



**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

National Policy

**ORDER
9550.7B**

Effective Date:
11/25/14

SUBJ: Aviation Research Grants Program

This order establishes policies and procedures for the award and administration of aviation research and development grants.

The FAA Aviation Research Grants Program encourages and supports innovative, advanced research of potential benefit to the long-term growth of civil aviation and Commercial Space Transportation.

Through grant awards, the FAA supports advanced research in areas of potential benefit to the long-term growth of civil aviation and in areas related to the prevention of catastrophic failure of an aircraft and to contribute to the FAA mission of improving aviation safety, capacity, efficiency, and security.

A handwritten signature in black ink, appearing to read "Michael P. Huerta", with a circled "1" at the end.

Michael P. Huerta
Administrator

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Chapter 1. Introduction

Section 1. General

111. Purpose of this Order. This order establishes uniform policies and procedures for the award and administration of aviation research grants established under the authority of the Federal Aviation Administration (FAA) Research, Engineering, and Development Authorization Act of 1990 and the Aviation Security Improvement Act of 1990. This order implements 2 CFR Part 215, Uniform Administrative Requirements for Grants and Agreements with institutions of higher education, hospitals and other non-profit organizations. 2 CFR Part 215 was formally referred to as OMB Circular A-110.

112. Audience. This order applies to all organizational levels in the FAA and will be distributed accordingly.

113. Where Can I Find This Order? You can find this order on https://employees.faa.gov/tools_resources/orders_notices/ or public Web site; http://www.faa.gov/regulations_policies/orders_notices/.

114. Cancellation. Order 9550.7A, Research Grants Program, dated April 19, 1996, is cancelled.

115. Explanation of Significant Changes.

a. Grants to accelerate and expand the research, development, and implementation of technologies and procedures to counteract terrorist acts against civil aviation are no longer covered by this Order. Such grants may now be awarded by the Department of Homeland Security (DHS) (Public Law 107-296).

b. The Centers of Excellence Program are no longer covered under this order and all references to the program have been deleted. Information regarding FAA's Centers of Excellence Program is available at the program's website: <http://www.faa.gov/go/coe>

c. The Acquisition and Grants Division located at the William J. Hughes Technical Center is now the responsible organization for the Aviation Research Grants Program.

d. The Order has been renumbered, edited, and redundant sections have been edited, consolidated or deleted.

e. Chapter 2, Program Responsibilities, has been revised to reflect organizational changes and to further define individual and organizational responsibilities and authorities.

f. Solicitations (Chapter 4) are now exclusively published on www.grants.gov.

g. Subparagraph 422b now references revised OMB Circular A-21 (now referred to as 2 CFR Part 220), which rescinded OMB Circular A-88.

116. Background.

a. Congress authorized the FAA to make grants to institutions of higher education and nonprofit research organizations that encompass a broad spectrum of aviation research activities necessary for the long-term growth of civil aviation and the prevention of catastrophic failure of aircraft.

b. By encouraging academic and nonprofit institutions to establish aviation research programs and expanding the role these institutions play in aviation research, the FAA supports innovative, advanced research of potential benefit to its mission, and further supports the research base available to both the FAA and the aviation community.

117. Definitions.

a. **Administrator** is the Administrator of the Federal Aviation Administration.

b. **Authorized Organizational Representative** is the individual empowered to commit the entity proposing a grant to proceed with the work and activities set forth in the proposal.

c. **Center Director** is the Director of the William J. Hughes Technical Center.

d. **Cooperative Agreement** is a legal instrument by which an executive agency of the Federal Government transfers money, property, services, or anything of value to a Grantee to carry out a public purpose, authorized by law, of support or stimulation. It may be used when an assistance project requires substantial FAA involvement during the project performance period. Substantial FAA involvement may be necessary when an activity is technically or managerially complex, or requires extensive or close coordination with other federally supported work, or to help ensure suitability or acceptability of certain aspects of the supported activity. In this order, policies, practices, and procedures that are applicable to grants are taken to be similarly applicable to cooperative agreements unless otherwise noted. A cooperative research and development agreement (CRDA), as authorized under the Technology Transfer Act of 1986, is not a cooperative agreement as defined by this section.

e. **Grant** is the legal instrument by which an executive agency of the Federal Government transfers money, property, services, or anything of value to a Grantee to carry out a public purpose, authorized by law, of support or stimulation. Limited involvement is anticipated between the agency and the recipient during the performance of the contemplated activity.

f. **Grants Officer** is the Federal employee located at the Technical Center tasked with executing the Aviation Research Grants Program.

g. **Institutions of Higher Education** are accredited universities, colleges, or other institutions of higher education as defined by 20 USC § 1001(a).

h. **Nonprofit Research Organization** is any corporation, trust, association, cooperative, or other organization that is operated primarily for scientific, educational, service, charitable, or

similar purposes in the public interest; is not organized primarily for profit; and uses its net proceeds to maintain, improve, and/or expand its operations.

i. Office of Primary Interest is the FAA organization to which a grant proposal is directed.

j. Procurement Contract is the legal instrument by which an executive agency of the Federal Government acquires property or services for the direct benefit of the government.

k. Principal Investigator is the individual designated by the proposing organization to service as the main point of contact for the organization, and is further responsible for all research and reporting activities of the awarded grant.

l. Proposing Organization is the institution of higher education or the nonprofit research organization submitting a grant proposal for consideration.

m. Program is the Aviation Research Grants Program, unless otherwise indicated (such as an organizational reference to a “program office” or “program manager”).

n. Technical Center is the FAA’s William J. Hughes Technical Center.

o. Technical Monitor is a Federal employee who serves as the central point of contact for the technical aspects of the grant. This person is responsible for interacting with the Grantee, monitoring technical aspects of the grant, and reviewing and approving costs submitted for reimbursement.

118. Requests for Information and Forms. Inquiries regarding the subject matter of this order should be directed to the Grants Officer. Information and required forms for the Research Grants Program are also available online at the program’s website:
<http://www.tc.faa.gov/logistics/grants/>.

119. Authority to Change this Order. The Deputy Assistant Administrator of Acquisition and Business Services may issue changes to this order necessary to implement and manage the Acquisition Research Grants Program. The Administrator reserves the authority to approve changes that establish policy, delegate authority, or assign responsibility.

Section 2. Grant Program Descriptions

120. Aviation Research Grants. (42 USC § 44511) Grants under this program are awarded for the conduct of research for the long-term growth of civil aviation. Research topics may include, but are not limited to, air traffic control automation, aviation applications of artificial intelligence, aviation training technologies and techniques, human factors in highly automated environments, and aircraft safety. The FAA must give consideration to ensure an equitable geographic distribution of grant funds and the inclusion of historically black institutions of higher education and other minority nonprofit research organizations.

a. Recipients. The FAA can make grants to institutions of higher education and nonprofit research organizations.

b. Selection Criteria. The FAA requires a solicitation, review, and evaluation process that ensures the proposals have adequate merit and relevancy to the FAA mission.

121. Catastrophic Failure Prevention Research Grants. (49 USC § 44512) The FAA awards grants under this program for the conduct of research relating to the development of technologies and methods to assess the risk and prevent defects, failures, and malfunctions of products, parts, processes, and articles manufactured for use in aircraft, aircraft engines, propellers, and appliances that could result in a catastrophic failure of an aircraft.

a. Recipients. The FAA can issue grants to institutions of higher education and nonprofit research organizations.

b. Selection Criteria. A solicitation, review, and evaluation process is required that ensures proposals have adequate merit and relevance to specific research in catastrophic failure prevention.

122. Grants and Grant Programs Not Covered. The FAA separately administers all other grant programs not covered by this order. The Aviation Research Grants Program does not support technical assistance, pilot plant efforts, research requiring security classification, aviation security, the development of products for commercial marketing, and market research for a particular aviation-related product. Centers of Excellence (COEs) are not included in this order.

123. Research, Engineering and Development Advisory Committee. (49 USC § 44508)

a. There is a research advisory committee in the Federal Aviation Administration. The committee shall-

(1) provide advice and recommendations to the Administrator of the Federal Aviation Administration about needs, objectives, plans, approaches, content, and accomplishments of the aviation research program carried out under sections 40119, 44504, 44505, 44507, 44511–44513, and 44912 of this title;

(2) assist in ensuring that the research is coordinated with similar research being conducted outside the Administration;

(3) review the operations of the regional centers of air transportation excellence established under section 44513 of this title; and

(4) annually review the allocation made by the Administrator of the amounts authorized by section 48102(a) of this title among the major categories of research and development activities carried out by the Administration and provide advice and recommendations to the Administrator on whether such allocation is appropriate to meet the needs and objectives identified under subparagraph (A).

b. The Administrator may establish subordinate committees to provide advice on specific areas of research conducted under sections 40119, 44504, 44505, 44507, 44511–44513, and 44912 of this title.

c. Members, Chairman, Pay, and Expenses.

(1) The committee is composed of not more than 30 members appointed by the Administrator from among individuals who are not employees of the Administration and who are specially qualified to serve on the committee because of their education, training, or experience. In appointing members of the committee, the Administrator shall ensure that the regional centers of air transportation excellence, universities, corporations, associations, consumers, and other departments, agencies, and instrumentalities of the United States Government are represented.

(2) The Administrator shall designate the chairman of the committee.

(3) A member of the committee serves without pay. However, the Administrator may allow a member, when attending meetings of the committee or a subordinate committee, expenses as authorized under section 5703 of title 5.

(a) Support Staff, Information, and Services. - The Administrator shall provide support staff for the committee. On request of the committee, the Administrator shall provide information, administrative services, and supplies that the Administrator considers necessary for the committee to carry out its duties and powers.

(b) Nonapplication. - Section 14 of the Federal Advisory Committee Act (5 App. U.S.C.) does not apply to the committee.

(c) Use and Limitation of Amounts. - (1) Not more than .1 percent of the amounts made available to conduct research under sections 40119, 44504, 44505, 44507, 44511–44513, and 44912 of this title may be used by the Administrator to carry out this section.

(d) A limitation on amounts available for obligation by or for the committee does not apply to amounts made available to carry out this section.

Chapter 2. Program Management

Section 1. Program Responsibilities

200. General. This section provides responsibilities for the management and administration of the Aviation Research Grants Program.

201. Responsible Office. The Acquisition and Grants Division at the FAA Technical Center is responsible for management and administration of the Aviation Research Grants Program. The Manager of the Acquisition and Grants Division will assign the execution of the day-to-day operations of the Aviation Research Grants Program to a Grants Officer and may assign additional staff to support the program.

202. Grants Officer. The duties of the Grants Officer include:

a. Executing the Aviation Research Grants Program and participating directly in all aspects of the program.

b. Preparing (and revising as necessary) the FAA program solicitation to be posted at www.grants.gov.

c. Providing assistance to proposing organizations regarding the program solicitation or the electronic submittal of the grant application package.

d. Awarding, administering, modifying, and terminating grants as authorized under enabling statutes and delegated authority.

e. Providing advice to technical program managers.

f. Providing periodic reports and/or briefings on the status and accomplishments of the Aviation Research Grants Program.

g. Providing advice and guidance to the aviation research community, reviewing proposals for completeness, coordinating required audits, providing guidance to technical evaluation teams, assisting Technical Monitors in grant administration, assisting in grant closeout, and providing program status reports.

h. Approving waivers and deviations to research grants policies and procedures consistent with governing laws and regulations and in coordination with the Legal Office.

i. Establishing training requirements for grants staff and individuals serving on evaluation teams, or participating as Technical Monitors.

