

CHAPTER 11 LIABILITIES

1. INTRODUCTION.

- a. **Applicability.** This chapter applies to all Departmental elements.
- b. **Background/Authorities.** This chapter prescribes the policies and general procedures for recording and reporting liabilities consistent with the Statement of Federal Financial Accounting Standards (SFFAS) or Government Accountability Office (GAO) Title 2 standards in the absence of SFFAS. Liabilities include those with: the environment; pensions and postretirement benefits; environmental safety and health; accounts payable; accrued expenses; interest payable; accrued payroll and benefits; accrued leave; deferred revenues, including advances; deposit funds; debt issued under borrowing authority and the Federal Financing Bank; loan guarantees and loan commitments; contingent liabilities; lease liabilities; and the Federal Employees Compensation Act. Additionally this chapter prescribes criteria for reporting liabilities covered by budgetary resources vs. those that are not.
- c. **Policy/Objectives.**

- (1) All probable and measurable liabilities, as defined by SFFAS 5, shall be measured and recorded at the most reasonable amount possible, given the circumstances under which the liability was created.

SFFAS# 5 defines a liability as "...a probable future outflow or other sacrifice of resources as a result of past transactions or events. General purpose federal financial reports should recognize probable and measurable future outflows or other sacrifices of resources arising from (1) past exchange transactions, (2) government-related events, (3) government acknowledged events, or (4) non-exchange transactions that, according to current law and applicable policy, are unpaid amounts due as of the reporting date."

- (2) Liabilities recorded in financial statements shall reflect invoices received and accruals for any costs incurred, and assets received for which progress billings, grant reimbursement requests, and other billings have not yet been received. Liabilities shall be recorded and/or footnoted regardless of whether funds are available or authorized for payment. Detailed guidance for recording and accruing Departmental liabilities can be obtained from the Office of Finance and Accounting. Guidance includes the "DOE Cost Accrual Guide" and the "Environmental Liability SOP."
- (3) Contingent liabilities shall be recorded as incurred liabilities if the loss is probable and the amount can be reasonably estimated. Loss contingencies that are judged to have a reasonably possible chance of occurring or that cannot be estimated should be included as a footnote on the financial statements.
- (4) Separate accounts shall be established for major categories of liabilities to facilitate their clear and full disclosure on financial statements. The accounting records will

Chapter 11 Liabilities

differentiate between Federal and non-Federal liabilities. Accounts will provide for the classifications contained in the Standard General Ledger Chart of Accounts (SGL).

- (5) Accounts shall be maintained on an accrual basis. Costs and revenues shall be identified with and recorded in the period in which they are incurred, even if receipt of the revenue or payment for the expenditure occurs in a subsequent accounting period. A balance should be maintained between the effort required to measure accrued costs precisely and the added value of such precision.
- (6) When receiving advances and prepayments for services not yet rendered, record a deferred revenue liability. When payment is earned, that is, goods or services have been delivered or contract terms have been met, the appropriate amount of revenues is recognized with a corresponding reduction in the liability.

2. TYPES OF LIABILITIES.

- a. **Environmental Liabilities.** The Department of Energy's (DOE)'s environmental liabilities result primarily from legacy research, production, and testing of nuclear weapons. Prior and current mission work, such as nuclear weapons stockpile activities and nuclear power technology development, also result in environmental liabilities. The Department accounts for three categories of environmental liabilities. They are:

- (1) Office of Environmental Management (EM) – liabilities for cleanup activities that are part of the EM program;
- (2) Active Facilities – liabilities for contaminated active or surplus facilities that are not in the EM program and are included in the Department's Active Facilities Data Collection System (AFDCS) or non-modeled estimate; and
- (3) Other Legacy Environmental Liabilities – cleanup activities that are not the responsibility of EM or an active/surplus facility.

The Department's Office of Environmental Management (EM) is primarily responsible for managing the legacy of contamination from the nuclear weapons complex. As such, EM manages thousands of contaminated facilities formerly used in the nuclear weapons program, oversees the safe management of large quantities of radioactive waste and nuclear materials, and is responsible for the cleanup of large volumes of contaminated soil and groundwater. This component of the environmental liability encompasses the EM life-cycle cost estimate strategic vision to complete this cleanup mission. The strategy provides for a site-by-site projection of the work required to complete all EM projects, while complying with regulatory agreements, statutes, and regulations. These projections have been documented in

Chapter 11 Liabilities

detailed plans. Each project estimate includes detailed projections of the technical scope, schedule, and estimable costs at each site for the cleanup of contaminated soil, groundwater, and facilities; treating, storing, and disposing of wastes; and managing nuclear materials. The estimates also include costs for related support activities, such as landlord responsibilities, program management, grants and cooperative agreements for participation and oversight by Native American tribes, regulatory agencies, and other stakeholders.

