

§ 603.910

under the TIA must be kept for three years after final disposition.

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

(a) If a for-profit participant currently grants access to its records to the DCAA or other Federal Government auditors, the TIA must include for that participant the standard access-to-records requirements at 10 CFR 600.342(e). If the agreement is a fixed-support TIA, the language in 10 CFR 600.342(e) may be modified to provide access to records concerning the recipient's technical performance, without requiring access to the recipient's financial or other records. Note that any need to address access to technical records in this way is in addition to, not in lieu of, the need to address rights in data (see § 603.845).

(b) For other for-profit participants that do not currently give the Federal Government direct access to their records and are not willing to grant full access to records pertinent to the award, the contracting officer may negotiate limited access to the recipient's financial records. For example, if the audit provision of an expenditure-based TIA gives an IPA access to the recipient's financial records for audit purposes, the Federal Government must have access to the IPA's reports and working papers and the contracting officer need not include a provision requiring direct Government access to the recipient's financial records. For both fixed-support and expenditure-based TIAs, the TIA must include the access-to-records requirements at 10 CFR 600.342(e) for records relating to technical performance.

§ 603.915 Access to a nonprofit participant's records.

A TIA must include for any nonprofit participant the standard access-to-records requirement at:

(a) 10 CFR 600.242(e), for a participant that is a State or local governmental organization;

(b) 10 CFR 600.153(e), for a participant that is a nonprofit organization. The same requirement applies to any GOCO or FFRDC, even though nonprofit GOCOs and FFRDCs are exempted from

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the definition of "recipient" in 10 CFR 600.101.

TERMINATION AND ENFORCEMENT

§ 603.920 Termination and enforcement requirements.

(a) Termination. A TIA must include the following conditions for termination:

(1) An award may be terminated in whole or in part by the contracting officer, if a recipient materially fails to comply with the terms and conditions of the award.

(2) Subject to a reasonable determination by either party that the project will not produce beneficial results commensurate with the expenditure of resources, that party may terminate in whole or in part the agreement by providing at least 30 days advance written notice to the other party, provided such notice is preceded by consultation between the parties. The two parties will negotiate the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. If either party determines in the case of partial termination that the reduced or modified portion of the award will not accomplish the purpose for which the award was made, the award may be terminated in its entirety.

(3) Unless otherwise negotiated, for terminations of an expenditure based TIA, DOE's maximum liability is the lesser of:

(i) DOE's share of allowable costs incurred up to the date of termination, or

(ii) The amount of DOE funds obligated to the TIA.

(4) Unless otherwise negotiated, for terminations of a fixed-support based TIA, DOE shall pay the recipient a proportionate share of DOE's financial commitment to the project based on the percent of project completion as of the date of termination.

(5) Notwithstanding paragraphs (3) and (4) of this section, if the award includes milestone payments, the Government has no obligation to pay the recipient beyond the last completed and paid milestone if the recipient decides to terminate.