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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF ENERGY

2 CFR Part 930

10 CFR Part 603

RIN 1991–AC19

Update and Relocation of the Department of Energy Technology Investment Agreement Regulations

AGENCY: U.S. Department of Energy.

ACTION: Interim final rule; request for comments.

SUMMARY: The Department of Energy (DOE or the Department) is issuing this interim final rule (IFR) to update, streamline, and relocate the policies, procedures, and provisions that are applicable to the award and administration of certain other transaction (OT) agreements awarded under DOE's OT authority provided in the Energy Policy Act of 2005's amendments to the Department of Energy Organization Act. DOE expects that the simplification of the implementing regulations will enable improved use OT Agreements beyond the Technology Investment Agreements (TIAs) contemplated in the original regulations. This IFR will promote more uniform application of this authority and the policies and provisions for the award and administration of it.

DATES: Effective January 3, 2025. DOE will accept comments, data, and information regarding this IFR no later than March 4, 2025.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov.* Follow the instructions in section III of this document, *Public Participation,* for submitting comments. Alternatively, interested persons may submit comments, identified by ''RIN 1991–AC19—2024 Other Transaction Agreements'', by any of the following methods:

- *Email: OTArulemaking@hq.doe.gov.* Include ''RIN 1991–AC19—2024 Other Transaction Agreements'' in the subject line of the message.
- *Postal Mail:* U.S. Department of Energy, Office of Acquisition Management, MA–611, 1000 Independence Avenue SW, Washington, DC 20585. Include the markings ''RIN 1991–AC19 2024 Other Transaction Agreements''. However, comments by email are encouraged.

Docket: The docket, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at the *www.regulations.gov* web page associated with RIN 1991–AC19. The docket web page contains simple instructions on how to access all documents, including public comments, in the docket. See section III of this document, Public Participation, for information on how to submit comments through *www.regulations.gov.* Please put ''RIN 1991–AC19 2024 Other Transaction Agreements'' in the subject line when sending an email.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Bonnell, U.S. Department of Energy, Office of Acquisition Management by email at *richard.bonnell@hq.doe.gov* or (301) 922–7101.

SUPPLEMENTARY INFORMATION:

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I. Background

DOE's OT authority is provided in sections 646(a) and (g) of the Department of Energy Organization Act (Pub L. 95–91, as amended) (42 U.S.C. 7101 *et seq.*). Section 646(a) (42 U.S.C. 7256(a)) is a general authority for DOE to enter into contracts, leases, cooperative agreements or ''other similar transactions,'' and to make payments to public or private entities as the Secretary ''may deem to be necessary or appropriate to carry out functions now or hereafter vested in the Secretary.'' Section 646(g) (42 U.S.C. 7256(g)) was added to the DOE Organization Act by the Energy Policy Act of 2005 (Pub. L. 109–58) as an OT authority directed specifically to research, development, and demonstration (RD&D).

The authority provided under 42 U.S.C. 7256(g) provides that the Secretary of Energy has the same authority to enter into transactions as the Secretary of Defense under 10 U.S.C. 2371 in carrying out RD&D projects.[1] This authority includes statutory limits on its use, but also authorizes increased flexibilities not available under subsection (a) ''General Authority'' related to intellectual property and data protection.

Section 646(g)(6) of the Energy Policy Act (42 U.S.C. 7256(g)(6)) required DOE to publish guidelines for transactions under subsection (g) not later than 90 days after the enactment of the statute. DOE published an interim final rule (70 FR 69250) on November 15, 2005, and a final rule on May 9, 2006 (71 FR 27158). At least in part because of this limited statutory timeframe, the original regulations at 10 CFR part 603 were largely modeled on the applicable DOD Technology Investment Agreements (TIAs) and established TIAs as the mechanism for awarding OT agreements under section 7256(g). The purposes of a TIA are to reduce barriers that prevent some entities from participating in DOE's RD&D programs and broaden the technology base available to meet DOE mission requirements. However, TIAs

[1] 10 U.S.C. 2371 was transferred to 10 U.S.C. 4021 in 2021 (Pub. L. 116–283, as amended by Pub. L. 117–81).

are just one implementation of OTs available under 42 U.S.C. 7256(g).

OT agreements broadly, including TIAs, are more flexible than standard procurement and financial assistance instruments. They allow the DOE to negotiate commercial terms that would be otherwise unavailable in a procurement or financial assistance instrument in a manner that is more familiar to many commercial entities. Thus, unless otherwise noted in this regulation, the laws and regulations applicable to procurement and financial assistance instruments do not apply. This increased flexibility is used to: (1) strengthen our nation's economic and energy security; (2) promote scientific and technological innovation; (3) reduce barriers to participation in RD&D programs by nontraditional government performers and entities, including small businesses and disadvantaged entities; (4) promote new relationships among performers in the U.S. technology base; (5) stimulate performers to develop and use new business practices and disseminate best practices throughout the U.S. technology base; or (6) stimulate RD&D of energy-related technologies, systems, and processes for use by Federal agencies and the public.

In this IFR, DOE is removing miscellaneous references to outdated regulations from the provisions governing the use of OT agreements. DOE is aligning the revised provisions with the authorizing statute and improves the clarity, structure, organization, and administrative efficiency of the provisions to make them applicable to 42 U.S.C. 7256(g) OT agreements beyond the TIAs contemplated in the original regulations. In conjunction with the revisions under this IFR, DOE published a policy guide, ''Department of Energy Guide to Other Transactions'' that includes the internal DOE processes and specific functions and responsibilities of DOE staff from the provisions removed from 10 CFR part 603.

II. Discussion

While some mechanisms (procurement and financial assistance) can meet many of the Department's missions, certain programs require more innovation for successful implementation and would benefit from the flexibility that OT agreements can provide. To provide the efficiencies in the award and administration of OT agreements needed to achieve DOE's mission, there is a need to remove references to outdated regulations, internal processes, and obsolete and unnecessarily restrictive language from the provisions governing the use of OT agreements. This IFR revises existing OTA regulatory provisions and aligns them with the authorizing statute to improve the clarity, structure, organization, and administrative efficiency and to make them applicable to all OT agreements awarded under DOE's authority at 42 U.S.C. 7256(g), not just TIAs. DOE is removing in its entirety and reserving 10 CFR part 603, relocating it in 2 CFR part 930, and renaming it ''Other Transaction Agreements.'' DOE is removing the provisions of 10 CFR part 603 that are: specific to internal DOE processes or procedures; specific to the functions and responsibilities of DOE staff; and unnecessarily restrictive for use in all OT agreements.

