

Department of Energy

§ 603.125

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 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 authority 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.