

§ 1260.29 [Reserved]

§ 1260.30 Rights in data.

(The grant officer may revise the language under this provision to modify each party's rights based on the particular circumstances of the program and/or the recipient's need to protect specific proprietary information. Any modification to the standard language set forth under the provision requires the concurrence of the Center's Patent Counsel and that the provision be printed in full text.)

RIGHTS IN DATA

August 2005

(a) *Fully Funded Efforts.* (1) "Data" means recorded information, regardless of form, the media on which it may be recorded, or the method of recording, created under the grant or cooperative agreement. The term includes, but is not limited to, data of a scientific or technical nature, and any copyrightable work, including computer software and documentation thereof, in which the recipient asserts copyright, or for which copyright ownership was purchased, under the grant or cooperative agreement.

(2) The Recipient grants to the Federal Government, a royalty-free, nonexclusive and irrevocable license to use, reproduce, distribute (including distribution by transmission) to the public, perform publicly, prepare derivative works, and display publicly, data in whole or in part and in any manner for Federal purposes and to have or permit others to do so for Federal purposes only.

(3) In order that the Federal Government may exercise its license rights in data, the Federal Government, upon request to the Recipient, shall have the right to review and/or obtain delivery of data resulting from the performance of work under this grant, and authorize others to receive data to use for Federal purposes.

(b) *Cost Sharing and/or Matching Efforts.* When the Recipient cost shares with the Government on the effort, the following paragraph applies:

"(1) In the event data first produced by Recipient in carrying out Recipient's responsibilities under an agreement is furnished to NASA, and Recipient considers such data to embody trade secrets or to comprise commercial or financial information which is privileged or confidential, and such data is so identified with a suitable notice or legend, the data will be maintained in confidence and disclosed and used by the Government and its Contractors (under suitable protective conditions) only for experimental, evaluation, research and development purposes, by or on behalf of the Government for an agreed to period of time, and thereafter for Federal purposes as defined in § 1260.30(a)(2)."

(c) For *Cooperative Agreements* the following paragraph applies:

"(1) As to data first produced by NASA in carrying out NASA's responsibilities under a cooperative agreement and which data would embody trade secrets or would comprise commercial or financial information that is privileged or confidential if it has been obtained from the Recipient, such data will be marked with an appropriate legend and maintained in confidence for 5 years (unless a shorter period has been agreed to between the Government and Recipient) after development of the information, with the express understanding that during the aforesaid period such data may be disclosed and used (under suitable protective conditions) by or on behalf of the Government for Government purposes only, and thereafter for any purpose whatsoever without restriction on disclosure and use. Recipient agrees not to disclose such data to any third party without NASA's written approval until the aforementioned restricted period expires."

[End of provision]

[65 FR 62900, Oct. 19, 2000, as amended at 70 FR 46079, Aug. 9, 2005]

§ 1260.31 National security.

NATIONAL SECURITY

October 2000

Normally, NASA grants do not involve classified information. However, if it is known in advance that a grant involves classified information or if the work on the grant is likely to develop classified information, individuals performing on the grant who will have access to the information must obtain the appropriate security clearance in advance of performing on the grant, in accordance with NASA Policy Guidance (NPG) 1620.1, Security Procedures and Guidelines. When access to classified information is not originally anticipated in the performance of a grant, but such information is subsequently sought or potentially developed by the grant Recipient, the NASA Grant Officer who issued the grant shall be notified immediately, and prior to work under the grant proceeding, to implement the appropriate clearance requirements.

[End of provision]

§ 1260.32 Nondiscrimination.

NONDISCRIMINATION

April 2004.

(a) To the extent provided by law and any applicable agency regulations, this award

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and any program assisted thereby are subject to the provisions of Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), Title IX of the Education amendments of 1972 (Pub. L. 92-318, 20 U.S.C. 1681 *et seq.*), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), the Age Discrimination Act of 1975 (Pub. L. 94-135), the implementing regulations issued pursuant thereto by NASA, and the assurance of compliance which the recipient has filed with NASA.

(b) The Recipient shall obtain from each organization that applies or serves as a sub-recipient, Contractor or subcontractor under this award (for other than the provision of commercially available supplies, materials, equipment, or general support services) an assurance of compliance as required by NASA regulations.

(c) Work on NASA grants is subject to the provisions of Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. 2000d-1), Title IX of the Education Amendments of 1972 (20 U.S.C. 1680 *et seq.*), section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), the Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*), and the NASA implementing regulations (14 CFR parts 1250, 1251, 1252, and 1253).

[End of provision]

[65 FR 62900, Oct. 19, 2000, as amended at 69 FR 21704, Apr. 22, 2004]

§ 1260.33 Subcontracts.

SUBCONTRACTS

October 2000

(a) Recipients shall notify NASA when a subcontract award will be made that falls within the thresholds established at § 1260.144(e). When pre-award review of a subcontract is requested by the NASA Grant Officer in accordance with § 1260.144(e), the following specific documents will be made available to the NASA Grant Officer. (The Grant Officer can request additional documents):

- (1) A copy of the proposed subcontract.
 - (2) The basis for subcontractor selection.
 - (3) Justification for lack of competition when competitive bids or offers are not obtained.
 - (4) The subcontract budget and basis for subcontract cost or price.
- (b) The Recipient (with the exception of foreign organizations) shall utilize small business concerns, small disadvantaged business concerns, Historically Black Colleges and Universities, minority educational institutions, and women-owned small business concerns as subcontractors to the maximum extent practicable.

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[End of provision]

§ 1260.34 Clean air and water.

CLEAN AIR AND WATER

October 2000

(Applicable only if the award exceeds \$100,000, or a facility to be used has been the subject of a conviction under the Clean Air Act (42 U.S.C. 1857c-8(c)(1) or the Federal Water Pollution Control Act (33 U.S.C. 1319(c)), and is listed by EPA, or if the award is not otherwise exempt). The Recipient agrees to the following:

(a) Comply with applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*) and of the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*).

(b) Ensure that no portion of the work under this award will be performed in a facility listed on the Environmental Protection Agency (EPA) List of Violating Facilities on the date that this award was effective unless and until the EPA eliminates the name of such facility or facilities from such listings.

(c) Use its best efforts to comply with clean air standards and clean water standards at the facility in which the award is being performed.

(d) Insert the substance of the provisions of this clause into any nonexempt subaward or contract under the award.

(e) Report violations to NASA or to EPA.

[End of provision]

§ 1260.35 Investigative Requirements.

INVESTIGATIVE REQUIREMENTS

January 2004

(a) NASA reserves the right to perform security checks and to deny or restrict access to a NASA Center, facility, or computer system, or to NASA technical information, as NASA deems appropriate. To the extent the Recipient needs such access for performance of the work, the Recipient shall ensure that individuals needing such access provide the personal background and biographical information requested by NASA. Individuals failing to provide the requested information may be denied such access.

(b) All requests to visit a NASA Center or facility must be submitted in a timely manner in accordance with instructions provided by that Center or facility.

[End of provision]

[69 FR 3235, Jan. 23, 2004]