DOE is relocating and revising the remaining provisions of 10 CFR part 603 and adding a deviation provision to 2 CFR part 930 that, consistent with other regulations and policies, provides DOE the authority to deviate from the issuance or use of any policy, procedure, solicitation provision, article, method, or practice of conducting actions of any kind at any stage of the OT award process or administration period that is inconsistent with the OT regulations.

III. Section by Section Analysis

The following discussion details specific revisions made in this IFR by listing sections from current 10 CFR part 603 that were not included in the new 2 CFR part 930, discussing entirely new additions to 2 CFR part 930, and explaining changes to sections of the current 10 CFR part 603 that were retained in new 2 CFR part 930.

§ 930.115 Deviation Authority

DOE is adding a new provision at 2 CFR 930.115 that is substantially similar to provisions already present and widely used in other DOE regulations to address agency deviations from the regulations. The new provision entitled ''Deviation authority'' gives authority to the cognizant Senior Procurement Executive (SPE), as defined by 41 U.S.C. 1702(c), for DOE or National Nuclear Security Administration to approve the issuance or use of a policy, procedure, provision, article, method, or practice of conducting actions of any kind at any stage of the award process or administration period that is inconsistent with part 930. The new language also requires a program office seeking a deviation to submit a request to the SPE justifying the deviation, and creates a process whereby a deviation from the policy, procedure, provision, article, method, or practice may be requested and approved by the cognizant DOE official.

Sections Removed

DOE is removing provisions from 10 CFR part 603 that pertain to internal processes and procedures or that describe the function or responsibility of DOE in its decisions to award and administer OT agreements, including TIAs. The information provided in the following provisions has been included in internal guidance and training materials created for DOE personnel including DOE's Guide to Other Transactions.

- § 603.200: Contracting Officer Responsibilities
- § 603.225: Benefits of Using a TIA
- § 603.300: Difference Between an Expenditure-Based and a Fixed-Support TIA
- § 603.305: Use of a Fixed-Support TIA
- § 603.310: Use of an Expenditure-Based TIA
- § 603.315: Advantages of a Fixed-Support TIA
- § 603.405: Announcement Format
- § 603.410: Announcement Content
- § 603.500: Pre-Award Business Evaluation
- § 603.505: Program Resources
- § 603.510: Recipient Qualifications
- § 603.515: Qualification of a Consortium
- § 603.520: Reasonableness of a Total Project Funding
- § 603.540: Acceptability of Fully Depreciated Real Property or Equipment
- § 603.545: Acceptability of Costs of Prior RD&D
- § 603.550: Acceptability of Intellectual Property
- § 603.555: Value of Other Contributions
- § 603.560: Estimate of Project Expenditures
- § 603.565: Use of a Hybrid Instrument
- § 603.570: Determining Milestone Payment Amounts
- § 603.575: Repayment of Federal Cost Share
- § 603.600: Administrative Matters
- § 603.605: General Policy
- § 603.610: Flow Down Requirements
- § 603.630: Use Federally Approved Indirect Cost Rates for For-Profit Firms
- § 603.635: Cost Principles for Nonprofit Participants
- § 603.650: Designation of Auditor for For-Profit Participants
- § 603.670: Flow Down Audit Requirements to Subrecipients
- § 603.675: Reporting Use of IPA for Subawards
- § 603.685: Management of Real Property and Equipment by Nonprofit Firms

- § 603.690: Requirements for Federally-Owned Property
- § 603.695: Requirements for Supplies
- § 603.800: Scope
- § 603.810: Method and Frequency of Payment Requests
- § 603.815: Withholding Payments
- § 603.820: Interest on Advance Payments
- § 603.835: Program Income Requirements
- § 603.850: Marking of Data
- § 603.855: Protected Data
- § 603.870: Marking of Documents Related to Inventions
- § 603.880: Reports Requirements
- § 603.885: Updated Program Plans and Budgets
- § 603.890: Final Performance Report
- § 603.895: Protection of Information in Programmatic Reports
- § 603.900: Receipt of Final Performance Report
- § 603.910: Access to a For-Profit Participant's Records
- § 603.1000: Contracting Officer's Responsibilities at Time of Award
- § 603.1005: General Responsibilities
- § 603.1010: Substantive Issues
- § 603.1015: Execution
- § 603.1020: File Documents
- § 603.1100: Contracting Officer's Post-Award Responsibilities
- § 603.1105: Advance Payments or Payable Milestones
- § 603.1110: Other Payment Responsibilities
- § 603.1120: Award-Specific Audits
- § 603.1200–1340: Definitions and Following Terms
- Appendix A Applicable Federal Statutes, Executive Orders, and Government-wide Regulations
- Appendix B Flow Down Requirements for Purchases of Goods and Services

Sections Revised and Renumbered

DOE is revising the following provisions to update, clarify, streamline, or eliminate coverage that is unclear, obsolete, or unnecessarily duplicates the internal guidance and roles and responsibilities of DOE staff where appropriate. The revisions do not substantially change the existing requirements or how DOE and DOE performers adhere to the OT regulations.

