§ 603.665 Periodic audits of nonprofit participants.

An expenditure-based TIA is an assistance instrument subject to the Single Audit Act (31 U.S.C. 7501–7507), so nonprofit participants are subject to the requirements under that Act and OMB Circular A-133. Specifically, the requirements are those in:

(a) 10 CFR 600.226 for State and local governments; and

(b) 10 CFR 600.126 for other nonprofit organizations.

§ 603.670 Flow down audit requirements to subrecipients.

(a) In accordance with §603.610, an expenditure-based TIA must require participants to flow down the same audit requirements to a subrecipient that would apply if the subrecipient were a participant.

(b) For example, a for-profit participant that is audited by the DCAA:

(1) Would flow down to a university subrecipient the Single Audit Act requirements that apply to a university participant;

(2) Could enter into a subaward allowing a for-profit participant, under the circumstances described in §603.650(a), to use an IPA to do its audits.

(c) 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.

§ 603.675 Reporting use of IPA for subawards.

An expenditure-based TIA should require participants to report to the contracting officer when they enter into any subaward allowing a for-profit subawardee to use an IPA, as described in §603.670(b)(2).

PROPERTY

§ 603.680 Purchase of real property and equipment by for-profit firms.

(a) With the two exceptions described in paragraph (b) of this section, the contracting officer must require a for-profit firm to purchase real property or equipment with its own funds that are separate from the RD&D project. The contracting officer should allow the firm to charge to an expenditure-based TIA only depreciation or use charges for real property or equipment (and the cost estimate for a fixed-support TIA only would include those costs). Note that the firm must charge depreciation consistently with its usual accounting practice. Many firms treat depreciation as an indirect cost. Any firm that usually charges depreciation indirectly
Department of Energy § 603.695

for a particular type of property must not charge depreciation for that property as a direct cost to the TIA.

(b) In two situations, the contracting officer may grant an exception and allow a for-profit firm to use project funds, which includes both the Federal Government and recipient shares, to purchase real property or equipment (i.e., to charge to the project the full acquisition cost of the property). The two circumstances, which should be infrequent for equipment and extremely rare for real property, are those in which either:

(1) The real property or equipment will be dedicated to the project and has a current fair market value that is less than $5,000 by the time the project ends; or

(2) The contracting officer gives prior approval for the firm to include the full acquisition cost of the real property or equipment as part of the cost of the project (see § 603.535).

(c) If the contracting officer grants an exception in either of the circumstances described in paragraphs (b)(1) and (2) of this section, the real property or equipment must be subject to the property management standards in 10 CFR 600.321(b) through (e). As provided in those standards, the title to the real property or equipment will vest conditionally in the for-profit firm upon acquisition. A TIA, whether it is a fixed-support or expenditure-based award, must specify any conditions on the vesting of title to real property or equipment acquired by any such nonprofit participant.

§ 603.690 Requirements for Federally-owned property.

If DOE provides Federally-owned property to any participant for the performance of RD&D under a TIA, the contracting officer must require that participant to account for, use, and dispose of the property in accordance with:

(a) 10 CFR 600.231 and 600.232, for participants that are States and local governmental organizations; and

(b) 10 CFR 600.132 and 600.134, for other nonprofit participants, with the exception of nonprofit GOCOs and FFRDCs that are exempted 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 the requirements in its procurement contract. Note also that:

(1) If the TIA is a cooperative agreement, 31 U.S.C. 6306 provides authority to vest title to tangible personal property in a nonprofit institution of higher education or in a nonprofit organization whose primary purpose is conducting scientific research, without further obligation to the Federal Government; and

(2) A TIA therefore must specify any conditions on the vesting of title to real property or equipment acquired by any such nonprofit participant.

§ 603.695 Requirements for supplies.

An expenditure-based TIA’s provisions should permit participants to use their existing procedures to account