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Chapter 1
Introduction

Introduction.

It is our collective responsibility to fulfill our responsibilities as stewards of Government resources. To effectively plan and execute EERE acquisition requirements, we need to work together as a team. This guide provides information that sets forth the rules for acquiring goods and services, and in helping you in carrying out your responsibilities as a federal employee. It also offers the framework from which informed decisions can be made.

The Office of Business Administration and its Support Service Center is available to help you by providing expert advice, guidelines, and examples to get you through the acquisition process. We will use our knowledge and our contacts to help move work through the system as expeditiously as possible. In many cases, we will work to help you develop needed products. We want to ensure that the supplies and services you need to do your job are received in good condition, at a reasonable cost, and in a timely manner, while also complying with all applicable statues and regulations. The regulations provide sufficient flexibility and ample methods for us to use, but your involvement is the key to EERE's success.

Purpose.

Federal agencies are authorized by law to acquire, and are governed by law and regulations in their acquisition of, the goods and services they require to accomplish their respective missions. The acquisition mission of EERE is to spend most of its acquisition dollars as a catalyst to promote energy related research and development (R&D) for the general economy rather than acquiring goods and services for its own use. EERE is primarily concerned with the acceleration of technology that the normal forces of the marketplace will not undertake for a variety of reasons, such as technical risks, financial risks, large capital investments, and unstable markets.

In order to execute DOE's mission, the program manager must use the acquisition process to place procurement awards (contracts, purchase orders, delivery orders, task orders and government purchase card buys); financial assistance awards (grants and cooperative agreements); work authorizations, interagency-out agreements; and obligate funds. The success of a program is dependent on having the best contractor or support provided to ensure the program progresses in a timely manner and with the best possible results. A poorly executed acquisition can result in problems throughout the procurements or financial assistance award's period of performance, which in turn can result in delays for the entire program.

Scope.

This document applies to all EERE customers who are supported by the Office of Business Administration. This Guide is as a how-to "toolkit," designed to aid you in preparing your acquisition (procurement and financial assistance) requirement packages within the standards of the acquisition process. Any "generic" example provided in this guide must be tailored to meet the unique requirements of each acquisition. We have attempted to follow a logical sequence in presenting this information. Chapter 2 provides general information such as Office of Business Administration points of contact, fund approval authority levels, and code of conduct of personnel. Chapter 3 discuss basic procurement and financial assistance information such as competition and public announcement requirements, the different types of contracts and financial assistance awards, and procedures for procuring supplies, services and processing financial assistance requests. Chapter 4 follows with a discussion of the requirements and content of procurement and financial assistance requirement packages to include work authorizations and interagency agreements. The Guide then describes the evaluation processes for procurement and financial assistance proposals in Chapter 5. The final chapter, Chapter 6 outlines the procurement and financial assistance award monitoring and administration requirements. Preparation instructions and examples of numerous required documents have been included in the appendix.

Chapter 2
General Information

2.1 Field Management and Operations Points of Contact

Roles, Responsibilities and Points of Contact can be found at the Office of Business Administration Home Page at http://ee-intranet.ee.doe.gov/ba/. You may also contact the Office of Business Administration Customer Service Support Center for information and assistance at (202) 586-3101.

2.2 Acquisition (Procurement and Financial Assistance) Authority and Responsible Personnel.

The authorities for various aspects of the acquisition processes are delegated to the appropriate officials within DOE and EERE. Only duly appointed Contracting Officers and valid GSA Government Purchase Card holders have the authority to (1) obligate the government, and (2) effect an award of a contract, financial assistance instrument, award modification, or a simplified acquisition (i.e. purchases less than $100,000).

Funding Actions. The Assistant Secretary for Energy Efficiency and Renewable Energy has delegated authority for approving funding actions to the EERE Deputy Assistant Secretaries, Principal Deputy Assistant Secretary, and Director, Communications and Outreach. The Deputy Assistant Secretaries have further delegated this authority to their Program Managers and Office Directors. The table below reflects the current delegations.

Levels of Approval for Procurement and Financial Assistance	
Actions < $250,000 Without an approved spend plan.	Director approval for Office of Communications & Outreach (C&O) actions.
Actions > $250,000 < $5,000,000 Without an approved spend plan.	Principal Deputy approval for Office of C & O actions.
Actions < $1,000,000 With an approved spend plan.	Director approval for Office of C&O actions.
Actions > $1,000,000 < $30,000,000 With an approved spend plan.	Principal Deputy approval for Office of C&O actions.
Actions < $5,000,000 With an approved spend plan.	TD Program Managers or BA Office Directors
Actions > $5,000,000 < $30,000,000 With an approved spend plan.	TD & BA Deputy Assistant Secretaries.
Actions > $5,000,000 Without an approved spend plan.	Assistant Secretary for EERE for C&O actions.
Actions > $30,000,000 With an approved spend plan.	Assistant Secretary for EERE

Note: Approval levels for financial assistance actions, work authorizations, procurement request-authorizations, interagency agreements and other fund transfer actions are reduced if spend plans have not been approved by the Assistant Secretary for Energy Efficiency and Renewable Energy.

Use of the Strategic Management System (SMS) and the EERE Data Center. EERE developed and adopted the SMS as an executive and program management system to integrate the planning, budget formulation, budget execution and analysis and evaluation processes. When properly used the SMS and the EERE Data Center can assist the program manager in planning and execution of requirements. All EERE organizations are required to utilize the SMS and EERE Data Center.

Acquisition Officials. Many of the decisions made during the acquisition process are joint decisions among the program manager, contracting officer, contracting officer's representative, the contract specialist, source selection or merit review committee members. Everyone must work as a team to avoid unnecessary delays and to determine the best way to achieve the required results. The responsibilities of these key personnel are as follows.

Contracting Officer (CO). The CO has the primary authority for entering into, administering, and/or terminating contracts and financial assistance instruments, and for making related determinations and findings. Authority and designation procedures for COs are set forth in DOE Order 541.1A "Appointment of Contracting Officers Contracting Officer's Representatives". It is the CO who has the specific authority to establish binding legal relationships that obligate DOE financially. The contracting officer is responsible for the business management and non-programmatic aspects of the acquisition process. Detailed responsibilities of the CO can be found in the DOE Financial Assistance Guide for financial assistance actions and the Federal Acquisition Regulation (FAR), 1.602 for procurement actions. The CO, with the recommendation of the program manager, ultimately selects the method of procurement, type of contract or financial assistance instrument.

Contracting Officer's Representative (COR). Since the CO is a senior individual, either at headquarters or in the field, and usually has authority for numerous contracts at once, many of the details for each contract or financial assistance award are delegated to a COR. Appointments of a COR must be in writing and may be made for such actions as technical monitoring, inspection, approval of shop drawings, testing, approval of samples, engineering evaluation, and monitoring schedules and deliverables. A COR may rely on or assign others to assist in carrying out certain functions (e.g., monitoring of individual tasks), but ultimate responsibility for such functions remains with the COR. The COR does not have authority to alter the scope, price, or terms and conditions of a contract. For R&D contracts, the COR is often the contracting officer's technical representative (COTR). A COR may be appointed for financial assistance awards if required or the situations dictates. Nominations for CORs are sent to your supporting contracting officer. Nominees must meet requirements listed in DOE Order 541.1A Appointment of Contracting Officers Contracting Officer's Representatives and the DOE Acquisition Guide, Chapter 1. Nominees are required to file a Confidential Financial Disclosure Report (SF450) upon being nominated in accordance with DOE Order 541.1A Paragraph 4d.

Competition Advocate. Competition Advocate are normally concerned with procurements; however, the same principles should apply to financial assistance awards. Competition Advocates are responsible for promoting the procurement of commercial items, promoting full and open competition, challenging requirements that are not stated in terms off functions to be performed, performance required or essential physical characteristics, and changing barriers to the procurement of commercial items and full and open competition such as unnecessarily restrictive statements of work, and unnecessarily detailed specifications. Competition Advocates should be consulted early in the

procurement process if you are planning other than a full and open competition.

Contract Specialist. During the procurement process, a contract specialist is usually assigned to assist the COR and the program manager. The contract specialist is knowledgeable about all Federal procurement and financial assistance clauses and requirements, and the rules and regulations regarding them. His/her primary duties are to aid in developing the requirements package prior to the solicitation, assist in the negotiation process, and help prepare/issue contract or award execution documents.

Financial Assistance Selection Official. This is the Assistant Secretary for Energy Efficiency and Renewable Energy or his designee's for all EERE actions unless selection authority has been delegated. The SO makes the final selection of the winning proposal(s) based on the evaluations and recommendations made by the Merit Review Committee and the Program Policy Reviewers. More detailed information on the Selection Official can be found in Chapter 5.

Financial Assistance Merit Review Committee. This is the group of people (at least three) that have been appointed by the SO to evaluate proposals against pre-established criteria and recommend winning proposals for a particular financial assistance action. The Merit Review Committee members should be identified early on in the planning process so they can help guide the preparation of the requirement package. More detailed information on the Merit Review Committee can be found in Chapter 5.

Financial Assistance Program Policy Reviewer(s). This is one or more personnel who have been appointed by the SO to evaluate proposals against pre-establish program policy factors and recommend winning proposals that will best achieve or advance the program objectives. More detailed information on the Program Policy Reviews can be found in Chapter 5.

Procurement Source Selection Authority (SSA)/Source Selection Official (SSO). This is normally the Contracting Office, unless DOE has appointed another individual for a particular procurement or group of procurements. The SSA is the person who makes the final selection of the winning proposal or bid. The selection is normally based on the evaluation of proposals and recommendations made by the Source Evaluation Board/Team. More detailed information on the Source Selection Authority can be found in Chapter 5.

Procurement Source Evaluation Board (SEB)/Source Evaluation Team (SET). This is the group of people that have been appointed to evaluate proposals against pre-established criteria for a particular procurement. The team may include contracting, legal counsel, logistics, technical and other expertise to ensure a comprehensive evaluation of proposals. The SEB should be identified early in the planning process is necessary so that they can help guide the preparation of the procurement package. More detailed information on the Source Evaluation Board can be found in Chapter 5.

Small Business Program Managers. These are individuals who have been appointed within EERE to ensure that adequate procurement opportunities are provided for small and disadvantage businesses. They review requirement packages in an effort to identify opportunities that can be performed by

small business or small business subcontractors. They also monitor EERE's achievement of the socioeconomic goals assigned by the DOE Office of Small and Disadvantaged Business Utilization to ensure that the goals are met.

2.3 Procurement and Financial Assistance Regulations and Guides. The ground rules for the acquisition process for procurements and financial assistance awards are contained in the Federal Acquisition Regulation (FAR), and Title 10 Code of Federal Regulations (CFR) Part 600 Financial Assistance Regulation. The FAR published as Title 48 of the Code of Federal Regulations, is issued under the authority of the Office of Federal Procurement Policy Act of 1974. Title 10 CFR Chapters II, III and X have additional guidance, which may pertain to certain requirements.

Procurement. The FAR carries the same force as Federal law, and requires the same compliance when contracting for goods or services when using appropriated funds. In general, the award of contracts, contract modifications, work authorizations, interagency agreements, and simplified acquisitions occur under the jurisdiction of the FAR. Subsequently, DOE issued the DOE Acquisition Regulation and DOE Acquisition Guide to implement the FAR in the Department and to supplement the FAR in areas where there was no coverage of policies unique to the DOE. These statues form the foundation for DOE's procurement process, which is based on the concept of full and open competition.

Financial Assistance. The DOE Financial Assistance Regulations are published as Part 600 of Title 10 Code of Federal Regulations. Part 600 Financial Assistance Regulations implements the Federal Grant and Cooperative Agreement Act, Pub L. 95-224 and:

- Establishes uniform policies and procedures for the award and administration of DOE grants and cooperative agreements;
- Implements Office of Manpower and Budget Circular A102, Grants and Cooperative Agreements with State and Local Governments; and Circular A-110, Uniform Administrative Requirement for Grants and Agreement with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations; and
- Establishes rules governing sub-awards to institutions of higher education hospitals, and non-profit and commercial organizations (including grants and cooperative agreements administered by State, local and Indian Tribal governments.

Title 10 CFR Part 420 State Energy Program provides specific guidance for providing financial assistance and technical support to States for energy programs and special projects.

Title 10 CFR Part 541 Renewable Energy Production Incentives provides policies and procedures applicable to the determination by the DOE to make incentive payments for electric energy generated and sold by a qualified renewable energy facility owned by a State or nonprofit electric cooperative under the authority of 42 U.S.C. 13317.

DOE and Local Policies and Procedures. DOE Acquisition and Financial Assistance Guides. The DOE Acquisition Guide and the DOE Guide to Financial Assistance are published by the Office of Procurement and Assistance Management and provide the program manager with additional infor-

mation and guidance on the acquisition and financial assistance award process.

DOE Acquisition and Financial Assistance Letters. Acquisition Letters (AL) and Financial Assistance letters (FAL) are issued by the Procurement Executive to provide implementation guidance to the field until the guidance is superceded or incorporated into the FAR, CFR or DOE regulations. The letters are normally used to implement recent changes in laws or legislation and remain in effect until changed or cancelled.

EERE Acquisition Guide. This guide is part of the EERE Program Managers Guide and provides information and procedures for acquiring procurement and financial assistance goods and services within EERE.

EERE Merit Review Guide. This guide establishes standard procedures for conducting Merit Reviews of discretionary financial assistance in EERE.

Directives, Policies, Orders, Notices, Manuals, and Guides. DOE has published additional information and guidance for the processing, award and administration of procurement and financial assistance awards. Many of these can be found at http://www.directives.doe.gov/

2.4 Standards of Conduct, Ethics and Organizational Conflicts of Interest.

Standards of Conduct address three major categories of issues. These are (1) exercising improper influence on Government decisions (2) honest and disclosure of relevant facts in dealing with the government, and (3) involvement in improper disclosure of acquisition information.

The FAR Part 3 Improper Business Practices and Personal Conflicts of Interest provides detailed guidance on the conduct expected of Government personnel involved in a procurement activity. Improper business practices such as acceptance of gifts or favors, unauthorized disclosure of procurement sensitive information, or use of undue influence could result in criminal prosecution. A good rule to follow is think before you accept any gifts. Whenever a gift/gratuity is offered or delivered to you (i.e., left on your desk, front porch, or in your car), return it promptly! If a gift can't be returned, turn it over to your supervisor along with an explanation. Most acquisition information can only be discussed or released to people with an official need to know. Play it safe, whenever you are in doubt, call us or consult General Counsel. Employees of DOE are subject to the:

- Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR Part 2635,
- DOE regulation at 5 CFR Part 3301 which supplements the executive branch-wide standards,
- Executive branch-wide financial disclosure regulations at 5 CFR Part 2634,
- Executive branch-wide financial interests regulations at 5 CFR Part 2640, and
- Executive branch-wide employee responsibilities and conduct regulation at 5 CFR Part 735.

Procurement Integrity. The Procurement Integrity Act (41 U.S.C 423) prohibits the following activities by competing contractors and Government procurement officials during the conduct of a procurement or financial assistance action.

- Soliciting or discussing post-Government employment;
- Offering or accepting a gratuity;

- Soliciting or disclosing proprietary or source selection information.

In addition, the act provides for certification and disclosure provisions applicable to Government contractors and Government officials, imposes post employment restrictions on Government officials and employees, and provides for criminal, civil, contractual, and administrative penalties for violations of the law. See the Office of Procurement and Assistance Management's Procurement Integrity Brochure for additional information.

Ethics. All Government employees are subject to conform to high standards of ethical conduct. Government business shall be conducted in a manner above reproach and, except as authorized by statute or regulation, with complete impartiality and with preferential treatment for none. Employees must avoid any action that might result in or create the appearance of:

- Using public office for private gain;
- Giving preferential treatment to anyone;
- Impeding Government efficiency or economy;
- Losing complete independence or impartiality;
- Making a Government decision outside official channels;
- Affecting adversely the confidence of the public in the integrity of the Government.

Organizational Conflict of Interest (OCI). OCI statutes were intended to assure that DOE would not contract for certain types of services and work with contractors that 1) have interests which create a real circumstance or even an appearance that the contractors would not supply impartial or objective advice, and 2) would result in a contractor gaining an unfair competitive advantage in subsequent acquisitions.

An OCI may be defined as the inability of a contractor to provide the Government with impartial or objective assistance or advice and/or, the contractor being given or receiving an unfair competitive advantage because of performance under past or present Government contracts or financial assistance awards. Accordingly, an OCI may result when factors create an actual or potential conflict of interest on a current contract or financial assistance award, or when the nature of the work to be performed on the current contract or financial assistance award creates an actual or potential OCI on a future acquisition. Additional information may be found in the Organizational Conflicts of Interest Guide located at the Albuquerque Operations Office's Contracts and Procurement Division Quality Corner- “Templates”. Below are several examples where a COI may arise or exist:

- The proposal being evaluated was submitted by: a recent student; a recent teacher; a former employer; or a close personal friend or a relative of the reviewer, the reviewer's spouse, or the reviewer's minor children.

- The proposal being evaluated was submitted by a person with whom the reviewer has had longstanding differences.

- The proposal being evaluated is similar to projects being conducted by the reviewer or by the reviewer's organization.

- Technical support services where such services typically include assistance in the preparation of

preliminary designs, specifications, or statements of work, and may involve access by the contractor to confidential or proprietary data.

- Preparation and furnishing of advice to a Laboratory and/or DOE in a technical area where the contractor is also providing consulting assistance in the same area to any other organization.
- Evaluation services or activities where any work or effort involves the independent study of technology, process, product, or policy.

Confidentiality and Communication. Information and material provided in procurement and financial assistance proposals are submitted for the purpose of evaluation and may contain trade secrets and/or other privileged or confidential commercial or financial information. This information must not be shared or discussed with individuals who are not participating in the same evaluation proceeding. Evaluators must not solicit opinions from personnel outside of the merit review committee or evaluation panel.

Government and nongovernmental personnel who are substantially involved in the requirements development, evaluation or award are required to compete some form of nondisclosure statement. The specific procurement and financial assistance requirements are described in Chapter 4. The program manager and contract specialist collaborate on the preparation of these certificates/forms.

Discussions and Contacts with Prospective Contractors, Applicants and Awardees. Extreme care must be taken when communicating with industry representatives. It is important to maintain the integrity of the Government procurement and financial assistance processes and to avoid any action that may appear to the prejudicial or improper. You must avoid any actions that may be construed as commitments or showing favoritism to a prospective contractor or award recipient.

Product Demonstrations. The Office of Business Administration is responsible for controlling vendor product demonstrations that are conducted within EERE. Frequently computer hardware and software vendors will offer the use of their product(s) on a trial basis. Properly handled, this can be a good way to "test drive" a solution. Three problems typically arise under this scenario. First, vendors often think that they have entered into an implicit agreement with you to buy the product if it works. Second, Government employees get the notion that a successful product demonstration is a justification to buy it from the vendor who offered it for a test. (It's not. The law still requires competition or a sole source justification). Third, Government employees sometimes "forget" to return the product upon completion of the test period. This results in claims and justifiable annoyance on the part of the vendor. If you intend to try a product demonstration, make sure you avoid these problems. You need a written agreement. A sample is provided in Appendix A. You should also get a legal review to make sure the sample fits your situation. The following procedures should be followed for Vendor Product Demonstrations:

- Contact the Office of Business Administration Customer Service Support Center (CSSC) prior to arranging or agreeing to a product demonstration so that we may concur in the action.
- Generally, the CSSC will not send a staff member to a product demonstration. Therefore, it is

vital that the personnel attending the product demonstration must not make any commitment or statement that appears to create a contractual obligation for the Government.

- The CSSC can request the vendor to sign a hold harmless agreement, or provide advice prior to any demonstrations, if necessary.

Duplication of Work. Fundamentally, it is the program manager's responsibility to ensure that duplication is avoided. The program manager must network sufficiently with his peers within both Government and industry to become aware of similar or related R&D work. In addition, the program manager should attend conferences/ seminars/workshops and be an active member of appropriate technical societies. The program manager may also take advantage of data bases such as that maintained by the Interagency Advanced Power Group (IAPG), which is comprised of program-manager-level representatives of all Federal agencies, engaged in power-related R&D. The IAPG has formed several committees that cover the various technical disciplines of power technology. Other interagency groups of interest are the Energy Materials Coordinating Committee and the Hydrogen Energy Coordinating Committee. Through these various contacts and use of databases, the program manager can greatly reduce the possibility of R&D duplication and enhance (leverage) Governmental expenditures.

Restrictions on Management and Operating and Support Services Contracting. Use of Management and Operating Contracts to provide Departmental supports services is prohibited. The Director, Office of Procurement and Assistance Management issued the following guidance concerning M&O Contracts:

- M&O contractor purchasing should be limited to procurements that are necessary to support contractually assigned mission functions, or permitted work for others activities.

- M&O purchasing for the sole support of DOE Headquarters or field offices is prohibited.

- In certain limited circumstances, M&O contractors may purchase for mixed M&O/DOE site activities, when it is not practicable to segregate DOE requirements from those of the M&O contractor.

- All work assignments to a laboratory or other contractor where the DOE requires performance by a specific subcontractor(s), must satisfy the conditions stated above, and be supported by a written justification for other than full and open competition as if the Department were contracting directly for the work.

Unauthorized Procurement Actions. Only those individuals with specific written delegation of procurement authority may commit the Government to an expenditure of funds within their levels of authority. In EERE only duly appointed Contracting Officers and valid GSA Purchase Card holders have the authority to (1) obligate the government, and (2) effect an award of a contract, financial assistance instrument, modification, or a simplified acquisition (i.e. purchases less than $100,000).

Commitments by individuals without delegated procurement authority to commit the Government

must undergo a ratification process to determine if they would other wise have been proper and in the best interest of Government. An individual who initiates an unauthorized commitment may be held responsible for all cost incurred and may be subject to disciplinary action, up to and including terminations, even if the unauthorized commitment is ultimately ratified. Procedures to ratify an unauthorized commitment are found in the DOE Acquisition Guide, Chapter 1 Ratification of Unauthorized Commitments and the FAR Part 1.602-3 Ratification of Unauthorized Commitments

Cost Share (Basic Advice). Cost sharing may be mandated by statute, discretionary on the part of DOE, or may be whatever the applicant proposes. The term, cost sharing, means the portion of the cost of a Federally assisted project or program not borne by the Federal Government. It is a form of, and often used interchangeably with, the term cost participation and varies program to program. Cost sharing requirements must be specified in the solicitation along with instructions that the applicant stipulates in the application the source and amount of cost sharing and the value of third party in-kind contributions proposed to meet the requirement. The Energy Policy Act of 1992 requires 20% industry cost share for applied research and 50% industry cost share for demonstration projects. The cost sharing guidelines developed with the R&D investment criteria as part of the President's Management Agenda are: 0-30% industry cost share for basic research; 25-50% industry cost share for applied research; 50-75% industry cost share for technology development; and 60-100% industry cost share for demonstration or commercialization. The State Energy Program regulations require 20% industry cost share of the appropriated funds awarded to the State. (see Financial Assistance Letter 96-01 .

For those projects not subject to a statutory minimum or formula, DOE normally determines whether cost sharing is appropriate and what degree of it is necessary. Factors, in addition to those included in 10 CFR 600.123 (cost sharing or matching for higher education, hospital, other non-profit and commercial organizations) or 10 CFR 600.224 (matching or cost sharing for State and local governments), which may be considered when reviewing cost sharing for research, development, and demonstration projects include the potential benefits to a recipient resulting from the project and the length of time before a project is likely to be commercially successful.

The requesting official is responsible for providing cost sharing requirements to the cognizant contracting office at the initiation of the procurement-authorization request, work authorization document, or interagency agreement. The information should include specific statutory requirements, cost sharing percentages, type and amount.

Congressional Earmarks. In more recent years, congressionally mandated assistance awards are more prevalent. Congress inserts into an authorization or appropriations bill a specific requirement that DOE award funds to a particular entity and, in all likelihood, for a particular designated project. DOE's may have limited or no discretion in who receives the financial assistance award. However, congressionally earmarked awards are subjected to the submission of a request for funds in the form of an application or plan. DOE is not authorized to release funds without such a document. Increased oversight is needed due to the nature and political sensitivity of earmarks.

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Chapter 3

Basic Advice

3.1 First Contact. Contact Field Management and Operations, and get us involved early in the acquisition process. The list of key contacts to assist you can be found in Chapter 2.

Field Management and Operations is dedicated to supporting all customers in a timely manner. We want to get you what you need when you need it, while complying with applicable laws, regulations, or rules. We can find solutions to your acquisition problems. However, you must do your part by:

- Providing all the known facts surrounding your requirement;
- Only requesting supplies/services that represent your minimum needs;
- Avoid rushes that result in higher prices and high levels of stress by submitting supply and service orders with a sufficient lead time; and
- Being a cooperative member of the team.

Acquisition Lead-Time.

Acquisition Lead-Time. The time required from requirements definition, through development of a complete acquisition package, to the date of an award. This does not include delivery time. We can only project lead-time by considering our past experiences with general categories of similar acquisitions and financial assistance requirements. Such projections are not always predictive of the actual time, which may be required for a particular purchase, but should only serve as a guide in acquisition planning.

Estimated Acquisition Lead Time. Assuming that all necessary approvals have been obtained prior to submission of the completed acquisition package, the estimated lead-time may vary based on dollar value and complexity.

Actions to Reduce Lead-Time. During the acquisition-planning phase the program manager should consider ways to reduce or minimize lead-time. Several considerations are:

- Use of Government Wide Agency or Mulit-Agency Contracts.
- Use General Services Administration (GSA) Federal Supply Schedules.
- Use of GSA Management, Organizational and Business Improvement Services (MOBIS).
- Use of GSA Federal Technology Service Schedules.
- Use of Federally Funded Research Development Centers.
- Use of existing Interagency Memorandums of Agreement or Understanding.
- Use of new Interagency Agreements.

- Use of commercial item descriptions or services.
- Use of other DOE contracts.

Requirements will be processed and an award made generally within the time frame identified below.

Procurement Acquisition Lead Time	
Procurements	**Days**
Greater than $2,500 but less than $25,00	14
Greater than $25,000 but less than $100,000	14-20
Greater than $100,000 to $5 million	30-90
Greater than $5 million	
GSA Delivery Orders Supplies/Equipment	TBD
GSA Delivery Orders Services	TBD
Work Authorization	TBD
Interagency Agreements	TBD
Modifications	
Any Value	TBD

Financial Assistance Lead Time	
Financial Assistance	**Days**
Fixed Obligation Less Than $100,000	14
Grant	14-20
Cooperative Agreement	30-90
Broad Based Solicitations	240
Renewals	TBD
Continuations	TBD
Modifications	TBD

3.2 Competitive Acquisition and Financial Assistance Requirements. The Competition in Contracting Act of 1984 (CICA) directs Federal agencies to place maximum emphasis on competitive bids by using Full and Open Competition procedures.

Title 10 CFR 600 directs DOE to solicit applications for financial assistance in a manner, which provides for the maximum amount of competition feasible. All personnel involved in the procurement and financial acquisition processes, from identifying the requirement (Customer) through the execution of an award (Contract Specialist/Officer), must recognize their responsibility under this lengthy procedure and plan adequate time for the competitive process to be completed.

Types of Competitive Procurement and Financial Assistance Acquisitions. Most EERE procurements and financial assistance awards are competitive. DOE uses several types of solicitations and notice instruments. Some are only used for procurement or for financial assistance, while others may be used for either. Each solicitation usually specifies the type of award to be made. The CO has the authority to select the type of procurement, but the program manager's recommendation is usually adopted. A brief description of each follows.

Procurement.

Invitation for Bids (IFB). An IFB is used for soliciting bids when detailed specifications concerning the product or service are known and can be described in a very precise way. Requirements solicited under this method are usually for equipment or general supplies. The sealed bidding procedures outlined in the FAR and DEAR are followed under this method. Award is based on price competition and a fixed price type of contract usually results. All bids are publicly opened and recorded at the time and place specified in the solicitation.

Request for Proposal (RFP). An RFP is used for soliciting proposals in response to a broader SOW than would be found in an IFB. An RFP often incorporates performance specifications rather than detailed design specifications. The evaluation, selection, negotiation, and award are conducted in accordance with the terms of the solicitation document as well as the FAR and DEAR. Either a cost reimbursement type of contract or a fixed price type of contract results from this process.

Financial Assistance.

Request for Proposal (RFP). The RFP also called the solicitation is a formal written invitation by DOE for interested organizations or individuals to submit applications for a specific project effort or objective by a stated common due date. A solicitation will contain all the information necessary to allow a potential applicant to decide whether to submit an application, understand how applications will be evaluated, and know what the obligations of a recipient would be including special requirements such as cost sharing. Headquarters' Procurement Office or any Field Procurement Office may issue the solicitation.

Broad Base Solicitation (BBS). The EERE BBS under the administration of the Headquarter Procurement Operations Office is issued annually during the first quarter of the fiscal year. The BBS is for EERE information dissemination, public outreach, training, and related technical analysis and technical assistance. This solicitation is a formal written invitation by EERE for organizations, or

individuals to submit applications for financial assistance support for numerous Program Areas of Interests across all sectors. The receipt of proposals due dates are staggered based on availability of funding and the anticipated number of proposals to be received.

Procurement and Financial Assistance.

Program Opportunity Notice (PON). A PON is a solicitation used principally to solicit competitive proposals relating to non-nuclear energy demonstration projects when there is a stated general objective and an urgent public need, but no definitive statement of work, and where varied approaches are desired. PONs may result in the award of contracts, grants, or cooperative agreements, and multiple awards may be made. Each respondent to the PON proposes its own needs.

The PON is used by DOE in accelerating the demonstration of the technical feasibility and commercial application of potentially beneficial non-nuclear energy sources and utilization technologies. Under the Federal Nonnuclear Energy Research and Development Act of 1974, Public Law 93-577, Section 8, authorized the Department to accelerate commercial application of new energy technologies and to provide Federal assistance for participation in demonstration projects. Section 8d(1) of that Act required the Agency to promulgate regulations to provide a procedure for selection of proposals for projects authorized under this section of the Act and the PON was developed for this purpose. See DEAR 917.72 Program Opportunity Notices for Commercial Demonstrations for additions information and content of a PON.

Program Research and Development Announcement (PRDA). The PRDA is a solicitation announcement used to solicit a broad mix of research, development, and related nonnuclear energy project proposals. While a PON is geared strictly to accelerating the demonstration of projects utilizing existing, commercially available technologies, a PRDA solicits proposals for projects in areas where R&D is required within broadly defined areas of interest, but where it is difficult to describe in detail the nature of the work to be undertaken. See DEAR 917.7300 Program Research and Development Announcements for additional information and content of a PRDA.

The PRDA is uniquely different from the RFP or IFB in that there is not a specific need or solution sufficiently definable or known to permit a traditionally focused competition. Bidders responding to a PRDA solicitation are, in effect, competing for funds to be made available by the Department.

A PRDA may be used to solicit proposals for contracts, grants, or cooperative agreements. Multiple awards are generally made which may have dissimilar approaches or concepts. The PRDA seeks to respond to the following:

- A large number of possible approaches available for solving the problem.
- The desirability of using several organizations in solving the problems posed.
- The expectation that many proposers will have qualifications or specialized capabilities that will enable them to perform portions of the program so that the support may be broken into segments that cannot be predicted in advance.
- The desirability of supporting new and creative solutions.

3.3 Noncompetitive Procurements and Financial Assistance Acquisitions. When Full and Open Competition cannot be achieved, the customer is required to provide a Justification For Other than Full and Open Competition document, sometimes called a Justification for Noncompetitive Award (JNCA) document, for contracts and simplified purchases, or a Determination of Noncompetitive Financial Assistance (DNFA) stating the reasons for sole-source selection, or why only limited competition or restricted eligibility is necessary. These documents must be signed by the Contracting Officer and requires the approval of EERE's Competition Advocate, and General Counsel, as appropriate. Approval levels for procurements and financial assistance are outlined in DOE Order 542.1 Competition In Contracting and Title 10 CFR 600.6(c) "Noncompetitive Financial Assistance" .

Exceptions to using full and open competition are specifically identified in FAR Part 6.302 "Circumstances Permitting Other Than Full and Open Competition" for procurement actions and Title 10 CFR 600.6(c) "Noncompetitive Financial Assistance" .

FMO can assist customers in the development of these documents. Preparation instructions and examples can be found in Appendix B and C.

Types of Noncompetitive Procurements. In procurement, noncompetitive awards occur as a result of the following:

Limited Competition. Occasionally, DOE and other Government agencies limit procurements by allowing only certain firms to submit proposals. Limited competition occurs if the supplies or services required are from a limited number of responsible sources. The most common situations are small business set-asides, HUBZones small business set-asides and 8(a) set-asides. Set-asides are used to help Federal agencies meet their goals or Congressionally mandated requirements for awarding a certain percentage of contracted work to small or disadvantaged businesses. No separate justification is required to set aside contract actions for small business concerns.

Sole Source. A sole source procurement is when the supplies or services required by EERE are available from only one responsible source and the solicitation and resulting contract award did not involve competition. Sole source contracts are considered only on an "exception" basis.

