

U.S. Department of Energy
Washington, D.C.

Very recent 4/80
ORDER

DOE 2100.2

4-24-80

SUBJECT: INTERRELATIONSHIP OF PROGRAM REGULATIONS AND FINANCIAL
ASSISTANCE REGULATIONS

1. PURPOSE. The purpose of this Order is to set forth the interrelationship between all program regulations which will result in assistance awards (Program Regulations) and the Department of Energy Assistance Regulations (DOE-AR, 10 CFR Part 600), including procedures for exceptions, deviations or waivers.
2. EFFECTIVE DATE. This Order will be effective 30 days from date of issuance.
3. REFERENCES.
 - a. DOE 1900.1, Federal Register Management, of 10-30-78, which specifies the procedures for publishing documents in the Federal Register.
 - b. DOE 2030.1, Procedures for the Development and Analysis of Regulations, Standards and Guidelines, of 12-18-78, which establishes procedures for the development and analysis of all Department of Energy regulations.
4. BACKGROUND.
 - a. DOE has published the DOE-AR which set forth regulations for Grants, Cooperative Agreements, Direct Loans (reserved) and Loan Guarantees (reserved). DOE-AR 600.5 sets forth the relationship of the DOE-AR to all Program Regulations.
 - b. In order to eliminate possible confusion between the DOE-AR and specific Programs Regulations, the DOE-AR 600.5 provides that when the Program Regulations differ from the DOE-AR, the Program Regulations are to be followed. It is, therefore, necessary to have an exceptions, deviations, or waivers procedure applicable to the development of such Program Regulations in order to establish their relationship to the DOE-AR.
 - c. Delegation Order Number 0204-6 from the Secretary of Energy provides the Director of Procurement and Contracts Management with authority to: "Enter into, approve and take such other action as may be necessary and appropriate with respect to any contractual arrangement, interagency agreement, cooperative agreement, grant, loan guarantee, or other similar action committing the Department of Energy to the expenditure

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Office of Procurement and
Contracts Management

of public funds pursuant to applicable laws, policies, regulations, and procedures. Such action shall include determinations and decisions, except those determinations and decisions required by law or regulation to be made by other authority."

5. GENERAL.

- a. The DOE-AR contain administrative and business management requirements which can be specifically applicable to all forms of financial assistance provided to recipients by DOE.
- b. In the interest of establishing and maintaining uniformity to the greatest extent feasible between the DOE-AR and specific Program Regulations, the applicable portions of all Program Regulations which are issued after the effective date of the applicable DOE-AR Subpart shall conform to the DOE-AR, except as otherwise required by statute, or as authorized pursuant to the procedures for exceptions, deviations or waivers as set forth in this Order.
- c. The terms exceptions, deviations and waivers as used in this order include any of the following actions:
 - (1) When a prescribed Financial Assistance Instrument clause is set forth verbatim in the DOE-AR, use of a Financial Assistance Instrument clause covering the same subject matter which varies from that set forth.
 - (2) When a standard or other form is prescribed in the DOE-AR, use of any other form for the same purpose.
 - (3) Alteration of a prescribed standard or other form, except as may be authorized in the DOE-AR.
 - (4) The imposition of lesser or, where the DOE-AR expressly prohibits, greater limitations than are imposed upon the use of a Financial Assistance Instrument clause, form, procedure, type of instrument or upon any other assistance action, including but not limited to the making or amendment of an agreement, or actions taken in connection with the solicitation of proposals, award, administration, or settlement of Financial Assistance Instruments.
 - (5) When a policy or procedure is prescribed, use of any inconsistent policy or procedure.

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 - (5) When a policy or procedure is prescribed, use of any inconsistent policy or procedure.

6. REQUESTS FOR EXCEPTIONS, DEVIATIONS OR WAIVERS. A request for program regulations to contain exceptions, deviations, or waivers from the requirements of the applicable DOE-AR subpart, unless such exceptions, deviations, or waivers are required by specific program legislation, shall be submitted to the Director of Procurement and Contracts Management, (PR-1), as early in the development of the rulemaking as possible. Exceptions, deviations, or waivers may be approved by the Director of Procurement and Contracts Management, or his designee, on matters within the scope of the Director's delegated authority. When such exceptions, deviations, or waivers are not within the Director's authority, they will be obtained by the Director from other appropriate authority. Where exception is taken to the approval decision, resolution will be accomplished by the Chief Financial Officer (CFO).



William S. Heffelfinger
Director of Administration