203. Evaluation Teams. The Program Office will appoint a team of Federal employees to review, evaluate, and provide recommendations for grant proposals.

a. For an initial evaluation, the members of the Evaluation Team must, at a minimum, be comprised of 3 members including a lead evaluator. All evaluators must be Federal employees.

b. For proposed modifications to existing grants, the Evaluation Team must consist of one member and a lead evaluator. All evaluators must be Federal employees.

c. If needed, the Evaluation Team may collectively seek assistance from individuals and/or organizations within or outside of the FAA in support of the review and evaluation process. This requires concurrence from the Grants Officer.

204. Technical Monitor. The Technical Monitor will be a Federal employee. The Technical Monitor serves as the central point of contact for the technical aspects of a grant.

a. The Technical Monitor must be identified by the office of primary interest and included on the grant request, funding request, and award documents. The identification must include the Technical Monitor's name, the FAA organization, and telephone number.

b. The Technical Monitor is responsible for interaction with the Grantee on technical matters, technical monitoring and review of the work performed under the grant, preparing the grant request and approval of costs submitted for reimbursement.

c. The Technical Monitor is responsible for informing the Grants Officer of any significant issues relative to the grant award.

205. Office of Civil Rights. The Technical Center's Office of Civil Rights (ACT-9) monitors all complaints related to race, color, religion, sex, age, national origin, or handicap. Additionally, the Office of Civil Rights further monitors any complaints related to the Research Grants Program pertaining to historically black institutions of higher education and other minority nonprofit research organizations.

206. Office of Center Counsel. The Technical Center's Office of Center Counsel (ACT-7) provides legal advice for matters related to the Aviation Research Grants Program, reviews legal aspects of the program, and provides written coordination on grant awards, and modification of existing grants, with a total value in excess of \$100,000.

Section 2. Authorization, Delegation and Review

207. General. Pursuant to the Federal Aviation Administration Reauthorization Act of 1996, Public Law 104-264, the Administrator has broad authority to enter into transactions necessary to carry out the functions of the Administrator and the FAA on such terms and conditions as the Administrator may consider appropriate. The Administrator may delegate, and authorize successive delegations, to an officer or employee of the FAA any function, power, or duty conferred upon the Administrator, unless such delegation is prohibited by law.

208. Administrator. The Administrator:

- a. Reviews grant requests which are in excess of \$10 million.
- b. Reviews grant requests with significant Congressional interest.
- c. Specifically delegates the management of the Aviation Research Grants program and the award of grants under the aviation research grants program.

209. Deputy Assistant Administrator of Acquisition and Business Services. The Deputy Assistant Administrator of Acquisition and Business Services (ACQ-1):

- a. Notifies the Administrator of any grant requests in excess of \$10 million.
- b. Reviews grant requests in excess of \$5 million but less than \$10 million.

210. The Director, FAA Technical Center. The Director, FAA Tech Center:

- a. Reviews grant requests for the Technical Center in excess of \$1 million.
- b. Recommends research grant technical goals and policies to the Deputy Assistant Administrator of Acquisition and Business Services.

Chapter 3. Proposal and Award

Section 1. Proposal Solicitation

300. Solicitation of Proposals. The Grants Officer publishes a Program Solicitation on the United States Government's Web site for grants - www.grants.gov - in order to solicit proposals for grants under this Order. The solicitation describes the areas in which the FAA wishes to award grants, identify the effective term of the grant, address eligibility and evaluation criteria, and provide proposal submission guidelines.

301. Intergovernmental Review and Reporting Requirements for Federal Programs. This paragraph implements Executive Order 12372, Intergovernmental Review of Federal Programs.

a. The Aviation Research Grants Office provides information to the Department of Transportation regarding the Aviation Research Grants Program, as required by 2 CFR Chapter 1, Chapter II, Part 200, et.al. (formally referred to as OMB Circular A-89), Federal Domestic Assistance Program Information for annual publication in the Catalog of Federal Domestic Assistance.

b. The Aviation Research Grants Office furnishes information for the FEDIX/MOLIS, an automatic data processing system that provides on-line information on assistance awards, including grants and links to the Federal and academic communities to facilitate research, education and services. Additionally, the Federal Funding Accountability and Transparency Act (FFATA) of 2006, requires that the Office of Management and Budget (OMB) establish a single searchable Web site accessible to the public which includes for each Federal Grant:

- (1) the name of the entity receiving the grant
- (2) the amount of the grant
- (3) information on the grant
- (4) the location of the entity that received the grant
- (4) an unique identifier of the entity receiving the grant (grant number)

The FFATA Subaward Reporting System (FSRS) is the reporting tool that Federal Awards (grant awards) uses to capture and report subaward and executive compensation data regarding their first-tier subawards to meet the FFATA reporting requirements. The subaward information entered in FSRS will be then displayed on www.USASpending.gov. The information regarding the sub-award will be associated with the primary grant award furthering the ability to show Federal spending transparency.

c. The Aviation Research Grants Office provides information to **historically black colleges and universities in meeting the intent of Executive Order 12876. The Aviation Research Grants Office** performs the following:

(1) Ensure that each applicant for a grant, and any subrecipient, will execute the Standard DOT Title VII Non-Discrimination Assurances as a condition of any grant award.

(2) If the recipient is an educational institution, obtain information from Airport Nondiscrimination Compliance Staff that the recipient is currently in compliance with Title VI prior to any award of a grant.

(3) Decline to award any grant if the Standard DOT Title VI assurances have not been executed or if Airport Nondiscrimination Compliance Staff has notified the grants office that the Department of Education, Office of Civil Rights, has determined that the recipient is not in compliance with Title VI. Prior to taking such action, the program office will consult with Airport Nondiscrimination Compliance Staff, who will review the issue with ACR-4 and AGC, and refer any complaints of discrimination from grant recipients, or grant beneficiaries, and any other matter which may raise an issue of non-compliance to Airport Nondiscrimination Compliance Staff.

(4) Forward an annual report due no later than October 31 to the Director, Civil Rights, Eastern and New England Regions and Airport Nondiscrimination Compliance certifying that the program or grants office has completed the above actions in Paragraph 2(a) through 2(d) of this Chapter. The report should also list the grants and amount of each grant issued in the fiscal year by the name of the recipient.

d. All information pertaining to the Aviation Research Grants program solicitation is located on www.grants.gov. The Aviation Research Grants program web site is located at http://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/acquisition/grants/

Section 2. Proposal Submission

302. General.

a. The purpose of a proposal is to provide a statement establishing:

- (1) objectives and the significance of the proposed grant activity
- (2) technical qualifications of the proposing organization
- (3) technical qualifications of the Principal Investigator
- (4) level of funding required to carry out the stated activity

b. The proposal must contain sufficient information to demonstrate that it meets the selection criteria of an Aviation Research Grant. The grant must be reviewed to ensure that it is both technically sound and worthy of support. The proposal should be succinct and self-contained.

c. The FAA expects strict adherence to the rules of proper scholarship, attribution and abidance with the evaluation and selection system through which the FAA may award a grant. The responsibility for proper attribution and citation rests with the proposing organization. Failure to adhere to such standards will result in disqualification of the proposal.

303. Proposing Organization

a. Before submitting the proposal to the FAA, the authorized organizational representative should determine the following:

(1) The proposal is consistent with the policies and goals of the proposing organization.

(2) The proposing organization can provide the necessary facilities, equipment, and services for the conduct of the project.

(3) The proposing organization can provide the necessary personnel for the time estimated to be required for an awarded grant.

(4) The proposing organization has legal authority to accept grants, and the requisite policies, procedures, and personnel to meet the Grantee standards set forth in Chapter 4 of this Order.

(5) The total costs estimated to be required for the conduct of the project are reasonable and there is a plan for meeting such costs either from grant funds or from other sources.

(6) The costs that the FAA is being asked to support are allowable, and the treatment of direct or indirect costs in the proposal budget is consistent with relevant Federal cost principles and with the policies of the submitting organization (allowable costs and governing regulations are set forth in Chapter 5 of this Order).

b. The authorized organizational representative must attach to the proposal a copy of the proposing organization's current facilities and administrative (F&A) costs agreement negotiated with the proposing organization's cognizant agency, as set forth in OMB Circular A-21 (now referred to as 2 CFR Part 220) (Section G-11). If the proposing organization does have an F&A costs agreement (as may occur with a nonprofit research organization), an F&A costs rate proposal demonstrating fair, reasonable, and lawful rates, consistent with OMB Circular A-21 (now referred to as 2 CFR Part 220), must be submitted separately to the Grants Officer for approval.

c. Upon request by the Grants Officer, the proposing organization should submit the organization and management data described in section 505 of Chapter 5.

304. Duration of Grants. All grants awarded under this Order must provide for a specified level of effort for a specified period of time, not to exceed five (5) years.

305. Funding Methods. Eligible proposals are funded with designated program money or with discretionary funding, if available.

306. Submission of Grant Proposals. Submit proposals in accordance with the FAA's program solicitation available at www.grants.gov. Proposals are submitted electronically using the grant application package available at www.grants.gov. Submit questions about the program solicitation or submission of the grant application to the Grants Officer.

307. Withdrawal. The applicant may withdraw a proposal any time before award. A written request stating the reasons for withdrawal should be signed by the Principal Investigator and the authorized organizational representative, and forwarded to the Grants Officer.

308. Confidential Aspects of Proposals and Grants.

a. Individuals and/or organizations outside of the FAA may review proposals. Proposing organizations should also be aware that all information submitted may be disclosed in accordance with the Freedom of Information Act (Chapter 8, Section 831).

b. A proposing organization may list in a separate schedule the proposed salary amounts for named senior project personnel. If submitted in this manner, asterisks should be substituted for salary amounts in the proposed budget, with only the total salaries listed for which the FAA funding is requested. The salary budget must include the following language - "**It is requested that the following salary information not be released to persons outside the Government.**" Any separate salary schedule bearing this language will be considered confidential and withheld from release to the extent permitted by law.

c. Portions of proposals resulting in awards that contain descriptions of inventions in which either the Federal Government or the Grantee owns or may own a right, title, or interest (including a non-exclusive license) are not normally made available to the public until after a reasonable time for the filing of a patent application. The policy is to notify the Grantee of requests for funded proposals in order for the Grantee to advise the FAA whether there are any such inventions described in the proposal.

d. Grantees should appropriately label and submit a separate attachment to the proposal with privileged or confidential records or data concerning patents, trade secrets, and commercial or financial information . Such information will be considered confidential and withheld from release to the extent permitted by the law.

309. Security Clearances. Grant activities may require personnel and facility security clearances, and proposing organizations are urged to familiarize themselves with all legal requirements necessary to obtain such clearances.

Section 3. Proposal Review and Evaluation

310. Receipt. Upon receipt of a proposal, the Aviation Research Grants Office will assign a proposal number and forward the proposal to the applicable organization.

311. Initial Review.

a. The Grants Officer must review each proposal to ensure that it is complete and that the proposed research falls under the research grant programs covered by this Order as described in Chapter 1, Section 2.

b. After review, the Grants Officer should immediately notify the proposing organization of any submission deficiencies or where a procurement contract better suits the proposed relationship between the FAA and the proposing organization.

312. Proposal Review and Technical Merit.

a. Evaluation Teams must be responsible for determining the technical merit of a proposal.

b. In advance of the review, a lead evaluator must be chosen from the team and be responsible for developing a rating system for determining technical merit to be used by the evaluation team. The lead evaluator should require all team members to provide narrative summaries as part of the review process and rating system.

c. Criteria. In evaluating a proposal, the evaluation team considers the following:

(1) Relevance of the proposal to critical mission objectives.

