



FINANCIAL ASSISTANCE LETTER

This Financial Assistance Letter is issued under the authority of the Senior Procurement Executives of DOE and NNSA
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**Subject: Implementation of Division F, Title I, Title II, and Title III, and
Division G, Consolidated and Further Continuing
Appropriations Act, 2013, Pub. L. No.113-**

References:

Consolidated and Further Continuing
Appropriations Act, 2013, Pub. L. No. 113-6

Division F, Titles I, II, and III
Division G, Section 3003

Consolidated Appropriations Act, 2012,
Pub. L. No. 112-74

Division B, Title III, Section
301(a), 301(b), 316, and Title
V, Sections 501, 504, 505
Division C, Title VII, Section
725

When is this Financial Assistance Letter (FAL) effective?

The statutory provisions addressed in this FAL were effective on the enactment date of the Consolidated and Further Continuing Appropriations Act, 2013, enacted March 26, 2013 and the Consolidated Appropriations Act, 2012, December 23, 2011.

When does this FAL expire?

This FAL remains in effect until superseded or canceled. This FAL supersedes FAL 2012-02.

Who is the intended audience?

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

Who is the point of contact?

For DOE, contact Richard Bonnell of the Contract and Financial Assistance Policy Division, Office of Policy in the Office of Acquisition and Project Management at (202) 287-1747 or at richard.bonnell@hq.doe.gov or for NNSA, contact NNSA at

(202) 586-6681. For conference spending questions, contact Jason Taylor at (202) 287-1560 or at Jason.Taylor@hq.doe.gov.

Need more information on Financial Assistance?

Visit the website at: <http://energy.gov/management/office-management/operational-management/financial-assistance> for information on Financial Assistance, Financial Assistance Letters and other policy issues.

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 Division F, Title I, Title II and Title III, and Division G, of the Consolidated and Further Continuing Appropriations Act, 2013, Pub. L. No. 113-6 (2013 Act). The 2013 Act continues requirements set forth in Division B, Title III and Title V, and Division C, Title VII, Consolidated Appropriations Act, 2012, Pub. L. No. 112-74 (2012 Act). Congressional notifications required by Section 311 of Division B, Title III of the 2012 Act as continued by the 2013 Act are addressed in FAL 2013-03.

What types of actions are affected by this FAL?

This FAL applies to all DOE and NNSA funding opportunity announcements and financial assistance actions funded with fiscal year 2013 appropriated funds.

What is the background?

This FAL implements Division F, Title I, Title II and Title III, and Division G, Consolidated and Further Continuing Appropriations Act, 2013, Pub. L. No. 113-6, and the requirements it carries forward from Division B, Title III and Title V and Division C Title VII, Consolidated Appropriations Act, 2012, Pub. L. No. 112-74.

What guidance is included in this FAL?

Appropriations Act

- I. Section 301(a) Unfunded Requests for Proposals**
- II. Section 301(b) Congressional Notification of Multi-Year Awards**
- III. Section 316 Lighting Efficiency Standards**
- IV. Section 501 Lobbying Restrictions**
- V. Section 504 Felony Criminal Violations**
- VI. Section 505 Unpaid Federal Tax Liability**
- VII. Section 725 Federal Funds Source Information**
- VIII. Section 3003 Reporting on Conference Spending**

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I. Section 301(a) UNFUNDED REQUESTS FOR PROPOSALS

What is the law?

No appropriation, funds, or authority made available by this title for the Department of Energy shall be used to initiate or resume any program, project, or activity or to prepare or initiate Requests For Proposals or similar arrangements (including Requests for Quotations, Requests for Information, and Funding Opportunity Announcements) for a program, project, or activity if the program, project, or activity has not been funded by Congress.

What is the scope of this requirement?

Section 301(a) of Division B of the Consolidated Appropriations Act, 2012 as continued in Division F of the Consolidated and Further Continuing Appropriations Act, 2013 requires that funds appropriated by the Act not be used to prepare, initiate or publicize Requests for Information (RFI) and Funding Opportunity Announcements (FOA) for any program, project or activity if the program, project or activity has not been funded by Congress.

What procedures need to be followed to implement this requirement?

Before preparing, initiating or publicizing RFIs or FOAs in support of a program, project or activity, the Contracting Officer shall work with the program office and the program budget office officials to ensure the program, project or activity has been funded by Congress.

II. Section 301(b) CONGRESSIONAL NOTIFICATIONS OF MULTI-YEAR AWARDS

Section 301(b) does not apply to the following: NNSA, Power Marketing Administration, and Environmental Management programs defined as an Atomic Energy Defense Activity.

What is the law?

Section 301 (b) The Department of Energy may not, with respect to any program, project, or activity that uses budget authority made available in this title under the heading “Department of Energy—Energy Programs”, enter into a multi-year contract, award a multi-year grant, or enter into a multi-year cooperative agreement unless the contract, grant, or cooperative agreement includes a clause conditioning the Federal Government’s obligation on the availability of future-year budget authority and the Secretary notifies the Committees on Appropriations of the House of Representatives and the Senate at least 14 days in advance.

