

DEPARTMENT OF ENERGY
Acquisition Regulations
Financial Assistance Regulations
Other Transaction Regulation

Date: January 13, 2026
No: AL 2026-01
No: FAL 2026-04
No: OTL 2026-02



ACQUISITION LETTER / FINANCIAL ASSISTANCE LETTER/ OTHER TRANSACTION LETTER

This Acquisition Letter, Financial Assistance Letter and Other Transaction Letter is issued under the authority of the Senior Procurement Executives of DOE and NNSA. It is intended for use by the procurement professionals of DOE, primarily Contracting, Grants, and Agreements Officers, and other officials of DOE that participate in the acquisition process. Other parties are welcome to its information, but definitive interpretation of its effect on DOE solicitations, Notice of Funding Opportunity Announcements, Awards, and other related procedures and actions may only be made by DOE Contracting, Grants and Agreements Officers.

Subject: Prohibition on Acquiring Unmanned Aircraft Systems from Covered Foreign Entities under Financial Assistance and Other Awards

References:

The American Security Drone Act of 2023, [Pub. L. No. 118-31](#), §§ 1821-33 (December 22, 2023)

Office of Management and Budget (OMB) Memorandum [M-26-02](#), *Ensuring Government Use of Secure Unmanned Aircraft Systems and Supporting United States Producers*, November 21, 2025

When is this Acquisition Letter (AL)/Financial Assistance Letter (FAL) /Other Transaction Letter (OTL) Effective?

This AL/FAL/OTL is effective as of December 22, 2025.

When does the AL/FAL/OTL expire?

This AL/FAL/OTL remains in effect until canceled or superseded.¹

Who is the intended audience?

Department of Energy (DOE) and National Nuclear Security Administration (NNSA) Contracting Officers (COs), Grants Officers (GOs), and Agreements Officers (AOs). Any reference in this guidance to the DOE should be understood to include the NNSA, unless otherwise indicated.

¹ American Security Drone Act of 2023, SEC. 1833. SUNSET. Sections 1823, 1824, and 1825 shall cease to have effect on the date that is five years after the date of the enactment of the Act.

Who are the Points of Contact?

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

NNSA personnel may contact the Acquisition Policy and Oversight Division, Policy & Oversight Branch (NA-PAS-111), at (505) 845-5639.

What is the purpose of this AL/FAL/OTL?

The purpose of this AL/FAL/OTL is to communicate the requirements and procedures mandated by **OMB Memorandum M-26-02** regarding the procurement, operation, and oversight of Unmanned Aircraft Systems (UAS) through federal contracts, grants, cooperative agreements, and other awards. The AL/FAL/OTL provides **partial implementation guidance** for DOE personnel. Supplemental information and more comprehensive instructions will be issued in a **subsequent AL/FAL/OTL** as DOE processes are further developed. In accordance with the memorandum, agencies have **180 days** from November 21, 2025, to prepare and finalize its implementation frameworks.

What is the background information?

The American Security Drone Act of 2023 (hereinafter referred to as “The Act”) was passed in December 2023 and directed the Director of OMB to establish government-wide policy for the procurement of UAS. Through its memo, M-26-02, dated November 21, 2025, OMB outlined actions for agencies to follow when procuring UAS for use in operations and when issuing contracts, grants, cooperative agreements, and other awards providing funding for the procurement of UAS to process, store, or transmit Federal information.

What are the instructions/guidance of this AL/FAL/OTL?

Sections

- A. Applicability
- B. Definitions
- C. Requirements
- D. Implementation

A. Applicability

The AL/FAL/OTL applies to all DOE and NNSA funding efforts to procure a UAS through a contract or to issue a grant, cooperative agreement or other award with a non-federal entity that funds the procurement of a UAS to process, store, or transmit Federal information. This includes solicitations and financial assistance funding announcements (Notices of Funding Opportunity (NOFOs), Requests for Applications (RFAs), etc.) as well as resulting awards.

B. Definitions

Federal Acquisition Security Council (FASC) is an interagency body tasked with protecting federal supply chains from threats posed by covered articles and suppliers.

