the contracting officer must use the auditor specified in the award terms and conditions, which should be the same auditor who performs periodic audits of the participant.

Subpart J—Definitions of Terms Used in This Part

The terms defined in 10 CFR 600.3 apply to all DOE financial assistance, including a TIA. In addition to those terms, the following terms are used in this part.

§ 603.1205 Advance.

A payment made to a recipient before the recipient disburses the funds for program purposes. Advance payments may be based upon a recipient's request or a predetermined payment schedule.

§ 603.1210 Articles of collaboration.

An agreement among the participants in a consortium that is not formally incorporated as a legal entity, by which they establish their relative rights and responsibilities (see § 603.515).

§ 603.1215 Assistance.

The transfer of a thing of value to a recipient to carry out a public purpose of support or stimulation authorized by a law of the United States (see 31 U.S.C. 6101(3)). Grants, cooperative agreements, and technology investment agreements are examples of legal instruments used to provide assistance.

§ 603.1220 Award-specific audit.

An audit of a single TIA, usually done at the cognizant contracting officer's request, to help resolve issues that arise during or after the performance of the RD&D project. An award-specific audit of an individual award differs from a periodic audit of a participant (as defined in § 603.1295).

§ 603.1225 Cash contributions.

A recipient's cash expenditures made as contributions toward cost sharing, including expenditures of money that third parties contributed to the recipient.

§ 603.1230 Commercial firm.

A for-profit firm or segment of a for-profit firm (e.g., a division or other business unit) that does a substantial portion of its business in the commercial marketplace.

§ 603.1235 Consortium.

A group of RD&D-performing organizations that either is formally incorporated or that otherwise agrees to jointly carry out a RD&D project (see definition of "articles of collaboration," in § 603.1210).

§ 603.1240 Cooperative agreement.

A legal instrument which, consistent with 31 U.S.C. 6305, is used to enter into the same kind of relationship as a grant (see definition of "grant," in § 603.1270), except that substantial involvement is expected between the DOE and the recipient when carrying out the activity contemplated by the cooperative agreement. The term does not include "cooperative research and development agreements" as defined in 15 U.S.C. 3710a.