Unsolicited Proposal. Unsolicited proposal means a written proposal for a **new or innovative idea** that is submitted to DOE on the initiative of the offeror for the purpose of obtaining a contract with the Government, and that is not in response

to a request for proposals, Broad Agency Announcement, Small Business Innovation 'Research topic, Small Business Technology Transfer Research topic, Program Research and Development Announcement or any other DOE initiated solicitation or program. The unsolicited proposal:

- Demonstrates a unique and innovative concept, or demonstrates a unique capability of the source to provide the particular research services proposed;
- Offers a concept or services not otherwise available to the Government
- Does not resemble the substance of a pending competitive acquisition.

A justification for acceptance of an unsolicited proposal is required and prepared in a justification for other than full and open competition format. See Appendix B and Appendix U, Processing and Evaluation of Unsolicited Proposals.

NOTE: Unique and innovative concept means that the proposal is the product of original thinking submitted in confidence by one source; contains new novel or changed concepts, approaches, or methods, was not submitted previously by another; and is not otherwise available within the Federal Government. It does not mean that the source has the sole capability of performing the research.

Types of Noncompetitive Financial Assistance. In financial assistance, noncompetitive awards occur as a result of the following:

Restricted Eligibility. In some cased DOE restricts eligibility in a solicitation or Program Rule to less than all otherwise eligible applicants. This decision is often made as a result of statutory language under which Congress has established that a DOE award of financial assistance will be directed to a particular institution. If DOE restricts eligibility; an explanation of why the restriction of eligibility is considered necessary shall be included in the solicitation, program rule, or published notice. Except when authorized by statute or program rule, if the aggregate amount of DOE funds available for award under a solicitation or published notice is $1,000,000 or more, such restriction of eligibility shall be in writing and approved by an official no less than two levels above the initiating program official and concurred in by the Contracting Officer and legal counsel. 10 CFR 600.6(b) Restricted Eligibility . See Appendix D for Determination of Restricted Eligibility.

Notice of Program Interest (NOPI). The NOPI is not a solicitation. Rather it is a notice in the Commerce Business Daily or the Federal Register to individuals and organizations concerning areas of research and other areas where DOE hopes to receive unsolicited proposals. As such, it is general and is not intended to limit submittal in any way. Proposals received as a result of a NOPI are processed and evaluated as unsolicited proposals. See Appendix R for content of a NOPI.

Noncompetitive (Sole Source). A sole source is when only one applicant/recipient can be adequately responsive to the support and stimulation being provided by DOE. DOE may award a grant or cooperative agreement on a noncompetitive basis only if the application satisfies one of the criteria listed in Title 10 CFR 600.6(c) "Noncompetitive Financial Assistance". An approved

DNFA is required prior to award of the financial assistance instrument.

Unsolicited Proposals. Unsolicited proposal means a written application/proposal for a unique, innovative approach and idea that may merit public support that is submitted to DOE on the initiative of the applicant for the purpose of obtaining financial assistance and is not in response to a past, current or future solicitation. A justification for acceptance of an unsolicited proposal is required and prepared in a DNFA format (Appendix C). Also see Appendix U, Processing and Evaluation of Unsolicited Proposals.

3.4 Small Business Considerations. The Office of Federal Procurement Policy established Government-wide goals for contracting with small business, small disadvantaged business, women-owned small business, historically underutilized business zone (HUBZone) small businesses and service-disabled veteran small business. DOE has assigned EERE target goals for these small and socio-economic business categories. As such, EERE requires special efforts be made to achieve the established goals and provide adequate opportunities for small businesses for both procurement and financial assistance acquisitions.

Procurement Considerations. The FAR 19 Small Business Programs requires Federal agencies to provide maximum practicable opportunities to small business HUBZone small business, small disadvantage business, and women-owned small business concern of historically black colleges and universities, and of colleges and universities with substantial minority enrollments. These businesses will also be provided maximum practicable opportunity to participate as subcontractors. Below is the FAR requirements and the DOE/EERE position for acquisitions involving small and disadvantages businesses.

ACQUISTIONS INVOLVING SMALL AND DISADVANTAGED BUSSINESS APPLICABILITY		
Amount	**FAR Requirement**	**DOE/EERE Position**
$0-2,500	None	Small Business with (8a) small business preference
$25,001-$1000,000	Mandatory Small Business	8(a) small business preference
$100,001-$500,000	No mandatory set-asides. However, any 8(a) firm maybe selected noncompetitively.	Procurement Director approval required if awardee is not a small business; 8(a) small business preferred.
$5000,001-$3,000,000	No mandatory set-asides. However, any 8(a) firm maybe selected noncompetitively.	HQ notification required if awardee is not small business; 8(a) small business preferred.
Over $3,000,000	None, 8(a) firms require a formal competition.	HQ approval required if awardee is not a small business; 8(a) small business preferred

Small Business Programs. Section 8a of the Small Business Act set up a program that authorizes the Small Business Administration to enter into all types of contracts with other agencies and let subcontracts for performing those contracts to firms eligible for program participation. The SBA's subcontractors are referred to as 8)a) contractors. Depending on the dollar value, contracts may be awarded to the SBA for performance by eligible 8(a) firms on either a sole source or competitive basis. Several other programs used to provide opportunities to small business for both procurement and financial assistance are provided below. A description of the programs can be found in DOE Acquisition Letter 2000-02, DEAR 919, and FAR 19 "Small Business Programs"

- Small Business Innovation Research (SBIR) Program
- Small Business Technology Transfer (STTR) Program
- HUBZone Program
- Small Business Set-aside Program
- Small Business Program
- Small Disadvantaged Business Participation Program
- Small Business Competitiveness Demonstration Program
- DOE Mentor-Protégé Program

Financial Assistance Considerations. DOE financial assistance regulation 10 CFR 600 encourages the participation in financial assistance awards of small businesses listed in the preceding paragraph. In addition applicants and subrecipients of Federal assistance awards are expected to take affirmative actions with regard to small and disadvantaged business and follow the procurement procedures identified 10 CFR 600.236(e) "Contracting with Small and Minority Firms, Women's Business Enterprise and Labor Surplus Area Firms" and 10CFR 600.144(b) "Procurement Procedures".

3.5 Acquisition (Procurement and Financial Assistance) Planning.

Background and Purpose. About half of all EERE technical research and development (R&D) and other functions is accomplished through contracted work with industry, academia, and other entities. The acquisition process (procurement and financial assistance) is the process by which the efforts for acquisition are coordinated and integrated through a comprehensive plan for fulfilling the agency needs in a timely manner, and at a reasonable cost. To succeed in conducting and concluding sound contracted efforts, it is fundamental and essential to plan for all acquisitions needed by the DOE, whether the planning be short-range, long-range, or both. Objectives have to be established and decisions made in advance on how to achieve them. Planning should be coordinated, integrated and done by a team of all personnel responsible for the acquisition; however, the primary players in the planning process are the program manager, field or headquarters project manager, contracting officer's representative (COR), contract specialist and resource (budget) manager.

Acquisition planning is mandated by Law. In order to determine the requirements for a procurement or financial assistance action, a basic understanding of the public laws, regulations, and flow-down requirements is necessary. As a result of deficiencies in the acquisition planning process, Congress approved the Competition in Contracting Act in 1984. The FAR now requires all executive agencies to use "advance procurement planning and market research" in preparing for the procurement of property and services. The requirements for a procurement action start with public laws that are implemented by regulations and incorporated in the terms and conditions of the contractual instrument. The FAR acquisition planning procedures can and should be applied to financial assistance requirements. The hierarchy of these requirements is as follows:

- Public Laws
- United States Code (USC)
- Code of Federal Regulations (CFRs)
- Federal Acquisition Regulations (FARs) Parts 7 and 10
- 10 CFR 600 Financial Assistance Rules
- DOE Supplemental Acquisition Regulations (DEARs) Part 7
- DOE Acquisition and DOE Financial Assistance Letters
- Department of Energy's Supplemental Orders, Directives and Manuals
- DOE Acquisition and Financial Assistance Guides

EERE Annual Acquisition Plan

Importance of Advanced Planning. Acquisition planning starts with a well-developed annual acquisition plan. A well developed plan is structured to assist EERE in executing its overall program in a timely manner, while managing cost effectively. Information contained in the acquisition plan can then be transferred into the SMS Spend Plan. Annual Acquisition Plan preparation requires effective integration among three major decision making support process. These are the:

- Requirements Generation Process
- Acquisition Management Process
- Planning, Program, and Budgeting Process

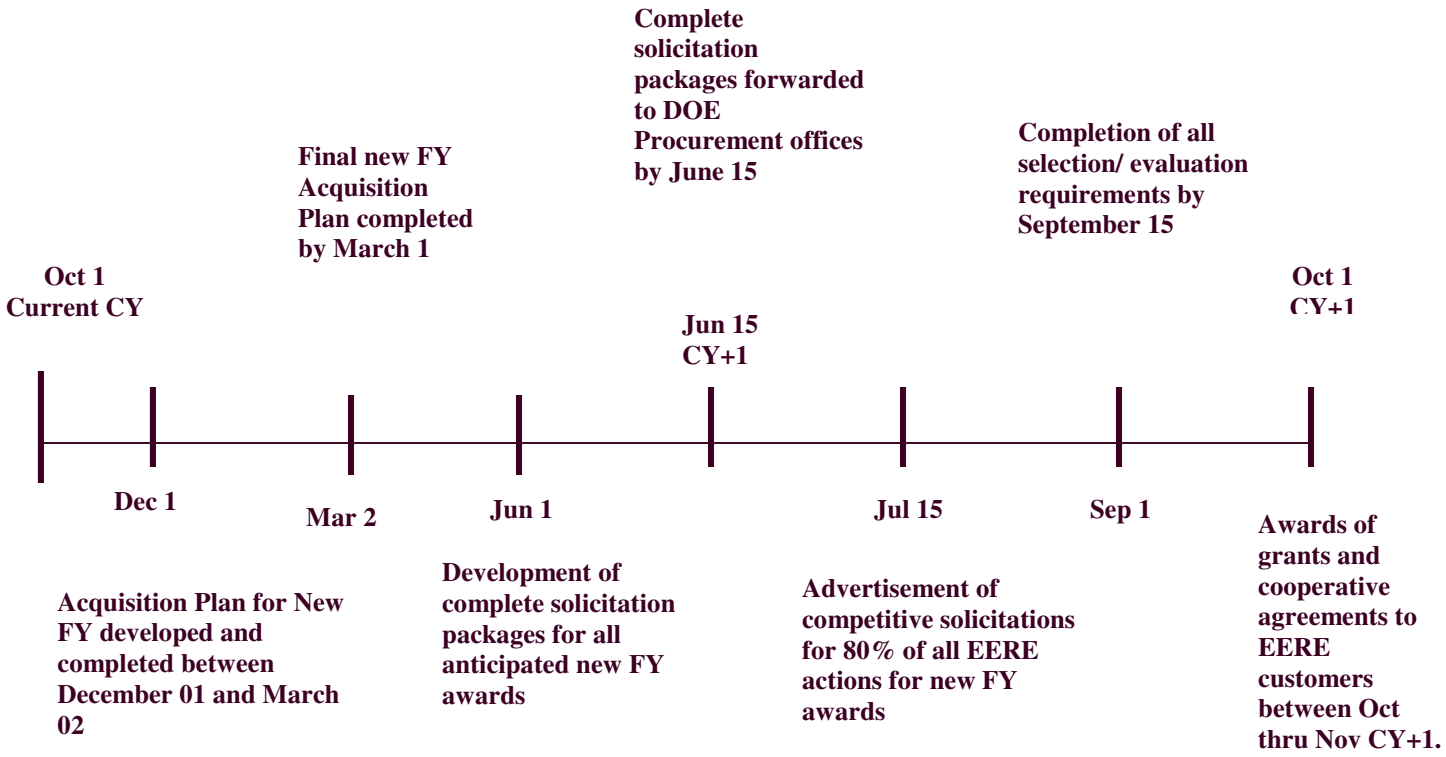
Advance planning is necessary for procurement and financial assistance actions in order to:

- Establish the need for contracted work that supports the overall program objectives;
- Ensure all acquisitions are properly classified as procurements or financial assistance;
- Determine the type of procurement, financial assistance instrument and contract that best suits the program's needs;
- Include the procurement in program planning and provide for funding in the budget request and Spend Plan;

- Initiate the acquisition process early enough to affect the budget process and initiate the contracted work in a timely manner;
- To ensure fair and open competition that will lead to the selection of the best-qualified contractor and avoid any protest of that selection;
- To effectively allocate scarce resource;
- To provide proactive integrating with socio-economic and environmental, safety and health regulations; and
- To maximize the use of commercial items and services suitable to the agency's needs

Within EERE, the SMS addresses the all of the Planning, Program, and Budget system requirements, many of the Acquisition Management system requirements, and some of the Requirements Generation System requirements. To become fully functional and fully capable of supporting EERE activities, full integration will have to be achieved.

The principal procurement and financial assistance planning document is the Spend Plan, and it is the program manager's responsibility to ensure that all procurements, financial assistance actions, work authorizations, interagency agreements are properly included. The Spend Plan is the financial management process used for budget planning, fiscal tracking, and program execution. The Spend Plan initiates the program planning process for future year activities and budgets and provides a management tool to approve and manage the expenditure of fiscal resources in the current fiscal year. The approved Spend Plan thus serves as the documentation basis for all planned procurement and financial assistance actions. Details on the contents and use of the Spend Plan are provided in the SMS budget hut tutorial and in the SMS Information and Instruction Modules. (Appendix E, Program Management Guide). The acquisition milestones required to achieve full alignment with the SMS key milestones are described below:


Complete solicitation packages forwarded to DOE Procurement offices by June 15
Final new FY Acquisition Plan completed by March 1
Completion of all selection/ evaluation requirements by September 15
Oct 1 Current CY
Jun 15 CY+1
Oct 1 CY+1
Dec 1
Mar 2
Jun 1
Jul 15
Sep 1
Acquisition Plan for New FY developed and completed between December 01 and March 02
Development of complete solicitation packages for all anticipated new FY awards
Advertisement of competitive solicitations for 80% of all EERE actions for new FY awards
Awards of grants and cooperative agreements to EERE customers between Oct thru Nov CY+1.

Plan Format. Acquisition planning involves budget planning, inclusion of procurement and financial assistance action in the SPEND Plan, assignment of the project with an Annual Operating Plan Identification Number, and preparation of the details for the Annual Acquisition Plan**. The EERE Acquisition Plan is required to be developed between December 1 and completed by March 15 of each fiscal**. The details of the plan include:

Category/Column (Data Field)	Definition
Spend Plan # (AOP #)	This is a sequential number assigned by a sector to each Spend Plan Line Item for use in tracking program and budget activity.
DAS	This field reflects the code established for each organization identified by 3 to 4 characters.
Office	This is EE**XX**. Should be consistent with all program records in that office.
Program	A major EERE activity that allocates resources to performed and execute the mission.
Subprogram	A major component of an EERE program.
Key Activity Type	The field reflects language to perform a Congressional Budget crosswalk to the work.
B&R Code	These are EERE budget codes (which may be up to 9 characters in length) depending on the sector, and categories of the program.
CID No.	CID is the contractor identification number. This number is used to identify ongoing work by national laboratories, and other contractors.
Initiator	This is the name of the EE program manager for the project.
Spend Plan Title	The description used by a sector that ties together a program purpose and the total funding available to accomplish that purpose.
Project Title\ (i.e. Identify Each Specific Financial Assistance (grant or cooperative agreement) Award, Contract Award, Modification, Extension, etc.) that relates to the "Spend Plan Title" field. The " Project Title" field is an element in the Spend Plan Spreadsheet named "Project Descriptions".	A descriptive title of the work being performed. The title must be unique, since it serves as the key identifier on both the project and milestones spreadsheets.
DOE Procurement Office	The field reflects the DOE procurement office to which the fund transfer letter or procurement request is sent.
Laboratory/Contractor	The name of the laboratory\contractor involved in existed or planned activities.
Month/FIN Plan	The target date for the issuance of a Procurement Request (PR) or Program Guidance letter to a field organization.
FY XX (SK)	The planned amount of funding for each project.
Cost Share (%)	Identify the percentage of non-Federal cost share for this project or project increment. Cost share may be in cash and/or in-kind services.
Competition	This field identifies whether the procurement action is either competitive (C), or non-competitive (N).
Name of Contractor	Name of the contractor for a laboratory subcontract, or the recipient of an existing award with work continuing in the next fiscal year period.
Single or Multi-Year Award	Identify whether the project is a single year (S) or multi-year (M) investment.
Target Date for Award	The date that award is expected to be executed by DOE.
Type of (Instrument)	**Financial Assistance** is a transfer of money or property to a recipient or subrecipient to accomplish a public purpose of support or stimulation authorized by Federal statute through grants or cooperative agreements, or any other type of financial incentive instrument. In SMS, these are shown as: **Grant -** A financial assistance instrument (award) used by DOE to transfer funds or property where the principal purpose of the support or stimulation authorized by Federal statute, and substantial involvement is anticipated between DOE and the recipient during performance of the contemplated

	activity. **DOE has minimum involvement.** In SMS, a discretionary grant is coded as DG, and a formula grant is coded as FG. **Cooperative Agreement** - A financial assistance instrument that operates like a Grant except, that **DOE is actively involved in the management or performance of the award.** In SMS, a cooperative agreement is coded as CA. **Contract -** A mutually binding legal relationship obligating the seller to furnish the supplies or services, and the buyer to pay for them. It includes all types of commitments that obligate the Government to an expenditure of appropriated funds. Contracts are for the sole benefit of the government. In SMS, a contract will be coded as PC. **Other** –This field is used to identify simplified acquisition instrument to buy the Government to buy supplies or services <100k, GSA procurement contracts (FSS), credit card purchases**,** and other minor cost activities. In SMS, Other actions are coded as O. **Interagency Agreement** – A agreement by which an agency needing supplies or services (the requesting agency) obtains them from another agency (the servicing agency). In SMS, an interagency agreement is coded as IA. **Lab Direct** - A method of providing direct funding to a national laboratory to accomplish a mission related program purpose. In SMS, a lab direct action is coded as LD. **Lab Subcontract** - A method of providing funding to a laboratory for purposes of subcontracting work to accomplish a mission related program purpose. In SMS, a lab subcontract is coded as LS.
Purpose of Award	A field that indicates the purpose of the project (i.e. Basic R&D, Applied R&D, Demonstration, Deployment, Outreach, Other). In SMS: Basic R&D is coded as B. Applied R&D is coded as A Demonstration is coded as DM Deployment is coded as DE Outreach is coded as OR Other is coded as O.
Modification Delivery/Task Order Procurement Request	The field reflect the identification of the modification type i.e. task or delivery order.
Modification/Procurement Request Date	The field reflects the date of the modification.
Modification/Procurement Request $	The field reflects the dollar amount of the modification.
Completion Date	The field reflects the completion of the performance period
Closeout Date	When all deliverables have been accepted, the Government verifies that the contract or financial award is physically complete and that all applicable terms and conditions have been satisfied.

Upon completion, each sector acquisition plan will reside in the SMS Budget Hut (within the Spend Plan).

Until the SMS is fully functional, EERE must find other ways to ensure that complex relationship that exist within each of the above systems is managed effectively and results in coordinated program management activities. This includes needed work to integrate these system, as well as improve upon each systemic process. However, until that time, SMS must be utilized to the maximum extent practicable by all sectors in managing its program management activities.

With respect to EERE, all person engaged in the management of acquisition process, including program, contract, logistics, technical, legal, financial

personnel, are essential to the comprehensive acquisition and preparations necessary to achieve the organization's acquisition objectives. **The Field Management Organization is responsible to lead the coordination effort for EERE, and will:**

- Issue program guidance;
- Conduct coordination planning meetings and reviews with sectors;
- Highlight acquisition plan fields that require additional. work; and
- Provide assistance to sectors, as required.

Individual Procurement Acquisition Plans. Planning takes time. Procurement is a multi-stage process that should begin as soon as the need is identified, preferably before the start of the fiscal year in which the contract is to be awarded. Hopefully the program manager has identified the procurement in the Annual Financial Assistance and Direct Contract Acquisition Plan. In order to have funds authorized for the procurement and subsequent contracted work, planning should begin approximately 15-18 months prior to the beginning of the fiscal year in which an intended procurement is contemplated. Even if funds are already authorized, several months to a year (sometimes longer) are necessary from preparation of the solicitation until the contract is awarded for or a full and open competition R&D procurement.

The acquisition plan provides a description of the contractual means by which the project's acquisition strategy will be carried out. It may be simple or complex, depending on the circumstances, complexity, estimated cost of the particular requirement. Acquisition plans for service contracts must describe the strategies for implementing performance-based contracting methods or must provide rationale for not using those methods. The program manager, with the help of the contract specialist, is responsible for developing an acquisition plan. An acquisition plan embraces the entire acquisition process from the inception of a program or project to completion of the contract. It includes such fundamental considerations as funding, choice of contracting method, competency of sources, competition, source selection, delivery, life cycle costs, Government-furnished property, possible follow-on requirements, and contract administration.

The plan needs to address all the technical, business, management, and other significant considerations that will control the acquisition. Specific content of plans will vary, depending on the nature, circumstances, and stage of the acquisition. Instructions for preparing a plan and samples are contained in Appendix E and in FAR part 7.105. Having a good acquisition plan results in:

- Better description of the requirement;
- Realistic delivery schedule;
- Determination of optimum method of contracting;
- More thorough evaluation of sources;
- More effective scheduling;
- Alerting management to non-competitive type actions;

Market Research-Identifying Sources. Market research is the first step in acquisition planning and is essential to designing an acquisition strategy. It is the process of collecting and analyzing information about capabilities within the market that can satisfy an agency's needs. Market research is key to determining whether a commercial item can meet the Government's needs and to identifying associated commercial practices. The extent of market research and the degree to which you should document the results will vary depending on such factors as urgency, estimated dollar value, complexity, and past experience. Market research will significantly impact the:

- Selection of evaluation factors;
- Contracting and source selection methods; and
- Amount and type of requested proposal information.

In some cases one person will be able to conduct all of the required market research. In other cases, a team effort will be desired. There are a variety of techniques that you may use in conducting market to include:

- Use general sources of information available from the market place, Government sources, and Internet (The I-Mart market research engine at http://www.imart.org, while not currently being supported, contains numerous links to other Internet sites that contain information that may be helpful in performing market research).
- Contact knowledgeable individuals regarding market capabilities and business practices;
- Review the results of recent market research;
- Query Government and/or commercial databases;
- Publish formal request for information in appropriate technical or scientific journals or business publications;
- Conduct interchange meetings or hold presolicitation conferences;
- Participate in interactive, on-line communication; and
- Review catalogues and product literature.

Other determinations that must be made in the planning stage deal with whether to satisfy program requirement using private, public or Government sources. It is essential to determine whether there are mandatory sources. See Required Sources of Supply later in this chapter.

In most cases, program management, technical personnel, and acquisition personnel will know of potential sources that should be solicited. In addition, the contracting office may find it necessary to publicize the requirement with a sources sought notice. The FAR Part 10 Market Research provides guidance for conducting market research.

Life Cycle Cost. One of the major considerations in acquisition and financial assistance planning is the overall cost to the Government. Acquisition techniques should be chosen to induce contractors to provide products and services at the lowest possible cost commensurate with high quality and timely performance. The cost considered should be both (1) the initial acquisition cost of the product or service, and (2) the operation or

usage cost to the government after the product or service is provided. FAR 7.105 specifies the methods to be employed in reviewing costs in federal awards. They are:

- Life Cycle Cost
- Design-to-cost
- Application or "should cost".

This part of the Acquisition Plan contains the Governments best analysis of the expected cost of the procurement and some of the techniques that will be used to ensure the acquisition cost is reasonable and attainable.

The Acquisitions cost is an estimate of the proper price level or values of the supplies or services being acquired. Estimates can range from simple budgetary estimates to complex estimates that address direct labor indirect labor, overhead, general and administrative expenses, inspections and reviews or designs, drawings, or date, conferences, direct travel, ets. The Governments transactions cost (i.e. cost of providing procurement support at reasonable prices) should also be examined. The operating or usage cost examines the operating, maintenance, energy, and other cost of ownership as well as acquisition price, in the award of contracts. The objective of this technique is to ensure that the products or services purchase will result in the lower overall ownership cost to the Government.

3.6 Public Announcement Requirements. Procurement and Financial Assistance Regulations require that a "public announcement" be made of future or proposed contracting, subcontracting opportunities or the availability of financial assistance. The purpose of public advertising is to:

- Increase competition,
- Broadens industry participation in meeting Government requirements,
- Assist small business concerns, small disadvantaged business concerns, and labor surplus areas concerns, states and universities in obtaining contracts, subcontracts, grants and cooperative agreements.

The primary vehicles for announcing procurement and financial actions are the Commerce Business Daily (CBD) and Federal Register. The requesting official or program manager is responsible for submitting a draft executive summary for all new procurement or financial assistance actions to their cognizant contracting office. The executive summary should be submitted with the Procurement Request-Authorization form.

Commerce Business Daily (CBD)

Background and Purpose. The CBD is a daily publication of the U.S. Department of Commerce available on a subscription basis from the Superintendent of Documents, Government Printing Office. All Federal procurement offices are required (Small Business Act 637(e) and the Office of Federal Procurement Policy Act (41 U.S.C. 416)) to announce in the CBD by submitting a notice/synopses of proposed U.S. Government procurement actions over $25,000, and all contract awards over $25,000 when subcontracting is likely. Each CBD

issue provides a listing of approximately 500 to 1,000 U.S. Government synopses of planned or proposed procurement actions, contract awards, subcontracting leads, sales of Government property, foreign business opportunities, and other procurement information. Use of the CBD, as well as the *Federal Register*, is encouraged as primary sources of information regarding available financial assistance notifications, locating upcoming bids or awards, as well as identifying Small Business contract or subcontract opportunities (Public Law 95-507, Set-Asides, etc.). Sample CBD notices are provided in Appendix F. CBD notices can also be viewed at CBD*Net* http://cbdnet.access.gpo.gov/. CBDNet is the Government's official free electronic version of the Commerce Business Daily (CBD).

Types of CBD Notices. The contracting officer is responsible for submitting the synopsis of proposed contract actions to the CBD by the most expeditious and reliable means available. This is normally done electronically. These acquisition synopses include but are not limited to those described below. These notices are fully described in FAR 5.2 Synopses of Proposed Contract Actions .

Presolicitation Notices. This notice is used to inform potential bidders that a procurement action is underway and to subsequently announce the availability of the final Information For Bid or Request For Proposal and the date that bids/proposals must be submitted. The notice normally contains such information as name and address of the contracting office, description of supply or services (executive summary), solicitation number, opening and closing dates, and other information. The response time depends on the cost and complexity of the solicited work; typical proposal preparation times are 30, 60, or, occasionally, 90 days. Delivery of the proposal is specified by date, time of day, and location. If circumstances warrant, the Government has the option to extend the deadline, but the extension must apply to all bidders to assure equal treatment.

Availability of Draft Solicitation Notice. Another beneficial use of the CBD is to announce availability of a draft RFP for review and comment by potential offerors. Allowing industry to comment typically adds one to two months (two to four weeks for industry to respond and a similar time to incorporate the comments) to the procurement process. For complex R&D activities, however, industry comments can add greatly to the quality of the final RFP, particularly by helping industry to better understand the Government's intention and desires in conducting the project.

Research and Development (R&D) Advance Notice. These advance notices describe areas of interest in potential R&D programs whenever existing solicitation mailing lists do not include a sufficient number of concerns to obtain adequate competition. Advance notices invite interested parties to submit qualifications for evaluation as well as minimize proposal preparation and evaluation by identifying and notifying those who lack specialized expertise for the research. Potential sources who respond to this notice would be added to the appropriate solicitation mailing list for subsequent solicitation. If a firm is not on the preliminary source list, and it does not respond to the CBD announcement, it

has no legal grounds to contend that it was unfairly excluded from the competition because it did not receive the RFP. The Government list of sources constitutes the complete list of firms that will receive the final RFP package.

Research and Development (R&D) Potential Sources Sought Notice. This will enable potential sources to submit information for evaluation of their R&D capabilities. The intent is to obtain a broad base of qualified sources. Contracting officers must synopsize all subsequent solicitation for R&D contracts, including those resulting from previous advance notice.

Potential Sources Sought Notice. The sources sought type notice is similar to the R&D sources sought notice, except it is for other types of services or supplies. Depending on the nature of the requirement, the notice may or may not identify specialized qualification criteria and provide for evaluation of the responses and notice to the respondents. It may not, however, imply that any restriction of eligibility to compete is being made. When effectively used in the planning phase, this notice can often identify sources for competition. Again, due to their preliminary nature, a second notice is required when the solicitation becomes available.

Intent to Award Sole Source Contract Notice. This is a notice to the public identifying the Governments intent to award a sole source contract. It provides public the opportunity to come forward if they believe they can provide the required items or service.

Announcement of Award Notice. This is a notice to the public notifying them that a contract has been awarded.

Special Notices. Special notices of procurement matters such as business fairs, long-range procurement estimates, pre-bid/pre-proposal conferences, meetings, must be transmitted to the CBD in accordance with FAR Part 5.207.

Announcement Lead Time. The appropriate time to consider use of the CBD as a means of identifying qualified sources for the acquisition is during the initial acquisition planning stage (FAR, Part 7). The notice must appear in the CBD at least 15 days before the solicitation is issued. For R&D contracts, the solicitation must allow 45 days from the time of issuance until at least 30 days after a proper notice of intent in the CBD (FAR, Part 5.203).

CBD Format and Guidelines. The contracting officer prepares and transmits the synopsis in accordance with FAR, Part 5.207. The description of the services and supplies must be clear and not be unnecessarily restrictive of competition, allowing the reader to make a reasonable judgment on whether to ask for a copy of the solicitation. Each synopsis must include 17 format items (not including the title). The following is a list of the 17 format items including a complete list of specific action codes. A detailed description of each entry can be found in FAR, Part 5.207.

- Action Code (A single alphabetic character denoting the specific action related in the synopsis. Choices are limited to the following: P=Presolicitation

Notice/Procurement; A=Award announcement; M=Modification of a previously announced procurement; M=Modification of a previously announced procurement announcement (a correction to a previous CBD announcement); R=Sources sought (includes A-76 services and architect-engineer contracts); if none of the standard codes apply, enter "N/A"

- Date
- Year
- Federal Information Processing Standard (FIPS) Number
- Contracting Office Zip Code
- Classification Code
- Contracting Office Address
- Subject
- Proposed Solicitation Number
- Opening/Closing Response Date
- Contact Point/Contracting Officer
- Contract Award/Solicitation Number
- Contract Award Dollar Amount
- Contract Line Item Number
- Contract Award Date
- Contractor (Used in Notice of Award or Notice of Sole Source Award)
- Description of Supplies or Services

Each notice submitted appears in the CBD only once. Since the CBD is not permitted to make corrections to the listings received, it is important to submit each listing in the proper product category or service.

Federal Register.

Background Purpose. The *Federal Register* is the official daily publication for Rules, Proposed Rules, and Notices of Federal agencies and organizations, as well as Executive Orders and other Presidential Documents. The Federal Register is published by the Office of the Federal Register, National Archives and Records Administration and can be viewed at the United States Government Printing Office Web site http://www.access.gpo.gov/su_docs/aces/aces140.html. 10 CFR 600.8(a)(2), Solicitation requires DOE to publish a copy of, or a notice of availability of, a financial assistance solicitation in the Federal Register. It also requires DOE to publish a notice or solicitation in the Commerce Business Daily when potential applicants include for-profit organizations or when there is a potential for significant contracting opportunities under the award Also see the Federal Register Document Drafting Handbook for document preparation.

Types of Federal Register Notices. The contracting officer is responsible for submitting the synopsis of financial assistance actions. All Federal Register notices are issued through the Federal Register Liaison Officer, Office of Rulemaking Support, Office of General Counsel, GC-75, Headquarters. These acquisition synopses include but are not limited to those described below:

Presolicitation Notice. This notice is used to inform the public and potential applicants that a financial assistance action is underway and to subsequently announce the availability of the solicitation and the date that proposals must be submitted. The notice normally contains such information as the name and address of the contracting office, description of supply or services (executive summary), solicitation number, opening and closing dates, and other information. The response time depends on the cost and complexity of the solicited work; typical proposal preparation times are 30, 60, or, occasionally, 90 days. Delivery of the proposal by the offerors is specified by date, time of day, and location.

Program Rule Notice. A program notice may be issued annually describing research areas in which financial assistance is being made available.

Notice of Program Interest. This notice describes broader general technical problems and areas of investigation in which DOE may award grants or cooperative agreements. Applications received are evaluated as unsolicited proposals and if selected are noncompetitive.

Notice Lead Time. The appropriate time to consider use of the Federal Register as a means of identifying qualified sources for the requirement is during the initial acquisition planning stage. The notice should appear in the Federal Register at least 30 days before the solicitation is issued.

Format and Guidelines. The Federal Register Notice should be doubled spaced and include the following items:

- Billing Code: Obtained from printing officer; type a "P" (Word Perfect), "F" (Coded), or "U" (Uncoded or ASCII) after billing code when submitting a disk with the notice.
- Headings: DOE and subject matter of the notice.
- Authority Citation: Citation that authorizes DOE to issue the notice.
- Text: *The text of the notice maybe presented in any organized and logical form. The use of the preamble captions to present the text is optional but recommended. Do not create any other captions.*
    - AGENCY*: Sector Office and DOE*
    - ACTION: *Type of Notice*
    - SUMMARY: *Explains the what, why and effect of the notice.*
    - DATES: *Dates that are essential to the notice. No more than four dates. Additional dates may be placed in Supplementary Information.*
    - ADDRESSES: *Include any addresses that are important.*
    - FOR FURTHER INFORMATION CONTACT: Point of contact in the contracting office or program office who can answer questions.
    - SUPPLEMENTARY INFORMATION*: Include background information. The description of the services and supplies must be clear and not be unnecessarily restrictive of competition, allowing the reader to make a reasonable judgment on whether to ask for a copy of the solicitation. Include additional information as necessary.*
- Signature Block: Name and signature of person signing the notice. Place the signature either at the end of the notice or between the preamble and the rest of the document.

