- (c) Copyright. (1) Data first produced in the performance of the award. Except as otherwise specifically provided in this award, the recipient may establish claim to copyright subsisting in any data first produced in the performance of this award. When claim to copyright is made, the Recipient shall affix the applicable copyright notice of 17 U.S.C. 401 or 402 and acknowledgement of Government sponsorship (including award number) to the data when such data are delivered to the Government, as well as when the data are published or deposited for registration as a published work in the U.S. Copyright Office. The recipient grants to the Government a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so. The right to publish includes the right to publicly distribute. The right to use the work for Federal purposes includes the right to prepare derivative works.
- (C) For grants and cooperative agreements with commercial organizations, foreign governments, organizations under the jurisdiction of foreign governments, and international organizations, the provisions the following paragraph (d)(3) shall be used in addition to the provisions in 48 CFR 52.227–14:
- (d)(3) The Recipient agrees not to establish claim to copyright in computer software first produced in the performance of this award without prior written permission of the Contracting Officer. When such permission is granted, the Contracting Officer shall specify appropriate terms to assure dissemination of the software. The recipient shall promptly deliver to the Contracting Officer or to the DOE Patent Counsel designated by the Contracting Officer a duly executed and approved instrument fully confirmatory of all rights to which the Government is entitled, and other terms pertaining to the computer software to which claim to copyright is made.
- (D) If programmatic needs on a particular award require the delivery to the Government of limited rights data or restricted computer software, Alternates II or III of 48 CFR 52.227–14 shall also be added.
- (ii) Restriction on Disclosure and Use of Data. Insert the Notice at 600.15(b)(1) in all solicitations.
- (iii) Rights to Application Data. As discussed at 600.15(b)(5), incorporate 48 CFR 52.227–23.
- (iv) Additional data requirements. Incorporate 48 CFR 52.227–16. In the event all technical data requirements are known in advance of and are set forth in the agreement or, the award is for the performance of basic or applied research and is to be performed solely by a university or college as discussed in 48 CFR 27.406(b), 48 CFR 52.227–16 does not need to be incorporated.
- (3) Authorization and consent. Incorporate 48 CFR 52.227–1 or

- Alternates I or II, as appropriate, in accordance with the guidance in 48 CFR 927.201–1 and 48 CFR 27.201.
- (4) Patent indemnity. Incorporate the clause set forth in 48 CFR 52.227–3, as appropriate, in accordance with the guidance in 48 CFR 27.203–1 and 48 CFR 27.203–3.
- (5) Filing of Patent Applications-Classified Subject Matter. Incorporate the following paragraph in any solicitation or award which covers, or is likely to cover, classified subject matter:

## **Classified Inventions**

- (a) The recipient shall not file or cause to be filed on any invention or discovery conceived or first actually reduced to practice in the course of or under this award in any country other than the United States, an application or registration for a patent without first obtaining written approval of the Contracting Officer.
- (b) When filing a patent application in the United States on any invention or discovery conceived of or first actually reduced to practice in the course of or under this award, the subject matter of which is classified for reasons of security, the awardee shall observe all applicable security regulations covering the transmission of classified subject matter. When transmitting the patent application to the United States Patent and Trademark Office, the awardee shall, by separate letter, identify by agency and agreement number the award(s) which require security classification markings to be placed on the application.
- (6) Notice and Assistance Regarding Patent and Copyright Infringement. Incorporate the clause at 48 CFR 52.227–2, in accordance with the guidance in 48 CFR 27.202, in all awards in excess of \$100,000 for construction, research, development, and demonstration work which is to be performed within the United States, its possessions, or Puerto Rico.
- (7) Royalty Information. Incorporate 10 CFR 52.227–6.
- (8) Refund of Royalties. As discussed in 48 CFR 927.206, incorporate the clause at 48 CFR 952.227–9 in solicitations and awards where the Contracting Officer believes royalties will have to be paid by the awardees or subawardee or contractor at any tier.
- (9) Subawards and contracts under award. The recipient shall include the applicable clauses of this section in any subaward or contract awarded under the award and assure that the applicable clauses are also included by subrecipients in contracts.

## § 600.28 New restrictions on lobbying.

Procedures regarding restrictions on lobbying activities of applicants and recipients are contained in 10 CFR 601.110.

## § 600.29 Fixed obligation awards.

- (a) General. This section contains provisions applicable to the award of financial assistance instruments on a fixed amount basis. Under a fixed obligation award, funds are issued in support of a project without a requirement for Federal monitoring or actual costs subsequently incurred.
- (b) Provisions applicable to fixed obligation awards. Financial assistance awards may be made on a fixed obligation basis subject to the following requirements:
- (1) Each fixed obligation award may not exceed \$100,000 or exceed one year in length.
- (2) Programs which require mandatory cost sharing are not eligible.
- (3) Proposed costs must be analyzed in detail to ensure consistency with applicable cost principles;
- (4) Although budgets are submitted by an applicant and reviewed for purposes of establishing the amount to be awarded, budget categories are not stipulated in making an award;
- (5) Payments will be made in the same manner as other financial assistance awards, except that when determined appropriated by the cognizant program official and contracting officer a lump sum payment may be made;
- (6) Recipients must certify in writing to the contracting officer at the end of the project that the activity was completed or the level of effort was expended, however should the activity or effort not be carried out, the recipient would be expected to make appropriate reimbursements:
- (7) Requirements for periodic reports may be established for each award so long as they are not more frequently than quarterly;
- (8) Changes in principal investigator or project leader, scope of effort, or institution, require the prior approval of the Department.

## § 600.30 Cost sharing.

In addition to the requirements of Section 600.123 or Section 600.224, the following requirements apply to research, development, and demonstration projects:

(a) When DOE awards financial assistance for research, development, and demonstration projects where the primary purpose of the project is the ultimate commercialization and utilization of technology by the private sector and when there are reasonable expectations that the participant will receive significant present or future economic benefits beyond the instant award as a result of the performance of the project, cost sharing shall be