CHAPTER 11 LIABILITIES

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I. Introduction

I.A. Purpose

This chapter establishes the Department of Energy's (DOE) policies for identifying, recognizing, estimating, recording, and reporting on liabilities, consistent with the underlying requirements promulgated by the Federal Accounting Standards Advisory Board (FASAB).

The accounting treatment for liabilities derived from DOE's lease activities is addressed in DOE Financial Management Handbook (FMH), Chapter 10.2, *DOE Lease Accounting*.

I.B. Applicability

This chapter applies to all Departmental elements and DOE contractors as specified in FMH Chapter 1, *Financial Management Handbook Overview.*

II. Requirements

II.A. General Principles

II.A.1. Accounting Structure

Separate account categories shall be established for liabilities, as defined in the Department of Treasury (Treasury) Standard General Ledger (SGL) Chart of Accounts, to facilitate their clear and full disclosure on the financial statements.

II.A.2. Intragovernmental Liabilities

The accounting records must differentiate between liabilities for intragovernmental (federal) and non-intragovernmental (non-federal) entities.

II.A.3. Accrual Accounting

Accounts shall be maintained on an accrual basis. Expenses and revenues shall be identified and recorded in the period in which they are incurred, even if receipt of the revenue or payment for the expenditure occurs in a subsequent accounting period. Liabilities shall reflect an invoice or the accrual of costs for goods or services received, but payment has not been made. A balance should be maintained between the effort required to measure accrued costs precisely and the added value of such precision.

II.A.4. Deferred/Unearned Revenue

Deferred/unearned[i] revenue represents advance payments from others to cover the cost of services, materials, or other assets that DOE will furnish in the future.

When receiving advances and prepayments for services not yet rendered, record a deferred/unearned revenue liability. The accounting records must distinguish between advances received from other intragovernmental (federal agencies) and advances received from non-federal entities.

When deferred/unearned revenue is earned, that is, goods or services have been delivered or contract terms have been met, the appropriate amount of revenue is recognized with a corresponding reduction in the liability.

II.A.5. Record All Probable and Estimable Liabilities

A liability is defined in Statement of Federal Financial Accounting Standards (SFFAS) 5, *Accounting for Liabilities of The Federal Government,* as "a probable future outflow or other sacrifice of resources as a result of passed transactions or events. General purpose federal financial reports should recognize probable and measurable future outflows or other sacrifices of resources arising from (1) past exchange transactions, (2) government-related events, (3) government acknowledged events, or (4) non-exchange transactions that, according to current law and applicable policy, are unpaid amounts due as of the reporting date."[ii]

All probable and measurable liabilities, as defined by SFFAS 5, *Accounting for Liabilities of The Federal Government,* shall be measured and recorded at the most reasonable amount possible, given the circumstances under which the liability was created. "Measurability"[iii] means that an item has a relevant attribute that can be quantified in monetary units with sufficient reliability to be reasonably estimable.

II.A.6. Contingent Liabilities—General Principles

Contingent liabilities are exchange transactions that may evolve into a DOE liability if future events, beyond the federal government's control, result in losses or impairments of assets or incurrence of liabilities[iv]. Liabilities that contain contingent amounts related to uncertainty in estimates, such as environmental liabilities, are not "contingent liabilities" and are not reported here. Contingent liabilities shall be recorded as incurred (and as an obligation) if the loss is probable and the amount can be reasonably estimated. Loss contingencies that have a reasonably possible chance of occurring or that cannot be estimated are only included as a footnote on the financial statements if deemed material by the Office of Finance and Accounting.

Contingent liabilities are not recordable as obligations under 31

USC 1501, *Documentary evidence requirement for Government Obligations*. Further information regarding contingent liabilities is provided in Government Accountability Office's (GAO's) *Principles of Federal Appropriations Law* - Third Edition, Volume II, Chapter 7 *Obligation of Appropriations*[v].

II.A.7. Unfunded Liabilities

Unfunded liabilities are not covered by budgetary resources. Unfunded liabilities include Pension/Postretirement Benefits (PRB), Environmental Liabilities, and Nuclear Waste Fund Deferred/Unearned Revenues.