The Federal Register Document Drafting Handbook, Chapter 3 provides guidance on how to prepare a notice for the Federal Register http://www.nara.gov/fedreg/ddhdownl.html and should contain: (See sample at Appendix G.

If a solicitation is published in the Federal Register the solicitation must contain the information listed in 10 CFR 600.8(c)(1)-(21), Content of Solicitation.

Catalog of Federal Domestic Assistance (CFDA). The CFDA is a government-wide comprehensive catalog of a financial assistance ;programs. The CFDA is also used to announce the availability of financial assistance. This is a compendium of all Federal Assistance programs operating in the domestic United States. Compiled by the General Service Administration (GSA), under direction of the Office of Management and Budget, the catalog contains more that 1,000 program listings involving assistance of financial and non-financial nature to organizations and individuals. Each program listing is

derived from underlying legal authority to carry out the program and carries a five-digit code which is extremely important in establishing underlying accountability for program funds. DOE listings are identified by the prefix "81". The remaining three characters in the nomenclature identify specific DOE authorities for carrying out financial assistance. Notify the Office of Procurement and Management Assistance if you have a new program, which is not listed in the CFDA.

Exceptions to Public Announcement. Synopsis for procurements is required to be published in the CBD for most contract actions of $25,000 or more. The contracting officer may determine exceptions from the CBD requirements. These exceptions include but are not limited to the following cases (for a detailed list of exceptions, see **FAR, Part 5.202):**

- Classified procurements where the synopsis cannot be worded so as to preclude disclosure of classified information;
- Procurements so urgent that they preclude compliance with prescribed time periods;
- Contracts that must be awarded to a specified source or sources because of an international agreement or treaty or because the procurement is being made for and paid for by foreign government that has specified the source or sources;
- Procurements being made through the Small Business Administration from an 8(A) firm, Federal Prison Industries, or a workshop for the blind or handicapped
- Utility service contracts where only one source is available;
- A purchase order under an existing requirements contract;
- An unsolicited proposal demonstrating a unique and innovative approach that deserves protection;
- A procurement of perishable subsistence supplies where advance notice is not appropriate or reasonable;
- A noncompetitive procurement which is otherwise justified with respect to brand name commercial items authorized for resale;
- A procurement made under an existing contract that was properly synopsized;
- A determination in writing by the head of the agency, after consultation with the heads of the Office of Federal Procurement Policy and SBA, that synopsizing is not appropriate or reasonable.

Publication in the Federal Register of notices of intent to award on a noncompetitive bases or pursuant to an unsolicited proposal or application are no logger necessary effective February 26, 1996.

3.7 Types of Procurement and Financial Assistance Award Instruments. Because of the diversity of goods and services required, the wide-ranging mission of DOE, and types of funding, no single award instrument applies to all of DOE's requirements. The award instrument defines the relationship between DOE and the contractor; therefore the type of contract or financial award instrument is of fundamental interest to both parties. The Federal Grant and Cooperative Agreement Act of 1977, PL No. 97-258 established standards for Federal agencies to use in selecting the most appropriate funding vehicle, a procurement contract, a grant or a cooperative agreement.

A grant or cooperative agreement must be used only when the principal purpose of a transaction is to accomplish a public purpose of support or stimulation authorized by Federal statute. A procurement contract is used when the principle purpose is to acquire supplies or services fro the direct benefit or use of the Government. In each instance, the DOE shall decide on the appropriate award instrument (i.e., grant, cooperative agreement, or contract). The requesting official is responsible for submitting a transaction determination for all financial assistance actions. The document should describe the project and summarize its importance and benefits to the Government/Public.

Differences Between Federal Government and National Laboratories Contracting. DOE headquarters and field offices follow very similar procurement rules and procedures. However, some significant differences exist for contracting by national laboratories, most of which are Government-Owned and Contractor Operated (GOCO) facilities. Differences between the Federal Government acquisition system and a GOCO national laboratory acquisition system are summarized in the table below.

Comparison of Federal and GOCO Acquisition Systems

	GOCO Laboratory	**Federal Agencies**
Advertising Requirements	Competitive procurements over $100,000	All procurements over $25,000
Competition in Contracting Act	Does NOT apply, except for the spirit – Federal Norm*	Specific requirements for competitive and noncompetitive procurements
Financial Assistance Instruments	Assistance instruments - Prohibited by Public Law	Assistance instruments – grants, cooperative agreements, and memoranda understanding
Interaction with Other entities		
- Organizational Conflicts of Interest Act – Determinations	Recommends ad Federal Agency approves	Federal Agency approves
- National Environmental Policy Act – Determinations	Contractor recommends and Federal Agency approved	Federal Agency approves
- Preaward Audit Requirements	Same requirements – May work with cognizant audit agency to perform	Same Requirements – cognizant audit agency performs
- Equal Oportunity Compliance Reviews	Department of Labor through Federal Agency	Department of Labor through Federal Agency
- Property Title Vesting and Property Disposal	Recomends and Federal Agency approves	Federal Agency approves
- Negotiation Requirements	Contractor negotiates with top rank bidders only	Required to negotiate with all bidders in the competitive range and obtain best and final offers for all procurement actions under $10 million
- Consent Requirements or Quality Approval Reviews	Federal Agency's review and consent may be required for the procurement action	Federal Agency's Field Office and / or Headquarters review and approval and Congressional notification and waiting period prior to award may be required
- Organizational Conflicts of Interest Act – Determinations	Can do acquisition or procurements as subcontracts	Can do acquisitions or procurements as contracts
*Requires procurements to be conducted in accordance with the intent of the Federal Acquisition Regulations (FAR) as supplemented by DOE's Acquisiton Regulations (DEAR) and applical public laws		

Factors Involved in the Selection of Procurement Awards and Contract Types. For competitive procurements, bidders should be familiar with the type of contract selected for the procurement action in order to make realistic and logical business decisions while preparing their proposals. The type of contract determines how the risks and rewards of a

specific job are allocated. *Although the authority rests with the CO for the final choice of contract type, the program manager's recommendation is the primary factor.* Many factors must be considered to make an intelligent decision as to the proper contract type, including:

- The type and complexity of the item or service for which a contract is to be awarded;
- The urgency of the requirement;
- The contract period of performance. The Government may assume a greater proportion of the risks with a contract that extends over a long period of time;
- The degree of price competition present;
- The difficulty of estimating performance costs because of the absence of definitive specifications, the lack of production experience, or the uncertainty of technical risk;
- The availability of comparative cost data, firm market prices, or wage levels;
- The technical capability and financial responsibility of the contractor;
- Adequacy of the contractor's accounting system;
- Concurrent contracts being performed by the contractor;
- Extent and nature of proposed subcontracting;

Types of Procurement Instruments. The types of contractual instruments used in Government contracting or subcontracting fall into two basic families fixed price type and cost reimbursement type. Fixed price contracts provide "a price" for "a service or product." The price is not subject to adjustment regardless of cost experienced by the contractor. Therefore, the contractor bears greater risk and liability in fulfilling the requirements of the contract. A fixed price contract is most ideally suited to a well-defined SOW where the tasks and subtasks can be specified quantitatively and qualitatively, with little margin for uncertainty.

The cost reimbursement type contract family provides for payment of allocable, allowable and reasonable costs incurred in the performance of the contract to the extent the costs are permitted by the terms of the contract. Cost risk is shifted to DOE because of the more limited ability to define what specifically is required as well as the greater difficulty in estimating costs by either the contractor or DOE. For this reason, the program manager must maintain a good working relationship with the contractor so that costs can be matched with the desired effort to be performed.

Firm Fixed Price (FFP) Contract. The contractor assumes all risk and responsibility for performance at a specified price. A FFP contract is used primarily for commercial products or services with definite functional or detailed specifications where there is adequate price competition, price comparisons with past acquisitions on a competitive basis or supported by valid cost and pricing data, or the currently available cost and pricing data provides realistic estimates of cost of performance. It requires that performance uncertainties can be reasonably identified and estimated, and that the contractor is willing to accept the risks involved. The contractor's profit depends on its ability to fully perform the contract and control cost. Maximum efficiency results in maximum profit. This type of contract provides incentive to avoid waste and implement cost control measures. Administration and payment under the contract is the least complex.

Fixed Price Level of Effort Contract. This type of contract provides a fixed price for an established minimum level of effort. A level-of-effort type of contract is suited for a Statement of Work that clearly establishes the objective, but for which there is uncertainty or variables that may affect time and cost of achieving the objective. It is also appropriate for basic R&D projects when the contractor does not have an acceptable cost accounting system, but does have an acceptable timekeeping system. If the actual level of effort expended by the contractor is less than what was negotiated, the contractor receives a prorated amount (percentage of the actual work completed). If the contractor meets or exceeds the specified minimum level of effort, the full negotiated fixed price is paid to the contractor.

Cost-Plus-Fixed-Fee (CPFF) Contract. A CPFF contract is a cost reimbursement type contract that is commonly used for R&D where the level of effort required and the parameters of the scope of work are not easily determined. Reimbursement is made to the contractor for all allocable, allowable, and reasonable costs incurred as authorized by the terms and condition of the contract. A fixed fee is negotiated and established in the contract. This fixed fee (profit level) may be increased only if there is an actual change in the level of effort

required or a change in the work to be performed within the scope of work that was not originally contemplated. The fee can be decreased only if the scope of work is reduced, the contract is terminated, or the contract is allowed to expire upon reaching a predetermined cost ceiling without the work being fully completed.

Cost-Plus-Award-Fee (CPAF) Contract. A CPAF contract is a cost reimbursement arrangement with costs reimbursed in accordance with the FAR and the terms of the contract. It is similar to CPFF, but provides for a base fee and for an additional fee amount that may be awarded, in whole or in part, based on periodic evaluations of ongoing contractor performance. The amount of award fee earned is a judgmental determination made unilaterally by a DOE award fee committee. The fee is not subject to the conventional dispute resolution procedures covered by the "Disputes" clause contained in all Federal contacts.

Cost-Plus-Incentive-Fee (CPIF) Contract. A CPIF contract is similar to CPAF except that the contract specifies certain conditions under which the contractor receives a higher fee. An example of such incentives would be a fee based on the schedule for completion of certain contract milestones or deliverables, e.g., the earlier the delivery, the higher the fee.

Cost Sharing. Under this type of contract, no fee is provided. The contractor agrees to share in the allocable, allowable, and reasonable costs incurred in contract performance as authorized by the contract's terms and conditions. It is suited for R&D work where the contractor may receive substantial present or future commercial benefit as a result of contract performance.

Time and Materials/Labor Hour Contract. In addition to the two family types of contracts, there are time and materials or labor hour contract types that are a combination of both fixed price and cost type contracts. A time and materials or labor hour contract provides for payment of direct hours charged at fixed hourly rates. The fixed hourly rate includes indirect costs and profit. The time and materials contract provides for payment of materials at cost, while the labor hour contract does not. This type of contract is used when the extent of time required or cost of materials cannot be estimated with reasonable accuracy for production involving engineering design, maintenance and repair, overhaul work, or consulting services.

Basic Agreement. A basic agreement is a written instrument of understanding, negotiated between an agency or contracting activity and a contractor, that 1) contains contract clauses applying to future contracts between the parties during its term, and 2) contemplates separate future contracts that will incorporate by reference or attachment the required and applicable clauses agreed upon in the basic agreement. A basic agreement is not a contract. It should be used when many separate contracts may be awarded to a contractor during a particular period or significant recurring negotiating problems have been experienced with the contractor. Basic agreements may be used with either negotiated fixed-price or cost-reimbursement contracts.

Basic Ordering Agreement (BOA). A BOA is a more limited form of basic agreement that allows for future contracts (orders) between the parties, but the description of the supplies or services to be provided is as specific as practicable. The BOA also contains methods for pricing, issuing, and delivering future orders.

Task Order Contracts. Task Order Contract means a contract for services that does not procure or specify a firm quantity of services and that provide for the issuance of order for the performance of tasks during the period of the contract. Task order contracts are used when the specific requirements are unknown (in whole or in part) and will emerge in the future, thereby avoiding the transaction costs of new contracts. These contracts offer a wide variety of specific arrangements, but some common features are that the SOW is the general description of work, the CO specifies tasks after award, and pricing arrangements are flexible. Among the advantages of task order contracts are that they can provide needed adaptability, reduce procurement paperwork, and reduce procurement lead-time. The primary disadvantage is that administrative demands are greater. Task order contracts are typically cost reimbursement contracts, such as CPFF; however, they can also be incentive contracts, time-and- material, or labor-hour contracts.

Support Services Contracts. A support services contract is a task order contract used to obtain a variety of services, including technical analyses and assessments, regulation compliance reviews, and administrative and graphics support. It does not procure or specify a firm quantity of services (other than a minimum or maximum quantity), but provides for the issuance of orders for the performance of tasks during the period of the contract. The support services contracted for at DOE are generally for management and professional services that provide for various technical support functions, and more efficient operations and assistance to managerial, administrative or related systems. Support services are discussed more fully in Appendix H.

GSA SmartPay Card (Visa Purchase Card). The SmartPay card is authorized for use in making and/or paying for purchases of supplies and services. The card may also be used as a payment or to place a delivery order or task order against an existing contract, blanket purchase agreement or basic ordering agreement.

Factors Involved in the Selection of Financial Assistance Awards. Cooperative agreements and grants are the two basic types of financial assistance instruments. Two important distinctions to be made in the types of financial assistance awards are (1) how much discretion does DOE have in deciding whether or not to award funds, to whom, and how much and (2) the amount of DOE involvement in the project/award. There are a number of factors to consider to make an intelligent decision as to the proper for financial assistance instrument, including:

- Will there be substantial involvement by DOE? Number one factor.
- Are funds discretionary or non-discretionary?
- How are funds distributed?
- How much oversight will DOE have?

- How much recipient discretion exists in the use of funds?
- How much obligation the Federal Government has
- Why type of program or activity is being carried out.

Congressional Earmarks. Recently Congressionally mandated assistance awards are surfacing with greater regularity. In this arrangement, Congress inserts into an authorization or appropriation bill a specific requirement that DOE award funds to a particular entity or individual and, in all likelihood, for a particular designated project. Earmarking of funds does not mean that the financial assistance award instrument will automatically be a grant. Program managers should consider the amount of DOE involvement required to maintain a level of project oversight to ensure the Government/public receives the intended benefits of the project.

Fixed Obligation Awards. A fixed obligation award may a grant or cooperative agreement that may neither exceed $100,000 nor one year in length. Funds are issued in support of a project without the requirement for DOE monitoring of actual cost incurred. Programs, which require mandatory cost sharing, are not eligible. The recipient must certify in writing to the Contracting Officer at the end of the project that the activity was completed or the level of effort was expended. Periodic report maybe established for each award so long as they are not more frequent than quarterly.

Cooperative Agreement. A cooperative agreement is intended to accomplish the same ends but also includes substantial Government involvement between the agency and the recipient during performance of the contemplated activity. A Determination of Substantial Involvement must be prepared for all cooperative agreements. See Chapter 4, Substantial Involvement and Appendix I for the preparation guidance and sample.

Cooperative Research and Development Agreements (CRADA). CRADAs are specialized cooperative agreements that have received more emphasis since the Federal Technology Transfer Act provided for Federal laboratories to participate on a cooperative basis with nonfederal parties in a research arrangement. CRADAs are highly individualized arrangements to encourage private sector and Federal Government partnering in order to optimize joint research efforts. The principal aim of the CRADA program is to facilitate the transfer of technology from Federal laboratories into the development of new products and processes, in order to further the economic competitiveness of the U.S. in world markets. See DOE Order 483.1 DOE Cooperative Research and Development Agreements and DOE M 483.1.1 DOE Cooperate Research and Development Agreements Manual.

State Energy Office Agreements (SEOs) (Omnibus Award). Regional Offices may award competitively selected five-year cooperative agreements to SEOs who apply and meet the evaluation criteria. The solicitations will be restricted to SEOs.

Grant. A Grant is an agreement through which funds are provided for assistance, and it is intended to provide the means for a recipient to accomplish a public benefit with little oversight or other Government involvement.

Formula Grants. For many Federal program, the distribution of funds occurs through the operation of a congressionally-mandated formula which takes into account such factors as population of a geographic areas or jurisdiction of intended participant, or prevalence of certain social conditions economic factors. Normally, the formula takes into account single or multiple data factors which are intended to represent measures of programmatic need. The DOE weatherization program is an example of formula grants. This program makes State energy conservation grants to help low-income people make their homes more energy efficient. Amounts provided to each state is determined by statutory formula. The requesting official is responsible for providing the cognizant contracting office with the applicable statutory citation or program rule and language to include:

- Project or program name;
- Name(s) of the eligible applicant(s);
- Statutory perquisites; and
- Specified formula.

Project Grants. In a project grant, the recipient identifies the eligible activities which it intend to carry out, justifies the need for the assistance and the methods by which the assistance will be administered, and identifies the total costs and breakdown associated with the resources needed to carry out the project.

Small Business Innovative Research Grants. The purpose of these grants is to increase private sector commercialization of technology developed through Federal R&D and increase small business participation in Federal R&D by small innovative firms.

3.8 Acquisition and Financial Assistance Requirements Processing Procedures. EERE will fully implement the EERE Procurement System in 2001. The system is a Web based Departmental Corporate System for processing acquisition requirements over $100,000 and all financial assistance requirements, work authorizations and interagency-out agreements regardless of value. The system is designed to eliminate paper based processing activities and provide the customer with a single entry point for initiating all dollar threshold acquisition or financial assistance requirements. The system is designed for requirements that are processed by the Headquarter Procurement Operation Office' and Field Procurement Offices. The system capabilities includes:

- Electronic workflow processing of procurement request-authorization and required forms and documents.
- Electronic approval and signature for procurement-request authorization and required forms and documents for procurement and financial transactions.
- An entry point for GSA SmartPay Card and EC-Web purchases.
- Requirements checklists for various types of procurement and financial assistance actions. The checklist contains a listing of required and suggested documentation and procedures for processing procurement, financial assistance, work authorization and interagency agreement requirements.
- Guidance/information for preparing and submitting required documentation and forms.

- Forms/documents required for each transaction.
- Electronic processing of the procurement-authorization request into PADS for Headquarter Procurement Office actions.
- Capability of generating program guidance letters, work authorizations, and interagency agreements.
- Supervisor review access.
- Ability to perform queries.

In general electronic procurement request-authorizations will be processed as follows:

Headquarter Requirements.

- Requesting Official determines whether the Headquarters Procurement Operations Office or a Regional Field Operating Office will process the requirement.
- Requesting Official selects the type of action (procurement, financial assistance, interagency out agreement,) and appropriate checklist.
- Requesting Official completes the procurement request-authorization form and required documents according to the selected checklist.
- Requesting Official electronically submits the procurement package with appropriate completed documents to next line supervisor or office director.
- Office Director verifies project against the Strategic Management System Annual Operation Plan and authorizes the project by electronically signing the procurement request-authorization and related documents.
- Office Director electronically submits procurement package to the respective sector Budget Analyst for funding verification.
- Budget Analyst submits the procurement package to PBO Director of Budget and Financial Management who commits EERE funds, and forwards the procurement package to the Chief Financial Officer (CFO).
- CFO Office certifies funds and submits the procurement package electronically to the Headquarters Procurement Operations Office (HQ PRCOPs) for processing.
- HQ PROCOPS issues solicitation and makes award or processes the IA.

Field Requirements (Requirements that are leaving DOE Headquarters).

- Requesting official determines whether Headquarters Procurement Operations Office or a Field Operations Procurement Office will process the requirement.
- Requesting official selects the type of action (procurement, financial assistance, interagency out agreement,) and appropriate checklist.
- Requesting official completes the procurement request-authorization form and required documents according to the selected checklist.
- Requesting official generates program guidance letter, which is submitted with the procurement package.
- Requesting official electronically submits the procurement package with appropriate completed documents to next line supervisor or office director.

- Office director verifies project against the Strategic Management System Annual Operation Plan and authorizes the project by electronically signing the procurement request-authorization and related documents.
- Office director electronically submits procurement package to the respective sector budget analyst for funding verification.
- Budget analyst submits the procurement package to PBO Director of Budget and Financial Management who commits EERE funds, and forwards the procurement package to the Chief Financial Officer (CFO).
- CFO Office certifies funds and submits the procurement package by snail mail to the supporting Regional Field Operating Office for processing. CFO sends email authorizing Field Operating Office to proceed up to the point of award or until the procurement package is received.
- Field Operating Office issues solicitation and makes award, process IA, or issues modification to Laboratory Contract.

Note: *A procurement request-authorization* must be completed for all procurement, financial assistance, work authorization and interagency agreements. A *program guidance letter* must be completed for all Regional Field Operating Office requirements.

Requirements for Commercially Available Items Up to $2,500 in Value. The Federal Acquisition Streamlining Act of 1994 established micro-purchase procedures for acquiring products and services valued at $2,500. The Act also directed the Government to maximize the use of Government Purchase Cards (now called the GSA SmartPay Card) for these purchases. EERE has an aggressive program and has issued over 35 GSA SmartPay Cards to various individuals throughout the organization.

Except for controlled acquisitions (discussed later in this chapter), you may purchase supplies and services $2,500 and below (micro-purchases) if your sector has the GSA SmartPay Card and approved funding. Micro-purchases (1) can be made without securing competitive quotations, if the price is considered reasonable and (2) are exempt from the provisions of the Buy American Act and the small business set-aside provisions of the Small Business Act. The GSA SMART Pay Card Telephone Quotation Work Sheet will be used to record purchase and obtain funding authorizations. The Quotation Worksheet maybe accessed through the EERE Procurement System. Personnel are reminded:

- If the vendor will not accept your GSA SmartPay Card, attempt to find another vendor who will accept the card. If you still cannot locate a vendor for your purchase contact Field Management and Operations who can assist in processing your requirement
- The Agency Program Coordinator (APC) is Kathy Higgs. Kathy can also deal with any GSA SmartPay Card related problems.
- We are the Green Purchases champions for the Department of Energy, and that all product purchases must be evaluated to ensure that acceptable levels of recycled materials are components of the product, and that the product is environmentally benign.

- The required sources described later in this chapter apply to micro-purchases which include Jarvis Wagner O'Day and Federal Prison Industries (Unicor).

Requirements Over $2,500 but Less Than $100,000, or Less Than $5,000,000 if Commercial Items and Services. EERE will implement the Electronic Commerce – WEB (EC-WEB). EC-WEB is the DOE System for executing simplified acquisitions over $2,500 but less than $100,000 or less than $5,000.000 if for a commercial items or services. All GSA SmartPay Card holders are required to attend EC-WEB training and to complete simplified acquisitions using the EC-WEB interface. To acquire services or products using this method complete the procurement-request-authorization form as explained in Chapter 4 through EC-WEB. You may access EC-WEB through the EERE Procurement System. Paper procurement requests will no longer be accepted after implementation of EC-WEB. Personnel are reminded:

- FAR Part 13 requires that all purchases exceeding $2,500 but not over $100,000 be reserved exclusively for small business, unless the Contracting Officer determines that there is no reasonable expectation of obtaining the goods or services from two or more responsible small business concerns that will be competitive in terms of market price, quality, and delivery.
- Requirements must be competed among a minimum of three vendors.
- A Justification for Other Than Full and Open Completion (sometimes referred to as a Justification for Noncompetitive Contract Action) must be attached to the procurement request-authorization if you have a noncompetitive or urgent requirement. See Appendix B for preparation of the justification.
- Requirements will be processed and an award made generally within the time frames identified at the beginning of this chapter. Once the award has been processed, an e-mail confirming the order will be forwarded to your office.
- All orders must have a delivery date written on them. If you do not receive your item by the delivery date, you should request a follow-up action from the respective EC WEB buyer or FMO. See Chapter 1 for points of contact.

Requirements Over $100K (Except for Commercial Items). All requirements will be submitted through EERE Procurement System. Follow the appropriate procurement checklist, complete the procurement-authorization form and required documentation. See Chapter 4 for requirements. Personnel are reminded:

- Paper requests will no longer be accepted after implementation of EERE Procurement System, except as authorized by FMO.
- Requirements will be processed and an award made generally within the time frames discussed earlier in this Chapter. You should receive a copy of the contract award or purchase/delivery order from the contracting officer shortly after award has been made.
- Request a follow-up action if you do not receive your item or service by the delivery date.

Processing Receiving Reports. Once you receive the item/service, you should complete blocks 32a, 32b, and 32c from a copy of the award document, SF 1499. For services you may also write the following on the invoice: "Services accepted. OK to pay." Be sure to sign and date it prior to submission to Field Management and Operations, or DOE Procurement Operations, as applicable. The receiving report is needed prior to processing any invoices for payment. If the receiving report is not completed on time, it could cause a delay in processing the invoice. Invoices that are not processed and paid within the time frame established by the Prompt Payment Act (30 days from the later of either the receipt of goods, services, or receipt of the invoice), are subject to be paid with interest penalties. Those interest penalties are paid from the sector program budget accounts, so every late payment made by EERE reduces the affected B&R by the amount of the interest paid, and thus reduces the amount of funds you have to perform your program.

3.9 Special Contracting Considerations/Approvals

Emergency Requirement Procedures. There may be a time when emergency contract support is required. Contracting officers must approve all actions even in emergencies. The following procedures must be followed for emergency requirements:

- Contact the Director, FMO, who will establish emergency contact with a DOE contracting officer;
- Ensure that adequate funds are available;
- The emergency must be validated by a senior EERE manager, office director or higher;
- After an emergency procurement is approved, a requisition and supporting justifications must be prepared and submitted to the Director, FMO by the close of the next business day.

Subscriptions and Publications. All requests for subscriptions or publications must be ordered through FMO, and must be approved by an Office Director or higher level of authority. Personnel are reminded:

- For all publications, allow a minimum of 60 calendar days for delivery after the (completed) request is received in FMO.
- For subscription renewals, renewal cards cannot be mailed to the vendor until funds have been approved and a purchase award completed.
- Requests for renewals are submitted to FMO at least 90 days prior to the expiration of the subscriptions.
- Consider economies in making the subscriptions. Considerations include reducing any duplication of orders, and purchasing for longer periods where appropriate (i.e. for a period of two (2) years or more) where substantial savings can be derived.
- Be sure to indicate the author, name and address of the publisher for all books and periodicals, the year and month of addition desired, and ISBN or ISSN, if available.

Information Technology (IT) Hardware or Software. The Office of Management and Operations, Office of Information Technology must approve all requests for IT items before purchase is authorized. Failure to comply with this requirement may result in loss of VISA Purchase Card privileges.

Use of Temporary Services Agencies. The Federal Acquisition Regulation authorizes the use of temporary help under certain conditions. In general, we are authorized to contract out for a six (6) month period, with the ability to extend another 6 months (when required), but the requirement cannot exceed a total of 1 year. OMO\Human Resources must approve all requests for the use of temporaries. Please contact us for more information if you need to hire these services.

Food and Beverages. The Comptroller General has ruled that the Government cannot spend appropriated funds for food, beverages, or entertainment except under certain limited circumstances. The only funds that are authorized for this type of use are (1) the Assistant Secretary's entertainment funds (Budget Object Code 27.11), (2) training funds (when considered an integral part of training), or (3) attendee fees collected from conferences and seminars (which include Professional Associations, Business Development events, etc.). DOE staff must ensure that they consult the travel regulations where food and beverages are provided at training or conferences, in lieu of Per Diem, M&IE expenses, etc. The ASEE or his designee must approve any request for using entertainment funds for any particular event.

Furniture. The Office of Management and Operations, Office of Resources and Organizational Management must approve all requirements for furniture.

3.10 Acquisition of Commercial Items. To Be Developed

3.11 Required Sources of Supply. To Be Developed

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Chapter 4

Acquisition and Financial Assistance Requirement Packages

4.1 Background and Purpose. The requirement package contains a number of documents that are necessary to provide clear instructions to the Procurement Office and to provide essential information to permit selection of the best offeror/applicant. The requesting official or program manager is responsible for ensuring the correct documentation is submitted. The forms required are dependent on:

- Type of action, i.e., procurement or financial assistance;
- Level of competition, i.e., full competition, restricted/limited competition, sole source, unsolicited;
- Type of vehicle, i.e. contract, delivery order, grant, cooperative agreement, interagency-out agreement, or work authorization;
- Type of services/supplies that are being procured; and
- Level of government evolvement.

Description of Documents. This section discusses a comprehensive list of documents that are used for the various types of DOE acquisition and financial assistance requirements for which the Program Manager is in whole or in-part responsible. The EERE Procurement System provides a checklist, guidance, forms, and samples for the various types of acquisition, financial assistance, work authorization and interagency agreements requirement packages.

4.2 Acquisition Requirement Packages.

Acquisition Plan. The acquisition plan provides the overall strategy for accomplishing and managing an acquisition. The specific content of acquisition plans will vary, depending on the size, nature, circumstances, complexity and estimated cost of the acquisition. Acquisition plans for service contracts must describe the strategies for implementing performance-based contracting methods or must provide rationale for not using those methods. Acquisition plans are required for all acquisitions. The information may be taken from the SMS Spend Plan and Annual Operating Plan. Contact your cognizant contracting officer to determine how detailed a plan is required for your procurement. See Chapter 3, Procurement and Financial Assistance Planning for acquisition plan preparation instructions

Procurement Request-Authorization (PR), DOE F 4200.33. The PR is the key document, which initiates a procurement action. This form and accompanying documents provides the information necessary for an awarding procurement office to solicit and evaluate applications, make recommendations to a selection official and make financial assistance and contract awards. It also serves as a medium for the program office to communicate any special instructions to the awarding procurement office. <u>The requesting official must complete this form electronically for all procurement requirements.</u> Determination of the program reviewing official (approver) is based on the delegated program authorities stated in Chapter 2, Acquisition/Procurement Authority.

Procurement Request-Authorization, DOE F 4200.34. This form is only used to provide additional funding information when there is not sufficient space on the PR. The continuation sheet cannot be processed alone; it must always be used as a supplement attached to the PR.

Independent Government Cost Estimate. The "government estimate" should give a detailed cost estimate for the entire project, broken out by year or budget period. If done properly, it will give a good baseline to decide if offers from vendors/applicants are fair and reasonable. The government estimate is also used for determining review and approval thresholds for various actions. The government estimate must always be marked FOR OFFICIAL USE ONLY, PROCUREMENT SENSITIVE – SOURCE SELECTION INFORMATION. The requesting official is responsible for submitting a government estimate for all acquisitions, work authorizations and interagency-out transactions. In some cases, Government estimates of particular projects are not feasible, such as with Program Research and Development Announcements, program solicitations, or unsolicited proposals. In those instances the program manager should consult with the contract specialist to determine the feasibility of a government estimate or if this requirement should be waived. See Appendix J for guidance, format and samples.

Performance-Based Work Statement (PBWS). The purpose of the PBWS is to identify the work effort, establish the required tasks, establish the objective, indicate responsibilities of the contracting parties, identify deliverables, and reporting requirements. The requirements should be written clearly and give functional or performance standards. The requesting official is responsible for developing a PBWS for all acquisitions, work authorizations and interagency-out agreements. See Appendix K for guidance, format and samples.

Small Business Section 8(a) Small business Set-Aside, DOE F 4220.2. Federal agencies are required by FAR, Part 19, to review prospective **contract** awards for the purpose of identifying opportunities for small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, women-owned small business and Section 8(a) program concerns. The FAR also requires ALL small purchases under $100,000 to be set aside for small business unless the contracting officer determines there is "no reasonable expectation" of obtaining quotations from two or more small business firms and documents that determination and its rationale. DOE uses DOE F 4220.2 to document the review, identify small business opportunities and dissolve small business set-asides. A recommendation is made by the requesting official; it is then reviewed by the Small Business/Disadvantages Business Utilization Specialist who accepts, rejects, or requests a re-evaluation. The requesting official is responsible for completing DOE F 4220.20 for all procurements requests intended to lead to the award of a contract, except:

- Simplified Acquisition ($100,000 or less)
- Commercial Items up to $5,000,000 purchased under FAR Part 13.5, Test Program for Certain Commercial Items.
- Incremental funding or other modifications where there is no change in the scope of work to existing contracts;

- The exercise of negotiated options included in the basic contract;
- Items required to be purchased from Federal Supply Schedule sources; and
- Change orders within the general scope of the contract.

List of Suggested Sources. The requesting official should provide a recommended source list (with point of contact name and addresses) if the Program Office desires specific companies to be placed on the financial assistance or procurement solicitation mailing list. A copy of the Advanced Planning Sources Sought Notice responses for the current fiscal year should also be provided; if a noticed was published. The requesting official is responsible for providing the list with the procurement request.