- § 603.100 Purpose has been revised and renumbered to § 930.100 Purpose.
- § 603.105 Description has been revised and renumbered to § 930.400 Use of Technology Investment Agreements (TIAs).
- § 603.110 Use of TIAs has been revised and renumbered to § 930.400 Use of Technology Investment Agreements (TIAs).
- § 603.115 Approval Requirements has been revised and renumbered to § 930.110 Approval Requirements.
- § 603.120 Contracting Officer Warrant Requirements has been revised and included in § 930.110 Approval Requirements.
- § 603.125 Applicability of Other Parts of the DOE Assistance Regulations has been revised and renumbered to § 930.120 Nonprocurement debarment and suspension.
- § 603.205 Nature of the Project has been revised and renumbered to § 930.105 Other transaction (OT) agreements.
- § 603.210 Recipients has been revised and renumbered to § 930.405 TIA awardees.
- § 603.215 Recipient's Commitment and Cost Sharing has been revised and renumbered to § 930. 125 Cost Sharing.
- § 603.220 Government Participation has been revised and renumbered to § 930.415 Government Participation.
- § 603.230 Fee or Profit has been revised and renumbered to § 930. 130 Fee or Profit.
- § 603.400 Competitive Procedures has been revised and renumbered to § 930.135 Competition.
- § 603.415 Cost Sharing has been revised and included in § 930.125 Cost Sharing.
- § 603.420 Disclosure of Information has been revised and renumbered to § 930.140 Disclosure of Information.
- § 603.525 Value & Reasonableness of the Recipient's Cost Sharing Contribution has been revised and included in § 930.125 Cost Sharing.
- § 603.530 Acceptable Cost Sharing has been revised and included in § 930.125 Cost Sharing.
- § 603.535 Value of Proposed Real Property or Equipment has been revised and renumbered to § 930.220 Real property and equipment.
- § 603.615 Financial Management Standards for For-Profit Firms has been revised and renumbered to § 930.205 Financial Management Standards.
- § 603.620 Financial Management Standards for Nonprofit Participants has been revised and renumbered to § 930.205 Financial Management Standards.
- § 603.625 Cost Principles or Standards Applicable to For-Profit Firms has been revised and renumbered to § 930.210 Cost Principles and Standards.
- § 603.640 Audits of For-Profit Firms has been revised and included in § 930.215 Audit requirements.
- § 603.645 Periodic Audits and Award-Specific Audits of For-Profit Participants has been revised and included in § 930.215 Audit requirements.
- § 603.655 Frequency of Periodic Audits of For-Profit Participants has been revised and included in § 930.215 Audit requirements.
- § 603.660 Other Audit Requirements has been revised and included in § 930.215 Audit requirements.
- § 603.665 Periodic Audits of Nonprofit Participants has been revised and included in § 930.215 Audit requirements.
- § 603.680 Purchase of real property and equipment by for-profit firms has been revised and included in § 930.410.
- § 603.700 Standards for Purchasing Systems of For-Profit Firms and § 603.705 Standards for Purchasing Systems of Nonprofit Organizations have been revised and included in § 930.225 Purchasing system standards.
- § 603.805 Payment Methods has been revised and renumbered to § 930.300 Payment Methods.
- § 603.825 Government Approval of Change in Plans has been revised and renumbered to § 930.305 Government Approval of Change in Plans.
- § 603.830 Pre-Award Costs has been revised and renumbered to § 930.310 Pre-Award Costs.
- § 603.840 Data and Intellectual Property Rights has been revised and renumbered to § 930.315 Negotiating Data and Patent Rights.
- § 603.845 Data Rights Requirements has been revised and renumbered to § 930.320 Data Rights.
- § 603.860 Rights to Inventions has been revised and renumbered to § 930.325 Rights in Inventions.
- § 603.865 March-In Rights has been revised and included in § 930.325 Rights in Inventions.
- § 603.875 Foreign Access to Technology and U.S. Competitiveness Provisions has been revised and renumbered to § 930.330 Research Technology and Security and U.S. Competitiveness Provisions.
- § 603.905 Record Retention Requirements has been revised and renumbered to § 930.335: Record Retention Requirements.
- § 603.915 Access to a Nonprofit Participant's Records has been revised and renumbered to § 930.340: Access to Records.
- § 603.920 Termination and Enforcement Requirements has been revised and renumbered to § 930.345 Noncompliance and Termination Requirements.

• § 603.1115 Single Audits has been revised and included in § 930.215 Audit requirements.

IV. Public Participation

DOE will accept comments, data, and information regarding this IFR on or before the date provided in the **DATES** section at the beginning of this IFR. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The *www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information the disclosure of which is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (''CBI'')). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section below.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email or postal mail. Comments and documents submitted via email or postal mail also will be posted to *www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email or postal mail two well-marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' that deletes the information believed to be confidential. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and will treat it according to its determination. It is DOE's policy that all comments, including any personal information provided in the comments, may be included in the public docket, without change and as received, except for information deemed to be exempt from public disclosure.

V. Procedural Requirements

A. Executive Orders 12866, 13563, and 14094

Executive Order (E.O.) 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), as supplemented and reaffirmed by E.O. 13563, ''Improving Regulation and Regulatory Review,'' 76 FR 3821 (Jan. 21, 2011) and amended by E.O. 14094, ''Modernizing Regulatory Review,'' 88 FR 21879 (April 11, 2023), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

DOE emphasizes as well that Executive Order 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs (OIRA) has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, this regulatory action is consistent with these principles.

Section 6(a) of E.O. 12866 also requires agencies to submit ''significant regulatory actions''' to OIRA for review. OIRA has determined that this regulatory action does not constitute a ''significant regulatory action'' under Executive Order 12866. Accordingly, this action is not subject to review under that Executive Order by OIRA.

Consistent with Executive Orders 12866, 13563 and 14094, DOE issues this IFR only on a reasoned determination that the benefits of the rule justify its costs, and, in choosing among alternative regulatory approaches, DOE has selected those approaches that maximize net benefits.

In this IFR, DOE made a broad but largely procedural revision of its other transaction regulation to update and streamline the policies, procedures, and provisions that are currently applicable to its other transaction agreements.

The IFR updates, clarifies, or eliminates coverage that is unclear, obsolete, or unnecessarily duplicates the internal guidance and roles and responsibilities of Federal staff; streamlines the coverage's policies and performer procedures where appropriate; and adds a new provision in order to provide the standard departmental deviation authority provision language. The IFR includes several minor provision revisions, none of which are substantial and in total will have negligible impact on DOE's operations, its performers, or the economy. The revisions do not in any specific case, or in total, substantially change the existing requirements under the existing OT regulations or how DOE and DOE performers adhere to the OT regulations. The IFR does not generate any additional costs.

Finally, the IFR results in benefits to the public. Because the OT regulation has not had a comprehensive update in years, it contains outdated and duplicative content. Additionally, it has citations to outdated regulations and contains sections that are more appropriate for internal procedures and policies. The IFR streamlines the OT regulations, make it easier to read, and reflects current practice and requirements.

B. Administrative Procedure Act

The Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.,* generally requires public notice and an opportunity for comment before a rule becomes effective. Section 553(b) of the APA, however, exempts from the APA's notice and comment procedures rulemakings that involve ''rules of agency organization, procedure, or practice.'' This exemption is applicable for rules that are primarily directed toward improving the efficient and effective operations of an agency. *Mendoza* v. *Perez,* 754 F.3d 1002, 1023 (D.C. Cir. 2014) (internal citations and quotations omitted). As a rulemaking relating to policies, procedures, and provisions that are applicable to the award and administration of certain OT agreements awarded under DOE's OT authority, DOE has determined that this rulemaking is procedural and satisfies the exemption. Therefore, notice of proposed rulemaking (and comment thereon) is not required for the removal and reservation of 10 CFR part 603 and issuance of new 2 CFR part 930 in this IFR.

