

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 participant must keep the records until the matter is resolved and final action taken.

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

§ 37.915 What requirement for access to a for-profit participant's records do I include in a TIA?

(a) If a for-profit participant currently grants access to its records to the DCAA or other Federal Government auditors, your TIA must include for that participant the standard access-to-records requirements at 32 CFR 34.42(e). If the agreement is a fixed-support TIA, the language in 32 CFR 34.42(e) may be modified to provide access to records concerning the recipient's technical performance, without requiring access to the recipient's financial or other records. Note that any need to address access to technical records in this way is in addition to, not in lieu of, the need to address rights in data (*see* § 37.845).

(b) For other for-profit participants that do not currently give the Federal Government direct access to their records and are not willing to grant full access to records pertinent to the award, there is no set requirement to include a provision in your TIA for Government access to records. If the audit provision of an expenditure-based TIA gives an IPA access to the recipient's financial records for audit purposes, the Federal Government must have access to the IPA's reports and working papers and you need not include a provision requiring direct Government access to the recipient's financial records. For both fixed-support and expenditure-based TIAs, you may wish to negotiate Government access to recipient records concerning technical performance. Should you negotiate a provision giving access only to specific Government officials (*e.g.*, the agreements officer), rather than a provision giving Government access generally, it is important to let participants know that the OIG, DoD, has a statutory right of access to records and other materials to which other DoD Component officials have access.

§ 37.920 What requirement for access to a nonprofit participant's records do I include in a TIA?

Your TIA must include for any nonprofit participant the standard access-to-records requirement at:

(a) 32 CFR 33.42(e), for a participant that is a State or local governmental organization.

(b) 32 CFR 32.53(e), for a participant that is a nonprofit organization. The same requirement applies to any nonprofit GOCO or FFRDC, even though nonprofit GOCOs and FFRDCs are exempted from the definition of "recipient" in 32 CFR part 32.

Termination and Enforcement

§ 37.925 What requirements do I include for termination and enforcement?

Your TIA must apply the standards of 32 CFR 34.51 for termination, 32 CFR 34.52 for enforcement, and your organization's procedures implementing 32 CFR 22.815 for disputes and appeals.

Subpart H—Executing the Award

§ 37.1000 What are my responsibilities at the time of award?

At the time of the award, you must:

(a) Ensure that the award document contains the appropriate terms and conditions and is signed by the appropriate parties, in accordance with §§ 37.1005 through 37.1015.

(b) Document your analysis of the agreement in the award file, as discussed in § 37.1020.

(c) Provide information about the award to offices responsible for reporting, as described in §§ 37.1025 through 37.1035.

(d) Distribute copies of the award document, as required by § 37.1045.

The Award Document

§ 37.1005 What are my general responsibilities concerning the award document?

You are responsible for ensuring that the award document is complete and accurate. Your objective is to create a document that:

(a) Addresses all issues;

(b) States requirements directly. It is not helpful to readers to incorporate statutes or rules by reference, without sufficient explanation of the requirements. You generally should not incorporate clauses from the Federal Acquisition Regulation (48 CFR parts 1–53) or Defense Federal Acquisition Regulation Supplement (48 CFR parts 201–253), because those provisions are designed for procurement contracts that are used to acquire goods and services, rather than for TIAs or other assistance instruments.

(c) Is written in clear and concise language, to minimize potential ambiguity.

§ 37.1010 What substantive issues should my award document address?

You necessarily will design and negotiate a TIA individually to meet the specific requirements of the particular

project, so the complete list of substantive issues that you will address in the award document may vary. Every award document must address:

(a) *Project scope.* The scope is an overall vision statement for the project, including a discussion of the project's purpose, objectives, and detailed military and commercial goals. It is a critical provision because it provides a context for resolving issues that may arise during post-award administration. In a fixed-support TIA, you also must clearly specify the well-defined outcomes that reliably indicate the amount of effort expended and serve as the basis for the level of the fixed support (*see* §§ 37.305 and 37.560(a)).

(b) *Project management.* You should describe the nature of the relationship between the Federal Government and the recipient; the relationship among the participants, if the recipient is an unincorporated consortium; and the overall technical and administrative management of the project. TIAs are used to carry out collaborative relationships between the Federal Government and the recipient. Consequently, there must be substantial involvement of the DoD program official (*see* § 37.220) and usually the administrative agreements officer. The program official provides technical insight, which differs from the usual technical oversight of a project. The management provision also should discuss how you and the recipient will make any modifications to the TIA.

(c) *Termination, enforcement, and disputes.* Your TIA must provide for termination, enforcement remedies, and disputes and appeals procedures, in accordance with § 37.925.

(d) *Funding.* You must:

(1) Show the total amount of the agreement and the total period of performance.

(2) If the TIA is an expenditure-based award, state the Government's and recipient's agreed-upon cost shares. The award document should identify values for any in-kind contributions, determined in accordance with §§ 37.530 through 37.555, to preclude later disagreements about them.

(3) Specify the amount of Federal funds obligated and the performance period for those obligated funds.

(4) State, if the agreement is to be incrementally funded, that the Government's obligation for additional funding is contingent upon the availability of funds and that no legal obligation on the part of the Government exists until additional funds are made available and the agreement is amended. You also must include a prior approval requirement for