Commerce Business Daily (CBD) Executive Summary. The Small Business Act (Section 15 U.S.C. 637(e)) and PL 98-72 requires that contracting and subcontracting opportunities be advertised to the public in order to obtain maximum competition in Government acquisitions. This advertising is accomplished through the CBD. The CBD announcement for each acquisition is called a synopsis and contains such information as name and address of the contracting office, description of supply or services (executive summary), solicitation number, opening and closing dates, and other information. The requesting official is responsible for preparing and submitting a draft executive summary for all new procurement actions over $25,000 that the contracting officer incorporates into the synopsis submitted to the CBD. FAR 5.1 Dissemination of Information.

Record of Personnel Authorized Access to Proprietary or Source Selection Information. The purpose of this list is to notify the contracting office of personnel who have had access (or will have potential access) to proprietary of source selection information regarding procurement. The contracting office will use the information to verify that personnel have received the necessary briefings and that required Certifications of Nondisclosure, Conflict of Interest and Procurement Integrity have been completed. The requesting official is responsible for providing the list with the procurement request-authorization.

Pre-procurement Organizational Conflicts of Interest Fact Sheet, DOE F 2030.1. The requesting official shall complete DOE F 2030.1 at the time the procurement request is initiated if the procurement falls within one of these categories:

- Evaluation services or activities;
- Technical, consulting, management support, and professional services;
- Research and development authorized pursuant to Federal Energy Administration Act of 1974 as amended. Other R&D contracts do not require the form;
- Services, which by their nature require organizations conflicts of interest coverage.

Contact your cognizant contracting officer if you are uncertain about whether a procurement falls within one of the categories.

Reporting Requirements Checklist, DOE F 1332.1. The checklist identifies the detail, the type, frequency, distribution of all necessary reports required and communicates

additional reporting requirements, which are not otherwise set forth in a DOE contractual agreement. The program manager should complete and sign this form. The types of administrative and technical reports that can be required are extensive, but a belief that obtaining more reports will lead to better project control should be avoided. Rather, the number of reports requested from contractors should be kept to the absolute minimum required for effective management and technology transfer.

The two basic types of reports are baseline plan and status. Plans establish baselines for the life of the contractual agreement against which progress can be measured. Status reports show progress as well as variances from plans. The reporting categories are described below:

- *General Management Reports* summarize schedule, labor, and cost plans and status for rapid overview by senior managers, and provide appropriate narrative explanation of status variance from plan.
- *Schedule/Labor/Cost Reports* provide information on milestone schedule, labor, and cost plans and status to support appropriate analysis at the level of detail required by the contractual agreement.
- *Exception Reports inform* DOE of any unusually significant events and document the participant's understanding of DOE/participant discussions.
- *Performance Measurement Reports* provide information regarding the budgeted cost for work performed relative to the budgeted cost for work scheduled and the actual cost of work performed and provide for reporting data on performance measurement baseline maintenance and estimates at completion.
- *Financial Incentives Reports*, including related forecasts submitted by a borrower on a regular basis, will be of the type ordinarily acceptable to independent auditors. Submission of these reports is essential for determining the soundness of the borrower's financial condition and protecting the Department's interest in any asset that serves security for repayment of a loan for which DOE is either the lender or guarantor.
- *Technical Progress Reports*, submitted on both a regular and as-required basis, are the primary means by which DOE disseminates scientific, technical, and engineering information acquired in the performance of DOE-supported efforts to the Department's researchers and program managers, and when appropriate, the general public.

Frequency of reports is based on type and dollar value of the award. For example, reporting requirements for larger, RFP-procured contracts, is much more frequent than with financial assistance awards; technical and schedule/labor/cost reports are normally submitted every month.

Nomination/Certification of Contracting Officer Representative. A contracting officer may designate other qualified personnel to be the Contracting Officer’s Representative (COR) for the purpose of performing certain technical functions in administering a contract. These functions include, but are not limited to:

- Technical monitoring, inspection;
- Approval of shop drawings;
- Testing; approval of samples; and
- Other functions of a technical nature

A COR may be appointed for financial assistance awards if required or the situations dictates. Nominations for COR's are sent to your supporting contracting officer. Nominee must meet the listed at DOE O 541.1A, Attachment 5 and DOE Acquisition Guide, page 8. Nominees are required to file a Confidential Financial Disclosure Report (SF450) upon being nominated. DOE Order 541.1A paragraph 4d. COR Qualifications Requirements. See Appendix T for format.

Source Selection Plan. Some method of evaluation must be applied to all acquisitions. In negotiated acquisition when factors other than price are to be considered in evaluating contractor proposals, a source selection plan is required. This plan defines how the source-selection process will be conducted and should be tailored to the procurement. The plan should include the criteria for evaluation and the weights assigned to the criteria. Although a formal source selection plan is not required by the FAR or its supplements, one is generally prepared for high dollar or complex procurements. Preparation instructions and examples are described in Chapter 5 and Appendix L.

Evaluation Criteria. Evaluation criteria may consists of actors and sub factors that reflect the areas of importance to the program office in its selection decision. Evaluators use evaluation factors to access the similarities and differences and strengths and weaknesses of competing proposals or unsolicited proposals. The requesting official is responsible for providing evaluation criteria for all competitive negotiated procurements. See FAR 15.3, Source Selection and DOE Acquisition Guide, Chapter 15, Establishing Evaluation Criteria. Development of evaluation factors and examples are described in Chapter 5.

Past Performance Considerations. Past performance must be evaluated in all source selections for negotiated competitive acquisitions expected to exceed $100,000. FAR 15.304 (c0(3)(ii) Evaluation Factors and Significant Subfactors.

Foreign Ownership, Control, or Influence (FOCI) Applicability Determination. DOE O 470.1 Change 1, Safeguards and Security Program, Chapter 7 requires review and approval before award of any contract or subcontract that will allow contractor personnel access to classified information or special nuclear material. The requesting official will provide a memorandum to the cognizant contracting officer stating whether the requirement will or will not involve access or potential access to classified information or special nuclear material. See DEAR 904.70, Foreign Ownership, Control or Influence Over Contractors for additional information.

Environmental, Safety and Health Compliance. The requesting official is responsible for identifying any hazardous, controlled, and special material that may pose unusual hazards or present unusual environmental or safety problems in the acquisition, handling, or transportation of the required service. Are there any Ozone depleting chemicals such

Chloro-hydrocarbons and freon required? Identification of these requirements will allow the cognizant contracting office to incorporate the necessary provisions and clauses into the solicitation and award.

Quality Assurance Plan and Surveillance Requirements. The Quality Assurance Plan defines what the government must do to ensure that the contractor has performed in accordance with the performance work statement standards. This can range from one-time inspection of a product or service to a periodic in-process inspection of on-going product or service delivery. The requesting official is required to identify all of the planned actions necessary to ensure the government receives the quality of services and products called for under the contract.

Pertinent Statutory Authority and/or Program Regulations. The requesting official is responsible to provide the cognizant contracting office with the pertinent statutory authority, program rules or regulations which may be directive in nature or applicable to the procurement or financial assistance transaction. The information should include:

- Citation of the statute or program rule;
- Applicable authority;
- Program name;
- Name(s) of directed or class of recipient(s) of the award, restricted eligibility criteria;
- Specified purpose; and
- Cost sharing percentages, type or amounts, etc.

Contract Security Classification Specification, DOE F 5634.2. The requesting official should check the appropriate block in Item 43, DOE F 4200.33, Procurement Request-Authorization. This form should be submitted if awardee personnel will require security clearance for performance of the procurement.

Government Real and/or Personal Property Requirements. The Federal Acquisition Regulation, 45.5, DEAR 945, DOE Acquisition Guide, Chapter 45 Government Property and 10 CFR 600 prescribes record keeping and reporting requirements for property acquired or used under Federal contracts and financial assistance awards. These reports are used by the Chief Financial Officer in compiling the overall Departmental inventory of Government property. In addition to FAR reporting requirements, DOE requires its contractors to use established DOE asset codes from the list maintained by the Chief Financial Officer to identify property under their contracts. The requesting official is responsible for identifying specific property requirements allowing the cognizant contracting office to incorporate the necessary provisions and clauses in the solicitation and award. Include government furnished, contractor acquired property or property purchased with assistance funds.

Property acquired under a financial assistance award or subaward (where some or all of the cost is a direct charge to DOE funds or a part of required cost sharing), as well as

property furnished by DOE to a recipient, are subject to the property management requirements specified in 10 CFR 600.130-137 or 10 CFR 600.231-233.

Special Data or Intellectual Property Requirements. The requesting official is responsible for identifying special data or intellectual property requirements to the contracting office. These requirements may include reproduction or development of copy righted material, patents, access to limited rights data, access to restricted computer software, required computer software, or royalties to be paid. Identification of these requirements will allow the cognizant contracting office to incorporate the necessary provisions and clauses in the solicitation and award to protect the Government's interests. DEAR Part 927.2, Patents, Data and Copyrights, 10 CFR 600.27 Patent and Data Provisions and 10 CFR 600.234 Copyrights.

Access to National Security Information Requirements. The requesting official is responsible for notifying the cognizant contracting office if the requirement will access to classified information or locations and require security clearances. Identification of these requirements will allow the cognizant contracting office to incorporate the necessary provisions and clauses in the solicitation and award to protect the government's interests. The requesting official should also check the appropriate block in Item 46, Procurement Request Authorization, DOE F 42200.33.

Justification for Other than Full and Open Competition (JOFOC). When full and open competition cannot be achieved, the requesting official is required to provide a Justification For Other than Full and Open Competition document, sometimes called a Justification for Noncompetitive Award (JNCA) for contracts and simplified acquisitions stating the reasons for sole-source selection, or why only limited or restricted competition will be achieved. These documents must be signed by the Contracting Officer and requires the approval of EERE's Competition Advocate, and General Counsel, as appropriate. All approval described in Chapter 3 and **DOE Order 542.1 Competition In Contracting** should be obtained prior to submitting the procurement request-authorization. Exceptions to using full and open competition are specifically identified in **FAR Part 6.302 Circumstances Permitting Other Than Full and Open Competition.** The program manager should develop the JOFOC consistent with the guidance and format in Appendix A for all acquisition actions over $100,000.

Justification for Acceptance of Unsolicited Contract Proposal. When an unsolicited proposal is selected for award, the program manager is responsible for developing the justification consistent with the JOFOC format. This document summarizes the technical merit of the unsolicited proposal and the reasons it is to be funded. See Appendices B and U.

Specifications. Specifications are primarily used in equipment and construction procurements. They are clear and accurate descriptions of the technical requirements for a material, product, or service and include the procedure by which it will be determined that the requirements have been met. The program manager should prepare this document.

One-Time Delegation of Program Authority. This is a memo prepared by the program manager to the Assistant Secretary/EE for actions in excess of $50 million. It is only needed when the dollar threshold for a procurement action exceeds the signing authority of the Director of the Office of Management and Resources.

Energy Policy Act (EPACT) Implementation. Section 302(a) of the Energy Policy Act of 1992 (EPACT) provides that DOE award 10 percent of the total combined amounts obligated for contracts (including financial assistance programs) and subconracts in the performance of EPACT work to certain target groups (e.g. SBIR/STIR. The requesting official is responsible for identifying on the procurement request, work authorization or interagency agreement whether the specific procurement is an EPACT requirement. This allows the cognizant contracting office to incorporate the necessary provisions and clauses in the solicitation and award. The requesting official should also check the appropriate box in block 47, DOE F 4200.3 Procumbent Request-Authorization. See DOE Acquisition Guide, Chapter 26, Energy Policy Act Implementation for additional information.

National Environmental Policy Act (NEPA). At the initiation of a project/program, the Program Manager should make an assessment as to whether the activity to be performed is identified in Subpart D - Typical Classes of Actions, 10 CFR 1021.400, or is similar to one of those activities, such that an analysis of the potential environmental impacts from the project/program should be made.

The NEPA Worksheet is a one-page document designed to verify that a proposed action clearly is a CX, is covered by a Programmatic EA or EIS, or already is addressed in another NEPA document (e.g., an EA or EIS). See EERE's NEPA Preparation and Review Procedures (under revision) for additional information.

Organizational Conflicts of Interest Information Abstract, DOE F 2030.2. The program manager and contract specialist should develop the organizational conflicts of interest information after receipt of proposals as indicated on the form for the following:

- All bidders in the competitive range for Source Evaluation Board procurements;
- All other competitive procurements after selection but prior to award; and
- Noncompetitive procurements prior to award.

The form is not required if the contracting officer determines that the procurement does not falls within one of these categories:

- Evaluation services or activities;
- Technical, consulting, management support, and professional services;
- Research and development authorized pursuant to Federal Energy Administration Act of 1974 as amended (Other R&D contracts do not require the form);

- Services, which, by their nature, require organizations conflicts of, interests coverage; or
- When review of the fact sheet has indicated that there is not potential for organizational conflicts of interest on the procurement.

Construction/Architectural & Engineering Procurement Review and Approval. The program manager should prepare this form and obtain approval signatures from the appropriate personnel in the Environment, Safety & Health Office (EH) prior to submission of the procurement request package. EERE is rarely involved in this type of procurement.

Congressional Grant/Contract Notification Of Awards, DOE F 4220.10. The requesting official should submit DOE F 4220.10 48 hours prior to the award(s) announcement notifying their appropriate point of contact in the Office of Congressional and Intergovernmental Affairs of the planned announcement of the intended contract and financial assistance award(s) and contract and financial assistance modification(s). Page 2 of DOE F 4220.10 provides detailed reportable actions and dollar thresholds. See Chapter 5, Announcement of Awards.

4.3 Financial Assistance Requirement Packages

Program Guidance Letter. Program guidance letters are used to provide obligational authority to EERE Field, Operations, and Regional Offices and/or Laboratories to carry out EE's R&D activities consistent with the Congressional Budget Request. The program guidance letters should include; field designation, the funding amount by B&R, and a summary of work scope consistent with the intent of Congress. If a program guidance letter is issued for a Laboratory, a Work Authorization Statement (WAS) is required for each applicable laboratory project. A program guidance letter is required prior to processing any requirements (procurements request, financial assistance transactions, work authorizations or interagency-out agreements) that will be processed by field activities

Procurement Request-Authorization (PR), DOE F 4200.33. The PR is the key document, which initiates a procurement action. This form and accompanying documents provides the information necessary for an awarding office to solicit and evaluate applications, make recommendations to a selection official and make financial assistance and contract awards. It also serves as a medium for the program office to communicate any special instructions to the awarding contracting office. <u>The requesting official must complete this form electronically for all financial assistance requirements.</u> Determination of the Program Reviewing Official is based on the delegated program authorities stated in Chapter 2.

Financial Assistance Transaction/Purpose Determination. The Federal Grant and Cooperative Agreement Act of 1977 established criteria for a Federal agency to use to determine whether a transaction is procurement or financial assistance. See Appendix W for format.

In each instance, the DOE shall decide on the appropriate award instrument (i.e., grant, cooperative agreement, or contract).

A grant or cooperative agreement shall be used only when the principal purpose of a transaction is to accomplish a public purpose of support or stimulation authorized by Federal statute. The statutory criterion for choosing between grants and cooperative agreements is that for the latter, substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement.

Contracts shall be used when the principal purpose is acquisition of property or services for the direct benefit or use of the Federal Government. The requesting official is responsible for submitting a transaction determination for all financial assistance actions. The document should describe the project and summarize its importance and benefits to the Government/Public.

Statement of Substantial Involvement. The Federal Grant and Cooperative Agreement Act of 1977 specifies that grants will be used for assistance actions whenever no "substantial involvement" is anticipated and that cooperative agreements will be used for assistance actions when substantial involvement with the recipient is anticipated during performance. The requesting official is responsible for submitting a Statement of Substantial Involvement for all cooperative agreements. See 10 CFR 600.5 Selection of an Award Instrument and DOE Financial Assistance Guide, Substantial Involvement for additional information. See Appendix I for format and content.

Federal Register/CBD Executive Summary. 10 CFR 600.8, Solicitation requires solicitations for financial assistance applications be in the form of a program rule or other publicly available document which invites submission of applications. It also requires DOE to publish a copy of, or a notice of availability of, a financial assistance solicitation in the Federal Register and Commerce Business Daily when potential applicants include for-profit organizations or when there is a potential for significant contracting opportunities under the award. The requesting official is responsible for preparing and submitting a draft executive summary of the program rule for all new financial assistance awards. Also see Chapter 3, Public Announcement, 10 CFR 600.9, Notice of Program Interest, and Federal Register Document Drafting Handbook.

Project Description. A project description is provided requesting official for all financial assistance discretionary competitive requirements. The purpose of the project description is to identify specific program areas of interest that DOE is seeking to award grants or cooperative agreements. The project description will normally contain:

- Background and objective;
- Program areas of interest to include any specific areas requiring technical assistance, areas of investigation, restricted eligibility, eligible regions, required tasks, and responsibilities of DOE and awadees;

- Estimate of total available funds in current fiscal year (FY);
- Expected range of current FY funding per award;
- Estimated number of awards;
- Anticipated project period;
- Cost Share, amount, percentage, encouraged, or not required;
- Type of federal assistance i.e., Cooperate Agreement or Grant.

List of Suggested Sources. The list of suggested sources is discussed earlier in this chapter.

List of Evaluation/Selection Members, Technical Negotiations Support Personnel, and Post-Award Program Administration Personnel. The purpose of this list is to notify the contracting office of personnel who have had access (or will have potential access) to proprietary of source selection information regarding the financial assistance transaction or procurement. The requesting official is responsible for providing the list with the procurement request-authorization. The contracting office will use the information to verify that personnel have received the necessary briefings and that required Certifications of Nondisclosure, Conflict of Interest and Procurement Integrity have been completed. The requesting official is responsible for providing the list with the procurement request-authorization.

Selection Plan. The selection plan is a vital planning document that describes how to evaluate and rank competitive or unsolicited proposals/applications. The plan should include the criteria for evaluation, the weights assigned to the criteria, program policy factors, weights assigned to the factors. The requesting official is responsible for submitting a selection plan in accordance with the EERE and DOE Merit Review Guide for Financial Assistance and Unsolicited Proposals. Preparation instructions and examples are described in Chapter 5 and Appendix N.

Merit Review Evaluation Criteria. The DOE financial assistance regulations require that applications be evaluated against pre-established merit review criteria. Evaluation criteria may consist of one of more of the factors listed in 10 CFR 600.8(c)(12). Merit review evaluators use evaluation factors to access the similarities and differences, strength and weaknesses of competing proposals and applicability to the program areas of interest. The requesting official is responsible for providing evaluation criteria for all competitive financial assistance transactions and unsolicited proposals received as the result of a published notice of program interest. Preparation instructions and examples are described in Chapter 5.

Nomination of Contracting Officer Representative (COR). COR nomination procedures are described in Chapter 6. It is highly encouraged that program managers consider requesting appointment of a COR for financial assistance awards.

National Environmental Policy Act (NEPA) Requirements. NEPA requirements are discussed earlier in this chapter.

Energy Policy Act (EPAT) Implementation. EPAT requirements are discussed earlier in this chapter

Pre-procurement Organizational Conflicts of Interest Fact Sheet, DOE F 2030.1. This requirement is discussed earlier in this chapter.

Organizational Conflicts of Interest Information Abstract, DOE F 2030.2. This requirement is discussed earlier in this chapter.

Federal Assistance Reporting Checklist, DOE F 4600.2. The purpose of this checklist is to identify the detail, the type, the reports, frequency, and distribution of reporting requirements for the Federal Assistance Program/Project. The reporting categories for Federal assistance reporting are basically the same as described in paragraph 4.2 above "Reporting Requirement Checklist" for acquisition reporting requirements. Identify any special reposting requirements such as information, which will allow verification of the applicants paid cost sharing contributions (e.g. special invoice information, burn rate gannt chart, etc.). The following factors should be considered when establishing reporting requirements.

- Activity to be performed- Basic research, applied research or demonstration program.
- Duration and complexity of effort;
- Program legislation, regulations, or other guidance- Some program legislatin requires specific reporting to be imosed.
- Significance of the effort- High interest by the public, the Congress, or the Administrating may require current timely information on performance
- Information requirements of other DOE organizations- The data nees of various DOE components involved in stewardship role to oversee the activities of a grantee or cooperative agreement recipient should be pursued appropriately

The requesting official is responsible for completing the checklist for each financial assistance transaction.

Conflict of Interest/Non Disclosure Certificate for Merit Reviewers Involved in the Selection of Financial Assistance Applications or Unsolicited Proposals. All merit review committee members must certify that he/he will not participate in the review of any financial assistance application or unsolicited proposal involving a particular matter which the reviewer has a conflict of interest or where a reasonable person may question the review's impartiality. All merit reviewers (Federal or Non-federal Employees) shall sign the certificate prior to conducting a merit review. DOE Merit Review Guide for Financial Assistance and Unsolicited Proposals and 10 CFR 1010.101 Conduct of Employees.

Field Work Proposal. The field work proposal may be used as or all of the documentation of a Work Authorization Statement. It may also used by M&O contractor to describe prospective work. It is intended to provide an overview of the effort,

including each of the tasks necessary for project completion. **DOE Order 412.1 Work Authorization Systems.**

Cost Sharing Requirements. Cost sharing may be mandated by statute, discretionary on the part of DOE, or may be whatever the applicant proposes. Cost sharing requirements must be specified in the solicitation along with instructions that the applicant stipulates in the application the source and amount of cost sharing and the value of third party in-kind contributions proposed to meet the requirement.

The requesting official is responsible for providing cost sharing information/requirements to the cognizant contracting office at the initiation of the procurement request, work authorization document, or interagency agreement. The information should include specific statutory requirements, cost sharing percentages, type or amount.

Cost sharing requirements should be identified for that which will be subcontracted out by a Laboratory. See 10 CFR 600.30 Cost Sharing , DOE Financial Assistance Guide-Cost Sharing and Chapter 2, Cost Sharing, for additional information.

Foreign Ownership, Control, or Influence (FOCI) Applicability Determination. FOCI requirements are discussed earlier in this chapter.

Access to National Security Information Requirements. Requirements are described in paragraph 4.2 above. The requesting official should also check the appropriate block in Item 46, Procurement Request-Authorization, DOE F 42200.3.

Government Personal and/or Real Property Requirements. Government property requirements are discussed earlier in this chapter.

Quality Assurance Plan and Surveillance Requirements. These requirements are discussed earlier in this chapter.

Special Data or Intellectual Property Requirements. These requirements are discussed earlier in this chapter.

Grant Formula Requirements. This information is required if the transaction will result in a Formula Grant. The requesting official is responsible for providing the cognizant contracting office with the applicable statutory citation or program rule and language to include:

- Project or program name;
- Name(s) of the eligible applicant(s);
- Statutory perquisites; and
- Specified formula.

Congressional Grant/Contract Notification Of Awards, DOE F 4220.10. Congressional notification requirements are described in paragraph 4.2 above. Page 2 of

DOE F 4220.10 provides detailed reportable actions and dollar thresholds. See Chapter 5, Announcement of Awards for additional information.

Determination of Noncompetitive Financial Assistance (DNFA). When full and open competition cannot be achieved, the requesting official is required to provide a Determination for Noncompetitive Financial Assistance Award (DNFA) stating the reasons why it is necessary or appropriate to restrict eligibility noncompetitively to only one applicant. The DNFA is usually prepared by the responsible program official or project officer, reviewed by General Counsel, and then approved by either the programmatic Assistant Secretary or a designee who is at least two organizational levels above that of the project officer. Exceptions to using full and open competition are specifically identified in 10 CFR 600.6(c) Noncompetitive Financial Assistance. The DNFA should be approved prior to submitting the procurement request-authorization.

Justification for Acceptance of Unsolicited Financial Assistance Proposal. When an unsolicited proposal is selected to be funded, the program manager should develop the justification consistent with DNFA format. This document summarizes the technical merit of the unsolicited proposal and the reasons it is to be funded.

Designation of Principal Investigator. A memorandum from the program manager to the contract specialist is required to designate the person or persons to be specified as Principal or Co-Principal Investigator in a proposed Grant or Cooperative Agreement.

Designation of Key Personnel. A memorandum from the program manager to the contract specialist is required to designate the person or persons to be listed in the Key Personnel clause of a Grant or Cooperative Agreement.

4.4 Work Authorization Package.

Background and Purpose. Work Authorizations are used to submit work, which is to be performed, by designated management and operating (M&O), and management and integrating (M&I), environmental restoration management (ERMC) contracts. All work authorizations must be performance-based, consistent with DOE strategic management system and DOE G 120.1-5 Guidelines for Performance Measurement.

Requirement Package Contents.

Program Guidance Letter. Program guidance letters are used to provide obligation authority to EERE Field, Operations and, Regional Offices and/or Laboratories to carry out EE's R&D activities consistent with the Congressional Budget Request. The program guidance letters should include; field designation, the funding amount by B&R, and a summary of work scope consistent with the intent of Congress. If a program guidance letter is issued for a Laboratory, a Work Authorization Statement (WAS) is required for each applicable laboratory project. A program guidance letter is required prior to processing any requirements.

Procurement Request-Authorization (PR), DOE F 4200.33. The PR is the key document, which initiates a procurement action. This form and accompanying documents provides the information necessary for an awarding office to solicit and evaluate applications, make recommendations to a selection official and make financial assistance and contract awards. It also serves as a medium for the program office to communicate any special instructions to the awarding contracting office. The requesting official must complete this form electronically for all work authorizations

Work Authorization Form. This is the actual document used to submit work to one of the M&O, M&I, ERMC contractors and describes the work to be performed. Detailed preparation instructions can be found in DOE Order 412.1 Work Authorization Systems

Independent Government Estimate/Proposed Budget. The "government estimate" should give a detailed cost estimate for the entire project. A field work proposal may be included as part or all of the government estimate. Preparation instructions and examples are described in Appendix J.

Performance-Based Work Statement (PBWS). The PBSW should include the following information as appropriate:

- Detailed performance statement of work to be performed or reference to a field work proposal, project plan, or similar document that describes the scope of work;
- Milestones;
- Deliverables, including technical information as required by DOE Order 241.1A Scientific and Technical Information Management; and
- Performance measures/expectations.

Field Work Proposal. The field work proposal may be used as or all of the documentation of a Work Authorization Statement. M&O contractors may also use it to describe prospective work. It is intended to provide an overview of the effort, including each of the tasks necessary for project completion. **DOE Order 412.1 Work Authorization Systems.**

4.5 Interagency Agreement Requirement Package.

Background and Purpose. DOE may execute an IA pursuant to general authority granted the agency, including the Economy Act, 31 U.S.C. 1535 or pursuant to other legal authority specifically provide to the agency. The Economy Act authorized Government agencies to place orders with other agencies when it is in the best interest of the Government to do so. This usually is interpreted to mean cost-effective, An Interagency Agreement (IA) is a written agreement entered into between a DOE office and the appropriate official of another Federal agency that requires specific goods to be furnished or tasks to be accomplished by one agency in support of the other. Typically, a higher-level Memorandum of Understanding (MOU) is in place between the two agencies. The DOE Acquisition Guide, Chapter 17 Interagency Agreements provides additional guidance on IAs.

An IA may take any form, which will adequately reflect the interest of the parties. An IA entered into by the DOE must clearly specify the following:

- Materials and/or services to be provided;
- Reporting requirements;
- Applicable procurement and patent policy; and
- Financial arrangements.

Those IAs negotiated under the authority of the Economy Act are subject to the requirements of FAR 17.5 Interagency Acquisition Under the Economy Act which requires each IA be supported by a Determinations and Findings (D&F) signed by a contracting officer. The contracting specialist usually prepares the D&F with input from the program manager.

An example of an IA and required documents are provided in Appendix P

Types of Interagency Agreements. Depending upon the transfer of funds from or into the DOE, there are two main types of IAs:

- Funds-Out IA
- Funds-In IA (Reference Work For Others (Non-DOE Funded Work, DOE Order 481.1A)

There is also a No-Funds IA, under which no transfer of funds takes place between the two agencies participating in the IA.

> **Funds-Out IA.** In a Funds-Out IA the DOE reimburses another Federal agency for materials or services provided by that agency to the DOE. Examples of these materials and services include use of test facilities and operating personnel, R&D by another agency's laboratory or contractor, and demonstration projects (e.g., an electric vehicle fleet demonstration at a military base).
>
> **Funds-In IA.** In a Funds-In IA another Federal agency reimburses the DOE for materials or services provided by the DOE to that agency. A typical Department of Defense funding transfer document is a Military Interdepartmental Purchase Request (MIPR).
>
> Of these IAs, the Funds-Out IA is of most interest to EERE because it allows access to the resources of another Federal agency to achieve programmatic goals.

IA Development Procedure. The procedure for generating an IA consists of the following steps:

- Determination of program needs;
- Drafting the IA and getting it appropriately signed;
- Development of a procurement package.

Based on the strategic objectives and legislative mandates of a particular office within the DOE, **the program manager determines the necessity of appropriate work to be performed to achieve these objectives. The program manager then develops specific program requirements, which include:**

- Technical requirements, risks and potential barriers;
- Legislative requirements/constraints;
- Program support providers;
- Anticipated funding and program schedule.

In identifying the program support providers, if it is determined that another Federal agency is capable of delivering the service desired, an IA is sought to enable the transfer of funds from the DOE to the recipient Federal agency. This is part of the acquisition planning process described in Chapter 3. This kind of an IA is known as a Funds-Out IA, for services sought from another Federal agency.

The DOE program manager then consults with his/her counterpart at the performing agency and also with the contract specialist at the supporting DOE procurement office. The DOE program manager also identifies any existing MOUs that cover the scope of the work to be done. If none exist, he/she may possibly initiate a new MOU for the said work. An interagency MOU requires coordination and approval at senior management levels in both agencies; hence development of a new one can take several months.

The turnaround time for this process can take anywhere from one to six months or even more. The primary cause for delay in this case is the lack of efforts on the part of the contract office at the Performing Agency. This time also varies significantly from agency to agency. However, the DOE program manager can play a very active part in reducing this response time significantly. The DOE program manager should constantly keep in touch with his/her counterpart at the performing agency to make sure that person persuades the contract office personnel to sign the IA as soon as possible. This is very important because, if not done in time, the IA might die in the process.

After the performing agency signs returns the IA to the DOE; the DOE contracting officer signs the IA. This formally completes the paperwork required for an IA, allowing the Performing Agency to start actual work. A copy of the IA is also sent to the DOE program manager.

Requirement Package Contents. The requirement package is prepared by the DOE requesting official/program manager as support documentation for generating an IA. The contract specialist should be consulted often to ensure the accuracy of the procurement

package, especially for the Legal Authority. The documents, which must be included as part of the requirements package and which may be attached to the IA as exhibits, are described below.

DOE Interagency Funds-Out Agreement, DOE F 1270.1. This is the contractual document between DOE and the performing agency. It contains important information such as:

- Project Title and Description;
- Project and budget periods;
- Financial information to include overall budget and cost share information and funding and billing instructions;
- Reporting Requirements and Deliverables
- Program Officials for DOE and the Performing Agency;
- Special conditions, which includes Patents and Technical Data, Issue Resolution and termination instructions; and
- Signatures of DOE and Performing Agency Contracting Officers.

Procurement Request – Authorization (PR), DOE F 4200.33. The following figure illustrates a PR as part of the procurement package for a recent IA between DOE and the US Air Force. The requesting official must complete this form electronically for all work IAs. This form contains information such as:

- DOE contracting office awarding IA;
- Description of work;
- Performing Agency information;
- Funding information; and
- Certification of funds and appropriate signatures.

INSERT PR SAMPLE HERE

Statement of Work (SOW). The SOW attached to the IA as an exhibit. Whenever practicable, work obtained via an IA should be performance-based. Pursuant to FAR Part 37.6 Performance-Based Contracting the use of performance-based work statements contain minimum mandatory requirements as follows:

- Performance requirements that define the work in measurable mission-related terms.
- Performance standards (i.e., quality, quantity, timeliness) tied to the performance requirements.
- A Government quality assurance (QA) plan that describes how the contractor's performance will be measured against the performance standards.
- If the acquisition is either critical to agency mission accomplishment or requires relatively large expenditures of funds, positive and negative incentives tied to the Government QA plan measurements.

It is recognized that some receiving agencies may be unwilling to apply performance-based to federally performed work, or to modify existing contractual arrangements to accommodate performance-based work statements; nevertheless, efforts should be made to ensure any tasks against existing non-performance based contracts contain performance-based requirements as they apply to DOE work. When a receiving agency has not yet contracted for supplies/services needed to support DOE requirements, performance-based is required .

The figure below is an example of a Statement of Work (SOW) for the Procurement Package. The SOW is prepared by the program manager, and it should explain the work to be done and the supporting rationale. If the overall scope of the work involves several tasks, these tasks must be explained in details with a brief schedule. If the SOW is too brief and insufficient to generate an IA, it may have to be revised several times. Therefore, it is important to make the SOW comprehensive, and consultation with the DOE contract specialist can be very beneficial. A performance work statement maybe required if the work is going to be awared to another agency's contract.

INSERT SAMPLE OF STATEMENT OF WORK From Current Acq Plan.

Independent Government Estimate/Proposed Agency's Budget. The IGE or budget proposed for the desired IA should be explained in great detail, accounting for estimated costs such as hardware, labor, travel, subcontracts, overhead, etc. Often, details of the cost breakdown are not provided to the contract specialist, and this delays the process for generating the IA. Cost estimates for future levels of funding are also desirable. The IGE is attached to the IA as an exhibit. Preparation instructions and an example can be found in Appendix J

Requirements Checklist Form DOE F 1332.1. The checklist is attached to the IA as an exhibit. The checklist should be completed by the program manager and should identify the detail, the type (status and summary reports, cost/financial reports, performance measurement and technical reports), frequency, and distribution of all necessary reports required from the performing agency. The program manager, in consultation with the contract specialist, determines required deliverables.