Although this interim final rule is effective immediately, comments are solicited from interested members of the public on all aspects of the interim final rule. The Department intends to issue a final rule following receipt and review of comments in response to the interim final rule.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment. As discussed previously, DOE has determined that prior notice and opportunity for public comment is unnecessary under the APA. Because a notice of proposed rulemaking is not required for this action pursuant to 5 U.S.C. 553, or any other law, no regulatory flexibility analysis has been prepared for this interim final rule. *See* 5 U.S.C. 601(2), 603(a).

D. Paperwork Reduction Act of 1995

This regulatory action does not impose any additional reporting or recordkeeping requirements subject to approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

E. National Environmental Policy Act of 1969

DOE has analyzed this final rule in accordance with NEPA and DOE's NEPA implementing regulations (10 CFR part 1021). DOE has determined that this final rule is covered under the categorical exclusion located at 10 CFR part 1021, subpart D, appendix A, Categorical Exclusion A5 because this final rule revises existing regulations at 10 CFR part 603. The changes update and clarify OT regulations. DOE has considered whether this action would result in extraordinary circumstances that would warrant preparation of an Environmental Assessment or EIS and has determined that no such extraordinary circumstances exist. Therefore, DOE has determined that this rulemaking does not require an Environmental Assessment or an EIS.

F. Executive Order 13132

Executive Order 13132, ''Federalism'', 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt state law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOE has examined the IFR and has determined that it does not preempt State law and does not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132.

G. Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on executive agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the United States Attorney General. Section 3(c) of Executive Order 12988 requires executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or if it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this IFR meets the relevant standards of Executive Order 12988.

H. Executive Order 13175

Under Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments,'' 65 FR 67249 (Nov. 6, 2000), DOE may not issue a discretionary rule that has Tribal implications or that imposes substantial direct compliance costs on Indian Tribal governments. DOE has determined that this IFR will not have such effects and has concluded that Executive Order 13175 does not apply to this IFR.

I. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) generally requires Federal agencies to examine closely the impacts of regulatory actions on State, local, Tribal governments. Subsection 101(5) of title I of that law defines a Federal intergovernmental mandate to include a regulation that would impose upon State, local, or Tribal governments an enforceable duty, except a condition of Federal assistance or a duty arising from participating in a voluntary Federal program. Title II of that law requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments, in the aggregate, or the private sector, other than to the extent such actions merely incorporate requirements specifically set forth in a statute. Section 202 of the title requires a Federal agency to perform a detailed assessment of the anticipated costs and benefits of any rule that includes a Federal mandate which may result in costs to State, local, or Tribal governments, or the private sector, of $100 million or more in any one year (adjusted annually for inflation). 2 U.S.C. 1532(a) and (b). Section 204 of that title requires each agency that proposed a rule containing a significant Federal intergovernmental mandate to develop an effective process for obtaining meaningful and timely input from elected officers of State, local, and Tribal governments. 2 U.S.C. 1534. This IFR amends the TIA regulations to provide the guidance and procedures to awarding and administering Other Transaction agreements. The IFR does not result in the expenditure by State, local, and Tribal governments, in aggregate, or by the private sector of $100 million or more in any one year. Accordingly, no assessment or analysis is required under the Unfunded Mandates Reform Act of 1995.

J. Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001, 44 U.S.C. 3516 note, provides for Federal agencies to review most disseminations of information to the public under implementing guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002).

DOE has reviewed the IFR under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to the OMB a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This IFR does not have a significant adverse effect on the supply, distribution, or use of energy and is therefore not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Congressional Notification

As required by 5 U.S.C. 801, DOE will submit to Congress a report regarding the issuance of this interim final rule prior to the effective date set forth at the outset of this interim final rule. The report will state that it has been determined that this interim final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this Interim final rule; request for comments.

List of Subjects

2 CFR Part 930

Accounting, Administrative practice and procedure, Federal financial assistance, Grant programs, Reporting and recordkeeping requirements, Technology investments.

10 CFR Part 603

Accounting, Administrative practice and procedure, Federal financial assistance, Grant programs, Reporting and recordkeeping requirements, Technology investments.

Signing Authority

This document of the Department of Energy was signed on December 16, 2024, by William J. Quigley, Deputy Associate Administrator, Partnership and Acquisition Services, National Nuclear Security Administration, pursuant to delegated authority from the Administrator, National Nuclear Security Administration, and Berta L. Schreiber, Director, Office of Acquisition Management, Department of Energy, pursuant to delegated authority from the Secretary of Energy. These documents with the original signature and date are maintained by DOE/NNSA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on December 18, 2024.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

For the reasons stated in the preamble, DOE amends 2 CFR chapter IX and 10 CFR chapter II as follows:

Title 2

■ 1. Part 930 is added to read as follows:

PART 930—OTHER TRANSACTION AGREEMENTS

Subpart A—General

Sec.
930.100 Purpose.
930.105 Other transaction (OT) agreements.
930.110 Approval requirements.
930.115 Deviation authority.
930.120 Nonprocurement debarment and suspension.
930.125 Cost sharing.
930.130 Fee or profit.
930.135 Competition.
930.140 Disclosure of information.

Subpart B—Pre-Award Business Evaluation

930.200 Scope.
930.205 Financial management standards.
930.210 Cost principles and standards.
930.215 Audit requirements.
930.220 Real property and equipment.
930.225 Purchasing systems standards.

Subpart C—Award Terms Related to Other Administrative Matters

930.300 Payment methods.
930.305 Government approval of changes in plans.
930.310 Pre-award costs.

Authority: 42 U.S.C. 7256(g).

Subpart A—General

§ 930.100 Purpose.

This part establishes uniform policies for the award and administration of other transaction agreements for research, development, and demonstration projects awarded under the Department of Energy's ''Additional Authorities'' at section 646(g) of the Department of Energy Organization Act, Public Law 95–91, as amended (42 U.S.C. 7256(g)).

§ 930.105 Other transaction (OT) agreements.