Section 301 (f) (1) The Secretary of Energy may waive any requirement or restriction in this section that applies to the use of funds made available for the Department of Energy if compliance with such requirement or restriction would pose a substantial risk to human health, the environment, welfare, or national security.

(2) The Secretary of Energy shall notify the Committees on Appropriations of any waiver under paragraph (1) as soon as practicable, but not later than 3 days after the date of the activity to which a requirement or restriction would otherwise have applied. Such notice shall include an explanation of the substantial risk under paragraph (1) that permitted such waiver.

What is the scope of this requirement?

Section 301(b) of Division B of the Consolidated Appropriations Act, 2012 as continued in Division F of the Consolidated and Further Continuing Appropriations Act, 2013 requires that all multi-year grant and cooperative agreement awards using funds appropriated by the Act for a program, project or activity under the “Department of Energy-Energy Programs” heading: **(1)** must include a clause in the award conditioning the Federal Government’s obligation on the availability of future-year budget authority; **and (2)** the DOE must notify the Committees on Appropriations of the House of Representatives and the Senate at least 14 days in advance of the award. A 14-day advance notification is required prior to publicizing the: **(a) selection of an applicant(s)*** from a competitive process; or **(b) award*** of a multi-year grant or cooperative agreement **to a sole source**. Once a notification has been sent for selection of an applicant, it does not need to be sent again to award the grant or cooperative agreement to the selected applicant from a competitive process. Section 301(f) permits the Secretary of Energy to waive any requirement or restriction if compliance with such requirement or restriction would pose a substantial risk to human health, the environment, welfare, or national security.

(The Department Of Energy - Energy Programs listed in Title III of the Consolidated Appropriations Act, 2012 are: Energy Efficiency and Renewable Energy, Electricity Delivery and Energy Reliability, Nuclear Energy, Fossil Energy Research and Development, Naval Petroleum and Oil Shale Reserves, Strategic Petroleum Reserves, Northeast Home Heating Oil Reserve, Energy Information Administration, Non-Defense Environmental Cleanup, Uranium Enrichment Decontamination and Decommissioning Fund, Science, Advanced Research Projects Agency-Energy, Title 17 Innovative Technology Loan Guarantee Program, Advanced Technology Vehicles Manufacturing Loan Program, Departmental Administration, and the Office of the Inspector General.)

* See part (2) of the next section for when advance notification is required on multi-year actions

What procedures need to be followed to implement this requirement?

A multi-year grant or cooperative agreement award is defined as a new, renewal or supplemental award with a project period greater than 12 months. When a multi-year grant or cooperative agreement award is contemplated, the Contracting Officer shall **(1) condition the Department’s obligation** for awards and future budget periods on the availability of funds appropriated by Congress for the purpose of the program and future year budget

authority, and **(2) not make public** the **(a) competitive selection*** of an applicant for a grant or cooperative agreement multi-year award or **(b) sole-source award*** of a multi-year grant or cooperative agreement, **any earlier** than the **15th day** after the date stated in the email to the Head of the Contracting Activity (HCA), or designee, from the DOE HQ Budget Office informing the HCA that the required information added to the DOE 301(b) Reporting spreadsheet on the Office of Management and Budget (OMB) MAX Information System was sent to the Committees on Appropriations of the House of Representatives and the Senate.

(1) Conditioning Federal Obligations:

- (a) Insert the statement, “**Funding for all awards and future budget periods are contingent upon the availability of funds appropriated by Congress for the purpose of this program and the availability of future-year budget authority**” into Section II (B) “Estimated Funding”, Section IV “Funding Restrictions”, and Section VIII under the title “Availability of Funds” of affected financial assistance solicitations or FOAs.
- (b) Insert the statement, “**Funding for future budget periods is contingent on the availability of funds appropriated by Congress for the purpose of this program and future year budget authority**” into the appropriate standard incremental funding and funding terms of grant and cooperative agreement awards (e.g. INCREMENTAL FUNDING AND MAXIMUM OBLIGATION - DIFFERENT BUDGET PERIOD AND PROJECT PERIOD; INCREMENTAL FUNDING AND MAXIMUM OBLIGATION - COEXTENSIVE BUDGET PERIOD AND PROJECT PERIOD; FUNDING OF BUDGET PERIODS; CONTINUATION APPLICATION AND FUNDING – AWARDS UNDER 10CFR600 (b); CONTINUATION APPLICATION AND FUNDING – AWARDS UNDER 10CFR605 (b); CONTINUATION APPLICATION AND FUNDING – AWARDS UNDER 10CFR420 AND/OR 440 (b); CONTINUATION APPLICATION AND FUNDING – AWARDS UNDER SBIR/STTR (b)).

