

Department of Energy

Pt. 910, Subpt. D, App. A

(5) Where the recipient is a wholly-owned subsidiary at the time of award or novation, and the recipient's parent entity undergoes a change of control as defined in this section.

(b) When the Federal share of the financial assistance agreement is more than \$10,000,000 or DOE requests the information in writing, the recipient must provide the contracting officer with documentation identifying all parties who exercise control in the recipient at the time of award.

(c) When there is a change of control of a recipient, or the recipient has reason to know a change of control is likely, the recipient must notify the contracting officer within 30 days of its knowledge of such change of control. Such notification must include, at a minimum, copies of documents necessary to reflect the transaction that resulted or will result in the change of control, and identification of all entities, individuals or other parties to such transaction. Failure to notify the contracting officer of a change of control is grounds for suspension or termination of the award for failure to comply with the terms and conditions of the award.

(d) The contracting officer must authorize a change of control for the purposes of the award. Failure to receive the contracting officer's authorization for a change of control may lead to a suspension of the award, termination for failure to comply with the terms and conditions of the award, or imposition of special award conditions pursuant to 2 CFR 910.372. Special award conditions may include but are not limited to:

(1) Additional reporting requirements related to the change of control; and

(2) Suspension of payments due to the recipient.

[80 FR 53239, Sept. 3, 2015]

§ 910.370 Novation of financial assistance agreements.

(a) Financial assistance agreements are not assignable absent written consent from the contracting officer. At his or her sole discretion, the contracting officer may, through novation, recognize a third party as the successor in interest to a financial assistance agreement if such recognition is in the

Government's interest, conforms with all applicable laws and the third party's interest in the agreement arises out of the transfer of:

(1) All of the recipient's assets; or

(2) The entire portion of the assets necessary to perform the project described in the agreement.

(b) When the contracting officer determines that it is not in the Government's interest to consent to the novation of a financial assistance agreement from the original recipient to a third party, the original recipient remains subject to the terms of the financial assistance agreement, and the Department may exercise all legally available remedies under 2 CFR 200.339 through 200.343, or that may be otherwise available, should the original recipient not perform.

(c) The contracting officer may require submission of any documentation in support of a request for novation, including but not limited to documents identified in 48 CFR Subpart 42.12. The contracting officer may use the format in 48 CFR 42.1204 as guidance for novation agreements identified in paragraph (a) of this section.

[80 FR 53239, Sept. 3, 2015, as amended at 87 FR 15320, Mar. 18, 2022]

§ 910.372 Special award conditions.

(a) In addition to the requirements of 2 CFR 200.206, the following actions may require the use of Specific Conditions as identified in 2 CFR 200.208:

(1) Has not conformed to the terms and conditions of a previous award;

(2) Has a change of control as defined in § 910.368;

(3) Fails to comply with real property and equipment requirements at § 910.360; or

(4) Is not otherwise responsible.

[80 FR 53239, Sept. 3, 2015, as amended at 87 FR 15320, Mar. 18, 2022]

APPENDIX A TO SUBPART D OF PART 910—PATENT AND DATA PROVISIONS

1. Patent Rights (Small Business Firms and Nonprofit Organizations)
2. Patent Rights (Large Business Firms)—No Waiver
3. Rights in Data—General
4. Rights in Data—Programs Covered Under Special Protected Data Statutes