(2) Establishment of logical connections and probable applications to

(a) the long-term growth of civil aviation, leading to new discoveries or fundamental advances within the field or having a substantial impact on progress in specific, or related fields, pertinent to the FAA research, or

(b) the prevention of the catastrophic failure of an aircraft.

(3) Soundness of the planned technical approach and concepts, and likelihood of success.

(4) Realistic costs, overall ability of the FAA to fund the project, and benefits to be accrued in terms of the contribution to the FAA objectives.

(5) Qualifications of the Principal Investigator.

(6) The capabilities of the proposing organization to meet the objectives of the proposal, including, but not limited to, the equipment and facilities available to perform the research specified in the proposal.

d. Resources Required. The proposing organization should identify all resources required to meet the objectives of the proposal, and note whether adequate access to these exist or whether such resources will be acquired in the course of the proposed activity.

e. Achievement and Experience. The evaluation team should consider past achievements and experience of the Grantee when evaluating technical merit. The Principal Investigator must demonstrate an established reputation in the relevant field, which may be shown by publications, patented intellectual property, conference contributions, or other relevant information that demonstrates his or her capability to meet the objectives of the proposal.

f. Outside Reviewers. The evaluation team will give due consideration to any potential conflicts of interest and protection of confidential aspects of the proposal when outside reviewers are assisting the evaluation team.

g. Completion of Review. Upon completion of the review, the lead evaluator must communicate the results of the evaluation team's review to the Grants Officer with a recommendation as to whether the proposal should be declined or recommended for award.

313. Revisions to Proposals. At any time prior to the awarding of a grant, the Grants Officer may engage in discussions with the applicant's Principal Investigator and/or the proposing organization regarding the revision of any aspect of the proposal, including the proposed budget. If such discussions are initiated by the lead evaluator and/or the evaluation team during the review period, the Grants Officer should direct such discussions and advise the lead evaluator of the outcome. Revisions to a proposal should be accomplished by a written proposal modification submitted to the Grants Officer by the proposing organization, and signed by the Principal Investigator and the authorized organizational representative.

314. Declined Proposals. A declination is a written notice by the Grants Officer to the proposing organization advising that assistance will not be provided. The letter must include an explanation of the FAA's decision. These reasons may include, but are not limited to, a lack of available funds, or a determination that the proposal is inappropriate for consideration or does not meet established criteria under the current FAA requirements, or that there has been a change in program direction.

Chapter 4. Grantee Standards

400. General. 2 CFR 215 (formally referred to as OMB Circular A-110). The Office of Management and Budget (OMB) is relocating Circular A-110 to title 2 in the Code of Federal Regulations (2 CFR), subtitle A, chapter II, subchapter B, part 215 as part of an initiative to provide the public with a central location for Federal government policies on grants and other financial assistance and nonprocurement agreements. This document relates to the previous document which established 2 CFR as that central location. Consolidating the OMB guidance and co-locating the agency regulations provides a good foundation for streamlining and simplifying the policy framework for grants and agreements as part of the efforts to implement the Federal Financial Assistance Management Improvement Act of 1999 (Pub. L. 106-107).

401. Policy. The FAA extends the applicability of 2 CFR 215 to all types of recipients of grants under the Aviation Research Grants Program including commercial firms and others to whom neither 49 CFR Part 18, (A-102) nor A-110 is directly applicable. The FAA also requires prospective Grantees to furnish basic organizational and management information to assist in assessing their financial and managerial responsibility.

402. Financial Management Systems Standards. Grantees must have financial management systems that meet the requirements of 2 CFR 215.

403. Procurement Standards. 2 CFR 215 prescribes standards for use by recipients in establishing procedures for the procurement of supplies, equipment, construction, and services with Federal funds. Grantees must adhere to these procurement standards.

404. Property Management Standards. Grantees must comply with the provisions of the property management standards contained in 2 CFR 215.

405. Prospective Grantee Organization and Management Data. Each proposing institution or organization that has not received a grant award within the previous two (2) years must resubmit basic organizational and management information and certifications to assist in assessing their financial and managerial responsibility. When requested by the grants office, the following information must be submitted:

a. Organization Name. Provide the name of the organization, together with the legally registered name, if different, and mailing address.

b. Organization Type. Provide the appropriate type of organization. If a U.S. college or university, submit the Federal Interagency Committee on Education code, and category of control or affiliation, as shown in the most recent Directory of Postsecondary Institutions.

c. Federal Employer Identification Number. Provide the employer identification number assigned by the Internal Revenue Service.

d. Congressional District. Provide for all organizations located in the United States.

e. Organizational Affiliations. Demonstrate the relationship of the organization to any parent organization, subsidiaries, or other affiliates. If the organization is a successor in interest to a predecessor, or if changes in organizational affiliation are anticipated, provide a brief explanation.

f. Statement of Purposes and Powers. Submit an official statement of the major purposes of the organization. Demonstrate the powers that have been granted to it to enter into contractual relationships and/or to accept grants (e.g., articles of incorporation, terms of reference, or by-laws).

g. Key Officials. Provide the name, title, address, and telephone number of the following officials:

- (1) Chief Executive Officer
- (2) Authorized Organizational Representative
- (3) Business Officer

h. Affiliations of Key Officials. If the organization is other than a college or university, a state or local government, or an international organization, indicate whether or not each official listed in g., above, is affiliated with any international, Federal, State or local agency, or with any college or university. If so, describe such affiliation. The FAA reserves the right to consult with such affiliated organizations.

i. Federal Awards. Provide a representative listing of current or recent Federal awards to the organization indicating agency, award number, award amount, award duration, and title of project.

j. Indirect Cost Agreement. Provide the most recent indirect cost agreement negotiated between the organization and the cognizant Federal negotiating agency, Federal agency or, if no such agreement exists, an indirect cost rate proposal.

k. Salary Rates. Provide a copy of the most recent salary rates of principal faculty and staff involved in the proposed research effort.

l. Other. If other than a college or university, or a state or local government, the following must be submitted:

- (1) A certified statement of financial condition covering at least the preceding 2 years.
- (2) Bank and other references.

m. Contractors/Subcontractors. The Grantee needs to address separately to the Grants Officer when contractor/subcontractor/consultant support on the grant exceeds 50% of the total

grant cost. If a Grantee submits a proposal with contractor/subcontractor/consultant support which exceeds 50% of the total grant cost, it is likely that the grant will not be awarded.

Chapter 5. Expenditures

Section 1. Allowable Costs

500. General. The Federal cost principles applicable to specific types of Grantees govern expenditures under grants. Grantees are responsible for determining costs in accordance with applicable regulations.

501. Institutions of Higher Education. OMB Circular A-21, Cost Principles for Educational Institutions (which is now 2 CFR Part 220) contains principles for determining the costs applicable to research and development and to training and other educational services performed by colleges and universities under Federal Government grants.

502. Other Non-Profit Organizations. OMB Circular A-122 (now referred to as 2 CFR Part 230), Cost Principles for Non-Profit Organizations, governs expenditures under grants, which applies to costs of grants, contracts, and other agreements with certain non-profit organizations. OMB Circular A-122 (now referred to as 2 CFR Part 230) is not applicable to colleges and universities governed by OMB Circular A-21 (A-21 is now 2 CFR Part 220). These principles shall be used by all Federal agencies in determining the costs of work performed by non-profit organizations under grants, cooperative agreements, cost reimbursement contracts, and other contracts in which costs are used in pricing, administration, or settlement. All of these instruments are hereafter referred to as awards. The principles do not apply to awards under which an organization is not required to account to the Federal Government for actual costs incurred. All cost reimbursement subawards (subgrants, subcontracts, etc.) are subject to those Federal cost principles applicable to the particular organization concerned. Thus, if a subaward is to a non-profit organization, this Circular shall apply; if a subaward is to a commercial organization, the cost principles applicable to commercial concerns shall apply; if a subaward is to a college or university, 2 CFR Part 220 shall apply.

503. State and Local Governments. OMB Circular A-87 (which is now 2 CFR Part 225) provides the principles and standards for determining costs applicable to grants and contracts with State, local, and federally recognized Indian tribal Government entities (excluding publicly financed colleges, universities, and hospitals).

504. Applicability to Contracts under Grants. Grantees are responsible for ensuring that any contracts awarded under the FAA grants comply with appropriate contract laws and procedures.

Section 2. Payment Requirements

505. General. The procedures prescribed in this section are from administrative requirements contained in 2 CFR 215.

506. Grant Acceptance. The acceptance of a grant from the FAA creates a legal duty on the part of the Grantee organization to use the funds or property made available in accordance with the conditions of the grant. The FAA has an interest in any funds improperly applied or in property improperly acquired through the grant, to which the FAA either retains title or reserves the right to require title transfer.

507. Definitions. The following definitions are either not included elsewhere in the order or are repeated in this section because of their special applicability to this chapter.

a. Grantee is the recipient organization to which a grant is awarded.

b. Business Officer is the financial official of the Grantee organization who has primary responsibility for the accountability of grant funds.

c. Cash on Hand includes FAA funds on both deposited/undeposited Treasury checks.

d. Disbursements are payments to the Grantee. Payments may be in cash, check, or via electronic funds transfer.

e. Expenditures are outlay charges made to the project during a given period for:

(1) Goods and other tangible property received.

(2) Services performed by employees, contractors, and other payees.

(3) Amounts becoming owed for which no current services or performance is required.

f. Obligations are the amounts of orders placed, contracts awarded, services received, and similar transactions occurring during a given period that require payment by the Grantee during the same or a future period.

g. Unliquidated Obligations. For reports prepared on a cash basis, represent the amount of obligations incurred by the Grantee that have not been paid. For reports prepared on an accrued expenditure basis, unliquidated obligations represent the amount of obligations incurred by the Grantee for which an outlay has not been recorded.

h. Unobligated Balance. Deducting outlays and unliquidated obligation from the cumulative funds authorized determines unobligated balance.

508. Payment Procedures. The following are the types of payment procedures as indicated on the SF-270.

a. Reimbursement. The Department of Transportation (DOT) has implemented a new online grants payments system called **Delphi eInvoicing** powered by Oracle's iSupplier platform. eInvoicing is the first of multiple FAA finance and accounting systems to be implemented in accordance with DOT's Financial Systems Modernization (FSM) initiative. This unified, web-based platform will save valuable time and resources associated with current manual processes for both requestor and reviewer/approver users. Sponsors will receive grants funds more quickly and FAA will have enhanced control over minimizing improper payments. Major features and benefits of eInvoicing include:

(1) **Electronic Payment Request Submission:** Submission of payment requests on-line individually or in bulk.

(2) **Grantee Self Service:** Real time views on the status of all payment requests.

(3) **Email Notifications:** Notifications to inform requesters about payment status.

(4) **Document Attachment:** Upload files as supporting documentation for payment requests.

(5) **Unified Platform:** The same grants payment request process will be utilized department-wide, which will be helpful particularly for grant recipients who also work with other DOT Programs.

A Technical Monitor will review and approve requests for payments. This activity is **essential** to the timely disbursement of funds to Grantees.