(2) Minimum 14-day advance selection/award* notification to the Committees on Appropriations of the House of Representatives and the Senate

* The 14-day Congressional notification is required at the following times for multi-year financial assistance awards:

Competitive Discretionary Financial Assistance Awards: 14-day Congressional notification is required **prior to the program’s announcement or notification to the applicants on selection of their applications for negotiation** of financial assistance awards from a Funding Opportunity Announcement.

Grant Allocations (block and formula grants): 14-day Congressional notification is required **prior to announcing publicly (releasing or posting of) the funding opportunity announcement and the annual program notice.**

Office of Science’s Annual Funding Opportunity Notices: 14-day Congressional notification is required after the program selects and notifies applicants for negotiation of award but **prior to awarding the grant or cooperative agreement to the recipient.**

Non-Competitive Discretionary Financial Assistance: 14-day Congressional notification is required **prior to award of a non-competitive, discretionary, grant or cooperative agreement.**

Renewals and Supplemental Awards:** 14-day Congressional notification is required **prior to award for all actions in additional estimated total projects costs and project period of performance.**

**Supplemental award is defined as a modification to a previously awarded grant or cooperative agreement of 1 year or less that, as a result of the modification, an increase in the performance effort of the recipient requires the project period or current budget period to be modified to make the award a multi-year award. , e.g. A cooperative agreement is awarded with a project period less than or equal to 12 months. If a modification is contemplated to extend the total project period greater than 12 month then a 14 day notification is required prior to executing the modification.

(a) DOE 301(b) Reporting

At least 14 calendar days prior to any of the events described above, the Head of the Contracting Activity (HCA), or designee, shall enter the required information in the DOE 301(b) Reporting spreadsheet on the Office of Management and Budget (OMB) MAX Information System at:

<https://max.omb.gov/community/display/DOE/301%28b%29+Reporting>.

The information required for the reporting spreadsheet is self-explanatory. One mandatory piece of information in the spreadsheet requires a detailed explanation of the special circumstances justifying the commitment of future funds. The Contracting Officer will need to obtain this detailed explanation from the program office and provide it to the HCA or designee so it can be put into the spreadsheet. The explanation should specifically address the question of **“why the award is not fully funded with fiscal year 2013 and prior appropriations.”** Explanations of “stage-gates” and “budget periods” do not alone sufficiently address this question; a detailed explanation of the special circumstances that justify the commitment of future funds for the award must be provided in the spreadsheet to avoid a delay in notification to the Committees.

The first day of the 14 calendar notification period will begin with the date stated in the e-mail sent to the HCA, or designee, from the DOE HQ Budget Office confirming that the information was sent to Congress. Selections/awards can be made on the 15th calendar day after the date stated in the confirmation email. For example, the HCA, or designee, inputs the information on April 3rd and receives the confirmation e-mail from the DOE HQ Budget Office on April 4th stating that

the information was sent to Congress on April 3rd, therefore the selection/award can be made on the 15th calendar day from April 3rd which is April 17th.

(b) Access to DOE 301(b) Reporting Page

The HCA, or designee, must have a MAX ID and password to access the page. If the HCA, or designee, does not already have access, they will need to register on the MAX Homepage at <https://max.omb.gov/maxportal/>. Once registered, the HCA, or designee, must send an e-mail to casey.pearce@hq.doe.gov containing their name and e-mail information to request access to the DOE 301(b) Reporting Page. Once page access is granted, the DOE 301(b) Reporting Page will appear on the person's collaboration group page. The DOE 301(b) Reporting Page includes instructions on the reporting page for inputting the required information in the spreadsheet and a point of contact for any reporting questions.

(c) End of fiscal year actions

To ensure an award by **September 30, 2013**, the required information for the DOE 301(b) Reporting spreadsheet action shall be entered in the spreadsheet **no later than 5:30 p.m. eastern time, Friday, September 13, 2013**. This is the last day and time for DOE 301(b) Reporting information submission to ensure a confirmation email is sent from the DOE HQ Budget Office that will allow enough time for the 14 day notification period to occur before selection/award.

(3) Secretarial Determinations of Substantial Risk to Human Health, the Environment, Welfare, or National Security.

When compliance with the fourteen (14) calendar day advance notice requirement of Section 301 (b) would pose a substantial risk to human health, the environment, welfare or national security, an award (or selection) may be made without such advance notification to the Committees on Appropriations of the Senate and the House of Representatives if the Secretary determines in advance to the award (or selection) that any one of these conditions exists, i.e., substantial risk to human health, the environment, welfare, or national security [Section 301(f)(1)].

If an award (or selection) must be made pursuant to this authority, the HCA, in coordination with the cognizant program official(s) and legal counsel, shall develop a written recommendation supporting the waiver for approval by the Secretary. The HCA shall coordinate with the Head of the Program Element through the appropriate Senior Procurement Executive for obtaining necessary waiver approval by the Secretary.