The Department's active facilities environmental liabilities represent anticipated remediation costs for 1) contaminated facilities still in active use by active programs and 2) for retired contaminated facilities awaiting transfer to EM. Active (non EM) programs are responsible for estimating the environmental liabilities associated with the stabilization, decontamination and decommissioning, as well as asbestos contamination of thousands of active and surplus facilities across the complex. The environmental liability estimates are largely based on a cost estimating model, AFDCS. Based on data inputs for each non-EM facility across the Department, AFDCS calculates the environmental liability estimate for each active facility. Site specific estimates are used in lieu of the AFDCS, when available.

Environmental liabilities not under the EM program or active facilities are considered Other Legacy Environmental Liabilities. This category includes the remediation of structures, and land, as well as various radioactive or hazardous materials managed and/or in use by the Department's other programs. These liabilities also include estimated cleanup and post-closure responsibilities, including surveillance and monitoring activities. The Office of Legacy Management (LM) is primarily responsible for the legacy activities at closed sites to include former uranium mills and certain sites remediated by the U.S. Army Corps of Engineers. The costs for these LM post-closure activities, including long-term surveillance and maintenance liabilities under the responsibility of the Department's other programs (i.e. Science, National Nuclear Security Administration, and Nuclear Energy), are generally estimated for a period of 75 years after the completion of the EM Program clean-up activities. In cases where a statute, regulation, or enforceable agreement exists requiring cleanup or monitoring for a different period of time after 75 years, the long term stewardship liability should be recorded to accommodate the revised time period. Also included in these liabilities are estimates for the disposition of various materials. The most significant of these materials is surplus plutonium.

- b. **Environment, Safety and Health (ES&H).** The Department's environment, safety, and health (ES&H) liability represents those activities necessary to bring facilities and operations into compliance with existing ES&H laws and regulations, including the Occupational Safety and Health Act, the Clean Air Act, and the Safe Drinking Water Act. Types of activities included in the estimate relate to the following: upgrading site-wide fire and radiological programs; nuclear safety upgrades; industrial hygiene and industrial safety; safety related maintenance; emergency

Chapter 11 Liabilities

preparedness programs; life safety code improvements; and transportation of radioactive and hazardous materials. The estimate covers corrective actions expected to be performed in future years for programs outside the purview of the Department's EM Program. ES&H activities within the purview of the EM program are included in the EM environmental liability estimate.

Processes for reporting environmental and ES&H liabilities that are required for Federal financial reporting can be obtained from the Office of Finance and Accounting.

- c. **Pension and Other Post Retirement Benefits.** The Department does not report Civil Service Retirement System (CSRS) or Federal Employees Retirement System (FERS) assets, accumulated plan benefits, or liabilities applicable to its federal employees. The Office of Personnel Management (OPM), which administers the plans, is responsible for and reports these liabilities.

The Department, however, is contractually responsible for reimbursing its major contractors who sponsor employee defined benefit pension plans for the costs of contractor employee retiree benefits because these are allowable costs under their contracts. Thus, the Department records the contractors' total liabilities for pensions in its Annual Financial Report. The Department's site contractors sponsor defined benefit pension plans that promise to pay specified benefits to their employees, such as a percentage of the final average pay for each year of service. The Department's allowable costs under these contracts include reimbursement of annual contractor contributions to these pension plans and the costs associated with managing the plans and their assets.

Most of the contractors also sponsor postretirement benefits other than pensions (PRB) consisting of predominantly postretirement health care benefits. The Department approves, for cost reimbursement purposes, these contractors' pension and PRB plans and is responsible for the allowable costs of funding the plans. Thus, the Department records the contractors' total liabilities for PRB plans in its Annual Financial Report.

Contractor Pension Plans

The Department follows the Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) 715, *Compensation – Retirement Benefits*, for contractor plans for which the Department has a continuing obligation to reimburse allowable costs. The Department has a continuing obligation to reimburse allowable costs for a variety of contractor-sponsored pension plans, both qualified and nonqualified. In this regard, benefit formulas consist of final average pay, career average pay, and dollar per month of service.

