



**Department of Energy
Financial Assistance Regulations**

**No. FAL 2022-04
Date June 1, 2022**

FINANCIAL ASSISTANCE LETTER

This Financial Assistance Letter is issued under the authority of the DOE and NNSA Senior Procurement Executives.

Subject: Department of Energy Current and Pending Support Disclosure Requirements for Financial Assistance

References:

National Security Presidential Memorandum on United States Government-Supported Research and Development National Security Policy 33

Guidance for Implementing National Security Presidential Memorandum 33 (NSPM-33) on National Security Strategy for United States Government-Supported Research and Development, January 2022

(ARCHIVED)
42 U.S.C. § 6605 Disclosure of funding sources in applications for Federal research and development awards

When is this Financial Assistance Letter (FAL) Effective?

This FAL is effective upon issuance.

When does the FAL expire?

This FAL is in effect for FY 2022 and remains in effect for fiscal years after FY 2022 until superseded or canceled.

Who is the intended audience?

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

Who are the Points of Contact?

For DOE questions, please contact the Contract and Financial Assistance Policy Division at DOE_OAPMPolicy@hq.doe.gov.

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

What is the purpose of this FAL?

The purpose of this FAL is to provide information and guidance regarding current and pending support disclosures.

What is the background information?

Over the last year, there has been considerable activity across the federal government to strengthen and harmonize the disclosure requirements for researchers. In January 2021, the White House issued the National Security Presidential Memorandum-33 (NSPM-33), which directed federal research agencies to require principal investigators (PIs) and other senior/key personnel to disclose appropriate information that “will enable reliable determinations of whether and where conflicts of interest and commitment exist.” Around the same time, Section 223 of the FY 2021 National Defense Authorization Act (NDAA), codified at 42 U.S.C. § 6605, was enacted, which requires all federal research agencies collect current and pending support disclosures as part of the application process. To ensure consistent implementation of NSPM-33 and Section 223 of the FY 2021 NDAA, on January 4, 2022, the White House Office of Science and Technology Policy issued NSPM-33 implementation guidance, which addressed five key areas, including “Disclosure Requirements and Standardization.” Current and pending support is one piece of the larger category of disclosures.

The majority of DOE and NNSA program offices require current and pending support disclosures, but there are variations regarding the type of information that must be included in the disclosures. Standardizing disclosure requirements is a central theme in the NSPM-33 implementation guidance, and several research agencies are charged with developing model financial assistance application forms and instructions. While those efforts are underway, DOE is taking this initial step to mandate all DOE and NNSA offices incorporate consistent current and pending support disclosure requirements to harmonize the type of required information submitted to the Department as part of current and pending support disclosures. In a second phase after the model forms are available, DOE will take additional steps to update its current and pending support disclosure requirements to provide greater consistency across the Department and to better align with the model forms. DOE and NNSA program offices should anticipate updates for FY 2023 regarding disclosures, including current and pending support.

At this time, Grants Officers continue to have discretion to determine where in the application package the applicants should include the current and pending support disclosures and how to incorporate the requirements into the financial assistance agreement. DOE will revisit this approach in the second phase. If interagency common forms and instructions for disclosing current and pending support are promulgated before a revised FAL is issued, Grants Officers are specifically given authority to use interagency common forms and instructions in any FOA or financial assistance award.

What are the instructions/guidance of this FAL?

Sections

- A. Applicability
- B. Definitions
- C. Current and Pending Support Requirements

A. Applicability

The FAL applies to all DOE and NNSA funding opportunity announcements (FOAs), financial assistance agreements resulting from those FOAs, and financial assistance agreements resulting from unsolicited proposals – that are: 1) issued on or after the effective date of this FAL; and 2) encompass research, development, and demonstration (RD&D) activities, or technical assistance to support RD&D activities. The current and pending support requirements may also be included in non-RD&D FOAs and awards issued on or after the date of the FAL if determined necessary by one level above the Grants Officer. At this time, financial assistance agreements with Tribal Nations are excluded from the current and pending support disclosure requirements. The FAL is not applicable to financial assistance agreements that exclusively fund conferences, workshops, and other technical meetings.

If a FOA permits submission of RD&D applications from another federal agency, a federally funded research and development center, or a National Laboratory, those institutions must comply with these same requirements.