An award (or selection) subject to the requirements of Section 301(b) shall not be made in advance of the Secretary's determination.

Upon approval by the Secretary, notification of the waiver and award/selection (activity) must be made to the Committees on Appropriations of any waiver under Section 301(f) (1) as soon as practicable, but not later than 3 days after the date of the activity to which a requirement or restriction would otherwise have applied. Such notice shall include an explanation of the substantial risk under Section 301(f) (1) that permitted such waiver. Use the DOE 301(b) Reporting Spreadsheet for submission of Section 301(b) notifications to include the explanation of the substantial risk that necessitated the waiver [Section 301(f) (1)]. Maintain a copy of the signed Secretary's determination for the official record.

Note: If the Secretary delegates the authority to make these determinations, any such delegation will be issued separately from this FAL.

III. Section 316 LIGHTING EFFICIENCY STANDARDS

What is the law?

Recipients of grants awarded by the Department in excess of \$1,000,000 shall certify that they will, by the end of the fiscal year, upgrade the efficiency of their facilities by replacing any lighting that does not meet or exceed the energy efficiency standard for incandescent light bulbs set forth in section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295).

What is the scope of this requirement?

Section 316 of Division B of the Consolidated Appropriations Act, 2012 as continued in Division F of the Consolidated and Further Continuing Appropriations Act, 2013 applies to all DOE **grants** awarded after the enactment of this Act that are in excess of \$1,000,000. It does not apply to any other form of financial assistance. Calculation of grant award amounts shall include the Federal share and recipient cost share. Recipients shall certify that any incandescent light bulbs that do not meet or exceed the energy efficiency standards set forth in or pursuant to Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) used in the facility(ies) where a majority of the work under the grant will be performed will be upgraded to meet or exceed the standard for lamps established in or pursuant to that section by the end of the Federal Government's fiscal year. This requirement does not flow down to subawardees (e.g., subrecipients, subgrantees, subcontractors).

What procedures need to be followed to implement this requirement?

Contracting Officers shall ensure that the “**Applicant Lighting Efficiency Certification (April 2012)**” located in Appendix A is incorporated into all new financial assistance solicitations and FOAs that will result in **grant** awards in excess of \$1,000,000 and the “**Recipient Lighting Efficiency Certification (April 2012)**” located in Appendix B is incorporated into all new, renewal and continuation **grant** awards in excess of \$1,000,000.

Costs directly associated with complying with this requirement may be considered allowable and allocable in accordance with the applicable cost principles as set forth in 10 CFR 600. Costs associated with complying with this requirement may also be included in the calculation of recipient cost share.

FOAs (and solicitations) should instruct applicants to identify the facility (the rooms or areas where a majority of the proposed project work will occur) and, identify and justify the costs associated with upgrading the light bulbs to meet or exceed the energy efficiency standard for incandescent light bulbs set forth in or pursuant to section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) prior to the end of the Federal fiscal year.

IV. Section 501 LOBBYING RESTRICTIONS

What is the law?

None of the funds appropriated by this Act may be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. § 1913.

What is the scope of this requirement?

Section 501 of Division B of the Consolidated Appropriations Act, 2012 as continued in Division F of the Consolidated and Further Continuing Appropriations Act, 2013 applies to all solicitations, funding opportunity announcements and awards of DOE financial assistance to which funds appropriated under the Act are obligated.

What procedures need to be followed to implement this requirement?

Contracting Officers shall ensure that the standard award term below, entitled “LOBBYING RESTRICTIONS”, is incorporated into all solicitations, FOAs and awards of financial assistance that use funds appropriated by this Act:

LOBBYING RESTRICTIONS

By accepting funds under this award, you agree that none of the funds obligated on the award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

V. Section 504 FELONY CRIMINAL VIOLATIONS

What is the law?

None of the funds made available by this Act may be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan

guarantee to any corporation that was convicted (or had an officer or agent of such corporation acting on behalf of the corporation convicted) of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless the agency has considered suspension or debarment of the corporation, or such officer or agent, and made a determination that this further action is not necessary to protect the interests of the Government.

What is the scope of this requirement?

Section 504 of Division B of the Consolidated Appropriations Act, 2012 as continued in Division F of the Consolidated and Further Continuing Appropriations Act, 2013 applies to **all new DOE grant, cooperative agreement, loan, and loan guarantee awards, and renewal or continuation awards to corporations** that are funded by the Act. This requirement includes no dollar value threshold and does not flow down to subawardees (e.g., subrecipients, subgrantees, subcontractors).

What procedures need to be followed to implement this requirement?

Contracting Officers shall ensure that the “**Corporate Felony Conviction and Federal Tax Liability Representations (March 2012)**” (Appendix B) is incorporated into all new financial assistance solicitations and FOAs that will result in grant and/or cooperative agreement awards that are obligated with funds appropriated by this Act.