For purposes of this part, An other transaction (OT) agreement means any agreement, including technology investment agreement (TIA) between the Department of Energy and/or the National Nuclear Security Administration and a non-Federal entity for the principal purpose of carrying out an research, development, and demonstration project for which the use of a Federal procurement contract, grant, or cooperative agreement is not feasible or appropriate. The OT agreement must comply with the regulations set forth in this part. Additional requirements for TIAs are set forth in subpart D of this part.

§ 930.110 Approval requirements.

(a)(1) An officer of the Department of Energy (DOE) who has been appointed by the President with the advice and consent of the Senate and who has been delegated the authority from the Secretary must approve the use of other transaction (OT) authority and may perform other functions of the Secretary as set forth under 42 U.S.C. 7256(g). This delegated authority may not be redelegated.

(2) In addition, the cognizant Senior Procurement Executive (SPE), as defined by 41 U.S.C. 1702(c), (or designee) must concur on the award of any OT agreement.

(3) The Agreements Officer (AO) is the cognizant warranted DOE or National Nuclear Security Administration official authorized to execute and administer OT agreements.

(b) Deviation from the requirements in paragraph (a) of this section is not permitted.

§ 930.115 Deviation authority.

(a) *Deviation.* A deviation from this part is defined as the issuance or use of a policy, procedure, solicitation provision, article, method, or practice of conducting actions of any kind at any stage of the award process or administration period that is inconsistent with this part. Deviations may affect one or more than one other transaction (OT) agreements.

(b) *Request for deviation.* Requests for deviation(s) shall be submitted by the Agreements Officer, meaning the cognizant warranted Department of Energy or National Nuclear Security Administration official authorized to execute and administer OT agreements, to the cognizant Senior Procurement Executive, as defined by 41 U.S.C. 1702(c), for approval. Requests shall cite the specific section from which it is desired to deviate, shall set forth the nature of the proposed deviation(s), and shall give the reasons for the action requested.

§ 930.120 Nonprocurement debarment and suspension.

The Nonprocurement debarment and suspension requirements in 2 CFR part 180, as adopted and supplemented by 2 CFR part 901, are applicable to all other transaction agreements.

§ 930.125 Cost sharing.

(a) Cost share is required as follows:

(1) In accordance with 42 U.S.C. 7256(g)(1), to the maximum extent practicable, the awardee must provide at least half of the costs of the project;

(2) In accordance with cost share requirements in section 988 of Energy Policy Act of 2005 (EPAct 2005), Public Law 109–58, as amended (42 U.S.C. 16352), for funded research, development, demonstration, or commercial application activities; and

(3) In accordance with any other applicable statutory cost share requirements.

(b) All awardee cost share or contributions, including cash and third-party in-kind contributions, must meet all of the following criteria:

(1) Are verifiable from the awardee's records;

(2) Are not included as contributions for any other Federal award;

(3) Are necessary and reasonable for accomplishment of the award or project objectives;

(4) Are allowable under the appropriate cost principles;

(5) Are not paid or provided by the Federal Government under another Federal award (Federal funds or property), except where the Federal statute authorizing a program specifically provides that Federal funds or property made available for such program can be applied to cost sharing requirements of other Federal programs or awards;

(6) Are not revenues or royalties from the prospective operation of an activity beyond the time considered in the award;

(7) Are not proceeds from the prospective sale of an asset of an activity;

(8) Are valued:

(i) In accordance with the appropriate cost principles;

(ii) Using the usual accounting policies of the awardee; and

(iii) Not to exceed the fair market value (of donated property, equipment, or other capital assets) or the fair rental charge (of leased land, space, or equipment);

(9) Are provided for in the budget approved by Department of Energy (DOE); and

(10) Conform to other provisions of this part, as applicable.

(c) DOE may reduce or eliminate the cost share requirement imposed by 42 U.S.C. 7256(g)(1) where the Agreements Officer (AO), meaning the cognizant warranted DOE or National Nuclear Security Administration official authorized to execute and administer other transaction agreements, determines the cost sharing is impracticable in a given case, unless there is a statutory requirement for cost sharing that applies to the particular award. When section 988 of EPAct 2005 applies to an award, the AO must obtain the required approval of the elimination or reduction of the required cost share in accordance with the section 988 of EPAct 2005.

§ 930.130 Fee or profit.

The Agreements Officer, meaning the cognizant warranted Department of Energy or National Nuclear Security Administration official authorized to execute and administer other transaction (OT) agreements, may not issue an OT agreement if any awardee, subawardees or participant is to receive fee or profit for the research, development, and demonstration (RD&D) efforts. This requirement extends to all awardees and performers

funded under the project, including any subawards for substantive program performance, but it does not preclude participants' or subawardees' payment of reasonable fee or profit when making purchases from suppliers of goods (*e.g.,* supplies and equipment) or services needed to carry out the RD&D.

§ 930.135 Competition.

(a) Department of Energy (DOE) awards other transaction (OT) agreements using non-procurement, non-Federal financial assistance competitive processes in a merit-based selection process:

(1) In every case where required by statute; and

(2) To the maximum extent feasible, in all other cases. If it is not feasible to use competitive process, the reason for not using a competitive process must be documented by the Agreements Officer (AO), meaning the cognizant warranted DOE or National Nuclear Security Administration official authorized to execute and administer OT agreements.

(b) The AO must document any restrictions on awardee eligibility.

§ 930.140 Disclosure of information.

(a) For all other transaction (OT) agreements, trade secrets and commercial or financial information that would be protected from disclosure requirements of the Freedom of Information Act (FOIA) (codified at 5 U.S.C. 552) if obtained from a person other than a Federal agency:

(1) For a period of five years after the date on which the information is developed; or

(2) For up to thirty years after the date on which the information is developed, if the Secretary or delegee of the Secretary determines that the nature of the technology under the transaction, including nuclear technology, could reasonably require an extended period of protection from disclosure to reach commercialization.

(b) As provided in 42 U.S.C. 7256(g)(1) incorporating certain provisions of 10 U.S.C. 4021, disclosure is not required, and may not be compelled, under FOIA during that period if:

(1) A proposer submits the information in a competitive or noncompetitive process that could result in the award of an OT agreement; and

(2) The type of information is among the following types that are exempt:

(i) Proposals, proposal abstracts, and supporting documents; and

(ii) Business plans and technical information submitted on a confidential basis.