If you need a User Access Request to access the system, you must contact the Grants Office. Once the form is verified, an eInvoicing account will be established and you will be sent a username and password to access the system.

b. Working Capital Advance. In those cases where the procedures for reimbursement described in paragraph 623a are not feasible, the Grants Officer may make arrangement whereby the Federal share of the Grantee's work may be given in advance to cover the Grantee's estimated expenses for an initial period. To get those advance funds, the Grantee must submit an SF-270 to the Grants Officer. Grantees must then deposit all cash they get from the FAA into separate interest-bearing accounts. The Grantee must send the interest they receive to the FAA at least quarterly and include a copy of the bank statements(s) that cover that period. To pay for their administrative costs, Grantees can keep up to \$100 of the interest they get each year.

509. Payment Methods. The method of payment to a recipient organization is by check or electronic funds transfer.

a. Direct Treasury Check Method. The US Treasury transfers the funds electronically to the

participating financial institution through the program office. Checks are issued from the U.S. Treasury upon approval and processing by the Office of Operational Services – FAA Accounts Payable section.

b. Electronic Funds Transfer Method. Funds are transferred electronically between the U.S. Treasury and participating financial institution through the Automated Clearing House (ACH) Network. Information requested on SF 3881, ACH Vendor/Miscellaneous Payment Enrollment Form, is required for processing the electronic funds transfer.

510. Financial Reporting Requirements.

a. Quarterly Disbursement Reporting. Within 15 days after the end of each calendar quarter, the Grantee must provide an updated (Federal Financial Report SF-425, Federal Cash Transactions Report when funds are advanced in excess of \$10,000). The report elements are in compliance with the uniform Federal standards applicable to financial reporting by Grantees.

b. Final Disbursement Reporting. Within 90 days after the grant expiration date, the Grantee must submit form SF-425 to the accounting section for final grant accountability. The final disbursement amount may not exceed the amount of the grant. When the final disbursement records the final disbursement, the Grants Officer financially closes the grant.

511. Withholding Payments. Upon written notice to the Grantee, the FAA reserves the right to withhold future payments after a specified date if the recipient:

- a. Fails to comply with the conditions of an award, including the reporting requirements.
- b. Is indebted to the U.S. Government.

512. Safeguarding Funds. FAA-furnished funds should not be co-mingled with the personal funds of any Grantee (to include officer, employee or agent of the Grantee) nor should any of these funds be deposited in personal bank accounts for disbursement by personal check.

513. Final Unobligated Balance. The FAA has an interest in the unobligated balance of a grant upon expiration or completion of the grant. The FAA computes and reports to the Grantee the final unobligated balance, based on final disbursements reported on the SF-425.

514. Erroneous Payments. Any erroneous reimbursements must be refunded to the FAA. The Grantee should promptly refund and redraw when needed, excess funds erroneously drawn in excess of immediate disbursement needs. Excess funds should be refunded within 30 calendar days, and redrawn when needed. The only exception to the requirement for refunding is when the funds involved will be disbursed within 7 calendar days. The Grantee should not construe this exception to the requirement for prompt refunding as approval by FAA for a Grantee to maintain excessive funds; they are applicable only to excessive amounts of funds erroneously drawn by the Grantee.

515. Interest Earned. The Grantee must report to the FAA quarterly interest earned by other than State agencies on the SF-425 and remitted by check payable to the FAA.

516. Program Income. The FAA delegates decisions on the expenditure and application of program income generated in the course of a grant award to the grant recipient. 2 CFR 215 specifies alternatives for utilization of program income as follows:

a. Additive alternative. The funds may use funds for the same purposes and under the same conditions stated in the grant agreement to augment the research activities.

b. Matching alternative. In the case of grant awards that require non-Federal matching funds, the Grantee may use project income to finance part or the entire non-Federal matching share.

c. Deductive alternative. Program income is deducted from the total grant award.

517. Other Cost Credits. If the FAA has not closed out the grant, the Grants Officer credits against the FAA grant any purchase discounts, rebates, allowances and credits. The FAA closes out a grant when the FAA receives and accepts a Grantee's report of the final net disbursements on the SF-425 and FAA Form 9550-5, Final Project Report. If the FAA closes out the grant, the Grants Officer accepts cost credits only if the amount is \$300 or more.

518. Use of Minority Banks. The FAA encourages recipients of awards to use minority banks. Minority banks are those that are owned (at least 50 percent) by minority groups such as Black, Hispanic, Asian, Native American, Pacific Islander, and women. This action is consistent with the national goal of expanding the opportunities for minority business enterprises.

Chapter 6. Project and Grant Management

Section 1. Monitoring Project Performance

600. General. Federal agencies follow 2 CFR 215 which contains criteria and procedures for monitoring and reporting of grants. Grant recipients will adhere to the required procedures.

601. Grantee. The Grantee will monitor the performance of the project, program, subaward, function or activity supported by the award to ensure time schedules are being met, other performance goals are being achieved, the terms of the grant instrument are being met, and sound management practices and organizational policies are being used.

602. Site Visits. The Technical Monitor and the Grants Officer may make site visits to keep informed of the progress of the work and review the Grantee management systems.

603. Grantee Prior Approvals. The Grantee should document each expenditure or each action affecting the grant, which must reflect appropriate institutional reviews or approvals to ensure consistency with applicable regulations.

604. Approvals. To carry out project monitoring responsibilities that require FAA approvals, FAA officials have the following responsibilities:

a. Technical Monitor. The Technical Monitor reviews requests changes in project direction or management or for rebudgeting. Except where the FAA approval must be issued by the Grants Officer, the Technical Monitor furnishes the FAA approval, or disapproval, in writing, to the Principal Investigator. A copy is provided to the Grants Office.

b. Grants Officer. The Grants Officer approves and coordinates the response with the Technical Monitor and furnishes the FAA decision to the Grantee's authorized organizational representative. A copy is provided to the Technical Monitor and the Principal Investigator.

605. FAA-Grantee Relationship. A Grantee has full responsibility for the conduct of the project or activity supported under an award and for adherence to the award conditions. The Grantee is in the best position to determine the means to perform the activity or project most effectively. The Grants Officer encourages the Grantees to see advice and opinions on technical issues and problems that may arise.

Section 2. Changes in Project Direction or Management

606. General. 2 CFR 215 contains criteria and procedures Federal agencies should follow for changes in project direction or management for all recipients of Aviation Research Grants. Grant recipients will adhere to the required procedures.

607. Changes in Objectives, Scope, or Methodology. 2 CFR 215 requires changes from the original objective or scope and its cost impact be approved by the Grants Officer. The Principal Investigator should propose changes in writing to the Technical Monitor, and countersigned by the authorized organizational representative for approval by the Grants Officer. The Principal Investigator is free to pursue interesting and important leads that may arise during the conduct of the project to adopt an alternative approach that appears to be a more promising means of achieving the goals of the project. Any change in the conduct of the project affecting the probability of project completion is reported to the Technical Monitor.

608. Changes in Principal Investigator or Level of Effort.

a. The decision to support a proposal is based largely on the proposed Principal Investigator's knowledge, capability, and availability to direct the research of the subject grant at the Grantee institution. When it is anticipated that the Principal Investigator is no longer able to direct the project, or the level of involvement of the Principal Investigator decreases to such a level that effective leadership is no longer possible, the cognizant Technical Monitor must be informed immediately. Unless satisfactory alternative arrangements are made, these circumstances may be grounds for revocation of the grant award by the FAA.

b. In the event that a Grantee desires to continue the project with a substitute Principal Investigator, the grants office must notify the grants office in writing of the substitute's name and qualifications. The Grants Officer will amend the grant after the approval of the substitute. Awards cannot be transferred from one institution to another. If the Principal Investigator wishes support for the research at another institution, he or she must submit a new proposal through the appropriate office of the new institution.

609. Contracting or Transferring the Project Effort. Excluding the purchase of commercially available supplies, materials, equipment, or general support services allowable under the grant, the Grantee may not contract or otherwise transfer to another organization any significant part of the research or substantive effort under a FAA grant, unless it was disclosed in the proposal submission or evidence of FAA prior approval appears in the grant instrument.

Section 3. Changes in the Grant Budget

610. General. 2 CFR 215 contains criteria and procedures to be followed by Federal agencies in providing post-award changes in grants to academic and other organizations for any type of project Grant recipients will adhere to the required procedures.

611. Policy. The Principal Investigator, operating within the established policies of the Grantee, is best qualified to determine the manner in which the grant or cooperative agreement funds may be used most effectively to accomplish the proposed research. The FAA assumes no responsibility for overspent budgets. The investigator and the Grantee institution are free to spend grant or cooperative agreement funds for the proposed research without strict adherence to individual allocations within total budgets, except as provided below:

a. Acquisition of property costing in excess of \$2,500 and not included in the approved proposed budget requires the prior approval of the Grants Officer.

b. Whenever the amount of Federal funds authorized by a grant is expected to exceed the requirements of the project, the Principal Investigator notifies the Grants Officer.

612. Procedure. When a budget revision requires FAA approval, the Grantee sends two copies of a request, signed by the Principal Investigator, to the grants office with a copy to the Technical Monitor. The request should clearly state which budget items the Grantee is revising and by what amounts. The request should also explain the reasons for the changes.

613. Cost Sharing and Matching. 2 CFR 215.23 encourages Grantees to participate in cost sharing and matching.

Section 4. Suspension, Termination, and Enforcement

614. Definitions. The following terms have the indicated meanings:

a. Suspension is an action by the FAA that temporarily withholds Federal support of a project pending corrective action by the Grantee or a decision by the FAA to terminate the grant.

b. Termination is the cancellation of a grant, in whole or in part, at any time prior to its expiration.

c. Enforcement is the action by the FAA to ensure the Grantee organization effectively carries out the terms and conditions of the grant award.

615. Intent. It is the intent of the FAA to establish and maintain mutually beneficial grant relationships. Suspension or termination of grants may be reserved for those few exceptional situations that cannot be handled any other way:

a. The FAA may suspend or terminate a grant, in whole or in part, in any of the following situations:

(1) When the FAA believes that the Grantee has materially failed to comply with the terms and conditions of the grant award.

(2) The FAA may terminate a continuing grant at the expiration of an increment of funding. This could be as a result of funding not being available or the results achieved do not warrant continued support under a grant.

(3) For any reason by mutual agreement between the FAA and the Grantee upon the request of either party.

b. The FAA will suspend or terminate a grant only after the Grantee has informed the FAA of a deficiency. The Grantee has ten (10) business days to correct the deficiency. If it is not corrected, the FAA notifies the Grantee in writing of the determination and the reasons for termination or suspension, together with an effective date. The effective date must provide for a 72-hour response period during which time the Grantee may respond in writing to the determination to suspend or terminate.

c. No costs incurred during a suspension period or after the effective date of a termination are allowable. Exceptions are those costs which, in the opinion of the FAA, the Grantee could not reasonably avoid or eliminate, or which were otherwise authorized by the suspension or termination notice, provided such costs would otherwise be allowable under the terms of the grant and the appropriate Federal cost principles.

d. Within 30 days of the termination date, the Grantee must furnish a summary of progress under the grant and an itemized accounting of costs incurred prior to the termination date or pursuant to paragraph 742c. Final allowable costs under a termination settlement must be in

accordance with the terms of the grant, including this section, and the appropriate Federal cost principles, giving due consideration to the progress under the grant. In no event will FAA payments under a terminated grant exceed the grant amount.