The Contracting Officer shall ensure that the corporation’s representation is current at award by including the “**Corporate Felony Conviction and Federal Tax Liability Assurances (March 2012)**” (Appendix C) in new and renewal/continuation awards **to corporations** that are obligated with funds appropriated by this Act.

VI. Section 505 UNPAID FEDERAL TAX LIABILITY

What is the law?

None of the funds made available by this Act may be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless the agency has considered suspension or debarment of the corporation and made a determination that this further action is not necessary to protect the interests of the Government.

What is the scope of this requirement?

Section 505 of Division B of the Consolidated Appropriations Act, 2012 as continued in Division F of the Consolidated and Further Continuing Appropriations Act, 2013 applies to **all new DOE grant, cooperative agreement, loan, and loan guarantee awards, and renewal or continuation awards to corporations** that are funded by the Act. This requirement includes no

dollar value threshold and does not flow down to subawardees (e.g., subrecipients, subgrantees, subcontractors).

What procedures need to be followed to implement this requirement?

Contracting Officers shall ensure that the “**Corporate Felony Conviction and Federal Tax Liability Representations (March 2012)**” (Appendix B) is incorporated into all new financial assistance solicitations and FOAs that will result in grant and/or cooperative agreement awards that are obligated with funds appropriated by this Act.

The Contracting Officer shall ensure that the corporation’s representation is current at award by including the “**Corporate Felony Conviction and Federal Tax Liability Assurances (March 2012)**” (Appendix C) in new and renewal/continuation awards to corporations that are obligated with funds appropriated by this Act.

FOR SECTIONS 504 and 505:

A **Corporation** includes any entity that has filed articles of incorporation in any of the 50 states, the District of Columbia, or the various territories of the United States [but not foreign corporations]. It includes both for-profit and non-profit organizations.

If the applicant (corporation) makes an affirmative response to the representation (it is a corporation, or has officers/agents, with felony convictions in the past 24 months and/or is a corporation with an unpaid Federal tax liability), the awarding official (e.g., the contracting officer or grants officer) shall consult with the DOE Suspension and Debarment Official (SDO) to determine what, if any, steps have been taken by that official, or by another agency’s SDO. The awarding official **shall not** make an award to the corporation that has responded affirmatively unless and until the SDO has: **(1)** considered suspension or debarment of the corporation **and (2)** has made a written determination that further action is not necessary to protect the interests of the government. The agency may determine whether it is appropriate to proceed with making awards to other applicants prior to receiving a definitive resolution from the SDO. The SDO, upon being informed by the awarding official of an affirmative response in a representation, could review any determination that has already been made, and independently adopt it as appropriate, without having to conduct a new investigation. If the funds are coming from another agency’s appropriations, the awarding official must confer with the other agency which must consider suspension or debarment and conclude that suspension or debarment is not necessary before the awarding official can move forward.

The awarding official should notify and confer with the SDO to discuss how much time the SDO will need to make a determination. If the agency determines that the award date cannot be deferred for the period required for the SDO to make the debarment or suspension determination, the applicant shall be found ineligible for award based on the statute’s prohibition of an agency entering into an award with that entity until a determination has been made. The awarding official may make an award to the next applicant that is in line to receive an award. An agency’s decision to make an award to the applicant that is next in line

to receive an award does not lessen the agency's obligation to continue working to make a determination regarding whether it is necessary to suspend or debar the initial applicant in order to protect the government's interest.

Note: A determination of ineligibility for award based on a statutory prohibition on the use of appropriated funds is not the same as a statutory debarment. In the case of a statutory debarment, the corporation would be automatically debarred and listed on EPLS ; here, by contrast, a corporation would not be listed on EPLS unless the SDO took action to suspend or debar the corporation in accordance with the due process requirements of FAR Subpart 9.4 or 2 CFR 180. In addition, a determination of ineligibility is not the same as a non-responsibility determination by a contracting officer under FAR 9.104. In the former case, the contracting officer is making a determination that the agency lacks funds to make the award in light of the statutory restriction. In the latter case, the contracting officer would be determining that the offeror lacks the requisite business integrity and ethics – or other standards which a contractor must possess, such as financial capability and a satisfactory performance record – to perform work for the government notwithstanding the availability of funds.

VII. Section 725 FEDERAL FUNDS SOURCE INFORMATION

What is the law?

Any request for proposals, solicitations, grant application, form, notification, press release, or other publications involving the distribution of Federal funds shall indicate the agency providing the funds, the Catalog of Federal Domestic Assistance Number, as applicable, and the amount provided: *Provided*, That this provision shall apply to direct payments, formula funds, and grants received by a State receiving Federal funds.

What is the scope of this requirement?