Chapter 11 Liabilities***Contractor Postretirement Benefits Other than Pensions***

The Department follows FASB ASC 715, *Compensation – Retirement Benefits*, for contractor plans for which the Department has a continuing obligation to reimburse allowable costs. The Department accrues the cost of PRB during the years that the employees render service. The Department's contractors sponsor a variety of postretirement benefits other than pensions. Benefits consist of medical, dental, life insurance, and Medicare Part B premium reimbursement.

- d. **Accounts Payable.** Amounts owed to others for goods and services received and assets acquired, for which a bill has been received or approved. Any percentage of amounts due to contractors that DOE retains as a guarantee of performance may remain in a special account established for retention. Document the accounts payable control account(s) with unpaid invoice files, subsidiary ledgers, or other forms of subsidiary records. The accounting records must distinguish between accounts payable to non-Federal entities and accounts payable to other Federal agencies.
- e. **Other Accruals and Liabilities.** Amounts owed by the Department for items or services received, expenses incurred, assets acquired, or construction performed, for which a bill (e.g., progress billings, grant reimbursement requests, and other billings) has not been received or approved. Processes for performing cost accruals for DOE can be obtained from the Office of Finance and Accounting.
 - (1) **Interest Payable.** Interest payable represents liabilities for interest expense incurred but not yet paid. These expenses typically arise from interest due on long-term debts, capital lease obligations, and late payment of invoices. The accounting records must distinguish between interest payable to non-Federal entities and interest payable to other Federal agencies.
 - (2) **Accrued Payroll and Benefits.** Accrue the unpaid wages and benefits that employees have earned at the close of each accounting period. Generally, federal performance awards are excluded.
 - (3) **Accrued Leave.**
 - (a) **Annual Leave.** Record the liability for annual leave at the current hourly rate; and adjust each year to reflect unused leave balances, statutory limitations to leave amounts, and to reflect employees transferred in or out during the year. Accrued leave for DOE employees will be recorded as a liability.
 - (b) **Compensatory Time Off.** Record the liability for compensatory time off at the overtime rate in effect when the compensatory time was earned.

Chapter 11 Liabilities

- (c) **Sick Leave.** Accrue sick leave for contractor employees if a contractual requirement exists for employees to be paid for unused sick leave. A liability for DOE employees will not be accrued since payment is not made for unused sick leave.

- (4) **Minimum Requirements for Accruing Costs.** The following are minimum requirements for accruing costs related to the indicated procurement instruments. While the minimum requirements are intended to provide a proper balance between materiality and the high volume of cost accrual transactions, accruals should ensure that the yearend financial statements present fairly the aggregate cost accruals for the Department. Accrual procedures must meet or exceed the following requirements:
 - (a) **Non-Integrated Contracts and Purchase Orders.** Accrue non-invoiced costs monthly if the uncosted balance is greater than \$1 million; and

 - (b) **Financial Assistance Instruments (e.g. Grants, Cooperative Agreements and Technology Investment Agreements).** All financial assistance instruments issued are subject to the same accrual procedures as other procurement awards. As with all other accruals, controls must be maintained to ensure monthly accrual estimates for financial assistance awards are reasonably accurate and supportable.

- f. **Deferred Revenues.** Deferred revenues represent advance payments from others to cover the cost of services, materials, or other assets that DOE will furnish in the future. The accounting records must distinguish between advances received from other Federal agencies and advances received from non-Federal entities. For additional guidance regarding advances for reimbursable work and co-sponsored projects, see Chapter 13, “Reimbursable Work, Revenues and Other Collections.” Costs incurred in the performance of work for Federal and non-Federal entities shall be accumulated and charged against the advances.

- g. **Funds Held for Others.** A liability shall be established whenever DOE has physical possession or responsibility for non-Government personal property or cash. This includes certain funds that belong to others, such as payroll deductions and deposit funds. Funds held for others also include amounts held in suspense accounts awaiting disposition or reclassification. The individual details for each of these accounts reside in the asset accounts. The balances in these accounts must be supported by schedules of voucher deductions, collections, and transfers between accounts.