616. Procedure.

a. When the FAA believes a Grantee has failed to comply with one or more of the terms and conditions of a grant, the Grants Officer advises the Grantee in writing of the nature of the problem and that failure to correct the deficiency may result in suspension or termination of the grant. The Grantee will have 10 calendar days to respond in writing within 10 calendar days of the date of such letter, describing the action taken or the plan designed to correct the deficiency. Copies of such correspondence will be furnished to the Technical Monitor and the Principal Investigator.

b. If a satisfactory response is not received within the above period, the Grants Officer may issue a notice immediately suspending authority to obligate grant funds further, in whole or in part. Notice of suspension is sent by certified mail, with a return receipt requested, to the authorized organizational representative, with a copy to the Principal Investigator and Technical Monitor.

c. The suspension remains in effect for a maximum of 60 days to allow the Grantee to take corrective action. In the event that the Grantee does not correct the deficiency to the satisfaction of the FAA the Grants Officer may issue a notice of termination, subsequent to review by legal counsel. The notice sets forth the reasons for the action and its effective date.

617. Termination by Mutual Agreement. Circumstances may arise in which either the FAA or the Grantee wishes to terminate a project. The FAA and the Grantee may terminate the grant by mutual agreement if both parties agree a continuation of the project would not produce the results commensurate with the further expenditure of funds, or for any other reason. The procedures are as follows:

a. If the Grantee wishes to terminate the project, the authorized organizational representative should advise the Grants Officer in writing and send a copy to the Technical Monitor.

b. If the FAA wishes to terminate the project, the Grants Officer advises the Grantee's authorized organizational representative in writing and sends copies to the Principal Investigator and the Technical Monitor.

c. Within 30 days after receipt of request from either party for termination by mutual agreement, the other party will provide an appropriate written response.

d. Upon agreement by both parties, grant closeout procedures are initiated.

618. Misconduct. The Grantee is primarily responsible for preventing, detecting, investigating, and correcting misconduct involving individual researchers or misconduct governing science and

engineering research. When the institution fails to take corrective action, the FAA will deal with the misconduct charge as appropriate.

619. Enforcement. 2 CFR 215 outlines the following guidelines for enforcement of Federal grant awards.

a. Remedies for Noncompliance. If a recipient materially fails to comply with the terms and conditions of an award, whether stated in a Federal statute, regulation, assurance, application, or notice of award, the Federal awarding agency may take one or more of the following actions, as appropriate in the circumstances:

(1) Temporarily withhold cash payments pending correction of the deficiency by the recipient or more severe enforcement action by the Federal awarding agency.

(2) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.

(3) Wholly or partly suspend or terminate the current award.

(4) Withhold further awards for the project or program.

(5) Take other remedies that may be legally available.

b. Effects of Suspension and Termination. Costs of a recipient resulting from obligations incurred by the recipient during a suspension or after termination of an award are not allowable unless the awarding agency expressly authorizes them in the notice of suspension or termination.

c. Relationship to Debarment and Suspension. The enforcement remedies identified in this section, including suspension and termination, do not preclude a recipient from being subject to debarment and suspension under Executive Orders 12549 and 12689 and 49 CFR part 29.

Section 5 – Grant Reporting Requirements

620. General. 2 CFR 215.71 contains criteria and procedures to be followed by Federal agencies for reporting and closeout requirements. This includes implementation of the financial reports as specified in Chapter 6 Section 625 of this order and technical reporting requirements and closeout procedures as specified below. Grantees will adhere to the required procedures.

621. Progress Reports. Principal Investigators submit progress reports to the Technical Monitor and the grants office.

a. Contents of Progress Reports. Unless otherwise specified in the grant instrument, progress reports must include:

(1) A summary of overall progress, including results obtained to date, and a comparison of actual accomplishments with proposed goals for the period.

(2) An indication of any current problems or favorable or unusual developments.

(3) A summary of work to be performed during the next budget period.

(4) Other information pertinent to the project being funded or as specified in the terms and conditions of the grant.

b. Timing of Progress Reports. Unless otherwise specified in the grant instrument, the Grantee submits progress reports semiannually, with the final report due within 90 days after the expiration of the grant.

622. Final Project Report. Within 90 days following the expiration date of the grant, the Grantee must submit one copy of the FAA Form 9550-5, Final Project Report, to the Technical Monitor and one copy to the grants office. This form contains a summary of the completed project that will be used to answer inquiries by non-scientists as to the nature and significance of the research. The form also includes space to indicate the status of submission of the final technical information items for the FAA program use.

623. Final Technical Information Items. As soon as available after completion of the project, the Grantee must submit the following technical items for program management use:

- a. Thesis abstract, if applicable.
- b. Publication citations and article reprints.
- c. Data on scientific collaborators.
- d. Information on inventions, patents, licensing.
- e. Technical description and results of the project.

f. Other materials required in the award instrument.

624. Compliance with Reporting Requirements. The FAA accounting section monitors report submissions to ensure the Grantee fulfills requirement for final disbursement information. The Technical Monitor is responsible for assuring the final project reports on the Grantee's prior, expired awards submitted by Principal Investigators before the FAA makes new awards to those individuals.

625. Grant Closeout. Grant closeout is the process by which the FAA determines that all applicable administrative actions and all required work of the grant are complete. Grants are closed upon receipt of final disbursement information in the final project report, and after determination that any other administrative requirements in the grant instrument have been met. In the event a final audit has not been performed prior to the closeout of the grant, the FAA reserves the right to recover appropriate amounts after fully considering the recommendations on disallowed costs resulting from the final audit.

Section 6. Records Retention and Audit

626. General. 2 CFR 215.71 contain requirements to be followed by Federal agencies concerning retention and custodial requirements for grant records.

627. Requirements.

a. The Grantee retains financial records, supporting documents, statistical records and other records pertinent to a grant for a period of three (3) years from submission of the Final Project Report except that:

(1) Records that relate to audits, appeals, litigation, or the settlement of claims arising out of the performance of the project are retained until such audits, appeals, litigation, or claims have been resolved.

(2) Records relating to projects subject to the project income provisions discussed in chapter 8 are retained for 3 years after the end of the Grantee's fiscal year in which the grant letter requirements for reporting income expires.

b. Unless court action or audit proceedings have been initiated, the Grantee may substitute electronic copies of original records.

c. The Aviation Research Grants Officer and the Comptroller General of the United States, or any of their duly authorized representatives, must have access to any pertinent books, documents, papers, and records of the Grantee organization (and of the performing organization, if different) to make audits, examinations, excerpts, and transcripts. Further, any negotiated contract in excess of \$10,000 made by the Grantee must include a provision to the effect that the Grantee, the FAA, the Comptroller General, or any of their duly authorized representatives, must have access to pertinent records for similar purposes.

d. To avoid duplicate recordkeeping, the FAA may make special arrangements with Grantees to retain any records that are needed for joint use. The FAA may request transfer to its custody records not needed by the Grantee when it determines that the records possess long-term, retentive value. When the records are transferred to or maintained by the FAA, the 3-year retention requirement is not applicable to the Grantee. In the rare event that these provisions are exercised, the FAA will negotiate a mutually agreeable arrangement with the Grantee regarding reimbursement of costs.

Chapter 7. Other Considerations

Section 1. Antidiscrimination Statutes

700. General.

a. A number of statutes bar recipients of Federal financial assistance from excluding persons, because of their race, sex, color, or national origin, from participation in federally supported activities. These include Title VI of the Civil Rights Act of 1964 (barring discrimination on grounds of race, color, or national origin); Section 504 of the Rehabilitation Act (barring discrimination against the handicapped); and the Age Discrimination Act. Title IX of the Educational Amendments of 1972 bars sex discrimination in federally assisted education programs or activities. In addition to statutory prohibitions, Executive Order 11246 bars various types of discriminatory employment practices under grants for construction.

b. When a Grantee receives an Equal Opportunity Complaint, a copy of the original complaint should be sent to the Grants Office, which will retain a file copy and forward a copy to the Office of Civil Rights.

c. When a recipient of an FAA award receives an Equal Opportunity Complaint relative to Executive Order 11246, a copy of the original complaint should be sent to the U.S. Department of Labor, Office of Federal Contract Compliance Programs and a copy sent to the Grants Office.

701. Civil Rights Act of 1964.

a. **Background.** Section 602 of the Civil Rights Act of 1964 (Public Law 88-352; 42 U.S.C. 2000d et seq.) provides that no person in the United States must, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance, and requires that each Government agency that is empowered to extend such financial assistance issue rules or regulations implementing Title VI of the Act with respect to such programs or activities administered by the agency.

b. **DOT Regulations.** DOT regulations implementing Title VI of the Civil Rights Act are contained at 49 CFR Part 21. These regulations are also applicable to any subrecipients such as subgrantees, contractors and subcontractors of a Grantee, and successors in interest, other than subrecipients for commercially available supplies, materials, equipment, or general support services. The regulations require that as a condition of approval of an application for assistance, the applicant must execute the Assurance of Compliance form, whether or not a similar assurance form has been filed with another Federal agency.

c. **Assurance of Compliance.** Copies of the Assurance of Compliance form are available. The signed original should be mailed to the grants office. Once a properly executed form has been filed with the FAA, it will cover all future applications to the FAA. Acceptance of a subsequent grant constitutes affirmation that the Assurance of Compliance will be fully applicable to the grant.

d. Civil Rights Assurance--Subrecipients. Before any organization serves as a subrecipient on the grant (for other than the provision of commercially available supplies, materials, equipment, or general support services), it must first file an Assurance of Compliance form with either the Grantee or the FAA.

e. Grant Provisions. Each new grant award must contain an article implementing Title VI.

702. Rehabilitation Act of 1973.

a. Background. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) provides that "no otherwise qualified handicapped individual in the United States...shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

b. DOT Regulations. DOT regulations implementing Section 504 are found at 49 CFR Part 27. Relevant regulations implementing Section 504 are found at 14 CFR Part 382. These regulations also apply to subrecipients such as subgrantees, contractors and subcontractors of a Grantee, and successors in interest (other than subrecipients for the provision of commercially available supplies, materials, equipment, or general support services).

c. Assurance of Compliance. In lieu of requiring the submission of a separate handicap assurance or certification, either on a one-time basis or repeatedly with the submission of each proposal, as determined by the Grants Officer, each grant will contain an express assurance statement requiring the Grantee to fulfill its handicap obligations under FAA rules.

d. Rehabilitation Assurance--Subrecipients. In lieu of requiring Grantees to obtain separate assurances or certifications from subgrantees (subrecipients) receiving financial assistance under the grant, Grantees will include in all agreements with subrecipients (for other than the provision of commercially available supplies, materials, equipment, or general support services), a handicap assurance statement comparable to that included in grants.

e. Grant Conditions. Each grant must implement Section 504 of The Rehabilitation Act of 1973 and the associated FAA regulations.

703. Title IX—Sex Discrimination. Subject to certain exceptions regarding admission policies at certain religious and military institutions, Title IX of the Education Amendments of 1972 (20 U.S.C. 1681-1686) prohibits the exclusion of persons on the basis of sex from any education program or activity receiving Federal financial assistance. Neither DOT nor FAA has issued any rules or regulations further implementing these statutory provisions with respect to its programs. The FAA interprets the statute as applying to grants under its various science and engineering education programs, but not to grants under non-education programs such as grants for scientific and engineering research. All Grantees under science and engineering education programs are expected to comply with Title IX.

704. Age Discrimination Act.

a. Background. The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.), provides that pursuant to regulations issued by the Department of Health and Human Services "no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance."

b. Grant Conditions. Each grant must be conducted in compliance with the provisions of the Age Discrimination Act of 1975.

705. Equal Employment Opportunity Under Executive Order 11246. The Executive Order 11246 (E.O 11246) prohibits federal contractors and subcontractors and federally-assisted construction contractors and subcontractors that generally have contracts that exceed \$10,000 from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin. It also requires covered contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment.