Section 725 of the Consolidated Appropriations Act, 2012 as continued in Division F of the Consolidated and Further Continuing Appropriations Act, 2013 requires that the Federal forms that are used in distributing Federal funds to a State must indicate the agency providing the funds, the Federal Domestic Assistance Number, and the amount provided.

What procedures need to be followed to implement this requirement?

FOAs, grant applications, Federal forms, notifications, DOE press releases, or other DOE publications involving the distribution of Federal funds to a State through direct payment, formula funds, or grants, shall indicate DOE as the agency providing the funds, the Catalog of Federal Domestic Assistance Number of the DOE program, as applicable, and the estimated amount of funds DOE provided to the State(s).

VIII. Section 3003 REPORTING ON CONFERENCE SPENDING**What is the law?**

(a) The head of any Executive branch department, agency, board, commission, or office funded by this or any other appropriations Act shall submit annual reports to the Inspector General or senior ethics official for any entity without an Inspector General, regarding the costs and contracting procedures related to each conference held by any such department, agency, board, commission, or office during fiscal year 2013 for which the cost to the United States Government was more than \$100,000.

(b) Each report submitted shall include, for each conference described in subsection (a) held during the applicable period--

- (1) a description of its purpose;
- (2) the number of participants attending;
- (3) a detailed statement of the costs to the United States Government, including--
 - (A) the cost of any food or beverages;
 - (B) the cost of any audio-visual services;
 - (C) the cost of employee or contractor travel to and from the conference; and
 - (D) a discussion of the methodology used to determine which costs relate to the conference; and
- (4) a description of the contracting procedures used including--
 - (A) whether contracts were awarded on a competitive basis; and
 - (B) a discussion of any cost comparison conducted by the departmental component or office in evaluating potential contractors for the conference.

(c) Within 15 days of the date of a conference held by any Executive branch department, agency, board, commission, or office funded by this or any other appropriations Act during fiscal year 2013 for which the cost to the United States Government was more than \$20,000, the head of any such department, agency, board, commission, or office shall notify the Inspector General or senior ethics official for any entity without an Inspector General, of the date, location, and number of employees attending such conference.

(d) A grant or contract funded by amounts appropriated by this or any other appropriations Act to an Executive branch agency may not be used for the purpose of defraying the costs of a conference described in subsection (c) that is not directly and programmatically related to the purpose for which the grant or contract was awarded, such as a conference held in connection with planning, training, assessment, review, or other routine purposes related to a project funded by the grant or contract.

(e) None of the funds made available in this or any other appropriations Act may be used for travel and conference activities that are not in compliance with Office of Management and Budget Memorandum M-12-12 dated May 11, 2012.

What is the scope of this requirement?

Section 3003 of Division G of the Consolidated and Further Appropriations Act, 2013 applies to all solicitations, funding opportunity announcements and awards of financial assistance or contracts funded by this, or any other appropriations act during fiscal year 2013.

What procedures need to be followed to implement this requirement?

Contracting Officers shall ensure that the “**Conference Spending (April 2013)**” term is incorporated into all new financial assistance solicitations and FOAs that will result in financial assistance awards as well as new financial assistance awards that are obligated with funds appropriated by this Act or any other appropriations act during fiscal year 2013. Contracting Officers shall also ensure that financial assistance awards are not made or amended to circumvent the requirements for approval of DOE conferences.

Conference Spending (April 2013)

The recipient shall not expend funds for the purpose of defraying the cost to the United States Government of a conference [described in subsection (c) of the Consolidated and Further Continuing Appropriations Act, 2013] that was more than \$20,000, or circumventing the required notification by the head of any such Executive Branch department, agency, board, commission, or office to the Inspector General or senior ethics official for any entity without an Inspector General, of the date, location, and number of employees attending such conference that is not directly and programmatically related to the purpose for which the grant or cooperative agreement was awarded.

Appendix A

Insert the following language in FOAs under Section VI - Award Administration Information, Special Terms and Conditions:

Applicant Lighting Efficiency Certification (April 2012)

In submitting an application in response to this FOA the Applicant certifies that if chosen for a grant award and the award is in excess of \$1,000,000 it will, by the end of the Federal Government’s fiscal year, upgrade the efficiency of its facilities by replacing any incandescent lighting of the type for which section 325 of the Energy Policy and Conservation Act (42 USC 6295) establishes a standard that does not meet or exceed the energy efficiency standard for incandescent light bulbs set forth in that section with a lamp that meets or exceeds the standards for lamps established in or pursuant to that section.

Incandescent reflector lamps shall meet or exceed the lamp efficacy standards shown in the table:

Rated lamp wattage	Lamp spectrum	Lamp diameter (inches)	Rated voltage	Minimum average lamp efficacy (lm/W)
40–205	Standard Spectrum	>2.5	≥125V	6.8*P ^{0.27}
			<125V	5.9*P ^{0.27}
		≤2.5	≥125V	5.7*P ^{0.27}
			<125V	5.0*P ^{0.27}
40–205	Modified Spectrum	>2.5	≤125V	5.8*P ^{0.27}
			<125V	5.0*P ^{0.27}
		≤2.5	≥125V	4.9*P ^{0.27}
			<125V	4.2*P ^{0.27}

Note 1: P is equal to the rated lamp wattage, in watts.

