

(f) Responding, after coordination with program officials, to recipient requests for permission to sell or exclusively license intellectual property to entities that do not agree to manufacture substantially in the United States, as described in § 37.875(b). Before you grant approval for any technology, you must secure assurance that the Government will be able to use the technology (e.g., a reasonable license for Government use, if the recipient is selling the technology) or seek reimbursement of the Government's investments.

(g) Notifying the agreements officer who made the award if a participant informs you about a subaward allowing a for-profit subrecipient to have audits performed by an IPA, rather than the DCAA. You should alert the awarding official that he or she must report the information, as required by § 37.1030(c).

§ 37.1105 What additional duties do I have as the administrator of a TIA with advance payments or payable milestones?

Your additional post-award responsibilities as an administrative agreements officer for an expenditure-based TIA with advance payments or payable milestones are to ensure good cash management. To do so, you must:

(a) For any expenditure-based TIA with advance payments or payable milestones, forward to the responsible payment office any interest that the recipient remits in accordance with § 37.820(b). The payment office will return the amounts to the Department of the Treasury's miscellaneous receipts account.

(b) For any expenditure-based TIA with advance payments, consult with the program official and consider whether program progress reported in periodic reports, in relation to reported expenditures, is sufficient to justify your continued authorization of advance payments under § 37.805(b).

(c) For any expenditure-based TIA using milestone payments, work with the program official at the completion of each payable milestone or upon receipt of the next business status report to:

(1) Compare the total amount of project expenditures, as recorded in the payable milestone report or business status report, with the projected budget for completing the milestone; and

(2) Adjust future payable milestones, as needed, if expenditures lag substantially behind what was originally projected and you judge that the recipient is receiving Federal funds sooner than necessary for program purposes. Before making adjustments, you should consider how large a deviation is acceptable at the time of the

milestone. For example, suppose that the first milestone payment for a TIA you are administering is \$50,000, and that the awarding official set the amount based on a projection that the recipient would have to expend \$100,000 to reach the milestone (i.e., the original plan was for the recipient's share at that milestone to be 50% of project expenditures). If the milestone payment report shows \$90,000 in expenditures, the recipient's share at this point is 44% (\$40,000 out of the total \$90,000 expended, with the balance provided by the \$50,000 milestone payment of Federal funds). For this example, you should adjust future milestones if you judge that a 6% difference in the recipient's share at the first milestone is too large, but not otherwise. Remember that milestone payment amounts are not meant to track expenditures precisely at each milestone and that a recipient's share will increase as it continues to perform research and expend funds, until it completes another milestone to trigger the next Federal payment.

§ 37.1110 What other responsibilities related to payments do I have?

If you are the administrative agreements officer, you have the responsibilities described in 32 CFR 22.810(c), regardless of the payment method. You also must ensure that you do not withhold payments, except in one of the circumstances described in 32 CFR 34.12(g).

§ 37.1115 What are my responsibilities related to participants' single audits?

For audits of for-profit participant's systems, under §§ 37.640 through 37.660, you are the focal point within the Department of Defense for ensuring that participants submit audit reports and for resolving any findings in those reports. Nonprofit participants send their single audit reports to a Governmentwide clearinghouse. For those participants, the Office of the Assistant Inspector General (Auditing) should receive any DoD-specific findings from the clearinghouse and refer them to you for resolution, if you are the appropriate official to do so.

§ 37.1120 When and how may I request an award-specific audit?

Guidance on when and how you should request additional audits for expenditure-based TIAs is identical to the guidance for grants officers in 32 CFR 34.16(d). If you require an award-specific examination or audit of a for-profit participant's records related to a TIA, you must use the auditor specified in the award terms and conditions, which should be the same auditor who performs periodic audits of the

participant. The DCAA and the OIG, DoD, are possible sources of advice on audit-related issues, such as appropriate audit objectives and scope.

Subpart J—Definitions of Terms Used in This Part

§ 37.1205 Advance.

A payment made to a recipient before the recipient disburses the funds for program purposes. Advance payments may be based upon recipients' requests or predetermined payment schedules.

§ 37.1210 Advanced research.

Research that creates new technology or demonstrates the viability of applying existing technology to new products and processes in a general way. Advanced research is most closely analogous to precompetitive technology development in the commercial sector (i.e., early phases of research and development on which commercial competitors are willing to collaborate, because the work is not so coupled to specific products and processes that the results of the work must be proprietary). It does not include development of military systems and hardware where specific requirements have been defined. It is typically funded in Research, Development, Test and Evaluation programs within Budget Activity 3, Advanced Technology Development.

§ 37.1215 Agreements officer.

An official with the authority to enter into, administer, and/or terminate TIAs (see § 37.125).

§ 37.1220 Applied research.

Efforts that attempt to determine and exploit the potential of scientific discoveries or improvements in technology such as new materials, devices, methods and processes. It typically is funded in Research, Development, Test and Evaluation programs within Budget Activity 2, Applied Research (also known informally as research category 6.2) programs. Applied research normally follows basic research but may not be fully distinguishable from the related basic research. The term does not include efforts whose principal aim is the design, development, or testing of specific products, systems or processes to be considered for sale or acquisition; these efforts are within the definition of "development."

§ 37.1225 Articles of collaboration.

An agreement among the participants in a consortium that is not formally incorporated as a legal entity, by which they establish their relative rights and responsibilities (see § 37.515).