This approach may be useful, for example, if a commercial firm that is a participant will not accept an agreement with all of the post-award requirements of an expenditure-based award. Before using a fixed-support arrangement for that firm’s portion of the project, the agreement must meet the criteria in §603.305.

ACCOUNTING, PAYMENTS, AND RECOVERY OF FUNDS

§ 603.570 Determining milestone payment amounts.

(a) If the contracting officer selects the milestone payment method (see §603.805), the contracting officer must assess the reasonableness of the estimated amount for reaching each milestone. This assessment enables the contracting officer to set the amount of each milestone payment to approximate the Federal share of the anticipated resource needs for carrying out that phase of the RD&D effort.

(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 (Public Law 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.