FASC Prohibited Unmanned Aircraft System, see 48 C.F.R. 40.201, means an unmanned aircraft system manufactured or assembled by an American Security Drone Act-covered foreign entity.

Unmanned Aircraft Systems as defined in 49 U.S.C. §44801(12), is an unmanned aircraft and associated elements (including communication links and the components that control the unmanned aircraft) that are required for the operator to operate safely and efficiently in the national airspace system.

Other Award is an award made pursuant to 42 U.S.C. 7256(a) or 42 U.S.C. 7256(g), the authority that details other transactions.

Requests for Application is an announcement where Other Transaction Authority² is the primary authority, and an Other Transaction agreement will be the primary vehicle.

Federal Information is information created, collected, processed, maintained, disseminated, disclosed or disposed of by or for the federal government, in any medium or form. See OMB Circular No. A-130- *Managing Information as a Strategic Resource*, at 29.

Information Security, as defined in 44 U.S.C. 3542, means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction to provide:

- (A) integrity, which means guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity;
- (B) confidentiality, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information; and
- (C) availability, which means ensuring timely and reliable access to and use of information.

Covered Foreign Entity is an entity included on the [American Security Drone Act-Covered Foreign Entity List](#) developed and maintained by the FASC and published in the System for Award Management. See Section 1822 of the Act.

² <https://www.energy.gov/management/other-transaction-authority>

C. Requirements

1. Prohibition under Grants, Cooperative Agreements, and Other Awards

Effective December 22, 2025, no DOE funding awarded through a grant, cooperative agreement, or other award may be used to procure or operate a UAS that is manufactured or assembled by a covered foreign entity. See Section 1825 of the Act. Section 1825 of the Act prohibits the use of federal funds for the procurement or operation of UAS from a covered foreign entity. Appendix D of M-26-02 details the prohibition.

2. Prohibition under Federal Contracts

For federal contracts, the Federal Acquisition Regulations (FAR) subpart 40.2 already prohibits the procurement and operation of UAS manufactured or assembled by certain foreign entities. As a result, all solicitations and contracts are required to include FAR 52.240-91 *Security Prohibitions and Exclusions*.

D. Implementation

1. Effective December 22, 2025

Financial Assistance

Beginning December 22, 2025, DOE Program Offices will:

- Send communication to existing recipients informing them of the prohibition/requirement and explain that invoices that include costs associated with the procurement and/or operation of a FASC-prohibited UAS will not be approved;
- Discuss any existing/current plans to procure UAS with recipients and notify the Grants or Agreements Officer if the plans include procurement and/or operation of a FASC-prohibited UAS;
- Update award Terms & Conditions of existing awards to include the prohibition at the next significant award modification in applicable awards (Continuation, Renewal, etc.);
- Grants Officers and Agreements Officers will monitor invoices for costs associated with the procurement and/or operation of FASC-prohibited UAS and reject any such costs;
- Include the prohibition in all financial assistance funding announcements (NOFOs, RFAs, etc.);
- Add a question to the Pre-Award Information Sheet/Pre-Award Applicant Questionnaire to determine if the applicant/selectee is intending to procure a FASC-Prohibited UAS;
- Include a term in the Terms & Conditions for all new awards to prohibiting the procurement and/or operations of a FASC-Prohibited UAS

Example Language to be included in Announcements & Terms and Conditions

Prohibition on the Use of Funds for Activities Related to FASC-Prohibited Unmanned Aircraft Systems

Pursuant to the prohibition in section 1825 of the American Security Drone Act of 2023

([Public Law 118-31](#)), on or after December 22, 2025, the following prohibition applies to the use of funds provided through this award:

- (1) **Definition** - The terms "FASC-prohibited unmanned aircraft system" and "unmanned aircraft system" have the definitions provided in [48 CFR 40.201](#), or successor regulation.
- (2) **Prohibition** – No Federal funds awarded through this award may be used by a recipient or subrecipient:
 - (i) To procure a FASC-prohibited unmanned aircraft system; or
 - (ii) In connection with the operation of a FASC-prohibited unmanned aircraft system.