II.A.8. Public-Private Partnerships (P3s)

SFFAS 49, *Public-Private Partnerships (P3s)*, which include Energy Savings Performance Contracts (ESPC) requires the disclosure of risk-sharing arrangements with expected lives greater than five years between public and private sector entities in the DOE Annual Agency Financial Report (AFR).

II.B. Significant DOE Practices

II.B.1. Accruals

II.B.1.i. Accruals for DOE Awards and Transactions

An accrued cost is an invoiced or un-invoiced, projected dollar value of the cost incurred (for goods and services received) on a financial instrument. Cost accrual estimates are typically posted in DOE's core accounting system (the Standard Accounting and Reporting System or STARS) in the month in which the goods and services were received and then reversed the following month in anticipation of receipt of the invoice and/or payment for goods and services received.

Automatic accruals should be reviewed and, if needed, manually adjusted to ensure that the accrued amount is accurate. For awards with an uncosted balance greater than $1 million, evidence for review of the automated accruals is required. Manual accrual adjustments may be recorded for awards with an uncosted balance under $1 million on a discretionary basis. Review and adjustments to automated accruals and the recording of manual accruals is performed using the Financial Accounting Support Tool (FAST).

Guidance describing DOE's financial, and accounting organizational structure and its primary accounting system and related financial systems is provided in

FMH Chapter 4 *DOE Accounting Structure, Organization, and Systems*. Requirements regarding accruals for DOE Financial Assistance Awards and Technology Investment Agreements are specified in section II.C.2 of FMH Chapter 14, *Financial Assistance and Technology Investment Agreements.*"

II.B.1.ii. Accruals for Integrated Contractor Awards and DOE Subcontracts

Integrated Contractors (ICs) maintain their own cost accrual procedures. Reporting to DOE is provided through monthly trial balance uploads to STARS (see section II.D of Chapter 4 of the DOE *Financial Management Handbook*).

II.B.1.iii. Federal Energy Regulatory Commission and Power Marketing Administrations Federal Energy Regulatory Commission (FERC) and Power Marketing Administrations (PMA) maintain their own cost accrual processes. See DOE FMH Chapter 4 sections II.F. and II.G.

II.B.2. Unfunded Liabilities Not Covered by Budgetary Resources

Liabilities are amounts the reporting entity owes to others for goods or services received, progress in contract performance, defaulted guarantees, funds held as deposits etc. No liability can be paid without an enacted appropriation. Liabilities covered by an enacted appropriation are funded liabilities. Unfunded liabilities are liabilities not covered by an appropriation where goods or services have been exchanged with the promise of future outlays.

DOE has established specific liability accounts to record unfunded liabilities. The use of these accounts is restricted to those liabilities specifically identified in the DOE SGL description.

II.B.3. Liabilities Covered by Budgetary Resources

Funded liabilities are liabilities for which there are budgetary resources available to obligate and pay for the liability. Budgetary resources encompass not only new budget authority but also other resources available to cover liabilities for specified purposes in a given year.[vi] Available budgetary resources include:

- New budget authority.
- Unobligated balances of budgetary resources at the beginning of the year or net transfers of prior year balances during the year.

- Spending authority from offsetting collections (credited to an appropriation or fund account).
- Recoveries of unexpired budget authority through downward adjustments of prior year obligations; and
- Permanent indefinite appropriations, which have been enacted and signed into law and are available for use as of the balance sheet date, provided that the resources may be apportioned by OMB without further action by Congress and without a contingency having to be met first.

II.B.4. Contingent Liabilities

II.B.4.i. Accrual and disclosure of contingent liabilities depends on the probability of occurrence. When a loss contingency exists, the likelihood that a future event or events will confirm the loss or impairment of an asset can range from probable to remote.