Note 2: Standard Spectrum means any incandescent reflector lamp that does not meet the definition of modified spectrum in 10 CFR 430.2.

Subject to the exemption below, the standards specified in this section shall apply to ER incandescent reflector lamps, BR incandescent reflector lamps, BPAR incandescent reflector lamps, and similar bulb shapes.

Subject to the exemption below, the standards specified in this section shall apply to incandescent reflector lamps with a diameter of more than 2.25 inches, but not more than 2.75 inches.

Exemption: The standards specified in this section shall not apply to the following types of incandescent reflector lamps:

- (A) Lamps rated at 50 watts or less that are ER30, BR30, BR40, or ER40 lamps;
- (B) Lamps rated at 65 watts that are BR30, BR40, or ER40 lamps; or
- (C) R20 incandescent reflector lamps rated 45 watts or less.

For purposes of this Certification, the following definitions apply:

- (A) Facilities mean the room(s), area(s), or building(s) that are used to complete a majority of the work under the project.
- (B) In excess of \$1,000,000 means the total value of the grant including all budget periods funded with Federal funds and recipient cost share is greater than \$1,000,000.
- (C) Federal Government's fiscal year begins October 1st and ends September 30th.
- (D) Except as provided in subparagraph (4) below, the term "incandescent lamp" means a lamp in which light is produced by a filament heated to incandescence by an electric current, including only the following:
 - (1) Any lamp (commonly referred to as lower wattage nonreflector general service lamps, including any tungsten-halogen lamp) that has a rated wattage between 30 and 199 watts, has an E26 medium screw base, has a rated voltage or voltage range that lies at least partially within 115 and 130 volts, and is not a reflector lamp.
 - (2) Any lamp (commonly referred to as a reflector lamp) which is not colored or designed for rough or vibration service applications, that contains an inner reflective coating on the outer bulb to direct the light, an R, PAR, ER, BR, BPAR, or similar bulb shapes with E26 medium screw bases, a rated voltage or voltage range that lies at least partially within 115 and 130 volts, a diameter which exceeds 2.25 inches, and has a rated wattage that is 40 watts or higher.
 - (3) Any general service incandescent lamp (commonly referred to as a high- or higher-wattage lamp) that has a rated wattage above 199 watts (above 205 watts for a high wattage reflector lamp).

(4) The term “incandescent lamp” does not include any lamp excluded by the Secretary, by rule, as a result of a determination that standards for such lamp would not result in significant energy savings because such lamp is designed for special applications or has special characteristics not available in reasonably substitutable lamp types.

- (E) The term “base” means the portion of the lamp which connects with the socket as described in ANSI C81.61–1990.
- (F) The term “bulb shape” means the shape of lamp, especially the glass bulb with designations for bulb shapes found in ANSI C79.1–1980 (R1984).
- (G) The term “lamp efficacy” means the lumen output of a lamp divided by its wattage, expressed in lumens per watt (LPW).
- (H) The term “lamp wattage” means the total electrical power consumed by a lamp in watts, after the initial seasoning period referenced in the appropriate IES standard test procedure and including, for fluorescent, arc watts plus cathode.

Appendix B

Insert the following language in the Special Terms and Conditions of new and renewal/continuation grant awards in excess of \$1,000,000:

Recipient Lighting Efficiency Certification (April 2012)

By entering into this agreement the Recipient certifies that it will, by the end of the Federal Government's fiscal year, upgrade the efficiency of its facilities by replacing any incandescent lighting of the type for which section 325 of the Energy Policy and Conservation Act (42 USC 6295) establishes a standard that does not meet or exceed the energy efficiency standard for incandescent light bulbs set forth in that section with a lamp that meets or exceeds the standards for lamps established in or pursuant to that section.

Incandescent reflector lamps shall meet or exceed the lamp efficacy standards shown in the table:

Rated lamp wattage	Lamp spectrum	Lamp diameter (inches)	Rated voltage	Minimum average lamp efficacy (lm/W)
40-205	Standard Spectrum	>2.5	≥125V	$6.8 * P^{0.27}$
			<125V	$5.9 * P^{0.27}$
		≤2.5	≥125V	$5.7 * P^{0.27}$
			<125V	$5.0 * P^{0.27}$
40-205	Modified Spectrum	>2.5	≤125V	$5.8 * P^{0.27}$
			<125V	$5.0 * P^{0.27}$
		≤2.5	≥125V	$4.9 * P^{0.27}$
			<125V	$4.2 * P^{0.27}$

Note 1: P is equal to the rated lamp wattage, in watts.