- h. **Suspense Accounts.** Suspense accounts include amounts arising in the course of operations that cannot be analyzed readily and recorded to the proper account because of inadequate information, uniqueness of the transaction, or similar complications. Temporarily record such items to the suspense account to avoid undue delays to

Chapter 11 Liabilities

monthly closing. Determine the proper account for all suspense items and record them accordingly as soon as possible to ensure accurate financial reporting. In accordance with the Department of Treasury Bulletin No. 2011-06, transactions in Treasury suspense accounts 089F3885 and 089F3875 cannot be more than sixty days old. The Department is required to certify annually the balances in these accounts and provide explanations for any transactions exceeding sixty days old. Accordingly, offices need to limit their use of suspense accounts and clear this activity on a continuous basis. Failure to meet the sixty day requirement may result in the Department of Treasury prohibiting the use of such accounts.

i. **Debt.**

- (1) Certain DOE offices have been granted authority by law to borrow funds from Treasury. The statute granting the borrowing authority may contain limitations on the authority that an agency is granted such as a limit on the amount that can be outstanding at any one time. Offices are responsible for managing borrowing limitations set forth in the statute and for working with Treasury to develop a Memorandum of Understanding (MOU) that communicates the specific policies and procedures of Treasury and describes the respective responsibilities of Treasury and the office. Principal and interest payments on funds borrowed shall be made when and as due to the General Fund using the prescribed method of transfer.
- (2) Power marketing administration legislation requires recoupment of appropriate funds over a specified time period and rate of interest. Power marketing administrations shall record the investment of the U.S. Government in power facilities as Proprietary Capital, Federal Investment, or Federal Appropriations. Interest expense or interest charged to construction shall be computed and repaid to the Reclamation Fund or other appropriation source.
- (3) OMB Circular A-11 prescribes specific requirements for the calculation of interest expense for the Title 17 Innovative Technology 100% loan guarantee program and the Advance Technology Vehicle Manufacturing loan program. Sections 185.32 and 185.34 of A-11 provide the specific provisions for the calculating the interest expense using the Credit Subsidy Calculator 2.

j. **Contingent Liabilities.**

- (1) **General.** Contingent liabilities are potential liabilities that might become actual if certain future events, beyond the Government's control, result in losses or impairments of assets or incurrence of liabilities. Some examples of contingent liabilities involve: (1) pending or threatened litigation; and (2) possible claims and assessments.

Chapter 11 Liabilities

- (a) When a loss contingency exists, the likelihood that a future event or events will confirm the loss or impairment of an asset or the incurrence of a liability can range from probable to remote.

- 1 *Probable:* The future event or events are likely to occur.
- 2 *Reasonably Possible:* The chances of the future event or events occurring are more than remote but less than likely.
- 3 *Remote:* The chances of the future event or events occurring are slight.

- (b) Accrual and disclosure of contingencies, including programmatic impacts, vary depending on probability of occurrence.

- 1 *Probable and Estimable:* Losses that are deemed probable and can be reasonably estimated will be accrued as a liability. Estimated losses could be within a range or a specific amount. If some amount within a range is a better estimate than any other amount within the range, that amount should be accrued. If no amount within a range is a better estimate than any other amount, the minimum amount in the range is accrued and the range and description of the nature of the contingency should be disclosed. Additionally, disclosure of the nature of the accrual is necessary if the financial statements would be misleading without such disclosure. ¹
- 2 *Probable but Inestimable:* If the contingency is deemed probable but cannot be estimated, a footnote disclosure should be made on the financial statements.
- 3 *Reasonably Possible:* May require disclosure depending upon significance and materiality.
- 4 *Remote:* No accrual or disclosure required.

- (2) Loan Guarantees and Commitments. Please see Financial Management Handbook Chapter 22, "Direct Loans and Loan Guarantees."

¹ Those cases with a "probable" likelihood of an unfavorable outcome status, regardless of amount sought for the claim, must be recorded in the accounting system if the loss amount can be reasonably estimated. Instructions for recording contingent liability/accrual accounting entries can be found in the Unfunded Liability Guide and can be obtained from the Office of Finance and Accounting.

Chapter 11 Liabilities

- (3) Tort Claims. Tort claims are contingent liabilities and are disclosed in the financial statements, as discussed in paragraph 2.j(1). Tort claims are claims against the United States for injury to or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of DOE while acting within the scope of office or employment. Refer to paragraph 2.j(1)(b) for recognition of claim contingencies.

k. Leases.

- (1) A capital lease shall be treated as the acquisition of an asset and the incurrence of a liability. All lease-purchases or capital leases (except purchases of telecommunications equipment as provided in Chapter 10 of the Financial Management Handbook) are required to have up-front budget authority for the full liability of the lease as provided for in Appendix B of Office of Management and Budget Circular A-11. Further information on recording capital leases can be found under Financial Management Handbook Chapter 10, "Property, Plant and Equipment."
- (2) Operating leases do not normally result in the incurrence of a liability. Consistent with the requirements of SFFAS 5, amounts obligated for the non-cancellable portion and termination costs of an operating lease are not recorded as a liability. Consistent with section 2.d of this chapter, a liability will be recorded from cost accrued for the use of equipment or property involving an operating lease that are due and payable to the lessor.

