



**Department of Energy
Financial Assistance Regulation**

**No. 2005-02
Date 03/02/05**

FINANCIAL ASSISTANCE LETTER

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

SUBJECT: Management of Report Deliverables

What is the Purpose of this Financial Assistance Letter (FAL)?

This FAL provides Contracting Officers and other grants personnel guidance relating to the establishment and enforcement of reporting requirements.

How will this Change My Work Processes?

There is no major change to your work processes. This FAL provides the same guidance as that provided in FAL 2001-04, except it updates a few regulatory cites and web sites; deletes a notice and a grant award provision; and deletes the attachments. The standard DOE Special Terms and Conditions for Most Grants and Cooperative Agreements and the new Financial Assistance Reporting Checklist and Instructions (DOE F. 4600.2) attached to FAL 2004-06 include the requirements that have been deleted.

When is this FAL Effective?

This FAL is effective on the date of issuance. This FAL supersedes and cancels FAL 2001-04.

When does this FAL Expire?

This FAL remains in effect until incorporated into the new Financial Assistance Guide or until canceled.

Who is the Point of Contact?

Contact Trudy Wood of the Office of Procurement and Assistance Policy by telephone at (202) 287-1336 or by email at trudy.wood@hq.doe.gov.

Guidance Included in this Financial Assistance Letter

I. PRE-AWARD ACTIONS

- A. What are the DOE Project Officer’s responsibilities?..... 3**
- B. What are the Contracting Officer’s responsibilities? 4**

II. POST AWARD ACTIONS

- A. Who is responsible for reviewing reports? 5**
- B. What are the procedures for obtaining overdue reports?..... 6**
- C. When can the Contracting Officer waive a reporting requirement? 7**
- D. What other enforcement actions can be taken? 7**

I. PRE-AWARD ACTIONS

A. What are the DOE Project Officer's responsibilities?

The DOE Project Officer is responsible for specifying the required management and scientific/technical reports on the Federal Assistance Reporting Checklist (DOE F 4600.2) and including this checklist in the Procurement Request Package. The DOE F 4600.2 form and instructions are available at the Professionals Home Page at <http://professionals.pr.doe.gov/ma5/MA-web.nsf/FinancialAssistance/Financial+Assistance+Forms?OpenDocument>. The Project Officer and Contracting Officer should always use the DOE F 4600.2 form that is on the Professionals Home Page to ensure that the current version of the form and instructions are included in the award.

Project Officers should consider the scope, complexity, duration of the project, and program legislation, when establishing reporting requirements, and identify any special reporting requirements in the block, entitled "Special Instructions."

1. Research, Development, and Demonstration (RD&D), and Other Scientific/Technical Awards: RD&D and other scientific/technical awards should generally require periodic Progress Reports, Special Status Reports, and a final Scientific/Technical Report.
 - a. Progress Reports: Progress Reports are management reports which provide information on project status. These reports are used by the DOE Project Officer to monitor the project and to provide early recognition of potential problem areas. These reports should not be sent to the Office of Scientific and Technical Information (OSTI), since any preliminary results may be incomplete or misleading. If the award requires a final Scientific/Technical Report, no Progress Report is required at the end of the final year. The frequency of these reports should be the minimum needed to monitor performance. Examples of reporting requirements for typical projects are:
 - i. Basic research grants: Generally, these awards would require an annual Progress Report, a final Scientific/Technical Report, and Special Status Reports on an as needed basis.
 - ii. Technology development grants: Generally, these awards would require an annual or semi-annual Progress Report, a final Scientific/Technical Report, and Special Status Reports on an as needed basis.
 - iii. Large cooperative agreements: Generally, these awards would require quarterly Progress Reports, a final Scientific/Technical Report, and Special Status Reports on an as needed basis.

- b. Scientific/Technical Reporting: Scientific/technical reports and products provide the results of scientific and technical studies, investigations that relate to research, development, demonstration, and other specialized areas such as environmental and health protection and waste management. These reports/products must be accompanied by the appropriate DOE Form 241, "Announcement of Department of Energy Scientific and Technical Information."
 - i. Generally, the DOE Project Officer would request only a final Scientific/Technical Report.
 - ii. While the DOE Project Officer may require a Scientific/Technical Report at the end of a phase, he/she should not require annual reports. Progress Reports provide sufficient information to monitor progress.
 - c. Special Status Reports: Special Status Reports provide notice of problems, delays, or adverse conditions which materially impair the recipient's ability to meet the objectives of the award or have a significant favorable impact on the project.
2. Non-R&D Awards: A Non-R&D award should generally require only periodic Progress Reports and Special Status Reports. A final Progress Report is usually sufficient to determine whether the objectives of a non-R&D project have been accomplished.

B. What are the Contracting Officer's responsibilities?

The DOE Contracting Officer is responsible for:

1. Incorporating an appropriate Federal Assistance Reporting Checklist (DOE F 4600.2) and instructions in the award. This includes:
 - a. Ensuring that the DOE Project Officer selected the minimum management and scientific/technical reports necessary to monitor progress and report results.
 - b. Specifying the financial reporting requirements.
 - c. Specifying closeout reporting requirements.
2. Assessing a prospective award recipient's past performance to determine whether the recipient has a history of poor programmatic performance, is financially unstable, has inadequate management systems, or has not complied with the terms of previous awards, including providing the required reports. To determine whether the recipient has submitted the required reports, Contracting Officers should review: (1) local report tracking systems to identify delinquent reports; (2) the Procurement and Assistance Data System to review overage closeout actions, and/or (3) the Department's E-Link. System to identify reports received.