DOE records contingent liabilities as specified by Treasury guidance, summarized in the table below. (Treasury Financial Manual (TFM) Volume 1 Part 2 Chapter 4700 Section 4745.10)

Likelihood of Future outflow or other sacrifice of resources	Loss amount can be reasonably measured	Loss range can be reasonably measured	Loss amount or range cannot be reasonably measured
Probable: Future confirming event(s) are likely to occur.	Accrue the liability. Report on the Balance Sheet and Statement of Net Cost.	Accrue liability of best estimate or minimum amount in loss range if there is no best estimate, and disclosure of nature of contingency and range of estimated liability.	Disclose nature of contingency and include a statement that an estimate cannot be made.
Reasonably Possible: Possibility of future event(s) occurring is more than remote but less than probable.	Disclose nature of contingency and estimated amount.	Disclose nature of contingency and estimated loss range.	Disclose nature of contingency and include a statement that an estimate cannot be made.
Remote: Possibility of future event(s) occurring is slight.	No action is required.	No action is required.	No action is required.

II.B.4.ii. As part of the financial statement analysis and notes submission, Designated Financial Officers must provide the CFO Office of Finance and Accounting a listing of the events and legal cases recorded in DOE's contingent liability standard general ledger accounts annually as of June 30 and September 30. The listing must include the dollar amount for each event or legal case.

II.B.4.iii. Legal Counsel Response (Legal Representation Letter)

In accordance with SFFAS 5 and OMB Circular A-136 *Financial Reporting Requirements,* DOE prepares a Legal Counsel Response (also referred to as a Legal Representation Letter) to support the basis for reporting its contingent liabilities and note disclosures in the annual financial report.

The Legal Counsel Response is required when the range of potential loss is material. The materiality range is determined by the auditor and by the CFO Office of

Finance and Accounting consistent with sections 1002.19 to 1002.22 of the GAO/CIGIE Financial Audit Manual (GAO-22-105895).

The Legal Counsel Response should include all components of the DOE reporting entity, including the Power Marketing Administrations and FERC. DOE GC coordinates with field counsel, counsel for the Power Marketing Administrations, and counsel for FERC as needed in preparing the Legal Counsel Response. Specific requirements for the Legal Counsel Response are specified in section 1001.16 of the GAO/CIGIE Financial Audit Manual (GAO-22-105895).

II.B.5. Federal Employee Retirement Benefits

DOE does not report Civil Service Retirement System or Federal Employees Retirement System assets, accumulated plan benefits, or unfunded liabilities (if any) applicable to its federal employees. The Office of Personnel Management (OPM), which administers the plans, is responsible for and reports these liabilities.[vii]

The Department does report, as an imputed financing source and a program expense, the difference between its contributions to federal employee pension and other retirement benefits and the estimated actuarial costs as computed by the OPM. The Power Marketing Administrations make additional annual contributions to Treasury to ensure that all PRB programs provided to their employees are fully funded and properly expensed.[viii]

II.B.6. Environmental Liabilities

Environmental liabilities shall be recorded if the loss is probable, and the amount can be reasonably estimated. DOE will recognize Environmental Liabilities in accordance with SFFAS 5 and SFFAS 6 *Accounting for Property, Plant, and Equipment*, Interpretation of Federal Financial Accounting Standards 9 *Cleanup Cost Liabilities Involving Multiple Component Reporting Entities*, Technical Bulletin (TB) 2011-2, Technical Releases (TR) 2, 10 and 11.

II.B.7. DOE Liability for Contractor Defined Benefit Pension Plans

Many DOE site/facility management contractors sponsor defined benefit pension plans that promise to pay specified benefits to their employees, such as a percentage of the final average pay for each year of service. DOE’s allowable costs under these contracts include reimbursement of contractor contributions to these pension plans and the costs associated with managing the plans and their assets.

Because of DOE's contractual obligations, DOE records the contractors' total liabilities for pensions plans as a DOE liability.

II.B.8. DOE Liability for Contractor Postretirement Benefits

Many DOE site/facility management contractors provide PRB plans other than pensions, including medical, dental, life insurance, and Medicare Part B premium reimbursement. The cost of these benefits represents allowable costs under the terms of DOE's contracts and thus are reimbursed by DOE.

Because of DOE's contractual obligation to pay the costs of contractor PRBs, DOE records the contractors' liabilities for PRB plans as a DOE liability. DOE accrues a liability for future contractor PRBs during the years that the contractor employees render service.

II.B.9. Applicable Accounting Standards for Private Sector Pensions and Postretirement Benefits

There is no federal accounting standard relevant to accounting for private sector pension plans and PRBs. DOE follows applicable sections of Financial Accounting Standards Board Accounting Standards Codification 715*, Compensation – Retirement Benefits*, for contractor pension plans and PRBs when the structure of the DOE contract creates DOE liability.

