



# FINANCIAL ASSISTANCE LETTER

This Financial Assistance Letter is issued under the authority of the Senior Procurement Executives of DOE and NNSA. It is intended for use by procurement professions of DOE and NNSA, primarily Contracting and Grants Officers, and other officials of DOE and NNSA that are involved in the financial assistance process. Other parties are welcome to its information, but definitive interpretations of its effect on awards, and related procedures, if any, may only be made by DOE and NNSA Contracting and Grants Officers.

**Subject: Implementation of Executive Order 13798 of May 4, 2017,  
Promoting Free Speech and Religious Liberty**

## References:

Executive Order 13798 of May 4, 2017, Promoting Free Speech and Religious Liberty

OMB Memorandum M-20-09 of January 16, 2020, Guidance Regarding Federal Grants and Executive Order 13798

The U.S. Attorney General's Memorandum of October 6, 2017, Federal Law Protections for Religious Liberty

## When is this Financial Assistance Letter (FAL) effective?

This FAL is effective when issued.

## When does this FAL expire?

This FAL remains in effect until superseded or cancelled.

## Who is the point of contact?

Questions concerning this FAL should be directed to the Contract and Financial Assistance Policy Division at [DOE\\_oapmpolicy@hq.doe.gov](mailto:DOE_oapmpolicy@hq.doe.gov)

For NNSA, contact NNSA at (505) 845-4337.

## Who is the intended audience?

Department of Energy (DOE) and National Nuclear Security Administration (NNSA) Contracting and Grants Officers.

### **What is the purpose?**

The purpose of this FAL is to provide information and guidance regarding the Department of Energy's (DOE or Department) Implementation of Executive Order 13798 of May 4, 2017, Promoting Free Speech and Religious Liberty and OMB Memorandum M-20-09 of January 16, 2020, Guidance Regarding Federal Grants and Executive Order 13798.

### **What is the Background Information?**

Executive Order 13798 of May 4, 2017, Promoting Free Speech and Religious Liberty (EO 13798), expresses that it is the policy of the executive branch to vigorously enforce Federal law's robust protections for religious freedom. EO 13798 required the Attorney General to issue guidance interpreting religious liberty protections in Federal law.

The Attorney General issued an October 6, 2017 memorandum, Federal Law Protections for Religious Liberty that advises: "Religious organizations are entitled to compete on equal footing for Federal financial assistance used to support government programs. Generally, such organizations are not required to alter their religious character to participate in a government program, nor to cease engaging in explicitly religious activities outside the program, nor effectively to relinquish their Federal statutory protections for religious hiring decisions."

OMB Memorandum M-20-09 issued on January 16, 2020, Guidance Regarding Federal Grants and Executive Order 13798 (OMB M-20-09), advises Agencies to "ensure that the terms of the Federal grants they award make clear that states or other public grantees may not condition sub-awards of Federal grant money in a manner that would disadvantage grant applicants based on their religious character."

### **What types of actions are affected by this FAL?**

This FAL applies to all DOE and NNSA funding opportunity announcements and financial assistance actions.

### **What guidance is included in this FAL?**

DOEs policies and procedures provide for the maximum amount of competition when soliciting applications for Federal financial assistance and generally encourages all non-Federal entities, including religious organizations, to submit applications to compete equally for federal financial assistance used to support its programs. Non-Federal entities are not required, as a condition of financial

assistance awards, to alter their religious character to participate in a program, nor to cease engaging in explicitly religious activities outside the program, nor effectively to relinquish their federal statutory protections for religious hiring decisions.

DOE, including any pass-through entities, must not discriminate against religious organizations in financial assistance activities. Religious organizations should be given the opportunity to compete for Federal financial assistance awards and participate in government programs on an equal basis with nonreligious organizations. Absent unusual circumstances, DOE and pass through entities should not condition receipt of a financial assistance award or sub-awards on the effective relinquishment of a religious organization's exemption for religious hiring practices provided in Section 702 of Title VII of the Civil Rights Act of 1964, or any other constitutional or statutory protection for religious organizations. DOE should not attempt through conditions on its financial assistance awards to meddle in the internal governance affairs of religious organizations or to limit those organizations' otherwise protected activities.

This FAL implements the requirements of EO 13798 and OMB M-20-09 and informs DOE Contracting and Grants Officers of a new DOE award term and condition and the sections of 2 CFR 200 that are being revised to align with EO 13798.

The required DOE award term and condition IMPLEMENTATION OF EXECUTIVE ORDER 13798, PROMOTING FREE SPEECH AND RELIGIOUS FREEDOM, prohibits States, local governments, or other public entities from conditioning sub-awards in a manner that would discriminate based on their religious character. See New Award Term and Condition below.

Several sections of 2 CFR 200 are being revised effective November 12, 2020 to align with EO 13798, "Promoting Free Speech and Religious Liberty" (<https://www.govinfo.gov/content/pkg/FR-2020-08-13/pdf/2020-17468.pdf>). These sections include 2 CFR 200.300 *Statutory and national policy requirements*, 200.303 *Internal controls*, 200.339 *Remedies for noncompliance*, and 200.341 *Notification of termination requirement*. The revision to 2 CFR underscores the importance of compliance with the First Amendment.

#### **New Award Term and Condition:**

##### **IMPLEMENTATION OF EXECUTIVE ORDER 13798, PROMOTING FREE SPEECH AND RELIGIOUS LIBERTY**

States, local governments, or other public entities may not condition sub-awards in a manner that would discriminate, or disadvantage sub-recipients based on their religious character.