Legal Authority. The Legal Authority to enter into an IA is among the most important documents in the procurement package. Legal Authority is used to provide basis for an IA, and it explains the provisions made by certain Federal Regulations and Acts, to achieve definite objectives of the Government through programs executed by Federal agencies. This information is required for the Determination and Findings signed by the contracting office. The supporting procurement office may require the program manager to provide the information in the form of a memorandum addressed to the contract specialist. Accurate information of Regulations and Acts that affect the proposed work should be mentioned. It is good practice for the DOE program manager to contact the

contract specialist and consult him/her regarding the legal authority. See example legal authority at Appendix P.

Program Guidance Letter. Program guidance letter requirements are discussed earlier in this chapter. A Program guidance letter is required for all IAs.

Applicable Memorandums of Understanding (MOU) or Agreements. Attach a copy of any signed MOUs between DOE and the participating agency.

Additional Resources.

- FAR 17.5 Interagency Acquisition under the Economy Act
- DOE Acquisition Guide, Chapter 17, Interagency Agreements;
- DOE Order 534.1A Accounting
- DOE Guide 481.1-1 Work For Others
- DOE M 481.1-1A Reimbursable Work For Non-Federal Sponsors Process Manual
- DOE Order 481.1B, Work For Others by Non-Department of Energy Funded Work

Chapter 5

Financial and Acquisition Assistance Proposal Evaluation Processes

5.1 Financial Assistance Proposal /Application Evaluation Process

Background and Purpose. It is DOE's policy that discretionary financial assistance is awarded through a merit-based selection process. 10 CFR 600.13, Objective Merit Review states that a merit review be a thorough, consistent, and objective examination of applications based on pre-established criteria by persons who are independent of those submitting the applications and who are knowledgeable in the field of endeavor for which support is requested. The policy applies to all discretionary financial assistance activities, noncompetitive as well as competitive. Nondiscretionary financial assistance, which includes formula awards, statutorily mandated and Congressionally directed awards, is not subject to this policy. The primary purpose of a merit review is *to provide a mechanism to determine which application submitted in response to a program rule, notice or solicitation best meet the Government's stated need*

Source Selection Organization. The process starts with the identification of the source selection organization, which may include: the source selection official, merit review committee members, field readers, initial reviewers, program policy factor reviewers and program officials.

Source Selection Official (SSO).

The ground rules for SSOs for financial assistance requirements are:

- The Assistant Secretary for Emergency Efficiency and Renewable Energy (ASEE) is the SSO for financial assistance awards greater than $25 Million.
- The Deputy Assistant Secretaries (or their authorized Assistant Deputy Assistant Secretaries) for EERE are the SSO for financial assistance awards under $25 Million for their respective programs.

The responsibilities of the SSO are essentially the same for financial assistance as for acquisition with one major difference; the contracting officer is never the SSO. The SSO is the individual who is ultimately responsible for:

- Ensuring the Merit Review is conducted fairly, objectively, impartially, and in accordance with the established evaluation criteria and program policy factors.
- Selecting the proposal that represents the best value to the government for acquisitions or meets the government's requirements for financial assistance.

Merit Review Committee. The SSO has the ultimate responsibility for appointments to a merit review committee. The merit review committee is comprised of a chairperson (or other official responsible for the review) and normally two or more reviewers. The reviewers of any particular application may be any mixture of federal or non-fen deal

experts, including individuals within the cognizant program office, except those described below. Reviewers must be well qualified, by either training or experience, or both in the particular scientific or technical fields that are the subject of the review. Objectivity is expected to the maximum extent possible. Accordingly, it is highly recommend that the following personnel not be reviewers:

- The program official, if the program official reports to and is rated by the selection official.
- Anyone in the direct chain of supervision above the selection official or program official.
- If the program official is a supervisor, none of the employees who report to and rated by the program official should be reviewers.
- Contracting officers or anyone performing business management functions for the project.
- Anyone approving/disapproving or having any decision-making role regarding the application.
- Anyone providing substantial technical assistance to the applicant.
- Auditing the recipient for the project.

Reviewers will individually and collectively read and score proposals in accordance with the approved selection plan.

The committees may either be standing or ad hoc, depending on the nature of EE's program solicitations. See EE's Merit Review of Review Procedures, published in the Federal Register, May 19, 1998. .

Merit Review Chairperson. A chairperson must be appointed by the SSO for each merit review committee who is who is responsible for:

- Obtaining signed certificates of confidentiality from all committee members;
- Preparing the written summary of the evaluation and recommendations for the SSO for the applicant's files; and
- Performing the merit review duties of a regular committee member.

Program Policy Factor Reviewers. The SSO may appoint one or more program policy factor reviewers for each merit review. As with merit reviewers they must be well qualified by training and/or experience in the particular scientific or technical fields of the subject review. The reviewers must also be knowledgeable in the organizations mission/direction and be in a position to identify the recommended DOE program priorities.

Selection Plan (SP).

A selection plan is required for all merit reviews. The program manager is responsible for submitting a SP in accordance with the EE's Merit Review of Review

Procedures, and DOE Merit Review Guide for Financial Assistance and Unsolicited Proposals. The selection plan should :

- Provide a Summary and Objectives of the solicitation;
- Identify all the participants in the merit review and selection process i.e., merit reviewers, merit review committee chair, initial reviewers, program policy reviewers and the source selection official, advisors, or ex-officios;
- Include a rating plan;
- Describe the review and evaluation methodology including the rating system;
- Include program policy factors against which the applications/proposal will be evaluated;
- Include a Conflict of Interest Certificate and a list of personnel who are required to complete the certification.
- Include whether pre-applications will be accepted and the methodology for their evaluation.
- Include worksheets and formats for narratives to be used by the initial reviewers, merit reviewers, program policy reviewers and selection official;
- Include the format for pre-application and award notification letters;
- Contain a milestone schedule for the particular procurement; and
- Include a list of evaluation/selection members, technical negotiations support personnel, and post-award program administration personnel. .
- Include the Congressional Grant/Contract Notification procedures/form ; and
- Include a signature page.

Rating Plan. The rating plan consists of the evaluation criteria and relative weights, rating scale, and description of the rating and ranking methodology.

Merit Review Evaluation Criteria. The DOE financial assistance regulation, 10 CFR 600.8c(13) Solicitations, require that applications be evaluated against pre-established merit reviews criteria. Evaluators use evaluation criteria to access the similarities and differences, strengths and weakness of competing proposal an applicability to the program area of interest. Program officials should develop criteria for solicitations or programs rules that include all aspects of technical/scientific merit. The idea is to develop criteria that are conceptually independent of each other, but inclusive when taken together. Structure the evaluation criteria and their relative importance to clearly reflect the needs of the program. The SSO must approve the evaluation criteria and their relative importance prior to release of the program rule, notice or solicitation. Criteria should:

- Focus reviewers' attention on the projects underlying merit (i.e., significance, approach, and feasibility). The criteria should focus not only on the technical details of the proposed project but also on the broader importance or potential project.
- Be easily understood. If the criteria are susceptible to varying interpretations, reviewers will use their own interpretation.
- Be stated clearly and succinctly as possible.

Following are several examples of typical non-cost and cost criteria.

- The scientific, engineering, and/or education significance of the proposed research project.
- The soundness of the research plan to establish the probable technical and commercial feasibility of the concept.
- The uniqueness/ingenuity of the proposed concepts or applications as technological innovation.
- The potential of the proposed concept for significant commercial applications.
- The educational and professional experience of the key staff, consultants and subcontractors, in relation to the proposed research.
- The time commitment and availability of instrumentation and facilities;
- Adequacy of the project plan or methodology.
- The ability of the proposer to furnish necessary financial support.
- Relationship of the proposed project to the objectives of the solicitation.
- Cost-effectiveness of the project.
- Past performance history on previous projects.

Weighting. It may be appropriate to weight the evaluation criteria under specific circumstances. Program officials should decide if and how the criteria should be weighted. If the evaluation criteria are weighted, the solicitation must provide the weight or relative importance of each criterion. The rating plan and instructions to the merit reviews should clearly describe the weighting system to be used. Tailor the relative importance to the specific requirement.

Example: Criterion A- 40%, Criterion B- 25%, Criterion C-25%, Criterion D-10% or Criterion A is the most import followed by Criterion B and C which are of equal importance, followed by Criterion D which is the least important.

Rating Scale. A rating scale should be developed that encourages reviewers to make the finest discrimination they can reliable make. Generally the rating scale should:

- Be defined so that larger scale values represent greater degrees of merit and smaller values represent smaller degrees (e.g. On a scale of 0 to 5, 5 represents the highest degree of merit and 0 represents an absence of merit).
- Include an appropriate number of scale positions to permit reliable differentiations among applications. If there are too many increments on the scale, the differences between increments may not be reliable or meaningful. If there are too few increments, the differences will not be apparent. The scale should have at least five steps (0-4) and not more than 11 steps (0-10).
- Include “zero” or “unacceptable” at the low end of the scale to offer reviewers a scale position that indicates a complete absence of merit relative to the criterion being rated.
- Induce reviewers to use the entire scale in order to make the differentiations that they need to make.

Scale Definitions: The comparability of ratings across reviewers and review groups requires that all reviewers use the rating scale in the same way. Thus, it is imperative that the various scale positions be well defined so that all reviews are calibrated in the same way and so that an adjective or numerical rating will represent the same cognitive appraisal by different reviewers. Program officials should clearly and, to the extent possible, precisely define the scale positions in their rating plans.

Rating Method. Program officials should determine how the applications will be rated and describe the method in the rating plan. Merit reviewers will evaluate each criterion separately rather than assigning the proposal an overall rating. In addition, the consensus rating method will be used vice individual ratings.

Merit reviewers perform an individual preliminary merit review by individually reading and evaluating proposals against all the established criteria, without consultation with other voting members of the review committee. The reviewers will note the strengths and weaknesses of the proposal against each established criterion. After the individual preliminary merit review has been accomplished, the Merit Review Committee will discuss each application, focusing on the strengths and weakness of each evaluation criterion. The committee will then develop a consensus rating for each criterion of each application, including weighted scores, computing a total score for the application.

<u>An example of a typical rating plan is provided in Appendix</u> _5.1_

Program Policy Factors.

Program policy factors are those factors which, while not appropriate indicators of a proposal individual merit (i.e., technical excellence, proposers ability, cost, etc) are relevant and essential to the process of choosing which of the proposals received will, taken together, best achieve or advance the program objectives. These factors are predetermined and specified in the solicitation so as to notify applicants that factors that are essentially beyond their control will affect he selection process. They may be set out in authorizing legislation or developed by DOE program staff. Examples of program policy factors are:

- Applications relevance to EERE programmatic priorities;
- The balance of the types of projects within each program area of interest;
- Geographic diversity;
- It is desirable, because of the nature of the energy source, the type of projects, envisioned, or limitations of past efforts, to select for award a group of demonstrations projects with a broad or specific geographic distribution;
- It is desirable to select for award (for stated reason) projects from diverse types and sizes of proposing organizations;
- It is desirable to select for award a group of projects that represents a diversity of methods, approaches, applications, or kinds of work;

- Amount of cost sharing (where not mandatory or in excess of mandatory levels);
- It is desirable, due to the nature of certain projects or proposing organizations, to select for award duplicative or complementary efforts or projects; or
- Economic and community development benefits.

These factors are stated in the selection plan along with any specific instructions or evaluation methodology and must be approved by the SSO prior to the release of the proposed rule, notice or solicitation. 10 CFR 600.8(13) Solicitation

List of Evaluation/Selection Members, Technical Negotiations Support Personnel, and Post-Award Program Administration Personnel. The purpose of this list is to notify the contracting office of personnel who have had access (or will have potential access) to proprietary or source selection information regarding the financial assistance evaluation. The program official is responsible for providing the list with the procurement request-authorization. The contracting office will use the information to verify that personnel have received the necessary briefings and that required Conflict of Interest/Non Disclosure Certificate for Merit Reviewers Involved in the Selection of Financial Assistance Applications or Unsolicited Proposals certificates have been completed.

Conflict of Interest/Non Disclosure Certificate for Merit Reviewers Involved in the Selection of Financial Assistance Applications or Unsolicited Proposals. All merit review committee members must certify that she/he will not participate in the review of any financial assistance application or unsolicited proposal involving a particular matter which the reviewer has a conflict of interest or where a reasonable person may question the review's impartiality. All merit reviewers (Federal or Non-federal Employees) shall sign the certificate prior to conducting a merit review. EE's Merit Review of Review Procedures and DOE Merit Review Guide for Financial Assistance and Unsolicited Proposals. and 10 CFR 1010.101 Conduct of Employees.

Rules of conduct. The basic rules of conduct listed above for acquisitions are should also be followed financial assistance evaluations.

The Evaluation Process. The proposal evaluation process begins with several administrative prescreening/initial reviews performed by contract specialist and program personnel. Once the application passes these reviews they are subjected to the formal merit review evaluation followed by the program policy factor review. A technical review of the cost proposals will occur after the SSO has made his final decision. The process steps are discussed in the following paragraphs.

Pre-Application Review. Pre-applications are often required by DOE where a project will involve construction, land acquisition, or land development and DOE funding is expected to exceed $100,000. In general, such pre-applications should include:

- A face sheet containing basic identifying information (e.g., SF 424), signed by the individual who is authorized to act for the applicant organization and to commit

the applicant to comply with terms and conditions of the financial assistance instrument, if awarded;

- A brief narrative statement describing the project objectives and methods of accomplishment; and
- A project budget identifying the estimated amounts of federal funds and non-federal contributions (cash or third party in-kind) needed to support the project. Those submitting applications will be sent a letter, informing them whether they encouraged or discourages in specific areas or encouraged or discouraged entirely. Pre-applications, if requested should be explained in the selection plan.

Initial Procurement Review. Applications will receive an initial administrative procurement review by the assigned contract specialist to determine:

- Whether the information required by the solicitation has been submitted and is properly completed;
- Whether the applicant has submitted all necessary representations and certifications;
- Whether the applicant is in default or in debt on other Federal programs;
- Whether the applicant is on the U.S. General Services Administration (FSA) List of Parties Excluded from Federal Procurement and Nonprocurement Programs and
- Whether cost-sharing requirements has been met.

Initial Program Review. All financial assistance application received by EERE will be assigned to the respective EERE program official who will initially review the document(s) for conformance with the technical and administrative requirements stated in the program rule, notice or solicitation and funding availability. Questions to ask are:

- Does the proposal provide sufficient technical substance to enable review?
- Does the proposal meet the topic/subtopic limitations or criteria included in the topic/subtopic description, if any?
- Is appropriate research proposed in science, engineering or education.

Applications, which pass the initial review, will be evaluated in accordance with the rating plan and stated evaluations criteria

Merit Review Evaluation. This is the formal merit review evaluation in which reviewers evaluate the applications against the pre-established evaluation criteria using the ranking and rating method stated in the selection plan. **The merit review committee prepares the following documents:**

- Individual Worksheet for Preliminary Merit Review. A worksheet will be completed for each application by all committee members to document their individual review of applications against the stated evaluation criteria set forth in the selection plan. Reviewers will prepare a narrative of the strengths and weaknesses for each criterion.

- Consensus Merit Review Rating. Completed by the committee to document their consensus review and rating of each application against the stated evaluation criteria in the selection plan. The consensus rating includes weights, consensus summary narrative of strengths and weaknesses for each criterion, numerical individual criterion rating and score, and total score.
- Merit Review Committee Narrative report. The narrative report provides the SSO an overview of the review process implemented by the Committee and a brief summary recommendations the conclusions and recommendations reached. Applications should be categorized into groups based on a logical and natural break in the ratings and number of applications being evaluated. An example is provided below.
- Group 1 Applications that are strong candidates for funding. this divers group is considered outstanding. Explain why.
- Group 2. Applications rated as very good, those that possessed at least one major weakness or a series of minor weaknesses that impacted the scoring and decreased their attractiveness.
- Group 3. Applications rated as satisfactory, those that possessed multiple weaknesses. In some cases, the impact and significance of the proposals were limited. In other cases, the proposal approach was clearly lacking an important element that could undermine the likelihood of success.
- Group 4 Applications rated as weak. Each of these proposals showed few strengths and numerous weaknesses
- Group 5 Applications failed to address most aspects of the evaluations criteria. Proposal would require major changes in order to meet the missing objectives set forth in the solicitation. In a few cases, the proposals seemed to be contract acquisitions and were not appropriate for financial assistance.

It includes a ranking sheet of all applications listed in order of merit review score. The highest score will be ranked number one. The Committee should complete blocks 1-5 of the ranking sheet. The narrative report and ranking sheet should be coordinated with the contracting officer for review prior to the program policy factor review.

Review of Program Policy Factors. After the merit review committee has completed its evaluation, one or more EERE program representatives (designated by the SO) will review and apply the established program policy factors to the applications. The program policy reviewer(s) prepares a Program Policy Review Summary Narrative Report that summarizes the program policy review of the proposals and provides the SSO with information and recommendations to support a selection decision. The summary narrative should contain.

- An introduction referencing the solicitation and/or program area of interest;
- A brief overview of the program policy review process referencing the approved selection plan;
- Total number of projects to be funded and total funding amount;
- Program policy factors applied to the proposals.;

- A table with applicant's name, project title, location of work 1st year funding and total potential funding;
- Recommended projects to be funded and why, in order of original merit review scores;
- Recommended projects not to be funded and why, in order of. original merit review scores;
- The merit review ranking sheet with the program policy factor section completed and final recommendations whether to award and amount of funding.

Technical Evaluation of Cost Proposal. The technical evaluation of costs is conducted after the selection official has selected the successful proposals. The purpose of the technical evaluation of the cost proposal is to determine the appropriateness and cost effectiveness of the applicant's proposed budget. The evaluation content and detail should be consistent with the project dollar amount and complexity. Merit review committee members should not conduct the evaluation. The evaluation should as a minimum:

- Discuss the necessity for any other direct charges such as proposed travel if they are significant part of the effort;
- Address proposed labor mix, the number of man-hours, and whether they appear to be overstated, understated, or on target;
- Provide comments on the need for any major items proposed to be acquired (i.e., equipment, supplies, services) under the award;
- The proportion of the project to be accomplished through contracting by the recipient should also be reviewed for reasonableness;
- Include the appropriateness of the travel to project objectives, the number of trips, destinations, duration, and number of people per trip; and
- Discuss any cost sharing and whether the amounts and cost elements are acceptable. As appropriate, it should explain the suitability and project need for any "in kind" contributions, whether or not any other Federal funding is being proposed as cost sharing, whether any cost sharing proposed is or is not proposed as coverage for unallowable costs, and how the proposed cost sharing complies with any statutory or program guidance requirements.

Announcement of Award. Several notifications must be made prior to announcement of awardee(e). Program personnel should complete the Announcement of Selection of Applicants Checklist: The checklist provides guidance to for the notification and announcement of impending awards to the applicants and appropriate DOE and Congressional personnel. The checklist is provided in appendix …..

Notification to the Office of Congressional Affairs (OCA). DOE Acquisition Guide, Chapter 5, requires advance notification to the OCA before public announcement of certain financial assistance awards and modifications. The purpose of this notification is to assist this office in the discharge of their responsibilities for Congressional and other advance notification. The advance notification of pending awards is essential for keeping senior DOE officials informed of significant impending awards. In addition, there are

occasions where protocol may dictate advance notice to other key Government officials as a courtesy. Advance notification using DOE F 4220.10 Congressional Grant/Contract Notification must be made to the OCA 48 hours prior to notifying the recipient of any awards. Page 2 of the form provides detailed reportable actions and dollar thresholds. DOE F4220.10 is discussed in paragraph_____

Notification to Unsuccessful Applicants. DOE regulation (10CFR 600.19) requires prompt notification in writing to each applicant whose application has not been selected for award or whose application cannot be funded because of the level of appropriated funds. .If the application was not selected, the written notice shall briefly explain why the application was not selected and, if for grounds other than unavailability of funds, shall offer the unsuccessful applicant the opportunity for a more detailed explanation (debriefing) upon request. The preferred means of debriefing is normally via telephone conversation. If a formal debriefing takes place in a face-to-face conference, it should be chaired by the contracting officer with support from prop gram personnel. The program representative should email draft notification to the supporting contracting officer for signature within 30 days of the selection decision. Contact you contract specialist and verify this requirement as it varies depending on the contracting office.

Protest Case law in the Federal courts has generally established that there is not a right to Federal assistance. The decision about whether or not to award Federal financial assistance is one that is vested to the agency to who delegated authority has been provided. An alleged violation of DOE policy or merit review procedures on award of funds may be fertile grounds that a prospective recipient might have for raising a protest. **It is important the merit review process is followed and that the process evaluation process is properly documented**

5.2 Acquisition Proposal Evaluation Process

Background and Purpose

Some method of evaluation must be applied to all acquisition and financial assistance requirements. The purpose is to provide a mechanism to determine which proposals or applications submitted in response to a solicitation best meet the Government's stated needs. *This section discusses processes and requirements mandated for formal contracting (acquisition).*

The proposal evaluation results is an assessment of the offeror's/applicant’s ability to successfully accomplish the contract requirements. The process starts with identification of the Source Selection Authority (SSA) and Selection Evaluation Team (SET). The composition of the SET will depend on the complexity, dollar threshold of the requirement and/or number of proposals expected to be received.

Source Selection Organization

Source Selection Authority (SSA).

DOE Acquisition Letter 2000-09 establishes the ground rules for SSAs for acquisition requirements.

- The Procurement Executive is the SSA for all procurements of major facility management contracts, including management and operating, management and integration, and environmental remediation management contracts, and all strategic systems acquisitions, as defined in DOE Order 430.1A, Life Cycle Asset Management.

- The Heads of the Contracting Activities (HCAs) are granted SSA for all other procurement actions. In most cases the HCA has delegated this authority to the contracting officer.

The SSA is the individual who is ultimately responsible for:

- Ensuring the evaluation is conducted fairly, objectively, impartially, and in accordance with the established evaluation criteria an

- Selecting the proposal that represents the best value to the government or meets the government's requirements for financial assistance.

Source Evaluation Team (SET).

Identification/designation of the SSA and SET members is necessary early in the procurement process so that they can help guide the preparation of the requirements package and in order to gain approval of the procurement. The SSA will establish the SET for each source selection. The composition and size of the SET should be tailored for each procurement. SET membership may range from a team of two (i.e., the contracting officer (CO) who also serves as the SSA and a technical evaluator) to a team consisting of several individuals (e.g., an SSA who is an individual other than the CO, contracting personnel, general counsel, logistics, budget, technical evaluators and other advisors to ensure a comprehensive evaluation of proposals.

The requiring organization or program manager is responsible for assisting the SSA by identifying those individuals whom possess the requisite skills and expertise to participate in pre-solicitation activities and conduct the evaluation, and will be available and dedicated through the source selection process.

Consideration should be given to applying the expertise of evaluators for each of the critical tasks in the Statement of Work, as well as to the evaluators currently assigned duties that may distract from the acquisition duties. The SET may employ sub panels: one for technical evaluation, and the other for business, past performance, and cost evaluation. Sub panel members may include formal SET members, and advisors or other non-voting members. Outside evaluators must meet the criteria set forth in DEAR Part 915.207-70 Handling of Proposals During Evaluation. The contracting officer ensures that Nondisclosure and Conflict of Interest certifications are completed by all evaluators. A combined example is

Selecting a Evaluation Methodology. One of the first steps in determining an acquisition strategy is to determine the most effective evaluation methodology to use. In most acquisitions, the tradeoff process will be most effective and will result in the best value to the Government. Use this process when it is in the Government best interest to consider award to other than the lowest price offeror. Under this process, you evaluate both cost (or Price) and non-cost factors and award the contract to the offeror proposing the combination of actor that represents the "**best values**" based on the evaluation criteria.

What is Best Value? Best value is the outcome of any acquisition that ensures we meet the customer's needs in the most effective, economical, and timely manner. It's the result of the unique circumstances of each acquisition the acquisition strategy, choice of contracting method, and award decision. Under this concept, best value is the goal of sealed bidding, simplified acquisition, commercial item acquisition, negotiated acquisition, and any other specialized acquisition methods or combination of methods you choose to use. The objective of source selection is to select the proposal(s) that represent the best values for the government.

Inherent in this process is the necessity to make tradeoffs considering the non-cost strengths and weaknesses, risks, and the cost (or Price) offered in each proposal. The SSA will select the successful offeror by considering these tradeoffs, and applying his/her business judgment to determine the proposal that represents best value. The tradeoff process is appropriate when:

- The requirement is complex;
- Services are not clearly defined or highly skilled personnel are required;
- You expect substantive differences in the proposed solutions; and
- You are willing to pay for added benefits.

There are a number of different evaluation methodologies that can be considered:

- The technical proposal is more important than the cost proposal. In this situation, although cost is a factor, the technical factors are more important.
- The cost proposal is more important than the technical proposal. In this situation, although technical factors are important, they are less important than cost factors.
- Both the technical and cost proposals are equally important.
- Low priced technically acceptable proposal. In this situation you will select the proposal with the lowest price if the proposal meet the minimum acceptable technical criteria.

In the majority of acquisitions, the low priced technically acceptable process will not be an appropriate methodology since past performance must be a mandatory evaluation factor in accordance with the requirements set forth at FAR 15.304, Evaluation Factors and Significant Subfactors. This necessitates making tradeoffs. However, there may be situations where the Government would not realize any value from a proposal exceeding the government's minimum technical requirements. In such a case, you may establish

certain standards that a proposal must meet to be considered technically acceptable and then make tradeoffs between only cost (or price) and past performance.

Source Selection Plan (SSP). The SSP is developed by the SET. The plan serves as a guide for conducting the source selection and provides the procedures by which the proposal evaluation is accomplished in an accurate, efficient and timely manner. Although an SSP is not required by the FAR or its supplements, one is generally prepared for negotiated high dollar or complex procurements. There is no specific format for an SSP; however, the plan should be tailored to the specific requirement and should:

- Contain a description of what you are buying;
- Describe the composition of the SET and identifies all the participants in the particular procurement (e.g., SSA, CO (if different from the SSA), executive secretary, technical evaluators, advisors, or ex-officios);
- Describe planned presolicitation activities (e.g., issuance of a draft solicitation, conduct of presolicitation and/or preproposal conferences, sources sought synopsis, etc.);
- Include the evaluation criteria against which proposals will be evaluated and may include standards;
- Identify relative importance of each published criterion;
- Describe the evaluation methodology including the rating system;
- Include worksheets to be used by the evaluators to record and document evaluations;
- Contain a milestone schedule for the particular procurement;
- Include a signature page; and
- Should be completed by SET members prior to release of the solicitation or no later than receipt of proposals.

The SSA must approve the evaluation criteria and their relative importance prior to release of the solicitation whether or not a rating plan is prepared. This may be accomplished by having the SSA sign the rating plan, executive summary letter or a memorandum for the record. Furthermore, any changes to the established evaluation criteria must be approved by the SSA and incorporated into the solicitation.

If a SSP is not prepared, the following must be prepared prior to issuing the solicitation: weighting factors and weighted points (which drive the relative order of importance); point ranges and associated adjectival definitions; and a milestone schedule. The SET evaluators should be familiar with the solicitation including its evaluation criteria and evaluation scheme prior to receipt of proposals, and will use the evaluation worksheets, as applicable, in the source evaluation process. An example of an SSP is in Appendix 5

The plan is source selection information, as defined by FAR 3.104. You may not disclose the source selection information to any person not authorized to receive the information

Evaluation Criteria. Evaluation criteria may consist of factors and sub factors that reflect the areas of importance to the program office in its selection decision. Selecting the correct evaluation criteria is the most important decision in the evaluation process. Structure the evaluation factors and their relative importance to clearly reflect the needs of the acquisition. Development of the evaluation criteria for competitive procurements should begin after completion of the performance-based work statement (PBWS) because the evaluation criteria must be related to the requirements in the PWBS. Evaluators use evaluation factors to access the similarities and differences and strengths and weaknesses of competing proposals or unsolicited proposals. The requesting official is responsible for providing evaluation criteria for all competitive negotiated procurements. (FAR 15.3, Source Selection and DOE Acquisition Guide, Chapter 15, Establishing Evaluation Criteria).

In every source selection you must evaluate cost (or Price) and the quality of the proposed product or service. Additionally, you must evaluate past performance on all negotiated competitive acquisitions expected to exceed the $100,000. FAR Part 15.304(c)(3)(i) Evaluation Factors and Significant Subfactors

The solicitation must state all criteria that the SET intends to evaluate. Technical evaluation factor address the proposal's technical and performance efficiency. These factors may include such considerations as technical approach and capabilities, management approach and capabilities, experience and personnel qualifications relative to satisfying critical aspects of the government's requirements. Following is a list of typical criteria that address Quality of the product or service through one or more non-cost evaluations factors, listed in a recommended descending order of importance, together with a discussion of the purpose for the criterion:

- Method and feasibility of approach and performance schedule to demonstrate the offeror's understanding of the contract objectives. The SET will want to evaluate more than just the offerors understanding of the approach.
- Corporate experience in the performance of similar or related work directly transferable to the requirement. The SET will evaluate corporate experience first and then the proposed personnel experience since the corporation will be awarded the contract, not the key personnel.
- Corporate ability and experience in providing adequate personnel with applicable expertise, resources and facilities. The SET will want to evaluate the corporation's ability to continuously provide key personnel to perform the work since the continuing availability of key personnel cannot be guaranteed for the duration of the contract.
- Effective corporate management experience in both technical and cost areas. The SET will want to evaluate the corporation's ability to manage the technical requirement, as well as keeping within its proposed cost budget.
- Past performance. The ability of the offeror to demonstrate experience in work efforts similar in size and scope in order to respond to the requirements. The SET may want to evaluate the ability to control cost; customer satisfaction; responsiveness and ability to follow technical direction; and ability to produce accurate, technically clear and concise reports and briefings.

For each of these criteria, the SSP normally delineates additional detail to assure that the offeror addresses all topics of interest to the SET. The SET must include any policy factors in the solicitation, such as agency or office policies that the offerors need to be informed of in preparing proposals. Examples of such factors may include security policies, budget restrictions, conflict of interest considerations, or NEPA applicability.

Evaluating Weights. When using the tradeoff process, you must assign relative importance to each evaluation factor and subfactor. Tailor the relative importance to the specific requirements. For example, if you have high technical or performance risk, you should assign more importance to the non-cost factors as compared to the cost (or price) factors. Use priority statements to express the relative importance of the evaluation factors. Numerical weighting i.e., assigning points or percentages to the evaluation factors may be used to rate the proposals but should not be used in expressing the relative importance of evaluation factors.

Additionally, you must identify in the solicitation whether all evaluation factors other than cost or price, when combined, are

- significantly more important than cost or price,
- approximately equal to cost or price, or
- significantly less important than cost or price.

Sample Priority Statement: The technical factor is approximately equal to the past performance factor. Each one is significantly more important that the cost factor.

Establishing a Rating Method. When using the tradeoff process, you evaluate the non-cost portions(s) of the proposal and associated performance and proposal risk using rating scales A rating system uses a scale of words, colors, numbers or other indicators to denote the degree to which proposals meet the standards for the noncost evaluation factors. Thus, a rating system helps evaluators assess a proposal's merit with respect to the evaluation factors and subfactors in the solicitation. Some commonly used rating systems are adjectival, color coding, and numerical. Examples are provided in Appendix 5.2.

Rating systems that use adjectives or colors are usually the most successful because they allow maximum flexibility in making the tradeoffs among the evaluation factors. A narrative definition must accompany each rating in the system so that evaluators have a common understanding of how to apply the rating. For example, a rating of excellent (or blue or 90-100) could be defined as meaning an outstanding approach to specified performance with a high probability of satisfying the requirement. What is key in using a rating system in proposal evaluations, is not the method or combination of methods used, but rather the consistency with which the selected method is applied to all competing proposals and the adequacy of the narrative used to support the rating.

- **Adjectival**. Adjectives (such as excellent, good, satisfactory, marginal, and unsatisfactory) are used to indicate the degree to which the offeror's proposal has

met the standard for each factor evaluated. Adjectival systems may be employed independently or in connection with other rating systems.

- **Color Coding.** This system uses colors to indicate the degree to which the offeror's proposal has met the standard for each factor evaluated. For instance, the colors blue, green, yellow, amber, and red may indicate excellent, good, satisfactory, marginal, or unsatisfactory degrees of merit, respectively.
- **Numerical.** This system assigns point scores (such as 0-10 or 0-100) to rate proposals. This rating system generally allows for more rating levels and thus may appear to give more precise distinctions of merit. However, numerical systems can have drawbacks as their apparent precision may obscure the strengths, weaknesses, and risks that support the numbers. Therefore, some organizations do not permit the use of numerical rating systems.
- **Narrative.** Narrative is used in conjunction with a rating system to indicate a proposal's strengths, weaknesses, and risks. Adjectival, color, and numerical ratings must be supported with narrative statements. Narrative statements can describe the proposals' relative strengths, weaknesses, and risks to the source selection authority in a way that adjectives, colors, and numbers alone cannot. A narrative is required when evaluation standards are being applied, when a comparison of proposals is being made, and when a cost/technical tradeoff is conducted. The narrative provides a reasonable and rational basis for the selection decision.