Information on obligations for operating leases can be found under the Financial Management Handbook Chapter 5, "Accounting for Obligations."

Operating leases must be fully obligated at inception unless the lease includes a cancellation clause. In that case, the minimum amount that must be obligated at the inception of the lease is the amount of the lease payments over the minimum lease period plus any required cancellation payment. For property leases (rent), normal Departmental practice is to include a cancellation provision in the lease agreement so that the full funding for the lease period does not need to be obligated up front. For GSA leases, obligations are required only for the annual lease payment per OMB A-11, Appendix B.

1. **Federal Employees' Compensation Act (FECA) Liability** (Recorded at Headquarters). FECA provides income and medical cost protection to covered federal civilian employees injured on the job, employees who have incurred a work-

Chapter 11 Liabilities

related occupational disease, and beneficiaries of employees whose death is attributable to a job-related injury or occupational disease. Claims incurred for benefits for Department of Energy employees under FECA are administered by the Department of Labor (DOL) and are ultimately paid by DOE.

DOE records two liabilities for FECA. One is an accrued liability, which represents money owed for claims paid by the DOL. The other is an actuarial liability representing the expected future liability for approved compensation claim cases.

For the accrued FECA liability, DOL provides the Department an annual billing report which provides actual amounts paid on behalf of DOE. DOE records a liability for the amounts paid, considering DOL normally requires payment (via IPAC) 15 months after the receipt of this billing report.

For the actuarial liability, on or about October 1, the DOL provides DOE with data regarding its share of the Federal government's estimated actuarial liability for future workers' compensation benefits. This includes the expected liability for death, disability, medical and miscellaneous costs for approved compensation cases, plus a component for incurred but not reported claims. The liability is determined utilizing historical benefit payment patterns related to a specific period to estimate the ultimate payments related to that period. DOE records the change in its actuarial liability from the previous fiscal year.

- m. **Other Liabilities.** Any other liabilities that have not been defined elsewhere should be disclosed in the financial statements. The principle of materiality and full disclosure should govern the inclusion of such liabilities. The nature of each liability should be identified and reported, either by a footnote to the financial statements or by actual inclusion of an amount in a liability account, if the potential amount due or a loss can be estimated

3. ADDITIONAL LIABILITY REPORTING REQUIREMENTS

- a. **Introduction.** In addition to recognizing different types of liabilities as described above, the Department must disclose both liabilities covered by budgetary resources and those that are not covered by budgetary resources in the footnotes. Below are explanations of these terms:
- b. **Liabilities Not Covered by Budgetary Resources.** These result from the receipt of goods or services or occurrences of eligible events in the current or prior periods for which revenues or other sources of funds necessary to pay the liabilities have not been made available through either Congressional appropriations or current earnings of the Department. Most contingent liabilities do not meet the criteria for recording an obligation under 31 USC 1501. Further information regarding contingent liabilities is provided in Government Accountability Office's Red Book ("Principles of Federal Appropriations Law - Third Edition, Volume II," Chapter 7).

Chapter 11 Liabilities

The Department has established specific liability accounts to record unfunded liabilities. The use of these accounts is restricted to those liabilities specifically identified in the SGL. As part of the financial statement analysis and notes submission, field offices must provide the CFO Office of Finance and Accounting a listing of the events and legal cases recorded in the Department's contingent liability standard general ledger accounts as of June 30th and September 30th for each fiscal year. The listing must include the dollar amount for each event or legal case. Further procedural requirements guidance for reporting contingent liabilities and other liabilities not covered by budgetary resources can be obtained from the CFO Office of Finance and Accounting.

- c. **Liabilities Covered by Budgetary Resources.** These are liabilities incurred which are covered by realized budgetary resources as of the balance sheet date. Budgetary resources encompass not only new budget authority but also other resources available to cover liabilities for specified purposes in a given year. Available budgetary resources include: (1) new budget authority, (2) unobligated balances of budgetary resources at the beginning of the year or net transfers of prior year balances during the year, (3) spending authority from offsetting collections (credited to an appropriation or fund account), and (4) recoveries of unexpired budget authority through downward adjustments of prior year obligations. Liabilities are considered covered by budgetary resources if they are to be funded by permanent indefinite appropriations, which have been enacted and signed into law and are available for use as of the balance sheet date, provided that the resources may be apportioned by OMB without further action by the Congress and without a contingency having to be met first.