II.B.10. Energy Savings Performance Contracts

DOE discloses its P3 arrangements related to ESPCs and Utility Energy Service Contracts (UESC) in the footnotes of the financial statements[ix].

II.B.11. Funds Held for Others

A liability shall be established whenever DOE has physical possession or responsibility for non-Government personal property or cash. This includes certain funds that belong to others, such as payroll deductions and deposit funds. Funds held for others also include amounts held in suspense accounts awaiting disposition or reclassification. The individual details for each of these accounts reside in the asset accounts.[x]

III. Significant Liabilities Reported by DOE

III.A. Environmental Liabilities

DOE accounts for three major categories of environmental liabilities:

III.A.1. Office of Environmental Management

Most of DOE's environmental liabilities are managed by the Environmental Management (EM) program which addresses the legacy of contamination from the nuclear weapons complex and includes managing thousands of contaminated facilities formerly used in the nuclear weapons program, overseeing the safe management of large quantities of radioactive waste and nuclear materials, and cleanup of large volumes of contaminated soil and groundwater.

III.A.2. Active Facilities

The active facilities portion of the environmental liability includes anticipated remediation costs for active and surplus facilities managed by DOE's ongoing program operations which will ultimately require stabilization, deactivation, and decommissioning.

III.A.3. Other Legacy Environmental Liabilities

Other legacy liabilities are divided between environmental liabilities for active sites, including estimated cleanup; the Office of Legacy Management functions for post-closure responsibilities, including surveillance and monitoring activities; soil and groundwater remediation; and disposition of excess material from sites after the EM program activities have been completed.

Long term stewardship environmental liabilities are estimated for the period from the year after the end of the Office of Environmental Management mission to 75 years from the current year. Exceptions may apply when required by regulation or when activities past the 75 year period are known.

Other legacy liabilities include the cost of disposing of weapon-grade plutonium in accordance with the Plutonium Management and Disposition Agreement (PMDA) between the United States and Russia, and DOE’s share of the estimated future costs of disposing of its inventory of high-level waste and spent nuclear fuel. DOE is also responsible for managing surplus plutonium and non-Legacy Management Other Restructured Environmental Liabilities (REL).

III.B. Environment, Safety and Health

The DOE’s ES&H liability represents costs to bring facilities and operations into compliance with existing federal, state and local ES&H laws and regulations including the Atomic Energy Act; Occupational Safety and Health Act; Clean Air Act; and the Safe Drinking Water Act; and applicable DOE Orders.

These liabilities shall be recorded if the loss is probable, and the amount can be reasonably estimated. Offices are to use the most current documentation that describes the actions necessary to achieve compliance with applicable nuclear safety, worker safety, emergency preparedness, and environmental protection requirements, or equivalent planning documents as the basis for estimating ES&H liabilities.

The ES&H activities within the purview of the EM program are included in the EM environmental liability estimate.

III.C. Accounts Payable

DOE's financial statements include accounts payable of all Departmental elements and contractors. As defined by SFFAS 1, *Accounting for Selected Assets and Liabilities,* accounts payable are amounts owed by a federal entity for goods and services received, progress in contract performance made by, and rents due to other entities.

III.D. Interest Payable

Interest payable represents liabilities for interest expense incurred and unpaid. These expenses typically arise from interest due on long-term debts, lease obligations, and late payments. The accounting records must distinguish between interest payable to non-federal entities and interest payable to other federal agencies.

III.E. Payroll Liabilities

III.E.1. Accrued Payroll and Benefits

DOE accrues the unpaid wages and benefits that federal employees have earned at the close of each accounting period.

Performance awards are accrued when earned—that is when federal employee ratings are given.

III.E.2. Accrued Federal Leave

DOE accrues an estimated liability for earned, but unpaid annual leave. Accrued annual leave represents an unfunded liability.

Sick leave and other types of non-vested leave are expensed as taken; therefore, DOE does not accrue a liability.

III.E.3. Accrued Contractor Leave (Paid Time Off)

DOE accrues Paid Time Off (PTO) for contractor employees if a contractual requirement exists for employees to be paid for unused leave. Unlike annual leave for federal employees, this is a funded liability rather than an unfunded liability.