Rules of Conduct

The following rules of conduct shall be adhered to during evaluations:

- Direct all attempted communication by offerors to the chairperson of SET.
- Do not discuss anything pertaining to the evaluation with non-board members or advisors.
- Do not discuss proposals or findings among evaluation participants outside of areas designated for the evaluation or approved by the Board chairperson.
- Do not assume that it is appropriate to speak of proposal evaluations because you are among Government employees or are in Government buildings.
- Under no circumstances accept any invitation from offeror’s personnel to participate in any social events regardless of how remote it may be to the evaluation process.
- Do not discuss the evaluation with anyone, even after announcement of a winning contractor. This rule is applied regardless of the rank or position of the inquirer.
- Be alert so as not to correct a statement pertaining to a conclusion you know to be erroneous.
- Properly safeguard any and all proposal material and other information used during the evaluation. During the evaluation phase, only personnel with an actual need-to-know requirement should have access to the proposals and the evaluation information.

Evaluation Procedures

Competitive Procurements. Guidelines regarding the designation and operations of the SET can be found in the references located at the end of this chapter.

Shortly before receipt of the proposals, the SET should meet to review the solicitation's PWBS and weighted evaluation criteria and discuss the evaluation process to ensure all evaluation members understand it. The CO receives the proposals from the offerors and distributes the technical portions of the proposals to each evaluator.

It is common practice to request proposals in at least two separate volumes: Technical, and Business and Cost. The intent is to allow separate review of the two volumes by appropriate experts. In fact, it is desirable that the technical review be conducted without knowledge of cost or management plans so that technical judgments are not influenced.

Competitive Range. The SET performs an initial evaluation of the proposals to determine if any are clearly unacceptable and can be eliminated from further consideration. A proposal is competitive unless it is so technically inferior or overly priced that meaningful negotiations are precluded. In other words, a proposal is competitive unless there is no real possibility that it can be improved to the point where it becomes acceptable. Minor deficiencies do not disqualify a proposal. When there is doubt as to whether a proposal is competitive , it should be included. Proposals must be evaluated by the SET based solely on the criteria contained in the solicitation.

The SET must determine the following for each technical proposal:

- Proposal is acceptable and does not require discussions prior to evaluation. This proposal will be in the competitive range.
- Proposal is acceptable but may require clarification. This proposal will be in the competitive range.
- Proposal is not initially acceptable, but can be made acceptable during a post-evaluation negotiation phase. A proposal rewrite is not required. This proposal will be in the competitive range.
- •Proposal is not acceptable and can not be made acceptable in a post-evaluation negotiation phase. This proposal will not be in the competitive range.

It is good practice for each technical member of the SET to independently examine each proposal and rate it against the solicitation's evaluation factors using the agreed upon scoring system. Each evaluator then independently prepares a separate written evaluation for each proposal that includes:

- Individual evaluation worksheets showing scores and supporting comments to the lowest levels of detail scored;

- A summary score sheet keyed to the basic criteria; and

- A narrative statement keyed to the summary score sheet covering strengths and weaknesses of the proposal that significantly affected the scoring, any reservations bearing on the rating that are believed to require further attention, clarifications, and questions for use in negotiations with those acceptable offerors.

The SET meets, discusses their individual evaluations, considers any reservations, and ranks the technical proposals on the basis of each weighted evaluation factor specified in the solicitation. In some instances, the SET meets to discuss the proposals as soon as they are received, and individual evaluations are not done. Technical evaluation is accomplished through debate and ranking by the entire SET (or technical subpanel).

The SET then evaluates the cost proposals of the acceptable technical offers, develops a consensus of those offerors to be included in the competitive range and documents the evaluations in a competitive range recommendation report. Many times the cost proposals is evaluated by the CO or supporting cost and price analyst. The SSA reviews, approves and sends the report to the CO. Approval of the report by the CO establishes the competitive range. The CO will prepare and sign the competitive range determination if the CO is the SSA. All offerors are notified in writing whether they are in the competitive range or not.

Oral/Written Discussions. Written and/or oral discussions or clarifications are held with those organizations judged to be within the competitive range. Any ambiguities or deficiencies in the proposals are pointed out to each offeror. The CO helps each offeror understand any proposal deficiency without conveying information contained in other proposals. The following outlines the purposes of discussions:

- Maximizing effective competition — Discussions should be conducted with the aim of obtaining a sufficient number of acceptable proposals.
- Producing acceptable final proposals — Discussions should be conducted in such a way that final proposals can be accepted without the necessity of further discussions.
- Providing fairness to offerors — Discussions should be conducted in a manner that assures all offerors are treated fairly. Fairness requires equal treatment of offerors with similar deficiencies. However, it does not require the DOE to spend an equal amount of time with other offerors, or to discuss the same areas. The content and extent of discussions with each offeror will be determined by the deficiencies in the particular proposal. The CO must be careful not to help one offeror during discussions to the detriment of other offerors (e.g., disclosing one offeror's solution to a technical problem to another).

Discussions are not required if it is determined that: 1) acceptance of the most favorable initial proposal would result in a fair and reasonable price, and 2) the solicitation notified offerors of the possibility that award may be made without discussion.

Final Proposal Revisions. Based on the issues raised during oral and/or written discussions, offerors in the competitive range are given an opportunity to clarify or

modify any portion of their proposal in what used to be called “best and final”, now called “final proposal revisions”, to DOE. Technical modifications are typically in response to SET questions. Costs are frequently reduced in the final proposal revision.

Final Evaluation. After receipt of the final proposal revisions, the SET performs an evaluation on those received and ranks all the offerors according to the evaluation plan. A final evaluation recommendation report is prepared for the SSA that recommends for acceptance the proposal (or proposals if there are multiple awards) that is the most advantageous to DOE. The report discusses the proposals in a descending order of competitive rank. The narrative must contain sufficient information to permit the SSA to weigh the alternatives using the facts.

The final evaluation recommendation report is sent to the SSA for endorsement or rejection. Usually, the SET chairperson briefs the SSA on the findings and answers any questions. The SSA can accept the SET recommendation or can request that the SET reconvene to address certain unresolved issues.

After endorsement of a source by the SSA, the CO reviews the SET recommendations and supporting data to assure that award is in accordance with sound procurement principles and practices. The CO also makes sure that all required contract documentation is included in the permanent contract file.

In addition the CO must make a determination that the prospective contractors is responsible, e.g., has sufficient capital, equipment, etc., to perform the contract. If sufficient information is not already available on which to make the decision, then a financial analysis or a complete preaward survey may have to be performed.

Non-Competitive Procurements. For non-competitive procurements where no SET is formed, the contracting procedure is less complex. Proposals are still received and evaluated but there is no SSP. However, the justification for a non-competitive award can take considerable time to process. Noncompetitive procurement requirements are discussed in Chapter 3.

The procedure for establishing a non-competitive contract is as follows:

- The CO or contracts specialist receives the proposal and it is evaluated.
- An audit report on the proposal is requested, depending on the value of the procurement.
- Negotiations are conducted with the prospective contractor, and agreement is reached on price or estimated cost and fee.
- A negotiation memorandum is prepared and signed by the CO.

Sealed Bid Procurements. Since the proposed cost is the primary issue for sealed bid proposals, the procedures are straightforward:

- The CO or contract specialist receives the bids and keeps them secure until bid opening.

- All bids are publicly opened at the specified time (date and hour).

- The bids are reviewed to determine if they are responsive to the solicitation.

- The low responsive bid is determined and award made.

Announcement of Awards. After the SSA renders the final decision, several addition steps in the procurement process must still be executed before the contract is finally awarded.

Debriefings. It is DOE policy to provide unsuccessful proposers, upon written request, with a formal debriefing. Debriefings must be requested from the procuring office within 10 working days after receipt of notification of elimination from consideration or announcement of selection. The debriefing is conducted by the contract specialist with assistance from SET and program and project managers. The purpose of debriefing is to provide unsuccessful bidders in competitive negotiated acquisitions a suitable rationale as to why they were unsuccessful. The debriefing should inform the unsuccessful bidder of those areas of their proposal where it was judged to be weak or where deficiencies were factors in not having been selected. However, debriefings are confined to the areas in which the proposer could have improved his or her own proposal and not to discussions of the relative merits of other proposals. In general, the bidder is entitled to the following information after the winner is selected:

- The number of bidders solicited
- The number of proposals received
- The name and address of each bidder receiving an award
- The items, quantities, and unit prices of each award
- The Government's reasons why the contractor's proposal was not accepted, including the Government evaluation of the significant weak or deficient factors in the proposal.

Well-conducted debriefings afford bidders the opportunity to learn of the weaknesses in their proposals, so they may be more competitive in future procurements.

Notification to the Office of Congressional Affairs (OCA). DOE Acquisition Guide, Chapter 5, requires advance notification to the OCA before public announcement of certain contract awards and modifications. The purpose of this notification is to assist this office in the discharge of their responsibilities for Congressional and other advance notification. The advance notification of pending awards is essential for keeping senior DOE officials informed of significant impending awards. In addition, there are occasions where protocol may dictate advance notice to other key Government officials as a courtesy. DOE F 4220.10 Congressional Grant/Contract Notification, is used for notification and completed in accordance with the forms instructions.

Public Announcement. FAR Part 5.303 also requires the CO to make a public announcement of contracts awards. This is normally accomplished by publishing an announcement in the Commerce Business Dailey as discussed in Chapter 3 Public Announcement.

Protest. Offers may choose to protest the contract action throughout the procurement process**.** A protest is a written objection by an interested party to a solicitation for a proposed contract for the acquisition of supplies or services, or it is a written objection by an interested party to a proposed award or the award of such a contract. Actual or prospective bidders/offeror whose direct economic interest would be affected by the award of or failure to award a particular contract may find cause to protest some aspect of the procurement. A protester may perceive the statement of work to be restrictive or disagree with any other factor he/she believes will deter from receiving an award. Currently, protests can be filed at three levels: to the agency (which includes both protests to the Head of the Contracting Activity and to the Procurement Executive); to the General Accounting Office (GAO); and, to federal courts (including the United States Court of Federal Claims and United States District Courts).

There are rigid procedures to follow when contractors file protests. The CO will require support from the SET, SSA, General Counsel, and Program and Project Managers in order to answer the protest and prepare the required documentation with in the time lines outlined in the FAR Part 33, Protest, Disputes and Appeals, DEAR Part 933 Protest, Disputes and Appeals, DOE Acquisition Regulations, Chapter 33. Everyone involved in the procurement process should review the above reference early in the procurement process. Contract award and contractor performance may or may not be delayed or started depending on where the protest filed, when the protest was filed, and circumstances of the protest.

5. 3 Additional Resources: Information for this section was obtained from the reference below.

FAR Part 15 Contracting by Negotiation

FAR Part 14 Sealed Bidding

DEAR Part 915 Contracting by Negotiation

DEAR Part 915.207-70 Handling of Proposals During Evaluation

DOE Acquisition Guide, Chapter 5, Release of Information

DOE Acquisition Guide, Chapter 15 Contracting by Negotiation

DOE Acquisition Guide, Chapter 15, Establishing Evaluation Criteria

DOE Financial Assistance Guide

DOE Merit Review Guide

DOE Financial Assistance Letter 97-05, Objective Merit Review

EERE Merit Review Guide Procedures

Department of Defense Desk Reference Book

Chapter 6

Monitoring and Administration Acquisition and Financial Assistance Awards

6.1 General. Monitoring the contractor's or awardee's performance is necessary to assure that the products or services meet quality levels and delivery dates prescribed by the contract or financial agreement and meet the program/project objectives. Technical, financial, and contractual monitoring is necessary for contracts and both discretionary and non-discretionary grants and cooperative agreements. Recent Inspector General reports have found that EERE needs to improve their management and administration of financial agreements. This section is intended to help EERE personnel carryout their fiduciary responsibilities for both contracts and financial agreements. The same basic principles can be applied to both.

6.2 Monitoring. Monitoring may be done by the program manager, project manager, another qualified individual or by a Contracting Officer's Representative (COR) sometimes called the Contracting Officers Technical Representative (COTR), who may be one of the aforementioned individuals. The contracts specialist can assist with monitoring the contractual and financial requirements. **However, only the CO has the authority to direct the contractor or financial agreement awardee for any actions involving scope, cost, schedule, or other negotiated aspects of the contract.** The COR duties described in the following paragraphs may still be applied by the program/project manager when monitoring contractor/awardee performance even if a COR is not appointed to the contract or financial assistance award.

6.3 Contracting Officer's Representative (COR). The COR, when appointed, is responsible for monitoring contract/award performance to assure that the deliverables or services meet the quality levels and delivery dates prescribed by the contract/award. This includes periodic meetings with the contractor/awardee to review the status of performance and to review progress or financial reports required by the contract/award document.

Effective contract/award performance requires the establishment of a continuing professional relationship between the COR and the contractor/awardee. A successful professional relationship can be established and fostered by adherence to the following considerations:

- Successful completion of the Government's contract/award requirement is the predominant consideration, and is recognized as such by the contractor/awardee.
- The contractor/awardee must adhere to the highest ethical and professional business practices in performing the contract, and this corporate "mind set" should be conveyed to the COR by the entire corporate team
- A high level of corporate professionalism, which engenders an enhanced trust factor for successful contract implementation, begins at the time the proposal is prepared – (as reflected in the SOW) through all facets of contract/award performance, to close out.

- The contract/award-established relationship between the contractor/awardee and the Government provides the contractor/awardee with information that is often confidential or proprietary and this confidentiality must not be abridged for the self-interest of the contractor/awardee.
- The contractor/awardee should, without incurring additional cost, go beyond the minimum performance requirements of the contract/award by providing additional verbal and written communication to the COR. This "extra mile" of effort helps to establish an enhanced trust factor between the contractor/awardee and the COR.

A COR may be appointed for financial assistance agreements, if required by the contracting officer or if particular circumstances dictate. For example, a COR should be appointed if the financial assistance recipient is considered risky in accordance with 10CFR 600.114.

Nominations for COR's are sent to your supporting contracting officer. Nominees must meet the listed at DOE O 541.1A, Attachment 5 and DOE Acquisition Guide, Chapter 1. Nominees are required to file a Confidential Financial Disclosure Report (SF450) upon being nominated. DOE Order 541.1A COR Qualifications Requirements, paragraph 4d.

The COR acts solely as a technical representative of the contracting office and is not authorized to perform any function that results in a change in the scope, price, terms or conditions of the contract/award. The COR makes sure the Government meets all of its responsibilities to the contractor/awardee and ensures the contractor/awardee performs or delivers IAW the contract/award. Specific responsibilities include:

- Maintain COR Contract/Award Files. As authorized representatives of the Government the COR's records are a part of the official post award file. The files will be sent to the CO for retirement with the official file IAW current disposition of completed contract/award files
- Prepare Memorandums for Record (MFR). As a matter of practice, you should prepare MFRs of discussions, meetings, trips, and telephone conversations relating to a contract/award, whether with contractor/awardee personnel or other interested Government personnel. Each MFR, other similar records, and all correspondence relating to the contract/award must cite the contract/award number. A copy of all actions or correspondence should be furnished to the CO and those interested parties having a need to know. Consideration must be given to restrictions about proprietary data, as well as business-sensitive information.
- Check Technical Compliance. Make sure that the contractor/awardee complies with all technical requirements of the specification or SOW either included in or referenced by the contract/award, including the timely delivery of reports, documentation, maintenance, etc. You should:

    - Make sure schedules or milestones are met, and tell the program manager and CO, in writing, of any performance failure by the contractor/awardee.

- Tell the program manager and CO in writing as soon as it's foreseen that the contract/award will not be completed according to schedule, including recommendations for remedial action. This is important for both "earmarked" and "nonearmarked" funds.
- Make sure the contractor/awardee completes the technical requirement of the contract/award within the specified time. In-Process Reviews (IPRs) are useful meetings where technical progress and fund expenses are often discussed in depth. Problems and issues should also be discussed at this time. IPRs should be discussed in the SOW.
- Make sure the Government meets its contract obligations to the contractor/awardee. This includes, but is not limited to, the Government timely furnishing equipment, facilities, and services called for in the contract/award, and timely Government comment on, or approval of draft or final contract/award deliverables as may be required.
- Receive, inspect and accept or reject each deliverable or service specified in the contract/award
- Make sure the contractor/awardee is in compliance with applicable safety requirements, including requirements for the handling of hazardous and dangerous materials and processes.

- Inspection and Acceptance of Contract/Award Deliverables or Performance. Make sure that work is complete and conforms to the requirements of the contract/award. You should notify the CO of any actual or potential problems under the contract/award.

  - You may also responsible signing formal acceptance documents and invoices. Once formal acceptance has been made, the contractor/awardee is excused from correction of unsatisfactory work, except for latent errors or defects.
  - Processing invoices for payment. For procurement awards, the Prompt Payment Act requires that contractor/awardee invoices be processed and paid in a timely manner. Timely payment precludes payment of interest.
  - Requirements placed upon the contractor/awardee are spelled out in the SOW. Notify the CO in writing when the work has been judged complete and technically acceptable.

- Report or Check Contract/award Delinquencies. When checking a contract/award there are some **danger signals** that you should be aware of. <u>Due dates missed, bad report content, expenses out of phase, awardees cost share incurred not what it should be, and personnel constantly being changed, could mean some serious problems.</u> For those cases listed, especially work termed unsatisfactory, the COR, CO and possible legal counsel, should decide what appropriate actions (depending on contract or financial agreement type) are required.
- Performing Property Administration. Ensuring that the necessary reports are submitted by the contractor/awardee, if required.

- Verify Technical Requirements. It may become necessary to give technical interpretation to the contractor/awardee on some part of the SOW or specification or other documents in which the requirements placed upon the contractor are spelled out. The COR may call upon other technical personnel to help him or her in determining what the technical requirements are. Before providing guidance to the contractor/awardee, you should check with the CO and be assured that the contract/award does indeed bear out that the guidance is correct. MFR of all technical guidance should be made part of the COR file.
- Responsible for Proper Contract Closeout. Upon completion of the work, the COR will forward the records and documents pertinent to the administration of the contract to the KO. Check with your supporting CO for specific requirements.
- Requesting a Contract/award Modification. It may be necessary to initiate a modification when the Government or contractor/awardee desires to make changes. Support the CO in negotiating changes to the contract price and performing a technical evaluation of the proposed changes, as appropriate.
- Checking of Contract Funds. You are responsible for knowing the status of funding for all assigned contracts/awards. They are further responsible for tracking the performance of contract/award execution against the spending plan for each contract/award.
- Other Duties as instructed by the CO. Depending upon any unique circumstances, the CO may assign unique responsibilities for the particular contract/award you are monitoring.

6.4 Monitoring and Administration of Contracts. Monitoring may be day-to-day-inspection of services performed, periodic meetings with the contractor to review the status of performance, review of progress reports required by the contract, on site technical inspection/visits, or inspection of products before acceptance.

Post-Award Orientation Conference. Soon after contract is awarded, a post-award orientation conference maybe held, often referred to as the contract kick-off meeting. The following subjects maybe discussed: sequence of events that will occur in the administrative process; roles that Government employees will play; how performance on the part of the contractor, as well as the Government, will proceed; contract deliverables and special contract provisions. The conference does not normally occur for financial assistance agreements. Program managers may want to consider having a similar type conference for financial agreements to ensure the recipients understands the financial agreement requirements, deliverables, reports and DOEs involvement.

Subcontracting. Normally, subcontractors are identified in the proposal as part of the offers team, and their role is established as part of the final negotiations. However, the addition of other subcontractors may be desirable during the course of the contract. Consent from the CO is required for the placement of subcontracts of greater $100,000 or 5 percent of the contract price for fixed price subcontracts and for all cost reimbursement, labor hour, or time and material subcontracts if the contractor does not have an approved purchasing system. The COR and program manager will be consulted by the contract specialist prior to any formal action on a contractor's request to subcontract a portion of the required research effort. Program personnel will be requested to provide technical

advice and concurrence for subcontracts; this determination should be based upon the following:

- Subcontract need in relation to contract requirements
- Technical capabilities of the proposed subcontractor
- Reasonableness of proposed subcontract costs
- Scope of proposed subcontract work.

The program manager will be required to complete the Subcontract Consent Technical Review when subcontracting is requested by a contractor.

Modification Process.

During the performance of a contract, it may be necessary to incorporate changes into the contract, either in accordance with the contract provisions or to provide coverage for situations that develop after the initial contract award, such as unanticipated technical results or funding shortfalls. In either case, a modification to the contract must be made if there are changes to the, cost, schedule, scope of work, or deliverables. Program personnel may be requested to do the following:

- Identify and recommend required changes.
- Prepare the PBWS for the change.
- Estimate required funding for the change.
- Ensure availability of funds for the change.
- Review contractor's cost proposal and prepare a technical evaluation.
- Coordinate with and report to the CO.

A Procurement Request-Authorization (PR) (DOE F 4200.33) should be prepared by the program manager or COR to initiate this action. The CO issues a modification to the contract once the PR has been approved. The CO and an appropriate official from the contractor's organization must normally sign the modification before the contract is actually modified.

The program manager and COR should be aware that only those modifications that are within the general scope of work specified in the contract can be made. Modifications that, in the CO's judgment, constitute new work that is outside the scope of the contract cannot be accepted and must be processed as a new acquisition action.

Only COs operating within the scope of their authority are empowered to execute contract modifications on behalf of DOE. Program personnel and/or CORs **must not**:

- Execute contract modifications
- Act in such a manner to cause the contractor to believe that they have authority to bind DOE
- Direct or encourage the contractor to perform work that should be the subject of a contract modification.

Exercising Option Years. Program managers must notify the supporting procurement office 90 days in advance whether or not to exercise an option. In most cases the CO is required to give the contractor 60-day notice. The advance notice also allows the contracting officer to conduct required market research and prepare the necessary documentation. A Procurement Request-Authorization (PR) (DOE F 4200.33) must be prepared to initiate this action. The CO will then issue a modification exercising the option.

Remedies for Noncompliance or Nonperformance. There are numerous remedies available to the government for contractor poor or non-performance. It is important you fully document the awardees poor or non-performance. This provides the CO with documentation and justification to take the appropriate corrective action. DOE may take one or more of the following actions as appropriate under the circumstances.

- If for some reason the contractor is not in compliance with the contract the CO can issue a stop work order until the contractor is in compliance.
- If for some reason the Government no longer needs the requirement being provided under the contract, it may terminate the contract for convenience.
- If the contractor fails to perform, the Government may seek someone else to perform the work. The contract includes a clause that gives the Government the right to terminate the contract, award a contract to someone else, and charge the defaulted contractor with any increased cost.
- The CO may negotiate an equitable adjustment to the contract if the contractor is late or fails to deliver or perform the IAW contract terms and conditions.

Contract Closeout. The COR, program manager or person monitoring the contract must document that the contracted for work has been satisfactorily completed in accordance with the technical requirements of the contract and must acknowledge acceptance of all required deliverables. Acceptance implies that goods, services and deliverables received are both all that is required and of adequate quality. Such administrative matters, as the disposition of Government-furnished property should also be attended to as soon after physical completion of the contract as possible. The CO is notified when all items required by the contract have been received and accepted. The final settlement and closeout process for a contract after completion of all technical performance requirements include the following:

- Inspection and acceptance of the contract products.
- Final audit of the contract, if appropriate.
- Verification and disposition of residual Government property.
- Receipt of releases from future claims by the contractor (included in the closeout modification of the contract).
- Verification and disposition of intellectual property, data rights and patentable information.

Final settlement of a contract, therefore, potentially requires a final payment to the contractor, disposition of property, action on patentable information, etc. **The program**

manager's or COR contract files should be retained and maintained until this process has been officially completed, which is acknowledged through a final contract modification (initiated by the contract specialist) that frees the Government and the contractor from all future responsibilities. Any original documents or notes in the program manager's file should be transferred to the official contract file after closeout. The official contract file, which is maintained by the contract specialist, will be retained after closeout. If the contract is an R&D effort, construction contract, or pertains to environment, health and safety, then the contract file should be retained permanently.

6.5 Monitoring and Administering Financial Agreements. Financial assistance monitoring may also be done through day-to-day or periodic meetings with the awardee to review the status of performance, review of progress reports required by the agreement, inspection of products or services before acceptance, or on site technical inspections/visits. Monitoring is normally performed through a review of the program performance and financial status reports that are required by the financial agreement. Program managers must prescribe the type and frequency of reports with which the performance and financial reports must be submitted. 10CFR 600.150,151(b) and 152 and 10 CFR 600.240 and .241(b)(4) provides specific requirements for cooperative agreements and grants. Performance reports should not be required more frequently than quarterly or, less frequently than annually. Annual reports are due 90 calendar days after the grant or cooperative agreement year, quarterly or semi-annual reports are due 30 days after the reporting period. The final performance reports are due 90 calendar days after the expiration or termination of the award**.** Performance reports should contain information on each of the following:

- A comparison of actual accomplishment with the goals and objectives established for the period, the findings of the investigator, or both. Whenever the output of programs or projects can be readily quantified, such quantitative data should be related to cost data for computation of unit costs.
- Reasons why established goals were not met.
- Other pertinent information including analysis and explanation of cost overruns or high unit costs.
- Recipients should be required to immediately notify the COR or program manager of developments that have a significant impact on the award-supported activities.
- Recipients should be required to immediately notify the COR or program manger in the case of problems, delays, or adverse conditions which impair the ability to meet the objectives of the award. The notification must include a statement of action taken or contemplated, and any assistance needed to resolve the situation.

Chapter 3 Basic Advice describes the different type of financial assistance reports.

Earmarked Financial Assistance Funds. Aggressively monitor the awardee's progress, to include the quality and timeliness of deliverables. Document all surveillance and discussion activities. Notify the appropriate EERE/FMO acquisition staff when any performance is not considered acceptable. The ASEE, DASEE, or EERE/FMO will

advise Congressional appropriators, as appropriate, regarding initial and continued funding which progress is not considered satisfactory.

Subcontracting or Subawards. Unless described in the application and funded in the approved awards, the subaward, transfer or contracting out of any work under an award must be approved by the CO.

Modification Process. During the performance of the award, it may be necessary to incorporate changes into the award, either in accordance with the award provisions or to provide coverage for situations that develop after the initial award, such as unanticipated technical results or funding shortfalls. For financial awards the CO must also approve:

- Any change in scope or the objective of the project or program;
- Any change in key person specified in the application or award document.
- Any increase in federal funding, absence for more than three months or a 25 percent reduction in time devoted to the project by the approved project director or principal investigator.

A Procurement Request-Authorization (PR) (DOE F 4200.33) should be prepared by the program manager or COR to initiate this action. The CO issues a modification to the award once the PR has been approved. The modification must normally be signed by the CO and an appropriate official from the contractor's organization before the contract is actually modified

Continuation Awards. A continuation award is an award for the second or subsequent budget period within an approved project period. The recipient is required to submit a continuation progress report to the program manager 90 days prior to expiration of each budget period. A formal continuation application is not required. Program managers must reconcile continuing awards at least annually and evaluate program performance and financial reports. 10CFR 600.26(b) Budget Period and Continuation Awards and 10 CFR 605.11 Additional Requirements. Items to be reviewed include:

- A comparison of the recipient's work plan to its progress reports and project outputs;
- The Financial Status Report (SF-269);
- Request(s) for payment;
- Compliance with any matching, level of effort or maintenance of effort requirement; and
- A review of federally owned property (as distinct from property acquired under the grant).

Renewal Awards. Renewal awards maybe discretionary based on a solicitation, noncompetitive, or restrict eligibility. Renewal applications must be submitted not later than 6 months prior to the scheduled expiration of the project period unless a program rule or other published instruction established a different applications deadline. A

renewal application generally will be subjected to the EE merit review. 10 CFR 600.26 (c) Renewal Awards, 10 CFR 605.9(b), (c) and (j) Application Requirements. Renewal applications must include the same forms and information as a new application, except they should also include:

- Information on any research changes (size or scope) than affect the original research endeavor should be included under the project description;
- An estimate of anticipated unexpended funds that will remain at the end of the current project period; and
- A progress report as a separate section that describes the results of work accomplished through the date of the renewal application and how such results relate to the activities proposed to be undertaken in the renewal period.

Extensions. Unless otherwise specified in the award terms and conditions, recipients of awards, except SBIR awards, may extend the expiration date of the final budget period of the project if additional time is needed to assure adequate completion of the original scope of work. A single extension must not exceed 12 months. 10 CFR 600.26(d) Extensions.

Supplemental Applications. There are two types of supplemental application that may be submitted.

- Request for additional funds by the awardee for increased costs that could not have been predicted when the application was originally approved; or to increase the "level of effort" or accelerate the project, and, if the is no change to project description as contained in the approved application, a supplemental application completed and signed by the appropriate officials shall contain the following:

    - Face page (DOE F 4650.2;
    - Budget page (DOE F 4620.1; and
    - Explanation of the need for the additional funding.

- Request support for a new task or activity to be added to the approved project, a supplemental application shall contain the same information as a new application. These applications will generally undergo an EERE merit review and will compete for funding with new applications.

Remedies for Noncompliance. There are numerous remedies available to the government for awardee poor or non-performance. It is important you fully document the awardees poor or non-performance. This provides the CO with documentation and justification to take appropriate corrective action. If an awardee fails to comply with the terms and conditions of an award, whether stated in a Federal statute, regulation, assurance, application, or notice of award, DOE may take one or more of the following actions as appropriate under the circumstances.

- Impose special requirements as needed if the recipients has a history of poor performance, is not financially stable, has not conformed to the terms and

conditions of previous agreements or has a non approved financial management system. 10 CFR 600.114

- Temporarily withhold cash payments pending correction of the deficiency by the recipient.
- Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- Wholly or partly suspend or terminate the current award.
- Withhold further awards for the project or program.
- Take other remedies that may be legally available.

Financial Assistance Agreements Closeout. While delivery of a final technical report completes the technical performance activities under an agreement, acceptance of the final report by the program or project manager initiates the closeout process. As part of this process, the program manager or designee must document that the contracted for work has been satisfactorily completed in accordance with the technical requirements of the award and must acknowledge acceptance of all required deliverables. Acceptance implies that documentation received is both all that is required and of adequate quality.

Cooperative agreements and grants financial records, supporting documents, statistical records, and all other records pertinent to an award must be retained for a period of three years from the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report. **The program manager's award files should be retained and maintained until this process has been officially completed. Any original documents or notes in the program manager's file should be transferred to the official award file after closeout.** 10 CFR 600.153 Retention and Access Requirements for Records, 10 CFR 600.171 Closeout Procedures and 10 CFR 600.250 Closeout

All financial, performance and other reports as required by the agreement are due 90 days after the date of completed performance. Federal actions that must precede closeout are:

- Receipt of all required reports;
- Disposition or recovery of federally-owned assets (as distinct from property acquired under the grant);
- Adjustment of the award amount and the amount of Federal cash paid the recipient;
- Inventory disclosure from grant awardee (if applicable), 10 CFR 600.232(f); and
- Financial Status Report or Outlay Report and Request for Reimbursement for Construction Programs

Appendix A

Product Demonstration Agreement and License

This agreement and license is made as of the ____ day of _____, 2001, by and between (name of vendor) (hereafter licenser) and the United States of America (hereafter licensee).

Whereas, licenser agrees to provide the following listed and described equipment to licensee for testing and evaluation purposes:

1. [*Describe equipment here, listing equipment serial numbers when available*.]

2. Testing shall basically consist of: [*Be as specific as possible, consistent with clarity*.]

3. Evaluation shall basically consist of: [*Explain or describe what is intended to be derived or achieved from the testing effort.]*

It is further agreed as follows:

1. Licenser grants consent to licensee to use the above described equipment for testing purposes as herein stipulated. Licenser conveys no title to any equipment herein described, and licensee shall acquire no ownership rights or other entitlement. Licensee shall not interface or connect any equipment furnished by licenser to equipment or configured systems without the express consent of the licenser. Such consent may be accomplished by addendum to this agreement. Modifications to equipment shall be accomplished only by the licenser, unless otherwise explicitly authorized by addendum to this agreement.

2. Demonstrations, product displays and 'gratuitous' services are conducted for the sole purpose of demonstrating the capability of particular items or services and not for fulfilling mission requirements. The examination and demonstration of items of services will in no way, expressed or implied, obligate the licensee to purchase, rent or otherwise acquire the items demonstrated, displayed or furnished.

3. The licensee assumes no cost or obligation, expressed or implied, for damage to, destruction of, or loss of any licenser provided components.

4. The licenser agrees to hold the licensee harmless from any damages to property or injuries to any persons resulting from the use of the item or services provided.

5. The licenser agrees to reimburse the licensee for any damage to Government owned property resulting from the demonstration, if determined by the government to have been proximately caused by licenser personnel or property.

6. All software, all equipment and hardware supplied by licenser, software media, whether microfiche, paper, magnetic tape, disk, floppy disk, or other reproduction, shall at all times remain the property of licenser. The licenser is responsible for marking any restricted or limited use software provided to licensee in conjunction with tests and evaluations accomplished under this agreement.

7. Licensee shall provide all test site facilities and utilities, which are required for any and all tests to be accomplished pursuant to this agreement.

8. Licenser shall be responsible for all transportation of equipment provided by licenser in conjunction with tests and evaluations under this agreement to and from the initial test site. Licensee shall incur no costs for transportation of equipment provided by the licenser under this agreement.

