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|--|-----------|
| (vi) Total apportioned deduction for research and experimentation: .....                       | \$100,000 |
| (vii) Amount apportioned to the residual grouping (\$50,000+\$38,961): .....                   | \$88,961  |
| (viii) Amount apportioned to the statutory grouping of sources within countries Y and Z: ..... | \$11,039  |

(2) *Tentative Apportionment on Gross Income Basis*

|   |          |
|---|----------|
| (i) Exclusive apportionment of research and experimental expense to the residual grouping of gross income (\$100,000×25 percent): .....         | \$25,000 |
| (ii) Apportionment of research and experimental expense to the residual grouping of gross income (\$75,000×\$479,000/\$500,000): .....          | \$71,850 |
| (iii) Apportionment of research and experimental expense to the statutory grouping of gross income (\$75,000×\$9,000+\$12,000/\$500,000): ..... | \$3,150  |
| (iv) Amount apportioned to the residual grouping: .....   | \$96,850 |
| (v) Amount apportioned to the statutory grouping of general limitation income from sources without the United States: .....                     | \$3,150  |

(B) Since X has elected to use the optional gross income methods of apportionment and its apportionment on the basis of gross income to the statutory grouping, \$3,150, is less than 50 percent of its apportionment on the basis of sales to the statutory grouping, \$11,039, it must use Option two of paragraph (d)(3) of this section and apportion \$5,520 (50 percent of \$11,039) to the statutory grouping.

Margaret Milner Richardson,  
Commissioner of Internal Revenue.

Approved: December 13, 1995.

Leslie Samuels,  
Assistant Secretary of the Treasury.

[FR Doc. 95-30901 Filed 12-21-95; 8:45 am]

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## DEPARTMENT OF ENERGY

## 48 CFR Part 970

RIN 1991-AA63

**Acquisition Regulation; Technology Transfer Activities of Department of Energy (DOE) Management and Operating Contractors**

**AGENCY:** Department of Energy.

**ACTION:** Final rule.

**SUMMARY:** The Department of Energy (DOE) amends the Department of Energy Acquisition Regulation (DEAR) to codify DOE's implementation of its technology transfer mission for DOE laboratories (including weapon production facilities) operated by management and operating contractors.

**EFFECTIVE DATE:** January 22, 1996.

**FOR FURTHER INFORMATION CONTACT:**

Howard K. Mitchell, Policy Analyst, Office of Policy (HR-51), Office of the Deputy Assistant Secretary for Procurement and Assistance Management, Washington, D.C., 20585, (202) 586-8190.

**SUPPLEMENTARY INFORMATION:**

I. Background

II. Disposition of comments

III. Procedural Requirements

A. Regulatory Review Under Executive Order 12866

B. Review Under Executive Order 12612

C. Review Under Executive Order 12778

D. Review Under the Regulatory Flexibility Act

E. Review Under the Paperwork Reduction Act

F. Review Under the National Environmental Policy Act (NEPA)

I. Background

The proposed rule was published on May 22, 1995, at 60 FR 27069 (1995). It was intended to amend the Department of Energy Acquisition Regulation (DEAR) to codify DOE's implementation of its technology transfer mission for DOE laboratories and weapon production facilities operated by management and operating contractors. This mission was established by The National Competitiveness Technology Transfer Act of 1989, as amended by Sections 3134 and 3160 of the National Defense Authorization Act for Fiscal Year 1994.

II. Disposition of Comments

DOE received formal comments from only one entity. This commenter is a current Departmental non-profit Management and Operating Laboratory contractor. The commenter noted the need for inclusion in the proposed definition of bailment the term, Laboratory Tangible Research Product. This term would encompass tangible material results of research which (i) are provided to permit replication, reproduction, evaluation or confirmation of the research effort, or to evaluate its potential commercial utility, (ii) are not materials generally commercially available, and (iii) were made under the contract by Laboratory employees or through the use of Laboratory research facilities. The definition of bailment has been modified to incorporate this new term. The commenter also expressed concern that the current definition of allowable costs only encompassed costs "through an ORTA", with the implication that the

activities and costs associated with autonomous Laboratory organizations such as finance, procurement, legal and other offices involved in technology transfer would be excluded. DOE agrees that such Laboratory organizations may be "appropriate organizational elements consistent with the requirements for an Office of Research and Technology Applications" and that the costs associated with supporting technology transfer at these Laboratory organizations would be allowable subject to other provisions of the M&O contract. One of the organizational examples cited by the commenter, however, falls under the definition of a home or corporate office general and administrative (G&A) expense. DEAR 970.3102-1 indicates that, in its fee allowance, DOE provides appropriate compensation for home office G&A expense. DOE policy also recognizes that the circumstances and the need for such home office involvement vary considerably from site to site. Therefore, home office G&A (including technology transfer related expenses) would normally be considered in the individual negotiation of the fee for the contract. When the fee amount is believed to be insufficient to cover the extent of such offsite involvement, however, DEAR 970.3102-1 also permits separate treatment of such a home office expense. Therefore, no change in the language of the rule is believed necessary.

The commenter further suggested adding language under Conflicts of Interest to reflect that other persons working at the Laboratory participating in Laboratory research or technology