2. Within 180 Days of the Issuance of M-26-02, dated November 21, 2025

a) Impact Assessments

Prior to procuring a UAS through a contract or issuing a grant or cooperative agreement that funds the procurement of a UAS to process, store, or transmit Federal information, DOE personnel responsible for managing information security risk and any DOE personnel responsible for operating or overseeing the operation of the UAS must jointly complete an impact assessment. Additionally, those personnel should coordinate with DOE personnel responsible for analyzing privacy risks to ensure consistency between the impact assessment required by this guidance and any privacy impact assessment. In conducting the impact assessment required by this guidance, agencies should identify and document the types of information that may be stored in, processed by, or transferred to or from the UAS. At a minimum, this would include UAS positional data, and any audio or video data supported by the UAS. DOE should determine for each information type whether a loss of confidentiality, integrity, or availability could be expected to result in a low, moderate, or high potential impact on agency operations, agency assets, or individuals. Making that determination will enable the agency to identify the appropriate security categories and overall system impact level for the UAS.

The appropriate Program Offices, to be determined no later than 180 days from the issuance of M-26-02, will coordinate with acquisition offices on the impact assessment.

b) Necessary Security Capabilities

Based on the results of the impact assessment, Program Offices must document how the minimum security requirements will be fulfilled in the following areas: access control, software and firmware updates, and data requirements. A copy of this documentation should be kept in the preaward file.

c) Implementation Guidance

i. Financial Assistance

No later than May 20, 2026, DOE will issue guidance on how M-26-02 impacts the issuance of grants, cooperative agreements, and other awards that provide funds to non-

federal entities for the procurement of UAS to process, store, or transmit Federal information. The affected areas are:

- **Announcements:** If there is a component that involves procuring UAS to process, store, or transmit Federal information, all financial assistance funding announcements (NOFOs, RFAs, etc.) shall include requirements for non-federal entities to describe how they will develop a risk-based approach to applying these requirements to procurement solicitations to potential vendors under the resulting award.
- **Application Evaluation:** Conduct risk assessments and evaluate applications with the appropriate consideration of the non-federal entity's response to the requirements included in the NOFO related to procuring UAS under the federal award.
- **Award Terms:** Include the specific information security requirements from the announcement in the terms and conditions of grants, cooperative agreements, and other transaction awards to ensure that the non-federal entity will incorporate these requirements in procurement solicitations of UAS under the federal award.
- **Award Monitoring:** Ensure non-federal entities are adhering to the information security requirements that are in the terms and conditions.

ii. Federal Contracts

No later than May 20, 2026, DOE will issue guidance on how M-26-02 impacts the purchase of any UAS regardless of where the UAS was manufactured or assembled. The affected areas are:

- **Market Research Phase:** COs shall collect information about how the capabilities of various products align with necessary capabilities under Appendix B, Section 2 of the M-26-02.
- **Acquisition Planning and Solicitation Development:** COs shall ensure requirements are described with sufficient detail to allow vendors to provide offers/proposals responsive to DOE information security requirements. Requirements will be based on the impact assessment described under Appendix B, Section 1.
- **Proposal Evaluation:** When appropriate, offerors may be evaluated relevant to achieving the desired outcomes under Appendix B, Section 2 of M-26-02.

3. Exemptions and Waivers

a) Waivers under Sections 1823, 1824 and 1825

None of the exemptions in the above-mentioned sections of the Act apply to DOE but DOE can apply for a waiver under these sections. Prior to issuing a solicitation or financial assistance funding announcement (NOFO, RFA, etc.), the Program Office must receive approval on the waiver. The approval process requires signature of the Secretary of Energy with the approval of the Director of OMB after consultation with the FASC, and notification to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Accountability in the House of Representatives, and other appropriate congressional committees of jurisdiction. Congressional notifications occur after the Director of OMB has approved the waiver.

b) Exemption under Section 1829

Should the head of agency or delegee determine that a requirement cannot both satisfy the stipulations outlined in Appendix B of M-26-02 and obtain a UAS capable of fulfilling mission-critical performance requirements, then the requirement in question is exempt from the Appendix B obligations. Exemptions must be shared with OMB and kept in the award file.

Attachment:
M-26-02