9. In return for the opportunity to demonstrate the capabilities of its equipment, the licenser agrees not to file any claims against the licensee, or otherwise seek any form of reimbursement for the use or compensation for the loss, damage to or destruction of any equipment, materials, supplies, information or services provided to the licensee for the demonstration.

10. Licensee shall at all times protect and safeguard information that the licenser has identified as proprietary, confidential in nature, or as a licensor's trade secret.

11. The licenser will not use any information from or reference to tests and evaluations from provisions of this agreement for advertising purposes, to include the fact that the licensee permitted, conducted or participated in the respective tests and evaluations.

12. The licensee shall not release information or data generated pursuant to this agreement outside the U. S. Government without the express written consent of the licenser.

IN WITNESS WHEREOF, the parties hereto have executed this agreement and license as of the date first above written.

LICENSEE:	LICENSER:
BY: _____	BY: _____
TITLE: _____	TITLE: _____

Appendix B

Justification for Other Than Full and Open Competition
Contracting Activity processing the acquisition
Name of the organization originating the requirement
Procurement request number

---

1. **Description of Action:** Describe the nature and/or action being approved, i.e. sole source, limited competition, and establishment of a new source.

2. **Description of Supplies or Services**: A description of the supplies or services being acquired. State whether approval is being requested for a new contract or a modification

3. **Authority Cited:** Statutory authority permitting other than full and open competition, followed by the FAR citation and FAR citation.

4. **Reason for Authority Cited:** A statement demonstrating the proposed contractor's unique qualifications or the nature of the action requiring the use of the authority cited.

5. **Efforts to Obtain Competition:** Describe the efforts made to ensure that offers are solicited from as many potential sources as is practicable. Indicate whether or not a CBD notice was or will be published as required by FAR subpart 5.2and, if not, which exception under 5.202 applies. Include a statement indicating if any additional or similar requirements are expected in the future.

6. **Acquisition Cost:** Cite the anticipated dollar value of the proposed acquisition including options, if a part of the acquisition or if appropriate and include a statement how the contracting officer will determine the anticipated cost to the Government will be fair and reasonable or if the cost is known a determination that it is fair and reasonable

7. **Market Research:** Describe the extent and results of the market research conducted (FAR subpart 10) and the results of the survey or a statement of reasons why the market research was not conducted.

8. **Other Factors:** Any other facts supporting the use of other than full and open competition, such as:

    a. Explanation of why technical data packages, specifications, engineering, descriptions, statements of work or purchase descriptions suitable for full and open competition has not been developed or is not available.

b. When FAR subpart 6.302-1 is cited for follow on acquisition as described in FAR 6.302 (1)(a((2)(ii), an estimate of cost to the Government that would be duplicated and how the estimate was derived.

c. When FAR subpart 6.302-2, is cited, include data, estimated cost, required delivery schedule and lead-time involved, or other rational as to the extent and nature of the harm to the Government.

d. If any prior award was done by full and open competition, a detailed explanation of the changed circumstances.

9. **Interested Sources:** A list of the sources, if any that expressed an interest in the acquisition, in writing. If applicable, clearly state "To date, no other sources have written to express an interest."

10. **Actions Taken to Remove Barriers:** A statement of the actions the agency may take to remove or overcome any barriers to competition if subsequent acquisitions for the supplies or services are required.

Certifications

The information contained in this Justification for Other than Full and Open Competition for (*identify procurement*) is certified accurate and complete to the best of my knowledge and belief.

Acquisition Initiator _____ _____
(Signature) *(Date)*

Review (as required)

Program Senior Official
(or designee) _____ _____
(Signature) *(Date)*

Approval (as required)

Contracting Activity
Competition Advocate _____ _____
($500,000 < $10 million) *(Signature)* *(Date)*

Contracting Officer
(<$500,000) _____ _____
(Signature) *(Date)*

Legal Counsel
(> $ 1 million) _____ _____
(Signature) *(Date)*

Head of the Contracting Activity
(>$10 million < $ 50 million) _____ _____
(Signature) *(Date)*

Deputy Assistant Secretary
for Procurement and Assistance
Management _____ _____
(> $50 million) *(Signature)* *(Date)*

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Appendix C

Determination of Noncompetitive Financial Assistance (DNFA)
U.S. Department of Energy

(Insert Name of Awarding Office)

(Enter Project Title)

(Enter Procurement Request Number.)

(This paragraph is for information purposes only and is not to be included in the DNFA. Unless the awardee is statutorily designated, a DNFA is required to justify and document a noncompetitive financial assistance award 10 CFR 600.6, Eligibility. The DNFA is usually prepared by the responsible program official or project officer, reviewed by General Council (GC), and then approved by either the programmatic Assistant Secretary or a designee who is at least two organizational levels above that of the project officer. Following these reviews, the DNFA is then forwarded to the cognizant Procurement Office for review and approval by the contracting officer. Where the amount of U.S. Department of Energy (DOE) funds is less than $1,000,000, the cognizant Head of Contracting Activity (HCA) and the aforementioned contracting officer may approve the DNFA. The DNFA must include at a minimum the following information:)

A. **Sponsoring Program Office**: U.S. Department of Energy (DOE) and the name and mail code of the sponsoring DOE program office;

B. **Programmatic Statutory Authority:** The programmatic statutory authority for the financial assistance award including at a minimum the following statement--

In accordance with the Federal Grant and Cooperative Agreement Act of 1977, as amended [31 United States Code (U.S.C.) 6301-6308], and with the execution of this determination, it has been established that the principal purpose of the proposed transaction is the transfer of money and/or property to directly accomplish a public purpose of support. This transaction does not involve a procurement whereby the principal purpose of the transaction is the acquisition of supplies and/or services for the direct benefit of the Government.

Unsolicited Proposals. You would normally use 10 CFR 600.6(c)(7).

C. **Awarding Office:** The name and mail code of the awarding office; i.e.,

DOE
Office of Headquarters Procurement Services
Institutional Services Division, HR-541, or Program Services Division, HR-542

D. **Type of Proposed Financial Assistance Award:** The type of proposed financial assistance award; i.e., grant or cooperative agreement;

E. **Proposed Grantee:** The name and address of the proposed grantee or cooperative agreement recipient;

F. **Nature of the Effort Under the Proposed Financial Assistance Award:** A description of the nature of the effort under the proposed financial assistance to be provided; (e.g., research and development, grant, public education, conference logistics, ect.);

G. **Description of the Programmatic Evaluation Conducted and the Results of that Evaluation:** A detailed discussion of the programmatic evaluation conducted and the results of that evaluation, including the primary and direct public purpose–with an emphasis on any particular significance or specialized character–to be served by the proposed award, the overall merit and relevance to the DOE mission, the anticipated objectives, and probability of success in meeting them, the quality/qualifications of the proposed recipient's personnel and facilities, and the appropriateness and adequacy of the proposed budget.

Unsoliciated proposals. Include the statement: The project is not eligible for financial assistance under a recent, current, or planned solicitation.

H. **Period of Performance, Budgetary Data, and Funding Availability:** The total planned period of performance, the total estimated value of the financial assistance over the entire period of performance, the planned duration of each budget period, and the amount and availability of required DOE funding for the first budget period and subsequent budget periods, if any;

I. **Cost Participating/Sharing Required or Proposed:** Describe the cost-share approach. If cost sharing is mandated, state how and why. If proposed, described the proposed amount and activities approach thereto. If not proposed or mandated, state the approach to be taken to cost-sharing and provide the rational. Address the applicability of Section 3002 of the Energy Policy Act (EPAACT), 42 U.S.C. 13542. Coordinate with the Contract Specialist/Contracting Officer and General Counsel prior to making the determination of applicability)

J. **Solicited or Unsolicited Application:** A statement of whether the application was solicited or unsolicited and the nature of any significant preapplication contact between the applicant and DOE; (Include the Unsolicited Proposal (USP) Number, if applicable.] and

K. **Criterion Justifying Proposed Noncompetive or Restricted Financial Assistance Award:** Criterion Justifying A statement of which criterion (criteria) stipulated in 10 CFR 600.6, Eligibility, is (are) being relied upon to justify the action and a detailed

explanation, in non-technical terms, of why the criterion (each of the criteria) applies; and,

L. The above justification for noncompetitive financial assistance is accurate and complete to the best of my knowledge:

Determination. It is hereby determined that the above described financial assistance may be awarded on an noncompetitive basis to *(enter name of applicant).* Thi determination is made pursuant to criteria in (enter statutory authority (10 CFR 600.6(c)(7) for unsolicited proposals)) and is supported by the information shown above.

Assistance Initiator: _____
Name, Title, Name of Office, Office Code Date
(This item is required by regulation.)

Office Review: _____
Name, Title, Name of Office, Office Code Date
(This item is not required by regulation, but may be required by the programmatic office.)

Budgetary Review: _____
Name, Title, Name of Office, Office Code Date
(This item is not required by regulation, but may be required by the programmatic office.)

Senior Program Official Review: _____
Name, Title, Name of Office, Office Code Date
(This item is not required by regulation, but may be required by the programmatic office.)

Assistant Secretary Review: _____
Name, Assistant Secretary (and the remainder of the full title which identifies the name of office) Date
(This item is required by regulation. However, an official of equivalent authority or a designee at

least two organizational levels above that of the project officer, who is identified by name, title, name of office, and office code, may be substituted under any criterion for a noncompetitive award except for the public interest criterion. For a noncompetitive award under the public interest criterion, "review" becomes "approval," the approval authority is limited to the Assistant Secretary or the official of equivalent authority, and any action by a designee is eliminated.)

Office of General Counsel Review:	_____ (This area left blank, based upon previous General Counsel instruction and practice.)	Date

(This item is required by regulation. However, a particular award or class of awards of $1,000,000 or less may be waived in writing by local legal counsel.)

Contracting Officer Approval:	_____ Name, Title, Name of Office, Office Code	Date

(This item is required by regulation.)

Head of Contracting Activity (HCA) Approval:	_____ Name Head of Contracting Activity Name of Office, Office Code	Date

(This item is required by regulation for any financial assistance whose total value over the entire projected period of performance is estimated at less than $1,000,000.)

Deputy Assistant Secretary for Procurement and Assistance Management Approval:	_____ Richard H. Hopf Deputy Assistant Secretary for Procurement and Assistance Management	Date

(This item is only required for a planned noncompetitive award under the public interest criterion.)

(A sample DNFA follows.)

DETERMINATION OF NONCOMPETITIVE FINANCIAL ASSISTANCE (DNFA)
PROCUREMENT REQUEST NUMBER 01-XXENXXXXX.000

A. Sponsoring Program Office: U.S. Department of Energy (DOE)
Office of Ennui, EN-33

B. Programmatic Statutory Authority: In accordance with the Federal Grant and Cooperative Agreement Act of 1977, as amended [31 United States Code (U.S.C.) 6301-6308], and with the execution of this determination, it has been established that the principal instant purpose of the proposed transaction is the transfer of money and/or property to directly and instantly accomplish a public purpose of support. This transaction does not involve a procurement whereby the principal purpose of the transaction is the acquisition of supplies and/or services for the direct benefit of the Government.

C. Awarding Office: DOE
Office of Headquarters Procurement Services
Program Services Division, HR-542

D. Type of Proposed Financial Assistance Award: Grant

E. Proposed Grantee: Windmills of America, Inc. (WOA)
1234 Gusty Lane
Windy Hill, Virginia XXXXX

F. Nature of the Effort Under the Proposed Financial Assistance Award: WOA is proposing to establish a comprehensive policy-oriented and compelling assessment for the use of windmills on the U.S. East Coast as a means of producing low-cost electricity. The planned research will formulate the baseline describing how viable independent owners and operators may provide surplus electricity to a local power grid.

G. Period of Performance, Budgetary Data, and Funding Availability: The total planned period of performance is four years. The total estimated value of the financial assistance over the entire 48-month period of performance is $324,000 (i.e., $81,000/year x 4 years), which includes cost-sharing described under Item H. The planned duration of each budget period is 12 months. As specified in PR Number 01-XXENXXXXX.000, the entire $61,000 of required DOE funding is available for the first budget period. EN-33 plans to fully fund each subsequent 12-month budget period simultaneously with each continuation award.

H. Cost Participation/Sharing: WOA is proposing for each budget period DOE funding in the amount of $61,000 in conjunction with funding in the amount of $20,000 received from the Electric Power Research Institute (EPRI). Accordingly, when EPRI's $20,000 is combined with the DOE's $61,000, the total funding for each 12-month budget period is

$81,000.

I. Criterion(ia) Justifying Proposed Noncompetitive Financial Assistance Award: In accordance with 10 Code of Federal Regulations (CFR) 600.6(c)(2) and (4), it is recommended that negotiations be only held with and a noncompetitive award be made to WOA.

1. As stipulated in 10 CFR 600.6(c)(2), the activity is being or would be conducted by the applicant using its own resources or those donated or provided by third parties; however, DOE support of that activity would enhance the public benefits to be derived and the DOE knows of no other entity which is conducting or is planning to conduct such an activity. At its own expense of monies, personnel, equipment (both commercially available and especially designed, fabricated, and patented for WOA's efforts), and facilities, WOA has for the last five years been conducting research and development on the generation of electricity by windmills on the East Coast of the United States. Furthermore, for the past two years, WOA has been receiving monetary support from EPRI to broaden WOA's database and to make the database available to the public in a timely fashion (possibly, in calendar year 2010). With the monetary support of the DOE, the depth and range of the data base are planned to be enhanced by at least 75% and to bring the information to the public in calendar year 2002, a full eight years earlier than would be possible without the Department's support.

2. As stipulated in 10 CFR 600.6(c)(4), the applicant has exclusive domestic capability to perform the activity successfully, based upon unique equipment, proprietary data, technical expertise, or other such unique qualifications. As described above, WOA's previous five-year effort has resulted in a core of patented, state-of-the-art equipment supplemented by commercial products, a labor mix of expertise in wind-generated-electricity technology, and a single facility totally dedicated to such technology. The end result of WOA's work is a unique gathering of resources providing the capability for a successful effort. WOA plans to secure future major public and private sector participants to continue developing the database for assessing the use of windmills on the East Coast as a means of producing low-cost electricity. WOA appearance of exclusive domestic capability to perform the activity successfully is further enhanced by a select and expert staff, which is headed by Dr. Don Quixote of La Mancha, Spain. Dr. Quixote will be the proposed grantee's project director. Dr. Quixote is a world-renowned scientist in the study of windmills, and he will lead subordinates from location to location on the eastern seaboard to select sites and to collect data. Dr. Quixote's chief assistant is none other than the second leading expert in the study of windmills, Dr. F. Dutchman, of Mount Washington, Vermont. These two researchers are a rare combination of expertise and experience to lead a staff that can already stand on its own merits for unique expertise and experience.

J. The above justification for noncompetitive financial assistance is accurate and complete to the best of my knowledge:

Assistance Initiator:	_____ S. Lof, Project Manager, Office of Ennui, EN-33	Date
Assistant Secretary Review:	_____ L. Azi, Assistant Secretary for Doldrums	Date
Office of General Counsel Review:	_____ (This area left blank, based upon previous General Counsel instruction and practice. Check P. Mason for most current information.)	Date
Contracting Officer Approval:	_____ Auburn Tape, Contracting Officer Program Services Division, HR-542	Date
Head of Contracting Activity (HCA) Approval:	_____ P. “Papa” Shuffler Head of Contracting Activity Office of Headquarters Procurement Services, HR-54	Date

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Appendix D

Determination of Restricted Eligibility

If DOE restricts eligibility, an explanation of why the restriction of eligibility is considered necessary shall be included in the solicitation, program rule, or published notice. The information requested in paragraph A below should be provided to the contracting officer. If the aggregate amount of DOE funds available for award under a solicitation or published notice is $1,000,000 or more, such restriction of eligibility shall be in writing and approved by an official no less than two levels above the initiating program official and concurred in by the contracting officer and legal counsel. (10CFR 600.6) Eligibility. The determination should contain:

A. General Information

Title of Project for Which Applicants Will be Solicited

Description and Purpose of Project

Sponsoring Program Office

Name of Supporting Contracting

Type of Award, Length of Project Period, and Total Estimated Cost: Include anticipated cost sharing arrangements and number of awards per fiscal year

Eligible Recipients: Describe who is eligible to receive the financial assistance awards.

Justification For Determination: Provide justification for restricting eligibility.

B. Determination

It is hereby determined that eligibility for the solicitation entitled *(enter project title)* will be restricted to *(enter organization or areas that the financial assistance awards will be restricted)*. This determination is made pursuant to 10 CFR Part 600.6(b) and is supported by the narrative above.

RECOMMENDING OFFICIAL:

_____(*Signature*)_____ _____
Assistance Initiator, Name of Project Office Date

APPROVING OFFICIAL:

_____(*Signature*)_____ _____
Name and Title of Approving Official Date

CONCUR:

_____(*Signature*)_____ _____
Name and Title of Contracting Officer Date

_____(*Signature*)_____ _____
Name and Title of Legal Counsel Date

Appendix E

Acquisition Plan Format and Content

The Acquisition Plan provides a description of the contractual means by which the project's acquisition strategy will be carried out. The specific content of acquisition plans will vary, depending on the size, nature, circumstances, complexity and estimated cost of the acquisition. Acquisition plans for service contracts must describe the strategies for implementing performance-based contracting methods or must provide rationale for not using those methods.

1. Acquisition background and objectives

a. Statement of need. Introduce the plan by a brief statement of need. Summarize the technical and contractual history of the acquisition. Discuss feasible acquisition alternatives, the impact of prior acquisitions on those alternatives, and any related in-house effort.

b. Applicable conditions. State all significant conditions affecting the acquisition, such as--

(1) Requirements for compatibility with existing or future systems or programs; and

(2) Any known cost, schedule, and ability or performance constraints.

c. Cost. Set forth the set cost goals or budget for the acquisition and the rationale supporting them, and discuss related cost concepts to be used.

d. Capability or performance. Specify the required ability or performance characteristics of the supplies or the performance standards of the services being acquired and state how they are related to the need.

e. Delivery or performance-period requirements. Describe the basis for establishing delivery or performance-period requirements (FAR Subpart 11.4). Explain reasons for any urgency if it results in concurrency of development and production or is justification for not providing for full and open competition.

f. Trade-offs. Discuss the expected consequences of trade-offs among the various cost, ability or performance, and schedule goals.

g. Risks. Discuss technical, cost, and schedule risks and describe what efforts are planned or underway to reduce risk and the consequences of failure to achieve goals. If concurrency of development and production is planned, discuss its effects on cost and schedule risks.

h. Acquisition streamlining. If specifically named by the requiring agency as a program subject to acquisition streamlining, discuss plans and procedures to--

(1) Encourage industry/public participation by using draft solicitations, notice of program interest, presolicitation conferences, and other means of stimulating industry involvement during design and development in recommending the most appropriate application and tailoring of contract requirements;

(2) Select and tailor only the necessary and cost-effective requirements; and

(3) State the timeframe for identifying which of those specifications and standards, originally provided for guidance only, will become mandatory.

2. Plan of action.

a. Sources. Show the prospective sources of supplies and/or services that can meet the need. Consider required sources of supplies or services (FAR Part 8). Include consideration of small business, small disadvantaged business, and women-owned small business concerns (FAR Part 19). Discuss the extent and results of the market research and show their impact on the various elements of the plan (FAR Part 10).

b. Competition.

(1) Describe how competition will be sought, promoted, and sustained throughout the course of the acquisition. If full and open competition is not contemplated, cite the authority in FAR Subpart 6.302, discuss the basis for the application of that authority, identify the source(s), and discuss why full and open competition cannot be obtained.

(2) Describe how competition will be sought, promoted, and sustained for spares and repair parts. Identify the key logistic milestones, such as technical data delivery schedules and acquisition method coding conferences, which affect competition.

(3) When effective subcontract competition is both feasible and desirable, describe how such subcontract competition will be sought, promoted, and sustained throughout the course of the acquisition. Identify any known barriers to increasing subcontract competition and discuss how to overcome them.

c. Source-selection procedures. Discuss the source-selection procedures for the acquisition, including the timing for submission and evaluation of proposals, and the relationship of evaluation factors to reaching the acquisition goals (FAR Subpart 15.3).

d. Contracting considerations. For each contract contemplated, discuss --

(1) Contract type selection (FAR part 16);

(2) Use of multiyear contracting, options, or other special contracting methods (FAR part 17);

(3) Any special clauses, special solicitation provisions, or FAR deviations required (FAR Subpart 1.4);

(4) Whether sealed bidding or negotiation will be used and why;

(5) Whether equipment will be acquired by lease or purchase (FAR Subpart 7.4) and why;

(6) and any other contracting considerations.

e. Budgeting and funding. Include budget estimates, explain how they were derived, and discuss the schedule for obtaining adequate funds at the time they are required (FAR Subpart 32.7).

f. Product or service descriptions. Explain the choice of product or service description types (including performance-based contracting descriptions) to be used in the acquisition.

g. Contractor versus Government performance. Discuss the consideration given to OMB Circular No. A-76 (FAR Subpart 7.3).

h. Inherently governmental work. Discuss the consideration given to OFPP Policy Letter 92-1 (FAR Subpart 7.5).

i. Management information requirements. Discuss, as appropriate, what management system will be used by the Government to check the contractor's effort.

j. Test and evaluation. To the extent applicable, describe the test program of the contractor and the Government. Describe the test program for each major phase of a major system acquisition. If concurrency is planned, discuss the extent of testing to be done before production release.

k. Logistics considerations. Describe--

(1) The assumptions determining contractor or agency support, both initially and over the life of the acquisition, including consideration of contractor or agency maintenance and servicing (FAR Subpart 7.3) and distribution of commercial items;

(2) The reliability, maintainability, and quality assurance requirements, including any planned use of warranties (FAR part 46);

(3) The requirements for contractor data (including repurchase data) and data rights, their estimated cost, and the use to be made of the data (FAR part 27); and

(4) Standardization concepts, including the necessity to specify, under agency procedures, technical equipment as "standard" so that future purchases of the equipment can be made from the same manufacturing source.

l. Government-furnished property. Show any property to be furnished to contractors, including material and facilities, and discuss any associated considerations, such as its availability or the schedule for its acquisition (FAR part 45).

m. Government-furnished information. Discuss any Government information, such as manuals, drawings, and test data, to be provided to prospective offerors and contractors.

n. Environmental and energy conservation goals. Discuss all applicable environmental and energy conservation goals associated with the acquisition (FAR Part 23), the applicability of an environmental assessment or environmental impact statement, the proposed resolution of environmental issues, and any environmentally-related requirements to be included in solicitations and contracts.

o. Security considerations. For acquisitions dealing with classified matters, discuss how adequate security will be set up, maintained, and checked (FAR Subpart 4.4).

p. Contract administration. Describe how the contract will be administered. In contracts for services, include how inspection and acceptance corresponding to the work statement's performance criteria will be enforced.

q. Other considerations. Discuss, as applicable, standardization concepts, the industrial readiness program, the Defense Production Act, the Occupational Safety and Health Act, foreign sales implications, and any other matters germane to the plan not covered elsewhere.

r. Milestones for the acquisition cycle. Discuss the following steps and any others appropriate:

- EERE Acquisition Plan Development
- Acquisition plan approval.
- Statement of work.
- Specifications.

  Categories
  - Performance Based
  - Function Based
  - Design Based

- Data requirements.
- Completion of acquisition-package preparation.
- Purchase request.

- Justification and approval for other than full and open competition where applicable and/or any required D&F approval.
- Issuance of CBD synopsis or Federal Register
- Issuance of solicitation.
- Evaluation of proposals, audits, and field reports.
- Beginning and completion of negotiations.
- Contract preparation, review, and clearance.
- Contract award.

s. Identification of participants in acquisition plan preparation. List the individuals who took part in preparing the acquisition plan, giving contact information for each.

See Office of Headquarters Procurement Services, Assistance to Customers Program at http://professionals.pr.doe.gov/ma5/MA-5Web.nsf/Organization/ma54+customer+service?OpenDocument for example of actual plans.

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Appendix F

Commerce Business Daily Notice Sample

[Commerce Business Daily: Posted in CBDNet on September 6, 2001]

[Printed Issue Date: September 10, 2001]
From the Commerce Business Daily Online via GPO Access
[cbdnet.access.gpo.gov]

PART: SPECIAL NOTICES

OFFADD: DOE/National **Energy** Technology Laboratory, P.O. Box 10940,

MS 921-107, Pittsburgh, PA 15236-0940

SUBJECT: PUBLICATON OF 4 ISSUE OF GASTIPS.

DESC: DESC: The U. S. **Department** of **Energy**'s National **Energy** Technology Laboratory (NETL), Pittsburgh, PA, the U. S. **Department** of **Energy**, National **Energy** Technology Laboratory (NETL), Pittsburgh, PA intends to award a purchase order on a sole-source basis to Hart/IRI Information Service for the following: Hart/IRI will produce and mail four issues of Gas TIPS during calendar year 2002. Publication dates will be on or about the months of February, May, August, and November. The publication's size, cover and layout will be substantially similar to the Gas TIPS publication currently published by Gas Technology Institute, with such modifications as may be necessary to acknowledge the contributions and reflect the status of other joint sponsors, including SCNG. This request is considered to be a sole-source to Hart /IRI Information Services. Therefore, no solicitation shall result from announcement procedure. Any firm believing that they can provide the required equipment may submit a written response clearly showing it's ability to provide the required equipment, which will be considered by this agency. Request for information should be addressed to Mr. Thomas J. Gruber, FAX 412.386.6137 or E-mail gruber@fetc.doe.gov.

EMAILADD: thomas.gruber@netl.doe.gov

EMAILDESC: thomas.gruber@netl.doe.gov

CITE: (W-249 SN50W9D5)

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Appendix G

Federal Register Notice Sample

[Billing Code 6450-01-P]

U.S. Department of Energy
Notice of Competitive Financial Assistance
for the Office of Energy Efficiency and Renewable Energy

AGENCY: U.S. Department of Energy

ACTION: Notice of Competitive Financial Assistance Solicitation

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SUMMARY: The Department of Energy (DOE) announces a competitive solicitation for applications for grants and cooperative agreements for information dissemination, public outreach, training, and related technical analysis and technical assistance activities involving renewable energy and energy efficiency. It is estimated that funding of approximately FY2001 $2 to $3 million will be available under renewable energy programs, and FY2001 $3 to $4 million will be available under energy efficiency programs for awards under this solicitation in fiscal year 2001. Areas of interest involving renewable energy include wind, hydrogen, and geothermal technologies. Energy efficiency areas of interest include energy efficiency in the transportation, buildings, and industrial sectors. The awards may be for a period of six months to three years. Proposals will be subject to the objective merit review procedures for the *Office of Energy Efficiency and Renewable Energy (EERE)*. Eligible applicants for this solicitation are profit organizations, non-profit institutions and organizations, state and local governments, universities, individuals, Native American organizations, and Alaskan Native Corporations.

ADDRESSES: The formal solicitation document, which will include greater detail about specific program areas of interest, application instructions, and evaluation criteria, is

expected to be issued mid-November 2000. The solicitation will include specific funding totals for each program area of interest. Application due dates for the various program areas will be staggered throughout January 2001, and applications will be processed by three DOE procurement offices to expedite awards. Prospective applicants under the following Program Areas of Interest will be encouraged to submit a pre-application not longer than two pages, no later than 11:30 P.M. Eastern Standard Time on Friday, December 1, 2000: Program Area 1D, Office of Power Technologies - Electric Utility Restructuring: Information Dissemination, Technical Analysis and Outreach Activities; Program Area 4, Office of Building Technology, State and Community Programs - Information Dissemination, Outreach and Related Technical Analysis; Program Area 6A, Office of the Assistant Secretary for Energy Efficiency and Renewable Energy - Technology and Systems Integration: Information Dissemination, Outreach and Related Analysis; and Program Area 6B, Office of the Assistance Secretary for Energy Efficiency and Renewable Energy - International Energy Efficiency and Renewable Energy: Technical Assistance to Support Clean Energy Development. Those submitting pre-applications will be notified within approximately 14 days whether all or part of their project is encouraged or discouraged for further consideration.

The formal solicitation document will be disseminated electronically as solicitation number DE-PS01-01EE10781 through the Department s *Current Business Opportunities* of the *Headquarters Procurement Services Homepage* located at http://doe-iips.pr.doe.gov and the *Industry Interactive Procurement System (IIPS)* Homepage located at http://doe-iips.pr.doe.gov. The IIPS system have become the primary way for the *Office of Headquarters Procurement Services* to conduct competitive acquisitions and financial assistance transactions. IIPS provides the medium for disseminating solicitations, receiving financial assistance applications and proposals, evaluating, and awarding various instruments in a paperless environment.

To get more information about IIPS and to register your organization, go to http://doe-iips.pr.doe.gov. Follow the link on the IIPS home page to the *Secure Services* page. Registration is a prerequisite to the submission of an application, and applicants are encouraged to register as soon as possible. A help document, which describes how IIPS works, can be found at the bottom of the *Secure Services* page.

FOR FURTHER INFORMATION: Contact the U.S. Department of Energy, Office of Headquarters Procurement Services, Attention MA-542 (Barry Page, EERE-2001), 1000 Independence Ave., SW., Washington, D.C. 20585, telephone number 800-683-0751, or e-mail at: eere.grants@pr.doe.gov. Questions or comments should be categorized as *administrative* or *financial assistance related.* Administrative questions or comments relate only to the operation of IIPS. All questions or comments should be directed to the attention of Mr. Barry Page. The preferred method of submitting questions and/or comments is through e-mail. Only questions and comments submitted to Mr. Page will be considered. Questions and/or comments requiring coordination with EERE program officials will be directed by DOE personnel to the cognizant offices internally through IIPS.

SUPPLEMENTARY INFORMATION: The Office of EERE supports DOE's strategic objectives of increasing the efficiency and productivity of energy use, while limiting environmental impacts; reducing the vulnerability of the U.S. economy to disruptions in energy supplies; ensuring that a competitive electric utility industry is in place that can deliver adequate and affordable supplies with reduced environmental impacts; supporting U.S. energy, environmental, and economic interests in global markets; and delivering leading-edge technologies. A key component of this program is the support of information dissemination, public outreach, training and related technical analysis and technical assistance activities to: (1) stimulate increased energy efficiency in transportation, buildings, and industry and increased use of renewable energy; and (2) accelerate the adoption of new technologies to increase energy efficiency and the use of

renewable energy. The purpose of this solicitation is to further these objectives through financial assistance in the following areas:

Office of Power Technologies (OPT) - The primary mission of this Office is to lead the national effort to develop solar and other renewable energy technologies and to accelerate their acceptance and use on a national and international level. Also, OPT develops advanced high temperature superconducting power equipment and energy storage systems, addresses advanced technology needs for transmission and distribution systems, and provides information and technical assistance on electric utility restructuring issues. Financial assistance applications will be requested for information dissemination, public outreach, and related technical analysis activities involving several specific renewable technologies such as wind, hydrogen and geothermal technologies. Also, proposals will be requested to perform the following activities: information dissemination, technical assistance, and outreach relating to electric utility restructuring; and co-sponsorship of conferences involving the power technologies sector.

Office of Industrial Technologies (OIT) - The mission of this Office is to improve the energy efficiency and pollution prevention performance of U.S. industry. The Office has a particular focus on nine industries, including the aluminum, steel, metal casting, glass, forest and paper products, chemicals, petroleum refining, agriculture, and mining industries. At the national level, the Office has successfully facilitated the development of industry visions and technology roadmaps with these nine industries. Financial assistance applications will be requested to support information dissemination and outreach to facilitate multi-States implementation of the Industries of the Future program.

Office of Transportation Technologies (OTT) - The mission of this Office is to support the development and use of advanced transportation vehicles and alternative fuel technologies which will reduce energy demand, particularly for petroleum; reduce criteria

pollutant emissions and greenhouse gas emissions; and enable the U.S. transportation industry to sustain a strong competitive position in domestic and world markets. Financial assistance applications will be requested to conduct workshops and conferences related to the *Clean Cities Program* and to provide technical assistance and outreach to Western Hemispheric countries to promote the adoption of Clean Cities Programs or similar volunteer programs to expand the use of alternative fuels and alternative fuel technologies.

Office of Building Technology, State and Community Programs (BTS) - The mission of this Office is to develop, promote, and integrate energy technologies and practices to make buildings more efficient and affordable and communities more livable. Financial assistance applications will be requested to support information dissemination, public outreach, and related technical analysis activities for the following BTS priorities: addressing the efficient and renewable energy technology information deficit among commercial building constructors, owners, and managers; promoting energy efficiency and renewable energy utilization as a public value for residential builders and home buyers; increasing the availability of energy efficient school design, retrofit and technical resource information for school board members and school administrators; preparing the building trades, building operators, and building managers for the new generation of efficient and renewable energy technologies; promoting the widespread installation of dedicated compact fluorescent lamp fixtures; and strengthening the *Rebuild America Program* through outreach activities with stakeholder organizations representing facility managers, business officials, and policy makers at colleges and universities, State and Local governments, elementary and secondary schools, and public and other low-income housing.

Federal Energy Management Program (FEMP) - The mission of this Program is to assist agencies in achieving the federal energy management goals and to disseminate information to states, local governments and the public on innovative approaches to the

use of energy. Financial assistance will be requested to support several specific program areas such as a national lighting certification program for lighting professionals.