706. Genetic Information of Non-Discrimination (GINA)

a. Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA), which prohibits genetic information discrimination in employment, took effect on November 21, 2009.

b. Under Title II of GINA, it is illegal to discriminate against employees or applicants because of genetic information. Title II of GINA prohibits the use of genetic information in making employment decisions, restricts employers and other entities covered by Title II (employment agencies, labor organizations and joint labor-management training and apprenticeship programs – referred to as “covered entities” from requesting, requiring or purchasing genetic information and strictly limits the disclosure of genetic information.

Section 2. Protection of Living Organisms

707. Human Subjects.

a. The Grantee is responsible for the protection of the rights and welfare of human subjects involved in research and development and related activities.

b. Before a grant involving use of human subjects can be made, the FAA must receive a statement that the research has been reviewed and approved by the appropriate Institutional Review Board at the Grantee organization (or that the research is exempt from such review), and that the Grantee ensures the FAA that it will comply with the Model Federal Policy for Protection of Human Subjects. This statement needs to be submitted to the FAA program office processing the proposal as soon as possible. Applications from institutions not having a general assurance on file with DHHS will first be reviewed for scientific merit. If the proposal is accepted, the FAA will negotiate a special assurance.

c. Grantees are referred to the Federal Register, Volume 51, No. 106, pages 20204-20217, June 3, 1986, Proposed Model Federal Policy for Protection of Human Subjects.

708. Animal Welfare.

a. The Grantee is responsible for the humane care and treatment of vertebrate animals used or intended for use in such activities as field or laboratory research, development, training, education, or biological testing or for related purposes supported by FAA grants.

b. Please refer to the Office of Extramural Research at <http://grants.nih.gov/grants/olaw/olaw.htm> (last viewed 1-17-2012). The Office of Laboratory Animal Welfare provides guidance and interpretation of the Public Health Service (PHS) Policy on Humane Care and Use of Laboratory Animals, supports educational programs, and monitors compliance with the Policy by Assured institutions and PHS funding components to ensure the humane care and use of animals in PHS-supported research, testing, and training, thereby contributing to the quality of PHS-supported activities.

709. Marine Mammal Protection. The Grantee will protect marine mammals in research activities supported by the Grantee. Proposals submitted in support of marine research activities will include a statement that the Grantee will comply with the Marine Mammal Protection Act of 1972, Public Law 92-522.

Section 3. Information Handling

710. Questionnaires: Data Collection Under FAA Grants.

a. Paperwork Control. Under the Office of Management and Budget (OMB) regulation "Controlling Paperwork Burdens on the Public" (5 CFR 1320), a Grantee's obtaining of information from 10 or more persons by means of identical questions is considered to be "sponsored" by the FAA if the Grantee is collecting the information at the specific request of the FAA or the terms of the grant require specific approval of the collection or its procedures. If either of these conditions is met, OMB approval of the data collection is generally required and Grantees should obtain the necessary control number from the Technical Monitor.

b. Policy on Data Collection. Data collection activities of Grantees are the responsibility of Grantees, and FAA support of a project does not constitute approval of the survey design, questionnaire content, or data collection procedures. No representation may be made to respondents that such data are being collected for or in association with the FAA, the Department of Transportation, or the Government. However, this requirement is not intended to preclude mention of FAA support of the project in response to an inquiry or acknowledgment of such support in any publication of this data.

711. Release of Information.

a. Routine Information Releases. Listing of FAA assistance awards made within a particular state is available through the Federal Assistance Award Data System on a quarterly basis.

b. Press Releases. Grants for projects that appear to be of special interest to the general public may be made the subject of an FAA or a joint FAA/Grantee organization press release to the news media. Notification of all pending awards in excess of \$1,500,000 must be furnished to the Office of the Secretary of Transportation public release process prior to transmission to Grantees. Form DOT F 4220.41 must be used to provide required grant award information to the Assistant Secretary for Governmental Affairs.

c. Open Government Legislation.

(1) Pursuant to the Freedom of Information Act (FOIA) of 1974 (5 U.S.C. 552), the FAA will provide agency records, with certain exceptions, if the request is in writing and identified as a FOIA request, and if the records sought are described with sufficient specificity to permit identification. The requester must also agree to pay fees that are chargeable under DOT and FAA regulations.

(2) Detailed procedures are contained in 49 CFR Part 7 and 14 CFR Part 191.

(3) Pursuant to the FOIA, the FAA may be required to release to the public information, correspondence, and documents received from Grantees, with limited exceptions.

d. Release of Project Reports.

(1) Policy is that the results of the FAA-funded research be made publicly available through appropriate dissemination channels. In implementing this policy, the FAA encourages Grantees to arrange for access to research results through referred dissemination channels. These include referred journals; edited books, monographs and other publications; and national data banks operated by Government agencies and private organizations.

(2) Project reports normally will be made available to others on request. In recognition of the author's interest to be the first to publish the results of his or her research, the FAA will normally honor requests to delay release of these reports.

(3) Sometimes normal channels are unable to provide for adequate dissemination of project reports submitted by Grantees. For substantive project reports (i.e., those reporting results of new scientific or engineering research, policy research, or applied research), the FAA will arrange for dissemination through the National Technical Information Service (NTIS) of the Department of Commerce. The various Technical Monitors are responsible for ensuring that the appropriate arrangements for dissemination to NTIS are made. The FAA may use its own program funds to meet costs associated with dissemination activities, including payment of page charges to journal publishers and processing charges for furnishing reports to NTIS or other information centers.

Section 4. International Considerations

712. Travel to Foreign Countries.

a. Definition. In grants to U. S. organizations, "foreign travel" means travel to, between, or within a country other than the United States, its territories, or Canada. U.S. territories include Guam, American Samoa, Puerto Rico, the Virgin Islands, Canal Zone, and the Trust Territory of the Pacific Islands. For awards to foreign organizations, "foreign travel" means travel outside the boundaries of the country in which the Grantee is located.

b. Prior Approval.

(1) If the proposal contemplates specific foreign travel, FAA approval from the Technical Monitor and the Grants Officer will be indicated in the travel line item of the grant budget.

(2) If not shown on the travel line of the grant budget, prior FAA approval is required for each separate foreign trip, except travel:

(a) To Canada

(b) In those instances where unscheduled changes occur in the prior established itinerary of a research vehicle, which in turn requires a change in previously approved foreign trips for the purpose of joining or departing said vehicle.

(3) If it is necessary for Federal Employees (Technical Monitors, Program Sponsors, etc.) to conduct foreign travel directly related to the grant with which they are involved, approval for such travel must be obtained from the FAA Administrator.

c. Use of United States-Flag Air Carriers.

(1) The Comptroller General of the United States, by Decision B-138942 of June 17, 1975, as amended March 31, 1981, provided guidelines for implementation of Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1517).

(2) Any air transportation to, from, between, or within a country other than the United States of persons or property, the expense of which will be assisted by FAA funding, must be performed by a U.S.-flag air carrier if service provided by such a carrier is "available."

(3) For the purposes of this requirement, U.S.-flag air carrier service is considered "available" even though:

(a) Comparable or a different kind of service can be provided at less cost by a foreign-flag air carrier.

(b) Foreign-flag air carrier service is preferred by, or is more convenient for, the FAA or traveler.

(c) Service by a foreign-flag air carrier can be paid for in excess foreign currency.

(4) The following rules apply unless their application would result in the first or last leg of travel from or to the United States being performed by a foreign-flag air carrier:

(a) A U.S.-flag air carrier must be used to destination or, in the absence of direct or through service, to the farthest interchange point on a usually traveled route.

(b) If a U.S.-flag air carrier does not serve an origin or interchange point, a foreign-flag air carrier must be used only to the nearest interchange point on a usually traveled route to connect with a U.S.-flag air carrier.

(c) If a U.S.-flag air carrier involuntarily reroutes the traveler via a foreign-flag air carrier, the foreign-flag air carrier may be used notwithstanding the availability of alternative U.S.-flag air carrier service.

d. Use of Foreign-Flag Air Carriers for Travel to and from the United States. Use of a foreign-flag air carrier is permissible if:

(1) The airport abroad is the traveler's origin or destination airport, and use of U.S.-flag air carrier service would extend the time in a travel status by at least 24 hours more than travel by a foreign-flag air carrier.

(2) The airport abroad is an interchange point, and use of U.S.-flag air carrier service would require the traveler to wait 6 hours or more to make connections at that point, or would extend the time in a travel status by at least 6 hours more than travel by a foreign-flag air carrier.

e. Use of Foreign-Flag Air Carriers for Travel Between Points Outside the United States. Use of a foreign-flag air carrier is permissible if the travel:

(1) By a foreign-flag air carrier would eliminate two or more aircraft changes en route.

(2) By a U.S.-flag air carrier would extend the time in a travel status by at least 6 hours more than travel by a foreign-flag air carrier.

(3) Is not part of the trip to or from the United States, and use of a U.S.-flag air carrier would extend the time in a travel status by at least 6 hours more than travel by a foreign-flag air carrier.

f. Use of Foreign-Flag Air Carriers for Short Distance Travel. For all short distance travel, regardless of origin and destination, use of a foreign-flag air carrier is permissible if the elapsed travel time on a scheduled flight from origin to destination airport by a foreign-flag air carrier is 3 hours or less and service by a U.S.-flag air carrier would double the travel time.

g. Charter Flights. Because of the risk of catastrophic loss, the FAA does not encourage the use of charter flights as a means of mass transportation for groups of scientists nor does it make arrangements for purchase of charter flight airline tickets.

713. Projects in a Foreign Country.

a. General. Prior to undertaking any projects outside the United States, the Grantee must ensure that any permits or licenses required by the host country or the political subdivision in which the project will be performed have been obtained and that the researcher(s) will abide by the appropriate ordinances of such foreign countries. Records or evidence that such rules have been complied with should be forwarded to the program office prior to the undertaking of the research. FAA funds may not be used in support of a project that is prohibited by law in the country in which it is undertaken. The program office should be notified in advance of arrangements for the distribution of data, reports, and specimens, as well as arrangements for the participation of foreign scientists.

b. FAA-Supported Activities in Greenland. All scientific research in Greenland must be approved in advance by the Danish Government. Applications for projects in which U.S. citizens and U.S. nationals are involved in any way (logistical, operational, and/or financial support) must be submitted to the Danish Government through diplomatic channels (i.e., through the U.S. Department of State and the American Embassy, Copenhagen) to the Danish Ministry of Foreign Affairs.

714. Passports and Visas. The FAA assumes no responsibility for securing passports or visas required by any person because of participation in an FAA-supported project. It should be noted that some countries that normally do not require visas for tourists do require special visas for scientists engaged in research or studies.

715. International Travel Grants. Funds for international travel grants will normally not exceed the cost of a round-trip, economy class airline ticket between the approved points of origin and destination. Group travel grants awarded to a university, professional society, or other non-profit institution to enable it to coordinate U.S. participation in one or more scientific meetings held abroad may include a flat rate of \$50 per traveler for the general administration of this type of project. The FAA international travel awards may not be supplemented by funds from any other grant.

Section 5. Intellectual Property

716. Standard Patent Rights Clause

a. Definitions

"Invention" means any invention or discovery that is or may be patentable or otherwise protectable under title 35 of the United States Code, or any variety of plant that is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321, et seq.).

"Made" means –

(1) When used in relation to any invention other than a plant variety, the conception or first actual reduction to practice of the invention; or

(2) When used in relation to a plant variety, that the Grantee has at least tentatively determined that the variety has been reproduced with recognized characteristics.