(c) If proposers desire to protect business plans and technical information for five years from FOIA disclosure requirements, they must mark them with a legend identifying them as documents submitted on a confidential basis. After the five-year period, information may be protected for longer periods if it meets any of the criteria in 5 U.S.C. 552(b) (as implemented by the DOE in 10 CFR part 1004) for exemption from FOIA disclosure requirements.

Subpart B—Pre-Award Business Evaluation

§ 930.200 Scope.

This subpart addresses administrative matters that do not impose organization-wide requirements on an awardee's business (financial management, property management, or purchasing) systems. An organization does not have to redesign its business systems to accommodate variations in these requirements. Agreements may differ in the requirements that they specify based on the awardee and the specific circumstances of the research, development, and demonstration project.

§ 930.205 Financial management standards.

(a) Any awardees that currently perform under other expenditure-based Federal procurement contracts or assistance awards are subject to the same standards for financial management systems that apply to those other Federal awards.

(b) Any awardees that do not currently perform under expenditure-based Federal procurement contracts or assistance awards should be allowed to use their existing financial management system as long as the system, at a minimum, effectively controls all project funds, including Federal funds and any required cost share. The system must have complete, accurate, and current records that document the sources of funds and the purposes for which they are disbursed. Awardees also must have procedures for ensuring that project funds are used only for purposes permitted by the agreement.

§ 930.210 Cost principles and standards.

(a) *For-profit awardees.* The cost principles in 48 CFR part 31 will generally apply to for-profit awardees.

(b) *Other than For-profit awardees.* The cost principles in 2 CFR part 200 will generally apply to states, local governments, Indian Tribes, institutes of higher education and other nonprofit entities.

(c) *Cost standards.* The Agreements Officer, meaning the cognizant warranted Department of Energy (DOE) or National Nuclear Security Administration official authorized to execute and administer other transaction agreements, may establish alternative standards in the agreement as long as that alternative provides, as a minimum, that:

(1) Federal funds and funds counted as awardees' cost sharing will be used only for costs that a reasonable and prudent person would incur in carrying out the research, development, and demonstration (RD&D) project contemplated by the agreement.

(2) Costs must be allocated to DOE and other projects in accordance with the relative benefits the projects receive.

(3) Costs allocated to DOE projects must be given consistent treatment with costs allocated to the participants' other RD&D activities (*e.g.,* activities supported by the participants themselves or by non-Federal sponsors).

(4) The standards must also state that the Federal funds and funds counted as participants' cost sharing will be used only for costs that are consistent with the purposes stated in the governing Congressional authorizations and appropriations.

§ 930.215 Audit requirements.

(a) *For-profit awardees.* If an expenditure-based other transaction (OT) agreement provides for audits of a for-profit participant, the Agreements Officer, meaning the cognizant warranted Department of Energy or National Nuclear Security Administration official authorized to execute and administer OT agreements, also must specify:

(1) Whether the Defense Contract Auditing Agency or an Independent Public Accountant will perform the required audits.

(2) What the audits are to cover.

(3) Who will pay for the audits.

(4) The auditing standards that the auditor will use.

(5) The available remedies for noncompliance.

(6) Where the auditor is to send audit reports.

(7) The retention period for the auditor's working papers.

(8) Who will have access to the auditor's working papers.

(b) *Other than For-profit awardees.* Expenditure-based OT agreements are subject to the Single Audit Act (31 U.S.C. 7501–7507). State, local government, Indian Tribes, institutes of higher education, and nonprofit participants are subject to the requirements under that Act. Additional

information may be found at 2 CFR part 200, subpart F.

§ 930.220 Real property and equipment.

(a) The participant must include the cost of the real property or equipment as part of the proposed cost of the project. The Agreements Officer (AO), meaning the cognizant warranted Department of Energy (DOE) or National Nuclear Security Administration official authorized to execute and administer other transaction (OT) agreements, must approve the use of project funds (Federal or cost share) to purchase real property or equipment. The AO should specify the use, management, vesting of title, and disposition requirements in the award.

(b) The AO may include an alternative property provision where DOE is authorized to grant title to property or equipment acquired under an OT agreement when determined such a grant is appropriate.

§ 930.225 Purchasing systems standards.

(a) Any awardees that currently perform under other expenditure-based Federal procurement contracts or assistance awards are subject to the same standards for purchasing systems that apply to those other Federal awards.

(b) Any awardees that do not currently perform under expenditure-based Federal procurement contracts or assistance awards should be allowed to use its existing purchasing system as long as the system, at a minimum, is able to flow down the applicable requirements in Federal statutes, Executive orders, or Governmentwide regulations.

Subpart C—Award Terms Related to Other Administrative Matters

§ 930.300 Payment methods.

Available payment methods include:

(a) *Reimbursement.* Under this method, participants request reimbursement for costs incurred during a particular time period. The Department of Energy (DOE) reimburses the participant by electronic funds transfer after approval of the request by the Agreements Officer, meaning the cognizant warranted DOE or National Nuclear Security Administration official authorized to execute and administer other transaction agreements, or designee. This payment method is used for expenditure-based awards.

(b) *Advance payments.* Under this method, participants request advance payment based upon projections of the cash needs for the project, or for large purchases. Predetermined payment schedules may be used when the timing of the participant's needs to disburse funds can be predicted in advance with sufficient accuracy to ensure the funds are used in accordance with project objectives and schedules.

(c) *Payments based on payable milestones.* Under this method payments made according to a schedule established for the award that is based on accomplishment of predetermined, well-defined, observable, and verifiable measures of technical progress, outcomes, or other payable milestones. A fixed-support award must use this payment method; however, this does not preclude the use of an initial advance payment if there is no alternative to meeting immediate cash needs. Payments based on payable milestones is the preferred method of payment for an expenditure-based award if well-defined outcomes can be identified.

§ 930.305 Government approval of changes in plans.

Department of Energy must approve any changes in project plans that may result in a need for additional Federal funding to be provided to the other transaction agreement.

§ 930.310 Pre-award costs.

Pre-award costs may be reimbursed only with the specific approval of the Agreements Officer (AO), meaning the cognizant warranted Department of Energy (DOE) or National Nuclear Security Administration official authorized to execute and administer other transaction agreements. All pre-award costs are incurred at the applicant's and/or awardee's risk. DOE is not obligated to reimburse the costs if, for any reason, the applicant does not receive an award, the award is less than anticipated and inadequate to cover the costs, or the AO did not provide prior approval for the reimbursement of the pre-award costs.