In addition to current and pending support, DOE/NNSA program offices may also require disclosure of past support. This should be limited to a reasonable time period (e.g., previous five years), to be determined by the DOE/NNSA program office. Disclosure of past support would prevent a scenario where a program office unknowingly funds RD&D that had already been supported, but where the prior award happened to conclude before submission of the application to the DOE Program Office. The requirement to disclose past support will be stated in the applicable FOA. Disclosure of past support may be unnecessary in basic and fundamental research that leads to publications and other forms of scholarly communication.

B. Definitions

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As used in this FAL:

Current and pending support – (a) All resources made available, or expected to be made available, to an individual in support of the individual’s RD&D efforts, regardless of (i) whether the source is foreign or domestic; (ii) whether the resource is made available through the entity applying for an award or directly to the individual; or (iii) whether the resource has monetary value; and (b) includes in-kind contributions requiring a commitment of time and directly supporting the individual’s RD&D efforts, such as the provision of office or laboratory space, equipment, supplies, employees, or students. This term has the same meaning as the term Other Support as applied to researchers in NSPM-33: For researchers, Other Support includes all resources made available to a researcher in support of and/or related to all of their professional RD&D efforts, including resources provided directly to the individual or through the organization, and regardless of whether or not they have monetary value (e.g., even if the support received is only in-kind, such as office/laboratory space, equipment, supplies, or employees). This includes resource and/or financial support from all foreign and domestic entities, including but not limited to, gifts provided with terms or conditions, financial support for laboratory personnel, and participation of student and visiting researchers supported by other sources of funding.

Foreign Government-Sponsored Talent Recruitment Program. An effort directly or indirectly organized, managed, or funded by a foreign government, or a foreign government instrumentality or entity, to recruit science and technology professionals or students (regardless

of citizenship or national origin, or whether having a full-time or part-time position). Some foreign government-sponsored talent recruitment programs operate with the intent to import or otherwise acquire from abroad, sometimes through illicit means, proprietary technology or software, unpublished data and methods, and intellectual property to further the military modernization goals and/or economic goals of a foreign government. Many, but not all, programs aim to incentivize the targeted individual to relocate physically to the foreign state for the above purpose. Some programs allow for or encourage continued employment at U.S. research facilities or receipt of federal research funds while concurrently working at and/or receiving compensation from a foreign institution, and some direct participants not to disclose their participation to U.S. entities. Compensation could take many forms including cash, research funding, complimentary foreign travel, honorific titles, career advancement opportunities, promised future compensation, or other types of remuneration or consideration, including in-kind compensation.

Senior/key personnel – an individual who contributes in a substantive, meaningful way to the scientific development or execution of a RD&D project proposed to be carried out with a DOE award.¹ DOE has designated any individual who meets the definition of senior/key personnel as a covered individual responsible for completing a current and pending support disclosure. DOE may further designate covered individuals during award negotiations or the award period of performance.

C. Current and Pending Support Requirements for Applicants and Recipients

FOA applicants must include current and pending support disclosures for all PIs and other senior/key personnel named in the application. After selection and during the life of the award, if there are changes to or additions of PIs or other senior/key personnel, such person(s) must also submit current and pending support disclosures within 30 days of joining the project team, or on a timeline consistent with the program office instructions. Also, for all PIs and other senior/key personnel, if there are changes to the previously submitted current and pending support disclosures, the individuals must update their disclosures within 30 days of the change, or on a timeline consistent with the program office instructions.

To ensure consistency across DOE and NNSA, FOAs must include the language provided in Appendix 1 or a substantially similar version. Likewise, Grants Officers must ensure financial assistance awards include corresponding requirements that require PIs and other senior/key personnel update their respective current and pending disclosures and that ensure new PIs and other senior/key personnel submit disclosures within 30 days of joining the project team, or on a timeline consistent with the program office instructions. For example, Grants Officers must include a term in the award or include a provision in the reporting requirements. Further, DOE offices need to have adequate processes in place to review the disclosures and handle any potential issues presented in the disclosures.

¹ Typically, these individuals have doctoral or other professional degrees, although individuals at the masters or baccalaureate level may be considered senior/key personnel if their involvement meets this definition. Consultants, graduate students, and those with a postdoctoral role also may be considered senior/key personnel if they meet this definition.