"Nonprofit organization" means a university or other institution of higher education or an organization of the type described in section 501(c) (3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

"Practical application" means to manufacture, in the case of a composition of product; to practice, in the case of a process or method; or to operate, in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

"Subject invention" means any invention of the Grantee made in the performance of work under this contract.

b. Grantee's rights

(1) Ownership. The Grantee may retain ownership of each subject invention throughout the world in accordance with the provisions of this clause.

(2) License.

(a) The Grantee shall retain a nonexclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, unless the Grantee fails to disclose the invention within the times specified in paragraph c of this clause.

(b) The Grantee's license may be revoked or modified by the agency to the extent necessary to achieve expeditious practical application of subject invention in a particular country, in accordance with procedures at 37 CFR Part 404.

c. Grantee's obligations

(1) The Grantee shall disclose in writing each subject invention to the Grants Officer within 2 months after the inventor discloses it in writing to Grantee personnel responsible for patent matters. The disclosure shall identify the inventor(s) and this grant or cooperative agreement under which the invention was made. It shall be sufficiently complete in technical detail to convey a clear understanding of the subject invention. The disclosure shall also identify any publication, on sale (i.e. sale or offer for sale), or public use of the subject invention or whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication. In addition, after disclosure to the agency, the Grantee shall promptly notify the Grants Officer of the acceptance of any manuscript describing the invention for publication, and any on sale or public use.

(2) The Grantee shall elect in writing whether or not to retain ownership of any subject invention by notifying the Grants Officer within 2 years of disclosure to the agency. However, in any case where publication, on sale, or public use has initiated the 1-year statutory period during which valid patent protection can be obtained in the United States, the period for election of title may be shortened by the agency to a date that is no more than 60 days prior to the end of the statutory period.

(3) The Grantee shall file either a provisional or nonprovisional patent application or a Plant Variety Protection Application on an elected subject invention within 1 year after election. However, in any case where a publication, sale, or public use has initiated the 1-year statutory period during which valid patent protection can be obtained in the United States, the Grantee shall file the application prior to the end of the statutory period. If the Grantee files a provisional application, it shall file a nonprovisional application within 10 months of the filing of the provisional application. The Grantee shall file patent applications in additional countries or international patent offices within either 10 months of the first filed patent application (whether provisional or nonprovisional) or 6 months from the date permission is granted by the Commissioner for Patents to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) The Grantee may request extensions of the time for disclosure, election, or filing under subparagraphs c.(1), c.(2) and c.(3) of this clause.

d. Government rights

(1) Ownership. The Grantee shall assign to the agency, upon written request, title to any subject invention-

(a) If the Grantee fails to disclose or elect ownership to the subject invention within the times specified in paragraph c of this clause, or elects not to retain ownership; provided, that the agency may request title only within 60 days after learning of the Grantee's failure to disclose or elect within the specified times.

(b) In those countries in which the Grantee fails to file patent applications within the times specified in paragraph c of this clause; provided, however, that if the Grantee has filed a patent application in a country after the times specified in paragraph c of this clause, but prior to its receipt of the written request of the agency, the Grantee shall continue to retain ownership in that country.

(c) In any country in which the Grantee decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

(2) License. If the Grantee retains ownership of any subject invention, the Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice, or have practiced for or on its behalf, the subject invention throughout the world.

e. Grantee action to protect the Government's interest.

(1) The Grantee shall execute or to have executed and promptly deliver to the agency all instruments necessary to –

(a) Establish or confirm the rights the Government has throughout the world in those subject inventions in which the Grantee elects to retain ownership; and

(b) Assign title to the agency when requested under paragraph d of this clause and to enable the Government to obtain patent protection and plant variety protection for that subject invention in any country.

(2) The Grantee shall require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in the Grantee's format each subject invention in order that the Grantee can comply with the disclosure provisions of paragraph c of this clause, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. The disclosure format should require, as a minimum, the information required by subparagraph c (1) of this clause. The Grantee shall instruct such employees, through employee agreements or other suitable educational programs, as to the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The Grantee shall notify the Grants Officer of any decisions not to file a nonprovisional patent application, continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than 30 days before the expiration of the response or filing period required by the relevant patent office.

(4) The Grantee shall include, within the specification of any United States nonprovisional patent or plant variety protection application and any patent or plant variety protection certificate issuing thereon covering a subject invention, the following statement, "The invention was made with Government support under (identify the grant or cooperative agreement) awarded by the Federal Aviation Administration. The Government has certain rights in the invention."

f. Reporting on utilization of subject inventions. The Grantee shall submit, on request, periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining utilization of the subject invention that are being made by the Grantee or its licensees or assignees. The reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Grantee, and such other data and information as the agency may reasonably specify. The Grantee also shall provide additional reports as may be requested by the agency in connection with any march-in proceeding undertaken by the agency in accordance with paragraph h of this clause. The Grantee shall also mark any utilization report as confidential/proprietary to help prevent inadvertent release outside the Government. As required by 35 U.S.C. 202(c) (5), the agency will not disclose such information to persons outside the Government without the Grantee's permission.

g. Preference for United States industry. Notwithstanding any other provision of this clause, neither the Grantee nor any assignee shall grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for an agreement may be waived by the agency upon a showing by the Grantee or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States, or that under the circumstances domestic manufacture is not commercially feasible.

h. March-in rights. The Grantee acknowledges that, with respect to any subject invention in which it has retained ownership, the agency has the right to require licensing pursuant to 35 U.S.C. 203 and 210(c), and in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the agency in effect on the date of contract award.

i. Special provisions for contracts with nonprofit organizations. If the Grantee is a nonprofit organization, it shall –

(1) Not assign rights to a subject invention in the United States without the written approval of the agency, except where an assignment is made to an organization that has as one of

its primary functions the management of inventions, provided, that the assignee will be subject to the same provisions as the Grantee;

(2) Share royalties collected on a subject invention with the inventor, including Federal employee coinventors (but through their agency if the agency deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;

(3) Use the balance of any royalties or income earned by the Grantee with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions for the support of scientific research or education

(4) Make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business concerns, and give a preference to a small business concern when licensing a subject invention if the Grantee determines that the small business concern has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business concerns; provided that the Grantee is also satisfied that the small business concern has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the Grantee.

(5) Allow the Secretary of Commerce to review the Grantee's licensing program and decisions regarding small business applicants, and the negotiate changes to its licensing policies, procedures, or practices with the Secretary of Commerce when the Secretary's review discloses that the Grantee could take reasonable steps to more effectively implement the requirements of paragraph i(4) of this clause.

j. Subcontracts, or subgrants, as appropriate

(1) The Grantee shall include the substance of this clause, including this paragraph j, in all subcontracts for experimental, developmental, or research work to be performed by a small business concern or nonprofit organization.

(2) The Grantee shall include in all other subcontracts for experimental, developmental, or research work the substance of the patent rights clause required to adequately protect the Government's interests consistent with section 3.5 of the FAA Acquisition Management System.

(3) At all tiers, the patent rights clause must be modified to identify the parties as follows: references to the Government are not changed, and the sub Grantee or subcontractor has all rights and obligations of the Grantee in the clause. The Grantee shall not, as part of the consideration for awarding the subgrant or subcontract; obtain rights in the subgrantee's or subcontractor's subject inventions.

(4) In subcontracts or sub grants, at any tier, the agency, subcontractor, subgrantee, and the Grantee agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor or subgrantee and the agency with respect to the matters

covered by the clause; provided, however, that nothing in this paragraph is intended to confer any jurisdiction under the FAA disputes resolution process, or any board or judicial proceeding, in connection with proceedings under paragraph h of this clause.

(END OF CLAUSE)

717. Intellectual Property. Intellectual Property refers to any product of the human intellect, such as an idea, invention, expression, business methods, industrial process, chemical process, etc., that has some value in the marketplace. Rights and protection for owners of intellectual property are based on Federal patent, trademark, and copyright laws and State trade secret laws.

718. Patents and Inventions.

a. Background. Effective July 1, 1981, Section 6 of Public Law 96-517 (December 12, 1980), known as the Bayh-Dole Act (35 U.S.C. 200 et seq.), governs the disposition of rights in inventions in the performance of funding agreements that relate to performance of scientific and engineering research with domestic small business firms and non-profit organizations, including educational institutions. Sections 202-204 of that Act gave these organizations a first right of refusal to title in inventions made by them in performance of Government grants and contracts subject to some limited exceptions.

b. Regulations implementing the application of the Bayh-Dole Act to grants and cooperative agreements are found at 37 CFR Part 40.1.

c. Standard Patent Rights Clause. The patent rights clause shown in Section 716 will be used in every grant and cooperative agreement awarded by the FAA that relates to scientific or engineering research unless a special patent clause has been negotiated. Such special patent rights clause may be negotiated with other than non-profit organizations.

719. Copyright.

a. Rights to Copyrightable Material. The following principles governing the treatment of copyrightable material produced under grants will apply:

(1) The FAA normally will acquire only such rights to copyrightable material as are needed to achieve its purposes or to comply with the requirements of any applicable government wide policy or international agreement.

(2) To preserve incentives for private dissemination and development, the FAA normally will not restrict or take any part of income earned from copyrightable material except as necessary to comply with the requirements of any applicable government wide policy or international agreement.

(3) In exceptional circumstances, the FAA may restrict or eliminate an awardee's control of FAA supported copyrightable material and of income earned from it, if the FAA determines that this would best serve the purposes of a particular program or award.

b. Standard Copyrightable Material Clause. The FAA standard copyrightable material clause contained below will be used in every grant and cooperative agreement awarded by the FAA that relates to scientific or engineering research unless a special copyrightable material clause has been negotiated.

Standard Copyrightable Material Clause

(1) "*SUBJECT WRITING*" includes such items as reports, books, journal articles, software, sound recordings, video tapes, and video discs and means ANY MATERIAL THAT:

(a) Is or may be copyrightable under Title 17 of the United States Code, and

(b) Is produced by the Grantee or its employees in the performance of work under this grant.

(2) *COPYRIGHT OWNERSHIP, GOVERNMENT LICENSE.* Except as otherwise specified in the grant or by this paragraph, the Grantee may own or permit others to own copyright in all subject writings. The Grantee agrees that if it or anyone else does own copyright in a subject writing, the Federal Government will have a non-exclusive, non-transferable, irrevocable, royalty-free license to exercise or have exercised for or on behalf of the United States throughout the world all the exclusive rights provided by copyright. Such license, however, will not include the right to sell copies or photo records of the copyrighted works to the public.

(3) *GRANTS AFFECTED BY INTERNATIONAL AGREEMENTS.* If the award indicates it is subject to an identified international agreement or treaty, the FAA can direct the Grantee to convey to any foreign participant or otherwise dispose of such rights to subject writings as are required to comply with that agreement or treaty.

(4) *GRANTEE ACTION TO PROTECT GOVERNMENT INTERESTS.* The Grantee agrees to acquire, through written agreement or an employee relationship, the ability to comply with the requirements of the preceding paragraphs and, in particular, to acquire the ability to convey rights in a subject writing to a foreign participant if directed by the FAA under the previous paragraph. The Grantee further agrees that any transfer of copyright or any other rights to a subject writing, by it or anyone whom it has allowed to own such rights, will be made subject to the requirements of this article.
(END OF CLAUSE)

720. Special Patent and Copyright Situations. The standard patent rights clause or standard copyrightable material clause need not be applicable or will normally be modified in the followingsituations:

a. Special Patent Provisions. At the request of the prospective awardee or on recommendation from the FAA Chief Counsel, or designee, with the concurrence of the

cognizant program office and Grants Officer, special patent provisions may be negotiated based on any of the following:

(1) When the FAA Chief Counsel, or designee, determines that restriction or elimination of the right of a prospective awardee to retain title to any subject invention will better promote the policy and objectives of Chapter 38 of Title 35 of the U.S.C. or the Federal Aviation Act, or any of the Acts that authorized the creation of the Grants Program.

