

Department of Energy

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(b) The Federal share at each milestone need not be the same as the Federal share of the total project. For example, the contracting officer might deliberately set payment amounts with a larger Federal share for early milestones if a project involves a start-up company with limited resources.

(c) For an expenditure-based TIA, if the contracting officer establishes minimum cost sharing percentages for each milestone, those percentages should be indicated in the agreement.

(d) For a fixed-support TIA, the milestone payments should be associated with the well-defined, observable, and verifiable technical outcomes (e.g., demonstrations, tests, or data analysis) that are established for the project in accordance with §§ 603.305(a) and 603.560(a).

§ 603.575 Repayment of Federal cost share.

In accordance with the Energy Policy Act of 2005 (Pub. L. 109-58), section 988(e), the contracting officer may not require repayment of the Federal share of a cost-shared TIA as a condition of making an award, unless otherwise authorized by statute.

Subpart F—Award Terms Affecting Participants' Financial, Property, and Purchasing Systems

§ 603.600 Administrative matters.

This subpart addresses “systemic” administrative matters that place requirements on the operation of a participant’s financial management, property management, or purchasing system. Each participant’s systems are organization-wide and do not vary with each agreement. Therefore, a TIA should address systemic requirements in a uniform way for each type of participant organization.

§ 603.605 General policy.

The general policy for an expenditure-based TIA is to avoid requirements that would force participants to use different financial management, property management, and purchasing systems than they currently use for:

(a) Expenditure-based Federal procurement contracts and assistance

awards in general, if they receive them; or

(b) Commercial business, if they have no expenditure-based Federal procurement contracts and assistance awards.

§ 603.610 Flow down requirements.

If it is an expenditure-based award, the TIA must require participants to provide the same financial management, property management, and purchasing systems requirements to a subrecipient that would apply if the subrecipient were a participant. For example, a for-profit participant would require a university subrecipient to comply with the requirements that apply to a university participant. Note that this policy applies to subawards for substantive performance of portions of the RD&D project supported by the TIA and not to participants’ purchases of goods or services needed to carry out the RD&D.

FINANCIAL MATTERS

§ 603.615 Financial management standards for-profit firms.

(a) To avoid causing needless changes in participants’ financial management systems, an expenditure-based TIA will make for-profit participants that currently perform under other expenditure-based Federal procurement contracts or assistance awards subject to the same standards for financial management systems that apply to those other awards. Therefore, if a for-profit participant has expenditure-based DOE assistance awards other than a TIA, the TIA must apply the standards in 10 CFR 600.311. The contracting officer may grant an exception and allow a for-profit participant that has other expenditure-based Federal Government awards to use an alternative set of standards that meets the minimum criteria in paragraph (b) of this section, if there is a compelling programmatic or business reason to do so. For each case in which an exception is granted, the contracting officer must document the reason in the award file.

(b) For an expenditure-based TIA, the contracting officer is to allow and encourage each for-profit participant that does not currently perform under

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expenditure-based Federal procurement contracts or assistance awards (other than a TIA) to use its existing financial management system as long as the system, as a minimum:

(1) Complies with Generally Accepted Accounting Principles.

(2) Effectively controls all project funds, including Federal funds and any required cost share. The system must have complete, accurate, and current records that document the sources of funds and the purposes for which they are disbursed. It also must have procedures for ensuring that project funds are used only for purposes permitted by the agreement (see § 603.625).

(3) Includes, if advance payments are authorized under § 603.805, procedures to minimize the time elapsing between the payment of funds by the Government and the firm's disbursement of the funds for program purposes.

§ 603.620 Financial management standards for nonprofit participants.

So as not to force system changes for any State, local government, institution of higher education, or other nonprofit organization, expenditure-based TIA requirements for the financial management system of any nonprofit participant are to be the same as those that apply to the participant's other Federal assistance awards. Specifically, the requirements are those in:

(a) 10 CFR 600.220 for State and local governments; and

(b) 10 CFR 600.121(b) for other nonprofit organizations, with the exception of nonprofit Government-owned, contractor-operated (GOCO) facilities and Federally Funded Research and Development Centers (FFRDCs) that are excepted from the definition of "recipient" in 10 CFR 600.101. If a GOCO or FFRDC is a participant, the contracting officer must specify appropriate standards that conform as much as practicable with requirements in their procurement contract.

§ 603.625 Cost principles or standards applicable to for-profit participants.

(a) So as not to require any firm to needlessly change its cost accounting system, an expenditure-based TIA is to apply the Government cost principles in 48 CFR part 31 to for-profit partici-

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pants that currently perform under expenditure-based Federal procurement contracts or assistance awards (other than a TIA) and therefore have existing systems for identifying allowable costs under those principles. If there are programmatic or business reasons to do otherwise, the contracting officer may grant an exception from this requirement and use alternative standards as long as the alternative satisfies the conditions described in paragraph (b) of this section; if an exception is granted the reasons must be documented in the award file.

(b) For other for-profit participants, the contracting officer may establish alternative standards in the agreement as long as that alternative provides, as a minimum, that Federal funds and funds counted as recipients' cost sharing will be used only for costs that:

(1) A reasonable and prudent person would incur in carrying out the RD&D project contemplated by the agreement. Generally, elements of cost that appropriately are charged are those identified with RD&D activities under the Generally Accepted Accounting Principles (see Statement of Financial Accounting Standards Number 2, "Accounting for Research and Development Costs," October 1974). Moreover, costs must be allocated to DOE and other projects in accordance with the relative benefits the projects receive. Costs charged to DOE projects must be given consistent treatment with costs allocated to the participants' other RD&D activities (e.g., activities supported by the participants themselves or by non-Federal sponsors).

(2) Are consistent with the purposes stated in the governing Congressional authorizations and appropriations. The contracting officer is responsible for ensuring that provisions in the award document address any requirements that result from authorizations and appropriations.

§ 603.630 Use Federally approved indirect cost rates for for-profit firms.

In accordance with the general policy in § 603.605, the contracting officer must require a for-profit participant that has Federally approved indirect cost rates for its Federal procurement