III.E.4. DOE and Contractor Payroll Withholding for State and Local Taxes

DOE accrues a liability for state and local taxes that have been withheld from employees but not paid to the state or locality.

III.F. Deferred/Unearned Revenues

III.F.1. Nuclear Waste Fund

The Nuclear Waste Policy Act of 1982 (NWPA) established the federal government's responsibility to provide for permanent disposal of the nation's high-level radioactive waste and spent nuclear fuel. NWPA requires all owners and generators of high-level nuclear waste and spent nuclear fuel, including DOE, to pay their respective shares of the full cost of disposal.

DOE's liability for disposal reflects its share of the estimated future costs of the disposal of its inventory of high-level waste and spent nuclear fuel. DOE's liability does not include the portion of the cost attributable to commercial owners and generators.

Nuclear Waste Fund revenues are accrued based on charges assessed against owners and generators of high-level radioactive waste and spent nuclear fuel, and interest earned on principal invested in Treasury securities.

Nuclear Waste Fund revenues are recognized as a financing source when DOE incurs expenses for authorized Nuclear Waste Fund activities.

Revenues that exceed the Nuclear Waste Fund expenses are deferred.

III.F.2. Reimbursable Work Advances

Advances from reimbursable work customers shall be recorded as deferred/unearned revenue. Costs incurred in the performance of work shall be accumulated and charged against the reimbursable work advance received.

For additional guidance regarding advances for reimbursable work, see FMH Chapter 13.1, *Reimbursable Work, and Interagency Agreements*.

III.G. Federal Employees' Compensation Act Liability

The Federal Employees' Compensation Act actuarial liability represents the liability for future workers' compensation benefits, which includes the expected liability for disability, survivors, and medical benefits, to employees who are injured, or become ill, during federal employment and to the survivors of employees killed on the job. This liability is calculated annually by the Department of Labor for financial reporting purposes.

III.H. Loan Guarantee Liabilities

For guaranteed loans outstanding, the present value of estimated net cash outflows of the loan guarantees is recognized as a liability. DOE discloses the face value of its outstanding guaranteed loans and the amount guaranteed.

For additional guidance regarding loan guarantees, see FMH Chapter 22, *Direct Loans and Loan Guarantees*.

III.I. Other Liabilities

Any other liabilities that have not been defined elsewhere should be disclosed in the financial statements. The principle of materiality and full disclosure should govern the inclusion of such liabilities. The nature of each liability should be identified and reported, either by a footnote to the financial statements or by the actual inclusion of an amount in a liability account, if the potential amount due or a loss can be estimated. The Office of Finance and Accounting will make a final determination on other liabilities deemed material for note disclosure on the annual financial statements.

IV. References

- 31 USC 1501, *Documentary evidence requirement for Government Obligations*
- FASAB SFFAS 1 *Accounting for Selected Assets and Liabilities*
- FASAB SFFAS 5 *Accounting for Liabilities of The Federal Government*
- FASAB SFFAS 6 *Accounting for Property, Plant, and Equipment*
- FASAB SFFAS 33 *Pensions, Other Retirement Benefits, and other postemployment Benefits: Reporting the Gains and Losses from Changes in Assumptions and Selecting Discount Rates and Valuation Dates*
- FASAB SFFAS 49 *Public-Private Partnerships: Disclosure Requirements*
- FASAB Interpretation of Federal Financial Accounting Standards 9, *Cleanup Cost Liabilities Involving Multiple Component Reporting Entities: An Interpretation of SFFAS 5 & SFFAS 6*