§ 930.315 Negotiating data and patent rights.

The Agreements Officer, meaning the cognizant warranted Department of Energy (DOE) or National Nuclear Security Administration official authorized to execute and administer other transaction agreements, must confer with program officials and assigned intellectual property counsel to develop an overall strategy for intellectual property taking into account inventions and data that may result from the project and future needs the Government may have for rights in them. The strategy should address program mission requirements and any special circumstances that would support modification of standard intellectual property provisions, and should include considerations such as the extent of the awardee's contribution to the development of the technology; expected Government or commercial use of the technology; the need to provide equitable treatment among consortium or team members; and the need for DOE to engage non-traditional Government contractors with unique capabilities.

§ 930.320 Data rights.

(a) For provisions regarding data rights for any awardee entity type, the data rights requirements at 2 CFR 910.362(d), Rights in data-general rule, normally apply when the Government is to be provided with unlimited rights in data and should be used as a starting point for such other transaction (OT) agreements. Here, the ''Rights in Data—General'' provision in appendix A to subpart D of 10 CFR part 910 typically applies. However, if the awardee is to receive special data protection, the data requirements at 2 CFR 910.362(e), Rights in data—programs covered under special protected data statutes normally apply and should be used as a starting point for such OT agreements. Here, the ''Rights in Data—Programs Covered Under Special Protected Data Statutes'' provision in appendix A to subpart D of 10 CFR part 910 typically applies. Consistent with 42 U.S.C. 7256(g)(5), data protection can be provided typically for a period of up to 5 years but may be extended up to a total of 30 years in particular circumstances.

(b) However, while maintaining compliance with 42 U.S.C. 7256(g), the Agreements Officer, meaning the cognizant warranted Department of Energy (DOE) or National Nuclear Security Administration official authorized to execute and administer OT agreements, may negotiate data rights requirements that vary from those listed above. Use of or modifications to the standard rights in data provisions must be approved by cognizant DOE intellectual property counsel.

§ 930.325 Rights in inventions.

(a) When negotiating rights in inventions, the Agreements Officer (AO), meaning the cognizant warranted Department of Energy (DOE) or National Nuclear Security Administration official authorized to execute and administer other transaction (OT) agreements, should negotiate terms that represent an appropriate balance between the Government's interests and the awardee's interests. Bayh-Dole (35 U.S.C. 200–212) patent rights provisions

implemented via 37 CFR 401.14 as modified by the DOE (*see e.g.,* U.S. Competitiveness provision and Department of Energy Determination of Exceptional Circumstances Under the Bayh-Dole Act to Further Promote Domestic Manufacture of DOE Science and Energy Technologies) should be used as a starting point for all awardee entity types. However, the AO may negotiate rights that vary from those in modified 37 CFR 401.14. For example, Bayh-Dole March-in-Rights found in modified 37 CFR 401.14 and concerning actions that the Government may take to obtain the right to use subject inventions if the awardee fails to take effective steps to achieve practical application of the subject inventions within a reasonable time, may be modified or removed entirely. Use of or modifications to the standard rights provisions must be approved by cognizant DOE intellectual property counsel.

(b) For subawards, the OT should typically indicate that sub-awardees will get title to inventions they make but alternative terms could be included such as those specifying that sub-awardees' invention rights are to be negotiated between awardee and sub-awardee or some other disposition of invention rights.

§ 930.330 Research and technology security and U.S. manufacturing and competitiveness requirements.

(a) *Foreign access to technology.* Consistent with the objective of enhancing national security and United States competitiveness by increasing the public's reliance on United States commercial technology, the Agreements Officer, meaning the cognizant warranted Department of Energy (DOE) or National Nuclear Security Administration official authorized to execute and administer other transaction (OT) agreements, must include provisions in an OT agreement that addresses foreign access to technology developed under the OT agreement. Provisions must be included in an OT that provide, at a minimum, that any transfer of the technology must be consistent with the U.S. export control laws, regulations and the Department of Commerce Export Regulation at Chapter VII, Subchapter C, Title 15 of the CFR (15 CFR parts 730–774), as applicable.

(b) *DOE research and technology security policies.* All DOE research and technology security policies apply to OTs unless the activities being funded are outside the scope of the policies or otherwise exempted from the policies.

(c) *U.S. manufacturing and competitiveness.* Notice should be included in the OT indicating that products embodying any invention or produced through the use of any invention are subject to the U.S. Competitiveness terms outlined in modified 37 CFR 401.14. These terms may not be modified or waived without approval from cognizant DOE intellectual property counsel.

§ 930.335 Record retention requirements.

(a) Awardees must keep records related to the agreement for a period of three years after submission of the final financial status report for an expenditure-based award or final program performance report for a fixed-support award, with the following exceptions:

(1) The awardees must keep records longer than three years after submission of the final financial status report if the records relate to an audit, claim, or dispute that begins but does not reach its conclusion within the 3-year period. In that case, the awardees must keep the records until the matter is resolved and final action taken.

(2) Records for any real property or equipment acquired with project funds under the agreement must be kept for three years after final disposition.

(b) [Reserved]

§ 930.340 Access to records.

(a) The Department of Energy (DOE), through the Agreements Officer (AO), meaning the cognizant warranted DOE or National Nuclear Security Administration official authorized to execute and administer other transaction agreements, has an unfettered right of timely access to any documents, papers, or other records of the awardee which are pertinent to the Federal award, in order to inspect and make copies, audits, examinations, excerpts, and/or transcripts. The right also includes timely and reasonable access to the awardee's personnel for the purpose of interview and discussion related to such documents. The exercise of this authority is at the discretion of the AO.

(b) Inspectors General and the Comptroller General of the United States may have independent legal authority to access to records or personnel related to the Federal award. Consistent with the independent legal authority, recipients should follow the laws and regulations applicable to requests for access to records or personnel from Inspectors General and the Comptroller General of the United States.

§ 930.345 Noncompliance and termination requirements.

(a) *Noncompliance.* If an awardee materially fails to comply with the articles or terms and conditions of an agreement, whether stated in a Federal statute, regulation, assurance, application, plan, or the notice of award, the Agreements Officer (AO), meaning the cognizant warranted Department of Energy (DOE) or National Nuclear Security Administration official authorized to execute and administer other transaction (OT) agreements, may take one or more of the following actions, as appropriate:

(1) Temporarily withhold cash payments pending correction of the deficiency by the awardee or more severe enforcement action by the AO.