Appendix 1

Language for Funding Opportunity Announcements

[Internal instructional text] The focus of this FAL is to harmonize the type of information researchers disclose to DOE, but it does not mandate a specific mechanism to collect the current and pending support disclosures. Grants Officers have discretion to determine where in the application package the applicants should include the current and pending support disclosures. DOE/NNSA program offices may also require disclosure of the applicable information with respect to past support (e.g., support received in the five years prior to application). The requirement to disclose past support will be stated in the applicable Funding Opportunity Announcement.

Within the section that sets forth the application requirements, incorporate the following current and pending support language or a substantially similar version:

[Start FOA Language]

[FOA section #] Current and Pending Support

Current and pending support is intended to allow the identification of potential duplication, overcommitment, potential conflicts of interest or commitment, and all other sources of support. As part of the application, the principal investigator and each senior/key person at the prime applicant and any proposed subaward level must provide a list of all sponsored activities, awards, and appointments, whether paid or unpaid; provided as a gift with terms or conditions or provided as a gift without terms or conditions; full-time, part-time, or voluntary; faculty, visiting adjunct, or honorary; cash or in-kind; foreign or domestic; governmental or private-sector; directly supporting the individual's research or indirectly supporting the individual by supporting students, research staff, space, equipment, or other research expenses. All involvement in foreign government-sponsored talent recruitment programs must be identified in current and pending support.

For every activity, list the following items:

- The sponsor of the activity or the source of funding
- The award or other identifying number
- The title of the award or activity. If the title of the award or activity is not descriptive, add a brief description of the research being performed that would identify any overlaps or synergies with the proposed research.
- The total cost or value of the award or activity, including direct and indirect costs and cost share. For pending proposals, provide the total amount of requested funding.
- The award period (start date – end date).
- The person-months of effort per year being dedicated to the award or activity

If required to identify overlap, duplication of effort, or synergistic efforts, append a description of the other award or activity to the current and pending support.

Details of any obligations, contractual or otherwise, to any program, entity, or organization sponsored by a foreign government must be provided on request to either the applicant institution

or DOE. Supporting documents of any identified source of support must be provided to DOE on request, including certified translations of any document.

The information may be provided in the format approved by the National Science Foundation (NSF), which may be generated by the Science Experts Network Curriculum Vitae (SciENcv), a cooperative venture maintained at <https://www.ncbi.nlm.nih.gov/sciencv/>, and is also available at <https://www.nsf.gov/bfa/dias/policy/nsfapprovedformats/cps.pdf>. The use of a format required by another agency is intended to reduce the administrative burden to researchers by promoting the use of common formats.

[Internal instructional text- do not include the blue text in FOAs] It is a best practice to require the current and pending support disclosures include the following certification language. At this time, the certification language is not expressly required by this FAL. Grants Officers should note that the Science Experts Network Curriculum Vitae (SciENcv) is being updated to automatically include a certification, with an anticipated deployment in the spring of 2022.

Each current and pending support disclosure must be signed and dated and include the following certification statement:

I, [Full Name and Title], certify to the best of my knowledge and belief that the information contained in this Current and Pending Support Disclosure Statement is true, complete, and accurate. I understand that any false, fictitious, or fraudulent information, misrepresentations, half-truths, or omissions of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or other revise (18 U.S.C. §§ 1011 and 1877, and 31 U.S.C. 3729-3733 and 3801-3812). I further understand and agree that (1) the statements and representations made herein are material to DOE's funding decision, and (2) I have a responsibility to update the disclosures during the period of performance of the award should circumstances change which impact the responses provided above.

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If the fillable PDF NSF format is used, the individual must still include a signature, date, and a certification statement using the language included in the paragraph above. If the online version is used in SciENcv, a signature, date, and a certification statement must be attached until the SciENcv website automatically attaches a certification statement.

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organization, and regardless of whether or not they have monetary value (e.g., even if the support received is only in-kind, such as office/laboratory space, equipment, supplies, or employees). This includes resource and/or financial support from all foreign and domestic entities, including but not limited to, gifts provided with terms or conditions, financial support for laboratory personnel, and participation of student and visiting researchers supported by other sources of funding.

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