- FASAB TB 2011-2 *Extended Deferral of the Effective Date of Technical Bulletin 2006-1, Recognition and Measurement of Asbestos-Related Cleanup Costs)*
- FASAB TR 2 *Determining Probable and Reasonably Estimable for Environmental Liabilities in the Federal Government*
- FASAB TR 10 *Implementation Guidance on Asbestos Cleanup Costs Associated with Facilities and Installed Equipment*
- FASAB TR 11 *Implementation Guidance on Cleanup Costs Associated with Equipment*
- OMB Circular A-136, *Financial Reporting Requirements*
- Governmental Accountability Office, *Principles of Federal Appropriations Law* (Red Book) - Third Edition, Volume II, Chapter 7 *Obligation of Appropriations*.
- TFM Volume 1 Part 2 Chapter 4700, *Federal Entity Reporting Requirements for the Financial Report of the United States Government*
- TFM Volume 1 Part 2 Chapter 4700 Section 4745.10, *Legal Representation Letter*
- TFM Volume 1 Part 2 Chapter 5100 Section 5135A, *Continuing Use of Suspense Accounts F3875 and F3885 for Reporting Suspense Account Activity*
- DOE FMH Chapter 1 *Financial Management Handbook Overview*
- DOE FMH Chapter 10.2 *DOE Lease Accounting*
- DOE FMH Chapter 13.1 *Reimbursable Work and Interagency Agreements*
- DOE FMH Chapter 14 *Financial Assistance and Technology Investment Agreements*
- DOE FMH Chapter 22 *Direct Loans and Loan Guarantees*

V. Acronyms

- AFR Agency Financial Report
- CFO Chief Financial Officer
- DOE Department of Energy
- EM Environmental Management
- ES&H Environment, Safety and Health
- ESPC Energy Savings Performance Contract
- FASAB Federal Accounting Standards Advisory Board
- FAST Financial Accounting Support Tool
- FERC Federal Energy Regulatory Commission

- FMH Financial Management Handbook
- GAO Government Accountability Office
- IC Integrated Contractor
- NWPA Nuclear Waste Policy Act
- OGC Office of General Counsel
- OPM Office of Personnel Management
- P3's Public Private Partnerships
- PMA Power Marketing Administration
- PMDA Plutonium Management and Disposition Agreement
- PRB Postretirement Benefits
- PTO Paid Time Off
- REL Restructured Environmental Liabilities
- SFFAS Statements of Federal Financial Accounting Standards
- SGL Standard General Ledger
- STARS Standard Accounting and Reporting System
- TB Technical Bulletin
- TFM Treasury Financial Manual
- TR Technical Release
- UESC Utility Energy Service Contracts
- USC United States Code

[i] Per SFFAS 7, FASAB uses the term "unearned revenue" to refer to the receipt of advances and prepayments instead of "deferred revenue". Deferred Revenue is only used to refer to "forfeited properties." OMB Circular A-136 *Financial Reporting Requirements* (dated May 2023) still uses the term "deferred revenue"; therefore, this chapter references both terms since they are currently synonymous. When OMB Circular A-136 is updated to coincide with FASAB's definition then "deferred revenue" will be removed from this chapter.
[ii] SFFAS 5, paragraph 19.
[iii] SFFAS 5, paragraph 34
[iv] Appendix E of the FASAB Handbook (Version 22) defines a contingency as: An existing condition, situation, or set of circumstances involving uncertainty as to the possible gain or loss to an entity that will ultimately be resolved when one or more future events occur or fail to occur.
[v] GAO's *Principles of Federal Appropriations Law* is more widely known as "The Red Book."
[vi] SFFAS 5, footnote 1
[vii] Per SFFAS 33, footnote 7, The terms "employer entity" and "administrative entity" are used in SFFAS 5 to distinguish between entities that employ federal workers and thereby incur the employee costs, including pension cost, and those that are responsible for managing and/or accounting for the pension or the other employee plan. For example, entities that receive "salaries and expense" appropriations are employer entities, while the OPM is an administrative entity because it administers the civilian

retirement benefit plans. See especially SFFAS 5, pars. 71-2 and 88. An entity may be both an employer entity and an administrative entity, for example, when it, rather than OPM, administers a pension plan for its employees. In such instances, that entity would be responsible for reporting gains and losses from changes in assumptions if the conditions in paragraph 19-20 are satisfied.

[viii] As documented, e.g., in the FY 2023 AFR Note 1 Section O.

[ix] There is some discussion on liabilities related to P3 arrangements at SFFAS 49, paragraphs 6, 20-21, & 23.

[x] DOE's use of Treasury suspense accounts 089F3885 and 089F3875 must be consistent with TFM Part 2 Chapter 5100 Section 5135.