(2) Disallow or deny both the use of funds and any applicable cost share for all or part of the cost of the activity or action not in compliance.

(3) Wholly or partly suspend or terminate the current award.

(4) Withhold further awards for the project or program.

(5) Apply other remedies that may be legally available.

(b) *Termination.* The OT agreement must include an article that indicates that the Government may terminate the agreement in whole or in part if the awardee materially fails to comply with the articles or terms and conditions of an agreement, whether stated in a Federal statute, regulation, assurance, application, plan, or the notice of award fails to comply with the articles and requirements of the award. An agreement may include an article providing for the termination of the agreement, in whole or in part, by mutual agreement or as negotiated by the parties. In the case of proposed partial termination of the agreement, if the remaining portion of the award will not accomplish the purposes for which the agreement was made, the award may be terminated in its entirety.

(1) Unless otherwise negotiated, for terminations of an expenditure-based award, DOE's maximum liability is the lesser of:

(i) DOE's share of allowable costs incurred up to the date of termination, or

(ii) The amount of DOE funds obligated to the award.

(2) Unless otherwise negotiated, for terminations of a fixed-support based award, DOE shall pay the awardee for the last fully completed milestone.

(3) Notwithstanding paragraphs (b)(1) and (2) of this section, if the awardee initiates termination and the award includes milestone payments, the Government has no obligation to pay the

awardee beyond the last completed and paid milestone.

(c) *Right to appeal.* (1) The awardee has the right to appeal to the cognizant Senior Procurement Executive (SPE), as defined by 41 U.S.C. 1702(c), to review only the following actions:

(i) A DOE determination that the awardee has failed to comply with the applicable requirements of the award;

(ii) Termination of an award, in whole or in part, by DOE;

(iii) The application by DOE of an indirect cost rate; and

(iv) DOE disallowance of costs.

(2) In reviewing appeals authorized under paragraph (c)(1) of this section, the SPE is bound by the applicable law, statutes, and rules, including the requirements of this part, and by the articles or terms and conditions of the award.

(3) The decision of the SPE shall be the final decision of DOE.

Subpart D—Appropriate Use of Technology Investment Agreements

§ 930.400 Use of Technology Investment Agreements (TIAs).

For purposes of this part, a Technology Investment Agreements (TIA) is a special type of other transaction (OT) agreement that is an assistance instrument used to increase involvement of a for-profit entity or segment of a for-profit entity (*e.g.,* a division or other business unit) that does a substantial portion of its business in the commercial marketplace in Department of Energy's (DOE) research, development, and demonstration (RD&D) programs. A TIA requires substantial Federal involvement in the technical or management aspects of the project. The 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 cleanup of the national nuclear weapons complex. A TIA therefore is designed to reduce barriers to participation in RD&D programs by for-profit entities that deal primarily in the commercial marketplace. A TIA allows Agreements Officers (AO), meaning the cognizant warranted DOE or National Nuclear Security Administration official authorized to execute and administer OT agreements, to tailor Government requirements and lower or remove barriers if it can be done with proper stewardship of Federal funds. A TIA may also promote new relationships among performers in the technology base. Collaborations among for-profit entities 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.

§ 930.405 TIA awardees.

(a) A Technology Investment Agreements (TIA) may be awarded to a single entity or multiple entities (*e.g.,* a teaming arrangement) in prime award-subaward relationships.

(b) A TIA requires one or more for-profit entities, not acting in their capacity as the contractor operating a Federally Funded Research and Development Center (FFRDC), to be involved either in the:

(1) Performance of the research, development, and demonstration (RD&D) project; or

(2) The commercial application of the results of the RD&D project.

(c)(1) In those cases where there is only a non-profit awardee or a consortium of non-profit entities or non-profit entities and FFRDC contractors (as sub-awardees), if and as authorized, the awardees must have at least a tentative agreement with a specific for-profit entity or entities that plan on being involved in the commercial application of the results.

(2) In consultation with legal counsel, the Agreements Officer, meaning the cognizant warranted Department of Energy or National Nuclear Security Administration official authorized to execute and administer OT agreements, must review the agreement between the parties to ensure that the for-profit entity is committed to being involved in the commercial application of the results.

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

Federal funds provided under another transaction (OT) agreement to for-profit entities must not be used to purchase real property or equipment. If the OT agreement requires the purchase of real property or equipment, the for-profit entity must use its own funds that are separate from the research, development, and demonstration project. The Agreements Officer, meaning the cognizant warranted Department of Energy or National Nuclear Security Administration official authorized to execute and administer OT agreements, should allow the for-profit participant to charge to an expenditure-based award or include in the cost estimate for fixed-support award, only depreciation or use charges for the real property or equipment. Note that the for-profit must charge depreciation consistently with its usual accounting practices and policies. Many for-profits treat depreciation as an indirect cost. Any for-profit that usually charges depreciation indirectly for a particular type of property must not charge depreciation for that property as a direct cost to the OT agreement.

§ 930.415 Government participation.

A Technology Investment Agreements is used to carry out cooperative relationships between the Federal Government and the awardee(s) which require substantial involvement of the Government in the technical and/or management aspects of the research, development, and demonstration (RD&D) project.

Title 10

PART 603—[REMOVED AND RESERVED]

■ 2. Under the authority of 42 U.S.C. 7101 *et seq.*; 31 U.S.C. 6301–6308; 50 U.S.C. 2401 *et seq.*, part 603 is removed and reserved.

[FR Doc. 2024–30636 Filed 1–2–25; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Parts 3550 and 3555

[Docket No. RHS–24–SFH–0034]

RIN 0575–AD32

Updating Manufactured Housing Provisions

AGENCY: Rural Housing Service, Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: The Rural Housing Service (RHS or the Agency), a Rural Development (RD) agency of the United States Department of Agriculture (USDA), is amending the current regulations for the Single Family Housing (SFH) Direct Loan Program and the SFH Guaranteed Loan Program. The intent of this final rule is to allow the Agency to give borrowers increased purchase options within a competitive market and increase adequate housing along with an enhanced customer experience with the SFH programs.

DATES: This final rule is effective March 4, 2025.

FOR FURTHER INFORMATION CONTACT: Sonya Evans, Finance & Loan Analyst,