(2) When a prospective awardee that is not a small business firm or domestic non-profit organization shows that any of the rights or conditions normally reserved or should be waived because:

(a) The interests of the United States and the general public will be better served thereby as, for example, where the prospective awardee is uniquely or highly qualified but cannot or will not accept the standard patent rights clause; or

(b) The prospective awardee is making a substantial contribution of funds, facilities, or equipment to the work performed under the award.

(3) When research is to be performed outside the United States.

(4) When other exceptional circumstances exist.

b. Special Copyright Provisions. The FAA standard copyrightable material clause need not be applicable or will normally be modified for awards not expected to involve subject writings (such as travel or equipment grants). If such awards are made under an international cooperative agreement, however, some provision may be required.

c. Awards Affected by International Agreements. Many of the bilateral and multilateral agreements and treaties underlying the FAA's international cooperative research programs contain provisions governing the allocation of rights to copyrightable material or allocation of patent rights.

(1) These sometimes require an allocation of rights different from that provided by the standard copyrightable material clause or the standard patent rights clause. The standard clauses will be modified in these cases by:

(a) Identification of the applicable agreement or treaty.

(b) Inclusion of the following statement in the award letter: "**This project is supported under the cooperative science program listed below. Your rights in inventions, writings, and data may be affected.**"

(2) After an invention is disclosed to the Technical Monitor, the recipient of an award subject to an international agreement will be informed as to what rights, if any, it must transfer to foreign participants.

721. Rights in Data Banks and Software.

a. Background. Some of the grants support the accumulation of a large body of machine readable data by any of a number of means including literature search, consolidation of existing material, and original creation or collection. Accumulation of such a data bank may itself be a principal purpose of the grant or the data bank may be expected to be so large and comprehensive that it would probably be useful to others for other purposes. A relatively few of the grants may support projects that produce software as a major end product, such as methodologies for processing data, general purpose programs, and course materials, which can readily be adapted to other computers.

b. Availability. Unless otherwise provided in the grant letter, data banks (including machine-readable data) and software, produced with the assistance of the grants will be treated in accordance with standard copyrightable material clause. Consistent with the policy stated in paragraph 860a, the FAA encourages and, in some cases, may require that such materials be distributed or made available. Where a special distribution arrangement is required, it will be made part of the award instrument.

Section 6. Publication/Distribution of Grant Materials

722. Publication.

a. Policy. It is policy to encourage and, in some cases, require publication and distribution of the results of research conducted under grants. Generally, publication occurs in scientific journals or other news media particularly addressed to the scientific community. Page charges for publication of scientific results in scientific journals may be budgeted as a necessary part of research costs under the grants.

b. Grantee Responsibilities. The preparation, content, editing, and publication of manuscripts are the responsibilities of the Principal Investigator, consistent with such policies and procedures as the Grantee may prescribe. The FAA does not review manuscripts prior to submission for publication. Upon publication, a minimum of two copies of reprints will be furnished to the program office.

c. Security and Hazardous Materials Safety Publications.

(1) All research results related to Security and Hazardous Materials Safety must be reviewed by the Assistant Administrator for the Office of Security and Hazardous Materials Safety, or designee, prior to publication or release to the general public. This includes such items as dissertations, theses, archival and conference technical papers, technical reports, etc. This requirement is to determine if the results contain information that may assist terrorists in undermining established security systems.

(2) Information must be submitted to the grant Technical Monitor, who then forwards information to the Associate Administrator for Security and Hazardous Materials Safety, through his or her respective appropriate management official.

(3) Within 2 weeks of submission, a notice of approval or declination for publication or release, or a request for a revision, will be provided by the Associate Administrator for Security and Hazardous Materials Safety, ACS- 1, to the Technical Monitor through his or her respective service director.

d. Acknowledgment and Disclaimer.

(1) All subject writings published or distributed must contain the following acknowledgment: "This material is based upon work supported by the Federal Aviation Administration under Grant Number. (Grantee enters grant number)."

(2) All subject writings, except scientific articles or papers published in scientific, technical or professional journals must also contain the following disclaimer: "Any opinions, findings, conclusions, or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of the Federal Aviation Administration."

Section 7. Acquisition and Control of Material and Supplies

723. Title to Material and Supplies. Title to materials developed and equipment and supplies purchased under the grant will vest in the Grantee institution unless a prior agreement has been made in writing that title will vest in the FAA.

Section 8. Miscellaneous

724. Liabilities and Losses. The FAA assumes no liability with respect to accidents, bodily injury, illness, breach of contract, or any other damages or loss, or with respect to any claims arising out of any activities undertaken with the financial support of a grant, whether with respect to persons or property of the Grantee or third parties. The Grantee is advised to insure or otherwise protect itself or others as it may deem desirable.

725. Tax Status. Determination of the tax status of an organization or person receiving compensation in any form as a result of a grant is the responsibility of the Internal Revenue Service, State and local tax authorities and the courts.

726. National Security.

a. Classifiable Results Originating Under Grants.

(1) FAA does have original classification authority. However, the FAA does not expect that results of FAA-supported research projects will be classifiable, except in very rare instances.

(2) Executive Order 12356 (47 CFR 14874; 1982) states that basic scientific research information not clearly related to the national security may not be classified. Nevertheless, some information concerning, among other things, scientific, technological, or economic matters relating to the national security or cryptology may require classification.

(3) There may be cases when the Grantee originates information during the course of a FAA supported project that requires classification under Executive Order 12356.

(4) In such a case, the Grantee has the responsibility to promptly:

(a) Submit the information directly to the FAA.

(b) Protect the information as though it were classified until the Grantee is informed that the information does not require classification.

(c) Notify the appropriate Technical Monitor.

(5) Executive Order 12356 requires the agency with appropriate subject matter interest and classification authority to decide within 30 days whether to classify the material. If it determines the information requires classification; the Grantee shall cooperate with that agency, the FAA, or other appropriate agencies in securing all related project notes, papers, and other materials.

(6) If the information is determined to require classification, the performing organization may wish or need to discontinue the project.

b. Non-Classifiable Results Originating Under Aviation Security Research. Aviation security research may lead to results that, while not classifiable, may be declared protected and withheld from general public distribution including requests under the Freedom of Information Act, 5 U.S.C. 552 .. This authority is set forth in Title 49 CFR Part 15 "Protection of Sensitive Security Information."

727. Environmental Impact.

a. The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) requires that Federal agencies consider the potential for environmental impacts of major federal actions that may significantly impact the quality of environment, and to access criteria that are traditionally used to decide:

(1) The potential for environmental impact from proposed actions.

(2) The level of environmental review for proposed actions and categories of actions as set forth in FAA Order 1050.1.

b. If a proposed project might have an environmental impact the environmental review of the proposed project should be conducted in accordance with the provisions of FAA Order 1050.1 and should furnish sufficient information to assist FAA officials in assessing the potential environmental consequences of implementing the project. The FAA will determine:

(1) The adequacy of the information submitted.

(2) Whether or not additional information is needed.

(3) Whether or not further environmental review is necessary.

Appendix 1. Public Laws, Executive Orders, and Other Directives

The following is a list of various public laws, executive orders, and other directives that are applicable to research grants.

Public Laws

P.L.85-800 Copeland "Anti-Kick Back Act"
(18 U.S.C.874, 40 U.S.C.276c)

P.L.86-624 Davis-Bacon Act (40 U.S.C.276a)
& P.L.88-349

P.L.87-581 Contract Work Hours and Safety Standards Act of 1962
(40 U.S.C.327-330)

P.L.88-352 Civil Rights Act of 1964, Title VI (42 U.S.C. 2000d)

P.L.89-544 Laboratory Animal Welfare Act of 1966, as amended by the Animal
Welfare Act of 1970
(7 U.S.C.2131 et seq.)

P.L.89-665 National Historic Preservation Act of 1966 (16 U.S.C.470)

P.L.89-754 Demonstration Cities and Metropolitan Development Act of 1966 Section 204 (42
U.S.C.3334)

P.L.90-577 Intergovernmental Cooperation Act of 1968 (43 U.S.C.4201 et seq.)

P.L.90-620 Federal Reports Act (44 U.S.C. 3501-3511)

P.L.91-190 National Environmental Policy Act of 1969, Section 102 (42 U.S.C.4332)

P.L.91-604 Clean Air Act of 1970, Section 306 (42 U.S.C.7401)

P.L.92-318 Education Amendments of 1972, Title IX (20 U.S.C.1681-1686)

P.L.92-500 Federal Water Pollution Control Act of 1972, Section 508 U.S.C.1368 (33 et seq.)

P.L.92-522 Marine Mammal Protection Act of 1972 (16 U.S.C.1361)

P.L.93-112 Rehabilitation Act of 1973, Section 504 (29 U.S.C.794)

P.L.93-234 Flood Disaster Protection Act of 1973 (42 U.S.C.4001 et seq.)

P.L.93-502 Freedom of Information Act of 1974 (5 U.S.C.552)

P.L.93-623 International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C.1517) (See also Comptroller General Decision B-138942 of 3/1/81)

P.L.95-220 Federal Program Information Act & P.L.98-169 Clean Air Act of 1970 (42 U.S.C.1857 ET set) and Pollution Control Act (33 U.S.C.1251) as amended, Section 508, Clean Water Act (33 U.S.C.1368)

P.L.95-224 Grant & Cooperative Agreement Act of 1977 (41 U.S.C.501) P.L.96-511 Paperwork Reduction Act of 1980 (44 U.S.C.3504 (f))

P.L.96-517 Bayh-Dole Act (Patent & Trademark Amendments of 1980) (35 U.S.C.200 35 ET set)

P.L.101-121 Department of the Interior and Related Agencies Appropriation Act of 1990 (31 U.S.C.1352)

Executive Orders

11246 Non-discrimination in Employment by Government Contractors and Subcontractors (Construction) (30 CFR 123.19; amended 32 CFR 14303)

11246 Equal Employment Opportunity (amended 11375)

11247 Civil Rights

11288 Water Pollution Prevention and Abatement

11296 Evaluation of Flood Hazards

11375 Equal Employment Opportunity (2 CFR 1971-1975)

11738 Clean Air Act and Water Pollution Control Act (38 CFR 25161)

11764 Non-discrimination in Federally Assisted Programs

12356 National Security Information

12372 Intergovernmental Review of Federal Programs

12549 Debarment and Suspension

12591 Technology Transfer

12677 Historically Black Colleges and Universities

12731 Principles of Ethical Conduct for Government Officials and Employees

Federal Regulations

2 CFR Part 215

5 CFR, Part 2635 Standards of Ethical Conduct for Employees of the Executive Branch

34 CFR, Part 85 Drug Free Workplace Act of 1988

37 CFR, Part 401 Right to Inventions Made by Nonprofit Organization and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements

40 CFR, Part 15 Clean Air (EPA)

41 CFR, Part 60 Equal Employment Opportunity

48 CFR, Part 27 Presidential Memorandum on Government Patent Policy to the Heads of Executive Departments and Agencies

49 CFR, Part 18 Uniform Administrative Requirements or Grants and Cooperative Agreements to State and Local Governments