Note 2: Standard Spectrum means any incandescent reflector lamp that does not meet the definition of modified spectrum in 10 CFR 430.2.

Subject to the exemption below, the standards specified in this section shall apply to ER incandescent reflector lamps, BR incandescent reflector lamps, BPAR incandescent reflector lamps, and similar bulb shapes.

Subject to the exemption below, the standards specified in this section shall apply to incandescent reflector lamps with a diameter of more than 2.25 inches, but not more than 2.75 inches.

Exemption: The standards specified in this section shall not apply to the following types of incandescent reflector lamps:

- (A) Lamps rated at 50 watts or less that are ER30, BR30, BR40, or ER40 lamps;
- (B) Lamps rated at 65 watts that are BR30, BR40, or ER40 lamps; or
- (C) R20 incandescent reflector lamps rated 45 watts or less.

For purposes of this Certification, the following definitions apply:

- (A) Facilities mean the room(s), area(s), or building(s) that are used to complete a majority of the work under the project.
- (B) In excess of \$1,000,000 means the total value of the grant including all budget periods funded with Federal funds and recipient cost share is greater than \$1,000,000.
- (C) Federal Government's fiscal year begins October 1st and ends September 30th.
- (D) Except as provided in subparagraph (4) below, the term "incandescent lamp" means a lamp in which light is produced by a filament heated to incandescence by an electric current, including only the following:
 - (1) Any lamp (commonly referred to as lower wattage nonreflector general service lamps, including any tungsten-halogen lamp) that has a rated wattage between 30 and 199 watts, has an E26 medium screw base, has a rated voltage or voltage range that lies at least partially within 115 and 130 volts, and is not a reflector lamp.
 - (2) Any lamp (commonly referred to as a reflector lamp) which is not colored or designed for rough or vibration service applications, that contains an inner reflective coating on the outer bulb to direct the light, an R, PAR, ER, BR, BPAR, or similar bulb shapes with E26 medium screw bases, a rated voltage or voltage range that lies at least partially within 115 and 130 volts, a diameter which exceeds 2.25 inches, and has a rated wattage that is 40 watts or higher.
 - (3) Any general service incandescent lamp (commonly referred to as a high- or higher-wattage lamp) that has a rated wattage above 199 watts (above 205 watts for a high wattage reflector lamp).
 - (4) The term "incandescent lamp" does not include any lamp excluded by the Secretary, by rule, as a result of a determination that standards for such lamp would not result in significant energy savings because such lamp is

designed for special applications or has special characteristics not available in reasonably substitutable lamp types.

- (E) The term “base” means the portion of the lamp which connects with the socket as described in ANSI C81.61–1990.
- (F) The term “bulb shape” means the shape of lamp, especially the glass bulb with designations for bulb shapes found in ANSI C79.1–1980 (R1984).
- (G) The term “lamp efficacy” means the lumen output of a lamp divided by its wattage, expressed in lumens per watt (LPW or lm/W).
- (H) The term “lamp wattage” means the total electrical power consumed by a lamp in watts, after the initial seasoning period referenced in the appropriate IES standard test procedure and including, for fluorescent, arc watts plus cathode.

Appendix C

Insert the following language in FOAs under Section VI - Award Administration Information, Special Terms and Conditions:

Corporate Felony Conviction and Federal Tax Liability Representations (March 2012)

In submitting an application in response to this FOA the Applicant represents that:

- (1) It is **not** a corporation that has been convicted (or had an officer or agent of such corporation acting on behalf of the corporation convicted) of a felony criminal violation under any Federal law within the preceding 24 months,
- (2) **No** officer or agent of the corporation have been convicted of a felony criminal violation for an offense arising out of actions for or on behalf of the corporation under Federal law in the past 24 months,
- (3) It is **not** a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

For purposes of these representations the following definitions apply:

A Corporation includes any entity that has filed articles of incorporation in any of the 50 states, the District of Columbia, or the various territories of the United States [but not foreign corporations]. It includes both for-profit and non-profit organizations.

Appendix D

Insert the following language in the Special Terms and Conditions of new and renewal/continuation awards:

Corporate Felony Conviction and Federal Tax Liability Assurances (March 2012)

By entering into this agreement, the undersigned attests that [insert corporation name] **has not been convicted** of a felony criminal violation under Federal law in the 24 months preceding the date of signature.

By entering into this agreement, the undersigned attests that **no agent or officer** of [insert corporation name] has been convicted of a felony offense, arising out of actions for or on behalf of the corporation, under Federal law in the 24 months preceding the date of signature.

The undersigned further attests that [insert corporation name] **does not have any unpaid Federal tax liability** that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

For purposes of these assurances, the following definitions apply:

A Corporation includes any entity that has filed articles of incorporation in any of the 50 states, the District of Columbia, or the various territories of the United States [but not foreign corporations]. It includes both for-profit and non-profit organizations.