- a. If serious or numerous performance deficiencies are found, the Contracting Officer should deny the award, unless law, regulation, or evaluation/selection criteria dictate otherwise.
 - b. When denial of an award based on past performance is not deemed appropriate, the Contracting Officer should include special award conditions in the award (e.g., use a reimbursement payment method rather than advance funding and establish milestone payments associated with the progress of the work, or set aside a portion of the award funding until deliverables are received; require more frequent financial or progress reporting than otherwise required under the program as allowed by 10 CFR 600). (See 10 CFR 600.114, 600.212, and 600.304).
3. Negotiating other terms and conditions when a prospective recipient is unable to comply with the requirement to submit scientific/technical reports in a PDF format via the E-Link system (e.g., recipient may submit the report on a diskette or a CDROM or use one of the following acceptable formats: PDF image or regular (normal), TIFFG4, HTML, SGML, XML, Word, WordPerfect, and Postscript).
 4. Until such time as the report is submitted, the recipient and the Contracting Officer may agree that the report can include proprietary data (limited rights data), classified information, or information subject to export control classification.

II. POST AWARD ACTIONS

A. Who is responsible for reviewing reports?

Generally, the DOE Project Officer is responsible for monitoring Progress Reports and Special Status Reports and the Contracting Officer is responsible for monitoring the receipt of other reports.

1. The Contracting Officer must ensure that these roles are clearly understood and that the DOE Project Officer understands his/her responsibilities for monitoring the receipt of reports and the required follow-up actions.
2. Contracting Officers and DOE Project Offers should keep each other informed if reports are not received.
3. Each Contracting Activity must establish procedures that ensure reports are received and that Scientific/Technical Reports are sent to OSTI. Contracting Activities are encouraged to send reminders to appropriate recipient officials a few weeks before a reporting period ends. This will prevent reporting delinquencies due to mere oversight on the part of the recipient and so reduce the need for follow-up action.

B. What are the procedures for obtaining overdue reports?

1. Immediate follow-up action: When a report has not been received by the terms of the award, the Contracting Officer should contact the recipient by telephone or electronic mail to advise of the delinquency.
2. First Letter: If a report is overdue by 30 days, the Contracting Officer must send a letter to the recipient notifying it of the delinquency and requesting the report. This letter may be sent electronically. The letter must state that, if the report cannot be submitted promptly, the recipient should explain the reason and state the date by which DOE will receive the report.
3. Second Letter: If neither a report nor an acceptable explanation for not submitting it is received from the recipient within 30 days of the date of the first letter, the Contracting Officer must send (by certified mail, return receipt requested) a written notice of noncompliance, as required by 10 CFR 600.24. Among other things, this notice must state what enforcement action will be taken if the report is not received within 30 days (e.g., suspension or termination of the award if still active, withholding of any additional funds for the project, etc.). Enforcement actions are contained in 10 CFR 600.162, 600.243, and 600.352.
4. Funds Cutoff: If neither the report nor an acceptable explanation is received within 30 days of the second letter, no additional funds shall be awarded for the project while the report remains overdue and the award, if still active, shall be suspended. The suspension notice must set a final date by which the report must be received. If the report or an acceptable explanation is not received by that date, the suspension must be converted into a termination. (See 10 CFR 600.25 Suspension and termination)
5. Final Reports: If a final report has not been obtained after taking all the actions set forth above, the Contracting Officer may annotate the award file noting the performance noncompliance, withhold any monies not previously paid, and proceed to close out. The apparent willful failure of the recipient to perform according to the terms of the award shall be reported immediately to the Department's debarment and suspension official (i.e., the Director, Procurement and Assistance Management for DOE awards and the Director, Office of Acquisition and Supply Management for NNSA awards.)
6. Waivers and Extensions: If at any time the recipient provides an acceptable explanation of why the overdue report cannot be submitted promptly, the reporting requirement may be waived or a new due date set. Further extensions of the due date should also be given if justified. However, if, without an acceptable explanation, the recipient fails to submit a report once overdue by a new due date, the funds cutoff action in paragraph II.B.4 must be taken without the delay of further warning letters. Any letter setting a new due date must advise the recipient of this and the possibility of additional or even more severe enforcement actions.

7. Additional Actions: The requirements of this section do not preclude additional actions, as explained in Paragraph, II.D.

C. When can the Contracting Officer waive a reporting requirement?

The only acceptable reasons for waiving an overdue report or setting a new due date are: (1) the report cannot be furnished in a timely manner for reasons legitimately beyond the control of the recipient; or (2) the purposes for which the report is to be used will be accomplished through other means. The recipient must be informed or reminded of this policy in the first letter sent when a report becomes overdue or in the notice of payment withholding.

D. What other enforcement actions can be taken?

In addition to the actions required by this FAL, other actions that may be appropriate should be considered, such as:

1. Converting to a reimbursement method of payment if the conditions are met for using this payment method. (See 10 CFR 600.122(n)).
2. Withholding any additional awards for the project or program (See 10 CFR 600.162, 600.243, and 600.352)
3. Making a site visit to determine whether the recipient is violating other terms of the award or performing an audit of the award.
4. Awarding no discretionary funds while the report is overdue for all or some of the other eligible projects of activities conducted by the recipient.
5. Consulting with the legal counsel to consider legal action for recovery of funds and other legal remedies that may be available.