The *Office of the Assistant Secretary for EERE* has the overall management responsibility for the entire Office of EERE, including the OPT, OTT, OIT, BTS, and the *Federal Energy Management Program (FEMP)*. Financial assistance applications will be requested to support information dissemination, outreach, and related analysis activities under Program Area 6A, *Technology and Systems Integration: Information Dissemination, Outreach, and Related Analysis*, for projects which have the objectives to:

(1) encourage the design, development, and adoption of energy efficiency and/or renewable energy systems that incorporate two or more technologies, or incorporate technology(ies) supported by at least two DOE program offices (including at least one from EERE), and that have identified potential for multiple applications across sectors;

(2) stimulate greater technology integration and systems integration activities, including multi-application product development (a) within the energy efficiency and renewable energy sector (e.g., multi-feedstock/multi-product biorefineries; distributed power generation technologies, applications, and grid interface issues; combined heat-and-power systems; industrial, commercial, and district-energy concepts; on-site clean fuel production and automotive fueling systems; and active/passive commercial building energy management systems); and (b) between EERE and the fossil energy sector (e.g., coal/biomass co-firing; higher efficiency natural gas technologies; multi-fuel micro-turbines; carbon extraction and sequestration technologies);

(3) encourage the design, development, and adoption of EERE technology-based strategies for accomplishing environmental and human health objectives under the *Clean Air Act* and other environmental laws and

policies, particularly at the State and Local government level;

(4) encourage the use of Geographical Information Systems (GIS) and other computer-assisted analytical, planning, and decision-support tools to assist communities to evaluate the energy, environmental, and economic impacts and costs of various options for energy generation, distribution, and use; and

(5) develop financial risk and liability models for investments in EERE technologies and systems in order to assist investors and other stakeholders to evaluate financial risk exposure resulting from energy investment choices.

In addition, financial assistance applications will be requested to support region-wide technical assistance activities in developing countries and countries in transition to support the development of human and institutional capabilities related to EERE by governmental entities, not-for-profit organizations, and industry organizations. The region-wide activities must encompass one of the following regions: Latin America, Africa, South Asia, or Eastern Europe, and encompass several countries within that region.

Million Solar Roofs Initiative (MSRI)- The purpose of the MSRI is to spur the installation of solar energy systems on one million U.S. buildings by 2010. The initiative seeks to catalyze market demand through the elimination of barriers to the use of solar energy systems on buildings and the establishment of State and Community Partnerships. Applications will be requested under this solicitation to develop information, training, and workshops to assist in the elimination of specific barriers. A separate solicitation providing direct support to Million Solar Roofs State and Community Partnerships will be issued by the Golden Field Office not later than January 2001.

Additional information about the programs of the Office of EERE can be obtained at the Office's Internet site at http://www.eren.doe.gov/ee.html.

Issued in Washington, D.C. on November 2, 2000.

Arnold A. Gjerstad, Director,
Program Services Division
Office of Headquarters Procurement Services

Appendix H

Support Services Contracts

Background and Purpose. The support services contracted by DOE are generally for management and professional technical services that provide for more efficient and effective operations and assistance to managerial, administrative or related systems. Support services also help DOE achieve its mission without requiring long-term staffing increases.

Since the details of the support services work to be performed are frequently undefined, a task order (or task assignment) contract is normally used. The contract outlines a general description of work and allows the contracting officer to assign specific tasks after award. This approach provides DOE with needed flexibility and reduces procurement paperwork and lead time.

Types of Support Services. A wide variety of services are available under a support services contract. Of primary interest are technical support and management assistance.

Technical support services include, but are not limited to, determining feasibility of design consideration; development of specifications, system definition, system review and reliability analyses; trade-off analyses; economic and environmental analyses, which may be used in DOE's preparation of environmental impact statements; test and evaluation, survey or reviews to improve the effectiveness, efficiency, and economy of technical operations.

Management support services include, but are not limited to, analyses of workload and work flow; directives management studies; automated data processing; manpower systems analyses; assistance in the preparation of program plans; training and education; analyses of Department management processes; and any other reports or analyses directed toward improving the effectiveness, efficiency, and economy of management and general administrative operations.

Commercial and industrial services can also be acquired under support services contracts. Examples of such services include audiovisual products and services; automatic data processing; and security, mail handling, and courier services.

Support services **do not** include:

- Research and development services
- Architectural and engineering services
- Operating and personal services. Personal services is explained later.
- Production contracts and services thereunder

Procurement of Support Services Contracts. Procurement, procedures are similar to those for competitive procurements that use a request for proposals for the solicitation. However, there are many DOE contracts, Government wide agency contracts, multi-agency contracts and GSA MOBIS contracts which have already been competed and awarded that can be used to procure support services.

Support service contracts should be performance-based to the maximum extent possible. Performance-based contracts are explained later in this chapter, examples are in Appendix K. In the past, support services, in the Department, have routinely been purchased through level of effort, task assignment contracts awarded to a single vendor on a cost reimbursement basis.

Support services/task order contracts are typically cost reimbursement type, such as cost-plus-fixed-fee; however, they can also be incentive contracts, indefinite-delivery contracts, or time-and-material, labor-hour contracts. A task order contract is a contract that does not procure or specify a firm quantity of services (other than a minimum or maxim quantity) and that provides for the issuance of orders for the performance of tasks during the period of the contract.

Task Assignment (T/A) Implementation Process. Task assignments fall into two general categories: one for continuing support efforts, and one for specific, on-time technical tasks. The steps used to issue task assignments under an in-place support services contract are as follows:

- The program manager defines T/A requirements and discusses needs with the support services contractor.
- The program manager develops T/A Statement of Work (SOW), performance or time schedule, deliverables requirements, estimate of hours expected to be consumed, and an estimate for the total cost of the task, and identifies funding sources from B&R codes. An example can be found in Appendix TBD.
- The program manager prepares and submits a procurement request-authorization form (DOE F 4200.33) with the above stated attachments. The approved and funded of the DOE F4200.33 with attachments is then submitted to the DOE contract specialist for the support services contract.
- The support services contractor is provided the T/A SOW, deliverables requirements and schedules and is requested to submit a task plan to the DOE contracting officer.
- Upon receipt of the TA, the contractor develops a proposal or task plan for accomplishing the task and provides it to the contracting officer. The task plan should describe the contractor's estimated cost to complete the T/A over the time period specified, to include labor categories and number hours.
- The task plan will be reviewed to ensure the plan will accomplish the intent of the task assignment and that it is within the contract's overall cost and labor budget constraints.

If there is disagreement between the program manager's cost estimate to complete the T/A and the contractor's estimate, resolution should take place before work is initiated. This is accomplished by meeting with the contractor to determine the source(s) of cost estimate disagreement and subsequent agreement on what changes may be required and the process for achieving them.

The contracting officer will then issue a task order to the support contractor, who can then begin work.

It is important that program managers understand several points relative to the use of support service contracts and execution of T/As:

- Only Program Direction funds can be used for procure support services.
- All T/As must be within the scope of the support service contract SOW. Specify the task assignment's deliverables and their due dates.
- No work on a T/A can be performed by a support services contractor until the contractor receives the T/A executed by the DOE Contracting Officer.
- No work can be performed by a support services contractor after the completion date of the T/A, unless the contractor receives a T/A time extension executed by the DOE Contracting Officer.
- Ensure that the cost and labor estimates of a proposed task plan, when accumulated with those of existing task assignments, do not exceed the limitations of the contract.
- Before authorizing the use of Government furnished property under a task assignment, ensure that it is provided for in the basic contract to assure accountability.

Good planning and a good working relationship are the keys to assuring that the T/A implementation process works smoothly and efficiently.

Successful Support Services Execution. Normally the COR is responsible for monitoring contract performance to assure that the deliverables or services meet the quality levels and delivery dates prescribed by the contract. This includes periodic meetings with the contractor to review the status of performance and to review progress reports required by the contract. Duties of the COR and monitoring of contractor performance is described in detail in Chapter 6.

Limitations of Use. Limitations on using support services fall into three general categories:

- Avoiding excessive cost
- Avoiding personal services (next subsection)
- Avoiding tasks that are wasteful (e.g., large printing or copying jobs)

Because of the close working relationship often necessary to perform support services tasks, there is a tendency for both DOE staff and contractor personnel to neglect the

contract (or task) ceilings on labor hours and expenditures. **Other than the obvious contractual problems, an "overrun" on either limit can result in unique difficulties for not only the contractor, but for the program manager as well. Since tasks are implemented by different program managers, a funding shortfall on one task can affect other tasks, particularly if the funding for the contract is allocated from a "pool" of funds established for support services. Program managers are usually reluctant to lose or provide funds for another program manager's task. This problem is easily avoided by careful attention to labor hours and cost by the contractor, COTR, and program manager.**

A related issue is the tendency to use support services for administrative, graphics, or office services that are outside the scope of either the task order or the contract statement of work. **Because of convenience, the program manager is often tempted to have graphics, printing, reproduction, or secretarial work done by the contractor, particularly for short-turnaround actions.** If such work is within scope, it must be clearly defined and costed in the task order. If not within scope, all parties involved must be careful to avoid any inappropriate work of this nature.

Personal Services. "Personal services" is defined as the acquisition of services by contract in such a manner that the person providing the service becomes, in effect, an employee of the Government. The FAR Part 37.104(d) Personal Services Contracts contains very specific language on this subject, stating that personal services contracting may not be used to circumvent Federal laws and regulations on the hiring of Government employees. Although DOE program managers and contractor personnel must communicate as much as necessary to accomplish the assigned tasks, it is important that DOE personnel maintain an "arm's length" relationship with the contractor (e.g., the contractor is responsible for determining how to satisfy the terms of the contract), and program managers cannot personally direct the work of contractor personnel, subcontractors, or consultants.

There are no definitive rules for characterizing particular services as "personal" or "non-personal." Support services may be determined to be "personal" if any of the following elements dominate the work being performed by the contractor, regardless of the terms of the contract. The underlying theme is that we must not treat contractors as employees, see below:

- DOE specifies the qualifications or approves the use of individual contractor employees.
- DOE assigns tasks and prepares work for individual contractor employees, subcontractors, or consultants.
- DOE supervises and controls the method by which the contractor performs the required services, or specifies work to be performed by certain individuals, subcontractors, or consultants.
- DOE exercises direct supervision and control of individual contractor employees, or those of subcontractors and consultants.

- Contractor or subcontractor employees, or consultants, are used interchangeably with DOE personnel to perform the same functions.
- Contractor or subcontractor employees, or consultants, are integrated into the organizational structure of the DOE unit.

One of the tests of the legality of support services contracts is the existence of an employee/employer relationship. Such a relationship may exist if one or more of the following situations exist:

- Primary place of work is on site at DOE for an extended length of time
- Equipment is furnished by DOE
- Comparable services, meeting comparable needs, are normally performed by DOE Civil Service personnel
- The need for the type of service provided can be reasonably expected to last beyond one year
- The nature of the service provided requires DOE direction of individual contractor, subcontractor, or consultant employees to either adequately protect the DOE's interest, retain control of the function, or retain full personal responsibility for the function.

Inherently Governmental Functions. Some DOE functions are so intimately connected with DOE operations that DOE employees must perform them in order to retain essential control and responsibility. These "inherently Governmental functions" involve exercising discretionary authority and making final value judgments that affect the day-to-day or long-term development, execution, and evaluation of DOE programs. FAR 37.203 describe the types of functions that should be limited to the Government and those functions that could be assigned to support services agreements. It is illegal for the contracting officer or COR to assign any of these functions to a contractor, or for any DOE official, such as the program manager, to allow any of these functions to be performed by contractor personnel. These functions include:

- Determination of DOE policy
- Decisions on DOE program priorities or budget requests
- Supervision of DOE employees
- Hiring decisions for DOE employees.

Although there are several regulations concerning the use of support services contractors, the specific tasks that they can legally perform are quite broad. **It is further recognized that regular and frequent contact and communication between the contractor, COR, and DOE program managers is often an inherent requirement for successful execution.** The important factor is that control and decision authority is retained by the proper DOE personnel. Some of the tasks specifically identified as appropriate for contracted work include services that assist DOE in:

- Preparation of documents that support DOE's mission, e.g., technical analysis, program assessments, and special studies

- Budget preparation, e.g., workload modeling, fact finding, efficiency studies, and should-cost analyses
- Reorganization or planning activities.
- Developing DOE policies, e.g., feasibility studies and strategy options.
- Development of regulations.
- Evaluation of another contractor's performance.
- Acquisition planning.
- Contract management, such as influencing official evaluations of other contractors.
- Technical evaluation of contract proposals.
- Developing statements of work.
- Preparation of responses to Freedom of Information Act requests.
- Support that permits access to confidential business or other sensitive information
- Providing information regarding agency policies or regulations, e.g., attending conferences on behalf of DOE.
- Source evaluation, such as serving as technical advisors to source evaluation boards.
- Interpretations of regulations and statutes.

Additional Resources

OFPP Letter 92-1, Inherently Governmental Functions
OFPP Letter 93-1 (Revised), Management Oversight of Service Contracting
5 CFR Part 2635, Standards of Ethical Conduct for Employees of the Executive Branch
DOE Acquisition Guide, Chapter 37, Support Service Contracting
DOE Acquisition Guide, Chapter 37, Performance Based Contracting: Development of a Performance Work Statement.
DOE Office of Procurement and Assistance Management Brochure "Contracting For Support Services - What You Need To Know

Appendix I

Statement of Substantial Involvement

The **Agency Name** and the recipient hereby enter into a Cooperative Agreement to _____.
Substantial involvement is expected by **Agency Name** during the performance of the cooperative agreement. The nature of the substantial involvement is as follows:

1. **Agency Name** will approve all workshop agendas.

2. **Agency Name** will review and approve the substantive provisions of proposed subcontracts.

3. **Agency Name** will participate in the selection of any key personnel replaced after the initiation of the cooperative agreement.

4. **Agency Name** will review and approve the work performed under task 1 before the recipient commences work on subsequent tasks.

5. **Agency Name** will have authority to halt work under the cooperative agreement if the recipient does not meet performance specifications on _____.

Name, Signature and Date of person making statement.

Note: The following types of activities are generally viewed as substantial involvement: Involvement in either the technical or business management aspects of the project, or both; Desire to have greater control over the project; Providing extensive assistance or training to a "high risk" organization; substantial involvement and contribution to technical aspects of the effort are necessary for its accomplishment; Project as proposed would not be possible without extensive DOE collaboration; Option to immediately halt an activity; Review and approval during the project period of one stage before work can begin on a subsequent stage.

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Appendix J

Preparation of an Independent Government (IGE) Estimate or Project Budget

An Independent Government Estimate (IGE) should be prepared for every new acquisition that exceeds the $100,000 simplified acquisition threshold. When properly prepared, the IGE will assist the contracting officer in determining a fair and reasonable price. A secondary purpose of a well prepared IGE would be to assist the contracting officer in conducting a "cost realism analysis." The analysis is required on all cost reimbursement contracts and is a quantitative assessment of what the project will likely cost, as compared to what the offeror states it will cost. The program office has the primary responsibility for developing the IGE. The following information is being provided to assist in developing the IGE.

- Although IGE documentation is a part of the government procurement cycle, there is no detailed guidance on how to prepare an IGE in the Federal Acquisition Regulation (FAR). Development of an IGE should bear a close relationship to the program being managed. The IGE should be independently prepared and not prepared with the help of a contractor. However, information from a Field Work Proposal may be incorporated into an IGE. To prepare a reliable IGE, one should have knowledge of the product or service being purchased, a comprehensive knowledge of the statement of work or scope of work, as well as quantitative techniques to accommodate the fluctuating economy.

- When buying a commercial item with stable specifications, the estimator when preparing an IGE should research past price history and make adjustments for any change in specifications, changes in quantities and inflation factors. For items that do not have a detailed pricing history it's necessary to do a detailed analysis of individual cost elements. The guidance on how to prepare an IGE assumes that there has been no detailed pricing history and therefore individual elements must be broken down to derive the Government estimate.

Format for developing an IGE. When costs must be broken down to develop an estimate, the IGE should include the following elements: direct cost, indirect cost and profit or fee. Direct cost and indirect cost can each be composed of several sub-elements.

1. Cost Elements. The main cost elements of the IGE that are most often applied are:

a. Direct Labor: Each labor category required should be listed including hours, rates, and extended amounts for each. Then total labor expense should be aggregated.

b. Labor Burden (Fringe benefits): This cost is accumulated in indirect cost pools, but; sometimes it's treated as direct cost. In any event, it's used as a percentage of direct labor expense. Typically this might run around 30%. It includes elements such as payroll records, FICA, workmen’s compensation, employee benefits, health and welfare, and

vacation and holidays. The 30% is applied to the total direct labor amount in (1a) above. (Oftentimes though, fringe benefits are part of overhead and not separately identified.)

c. Overhead: This is an indirect rate as sub-elements contained within this category cannot be applied to a specific cost objective. Included here are such expenses as utility expense, rent expense, indirect supplies, property taxes, and depreciation. This is expressed as a percentage of the aggregate cost of direct labor and labor burden. Typically this might run between 80-120%. The overhead rate (80-120%) is applied to the 1a+1b above, direct labor plus fringe benefit amount.

d. Other Direct Cost (ODC): Generally these costs can be charged directly against a specific contract. Examples are materials, equipment, travel and per diem, training, and printing or graphics.

e. Transportation: If this cost is not identifiable with a specific contract or cost objective or expressed in a percentage (insignificant) it's treated as an indirect cost.

f. General and Administrative Expense (G&A). This includes expenses of a company's general and executive offices, and the cost of such staff services as legal, public relations, and financial. It's expressed as a percentage of the aggregate of 1a through 1f above. Typical G&A rates range between 12-15%.

g. Profit or Fee.

h. TOTAL PRICE: (1a)+(1b)+(1c)+(1d)+(1e)+(1f)+(1g)

2. Methodologies. The following tools can be used when developing an IGE. At times, the estimator will be able to develop an estimate without having to break down individual cost elements, but in other circumstances where historical bottom line pricing data is absent, a breakdown as discussed above will be necessary.

- Historical Data: The IGE and the cost or price structure of an existing contract or similar service contract could be used as a reference. When multiple years are being planned, the cost should be escalated.
- Analysis and Comparison: Analysis and comparison with current prices paid for similar work.
- Market Survey: Conduct a market survey (A word of caution: Conducting the market survey must be done carefully, keeping in mind this competitive procurement arena, no sensitive information may be divulged to potential vendors.)
- Catalog price.
- Statistics. Department of Labor statistics, past or current information on how the contractor accounts for its cost.
-

3. Escalation Methodologies.

- General. Escalation techniques are used often in preparation of an IGE as well as conducting a cost and price analysis for base year and option year(s).
- Base Year. If you have a unit cost data that is not current, escalate to bring it up to a current value. (Further discussion of escalation factor follows.)
- Option year(s):

  - To forecast the option year(s) cost, appropriate escalation factors are applied to the previous cost element to bring it up to specified year value.
  - If the contract performance involves more than one year, two different escalation factors should be applied as appropriate. The following methodologies are used as appropriate:
  - The escalation application for option years maybe based on Data Resources (DRI) economic forecast index. Make sure the escalation rate being applied is current since the DRI index is updated quarterly. For example, assume that

    Base Year (1997) labor rate $30.00 escalation factor for 1998 is 3.0% (.030)

1997	1998
$30.00	$30.00 x 1.030 = $31.09

  - The indirect rates fluctuate from year to year (some companies update this monthly depending on company's activities).
  - Escalation Rates. As a rule of thumb, the average escalation rate between 3%-3.5% maybe applied.
  - If the contract option year crosses two years with two different escalation rates (3% and 3.5% respectively) are applicable (1 September 1998 through 31 August 1999) you may apply following methodologies:

    DRI 1998 (3.0%/12 = .25 x 4 = 1.00%)
    1999 (3.5%/12 = .291 x 8 = 2.328%)
    1.00% + 2.328% = 3.328%
    or
    3.0% + 3.5% = 6.5% divide by 2 = 3.25%
    (*This is not as exact as the process above.

- Escalation Rate for Subsequent Option Years. A similar method is used to obtain an escalation rate for subsequent option years applying appropriate DRI economic index factor. You may also wish to consider the followings:

  - Conduct a market survey on contractors who are now performing similar work and apply composite rates.
  - Apply an average rate.
  - DOE G 430.1-1, Escalation, Chapter 10 provides additional guidance on project escalation rates.

4. Signatures. The IGE should include a signature of the individual preparing the estimate.

Sample IGE Format

FOR OFFICIAL USE ONLY

PROCUREMENT SENSITIVE - SOURCE SELECTION INFORMATION

(See preparation instruction pages and supporting documentation.)

_____

Preparing Program Office

_____

Items or Service(s) Quantity:

_____

Description Category, Hours, Rate and Amount

1. Direct Labor (Specify type and number of hours)

a. _____

b. _____

c. _____

Total Direct Labor $_____

2. Labor Overhead Base Rate Amount

a. _____

b. _____

c. _____

Total Overhear $_____

3. Materials Qty U/I Amount

a. Purchased parts _____

b. Other _____

Total Materials $_____

4. Material Overhead (if applicable) $_____

5. Other Direct Costs

_____

_____

_____

_____

_____

_____

Total Other Direct Costs
$_____

6. Total Direct and Overhead Costs $_____

7. Indirect Costs.

_____

_____

_____

8. Total Costs (Direct & Indirect) $_____

9. General & Administrative (G&A) $_____

10. Total Cost (including G&A) $_____

11. Profit or Fee (Percentage Factor & Dollars) % _____ $_____

12. TOTAL ESTIMATED COST $_____

13. Applicable Period: FROM: _____ TO: _____

14. Reliability _____

_____

TYPED NAME AND SIGNATURE DATE

_____

PREPARING OFFICIAL DATE

_____

REVIEWING OFFICIAL DATE

_____

APPROVING OFFICIAL DATE

Preparation Instructions:

Assumptions Used: Identify any and all assumptions and methodologies used in cost computations.

Basis for Cost Estimates: Specify the item, the basis for the factor used and the source of the data used in preparing the IGE.

ITEM BASIS SOURCES

1.

2.

3.

Other Project Information: Identify any other information which may be necessary or helpful in the proper evaluation of the cost estimates; i.e., Statements of Work (SOW), etc.

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Appendix K

Performance-Based Statement of Work

To Be Developed

The DOE Acquisition Guide Chapter 37 Performance Based Contracting, Development of A Performance Work Statement is an excellent reference. The guide is at http://www1.pr.doe.gov/acqguide/AGChapter37.htm

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Appendix L

Acquisition Source Selection Plan

The source selection plan in this attachment was taken from the Albuquerque Operations Office Source Evaluating Guide. The sample is located on the P drive in the EE Procurement folder.

EE_Pub ~1 on `EENOV1/Public` (P:)

The guide can be also found at the Contracts and Procurement Division Acquisition Corner at http://www.doeal.gov/cpd/qcorner.htm

Source Selection Plan

, Solicitation No.

---

1. Introduction

This plan sets forth the procedures for evaluating proposals against the Evaluation Factors for Award provided in of Request for Proposal (RFP) No. and the weights assigned to each criterion. The procedures set forth in the Albuquerque Operations (AL) Source Evaluation Guide will also serve as an aid in the evaluation process and will be used in conjunction with this Rating Plan.

The conduct of proposal evaluation will be consistent with the policies and procedures contained in Federal Acquisition Regulation (FAR) Subpart 15.1, *Source Selection Processes and Techniques*, and Subpart 15.3, *Source Selection*, and other applicable government policies, regulations, directives, and authorities in effect as of the date of the solicitation.

2. Source Evaluation Team

{Tailor this section by deleting those headings (e.g., Chairperson, Executive Secretariat) which are not applicable to the specific procurement. Insert the name, title and office symbol of each Source Evaluation Team participant under the appropriate heading.}

a. Source Selection Authority:

b. Chairperson:

c. Executive Secretariat:

d. Contracting Officer:

e. Contract Specialist:

f. Technical Evaluators:

g. Technical Advisors:

h. Ex-Officios:

3. Source Evaluation Team Responsibilities

{Tailor this section by inserting any unique responsibilities not specifically described in the Guide and which are considered worth specifically identifying. Identify the responsible person(s) by title (e.g., technical evaluators or Contracting Officer)}.

a. Each Source Evaluation Team (SET) participant will become familiar with the AL Source Evaluation Guide prior to receiving proposals.

b. The technical evaluators and Contracting Officer will serve as voting members of the SET. All other participants are non-voting members. {Revise as appropriate.}

4. Evaluation Factors

{Tailor this section by inserting the evaluation criteria identified in the RFP (e.g., Areas, Items, Factors or Subfactors). Renumber paragraphs as necessary and ensure the weighting factors are consistent with the relative order of importance identified in the RFP. Double click on the icon for an example of this section.}

RatingPoints

Attachment 1 of this Rating Plan contains the complete text of the Evaluation Factors for Award. The evaluation criteria and their associated weights are as follows:

	Rating Points	Weighting Factor	Weighted Points
A.			
1.	1000		
2.	1000		
Subtotal Points			
B.			
1.	1000		
2.	1000		
Subtotal Points			
Total Available Weighted Points			1000

C. Cost (Not Rated or Point Scored)
1. Reasonableness
2. Realism
3. Completeness

5. Evaluation of , and Areas {Insert appropriate criteria, such as Technical, Management and Past Performance. Also include any qualification criteria, if applicable.}

The following paragraphs are not necessarily in chronological order.

a. All offers presented to the SET by the contracting officer for consideration shall be evaluated against the Evaluation Factors for Award provided in the RFP.

b. The evaluation procedures identified in this section of the Rating Plan will generally apply to both initial and final evaluations. A final evaluation is required only if a competitive range is established and discussions are held.

c. The SET voting members will:
{Tailor this section to suit the specific procurement. Any changes made to this section should also be reflected in the list of attachments found at the end of the Rating Plan.}

(1) Evaluate and individually document each offeror's strengths, weaknesses, significant weaknesses, deficiencies and risks using SET Form 1 (including 1A-1C), Evaluation Worksheet.

(2) Also use SET Form 1 to document any areas requiring clarifications as defined in the FAR and may use SET Form 1D as a continuation sheet.

(3) Point score each proposal after identification of strengths, weaknesses, significant weaknesses, deficiencies and risks and summarize the scores for each offeror on SET Form 2, Scoring Worksheet.

(4) Evaluate contractor's performance by surveying each offerors' customers and gathering data from other sources, as necessary, using SET Form 3, Contractor Performance Evaluation Form. The SET may then summarize performance findings and score the "past performance" criterion on SET Form 1. Firms with no past performance, or where the government is unable to verify past performance information, will not be evaluated favorably or unfavorably.

(5) Evaluate oral presentations using SET Form 4, Oral Presentation Worksheet. Directly following each presentation, document strengths, weaknesses, deficiencies and risks, and score presentation using SET Form 1.

d. The technical advisors will evaluate and assess appropriate sections of each proposal against the evaluation criteria in the RFP. Based upon this assessment, the advisors will provide the SET a briefing of their findings and prepare a report in their area of specialty, if directed, prior to scoring of proposals.

e. The SET voting members will discuss all of their findings for each offer and reconcile discrepancies between evaluators' findings. This discussion will also include the findings of technical advisory reports, excluding the cost/price or cost realism analyses. The evaluators will not make comparisons of proposals.

f. The individual scores assigned by the SET voting members will then be consolidated on SET Form 5, SET Offeror Summary Scoring Worksheet, one

form for each proposal. On this form, the composite score will be calculated by using the arithmetic average of the evaluators' scores for each criterion. The SET will then discuss the rationale for the scores awarded to each evaluation criterion and SET voting members will have an opportunity to make changes to their individual scores as they deem appropriate. This derived composite score must also represent a consensus among the SET. If the composite score does not reflect a consensus of the evaluators (because the averaging process may skew the results), then the evaluators will justify and document why the average was not used.

g. During deliberations leading to the establishment of consensus ratings, every attempt will be made to reach a full consensus among all SET members. Differences of opinion among SET members will be explored to reach a common understanding. In the event a full consensus cannot be achieved, the final ratings will be determined by majority vote of the SET.

h. The SET will evaluate the offers with respect to conformance to the terms and conditions of the solicitation. Source Evaluation Team Form 6, Offeror Documents Checklist, may be used for this purpose.

i. If the contracting officer makes a determination to open discussions, the SET will provide the SSA with a competitive range briefing. The SET may use SET Form 7, SET Offeror Summary Matrix, as an aid in summarizing the ratings and identifying those firms which should or should not be recommended for inclusion in the competitive range. If the contracting officer determines to proceed without discussions, the SET will provide the SSA with a source selection decision briefing.

6. Scoring Proposals

a. The identified strengths, weaknesses, deficiencies and risks will provide the substantive background for the scores assigned to each offeror. The overall numerical score to be assigned by each evaluator to an offeror will be derived by:

(1) establishing an individual weighted score for each criterion by multiplying the rating points by the assigned weighting factor for each evaluation criterion (SET Form 1); and

(2) summing the weighted point scores to a total point score for each offeror. SET Form 2 will be used for this purpose.

b. Adjectival definitions are assigned for five point ranges as follows:
{When past performance is evaluated, you will need a cross walk between the adjectives identified in the paragraph below and the adjectives in the Performance

Rating Guidelines, which are attached to SET Form 3. For example, unacceptable may equate to unsatisfactory, marginal to poor, etc.}

Adjective	Percent of Available Points
Excellent	90-100
Good	80- 89
Satisfactory	65- 79
Marginal	40- 64
Unacceptable	0- 39

c. The value within the above ranges will be determined by each evaluator based upon their judgement and assessment of the relative quality of the offeror within the subject criterion. The following adjectival definitions provide guidelines in determining the point range assigned to each criterion (with the exception of the cost criterion): {The following definitions are provided as **examples** and may be revised.}

- Excellent: The offeror exceeds all requirements in the subject criterion. This rating represents a quality beyond that normally expected, and strengths are evident and no weaknesses exist.

- Good: The offeror exceeds requirements in the subject criterion. This rating represents a quality at or somewhat above that normally expected, and strengths are evident and weaknesses may exist.

- Satisfactory: The offeror meets requirements in the subject criterion. This rating represents a quality which is normally expected.

- Marginal: The offeror meets some requirements in the subject criterion. This rating represents a quality level below that normally expected, no strengths are evident, and weaknesses exist.

- Unacceptable: The offeror fails to meet requirements in the subject criterion. This rating indicates a lack of confidence that the contractor can perform at the required level. No strengths are evident and one or more deficiencies exist.

7. Evaluation Standards {Note: Standards are optional but are encouraged for high dollar or complex procurements. Tailor this section by inserting the appropriate criteria and associated standards.}

The following standards will be used to assist in determining the adjectival ratings:

Area:
Item: :

To receive a **satisfactory** rating, the offeror must:

-
-
-

An **excellent** rating will be given if the offeror:

-
-
-

Area:
Item:

To receive a **satisfactory** rating, the offeror must:

-
-
-

An **excellent** rating will be given if the offeror:

-
-
-

Area:
Item:

To receive a **satisfactory** rating, the offeror must:

-
-
-

An **excellent** rating will be given if the offeror:

-
-
-

8. <u>Evaluation of the Cost Area</u>

{Tailor this section by deleting references to "cost realism analysis," if one will not be conducted.}

The offerors' cost proposal will not be rated or point scored. The Financial Advisor, if assigned, will perform a cost/price analysis and cost realism analysis, document the findings, and provide a briefing to the contracting officer or SET, as requested. The analysis performed will be consistent with the Evaluation Factors for Award specified in the RFP. The findings of the cost/price analysis and cost realism analysis will be

presented to the SSA for consideration in selecting the offeror who provides the best value to the government.

9. **Milestone Schedule** {A milestone schedule should be prepared using the Automated Procurement Express System (APES) for every procurement exceeding the simplified acquisition threshold. The schedule in APES may be printed and attached to the Rating Plan rather than retyping a new one. In any event the schedule included in the Plan should reflect the schedule in APES.}

   The milestone schedule for this procurement can be found at Attachment __. Target completion dates may be revised based on the number of proposals received.

Attachments:

1. Section M, Evaluation Factors for Award {Replace with 52.212-2, Evaluation—Commercial Items if appropriate}
2. SET Form 1, 1A-1D, Evaluation Worksheet
3. SET Form 2, Scoring Worksheet
4. SET Form 3, Contractor Performance Evaluation Form
5. SET Form 4, Oral Presentation Worksheet
6. SET Form 5, SET Offeror Summary Scoring Worksheet
7. SET Form 6, Offeror Documents Checklist
8. SET Form 7, SET Offeror Summary Matrix
9. Milestone Schedule

Signatures:

_____ _____

Name Date

Contracting Officer

_____ _____

Name

Title Date

_____ _____

Name

Title Date

_____ _____

Name

Title Date

APPROVED BY:

_____ _____

Name Date

Source Selection Authority

Attachment 1

Evaluation Factors for Award

{Note: Attach Section M, Evaluation Factors for Award, or 52.212-2, Evaluation—Commercial Items, of your solicitation to the Rating Plan.}

Attachment 2
SET Form 1
( ) Initial Proposal
( ) Final Proposal Revision

EVALUATION WORKSHEET

Offeror: _____ Evaluator: _____ Date: _____

Evaluation Criterion: {Insert evaluation criterion or evaluation criterion paragraph number and title, e.g., M.03, Area A, Technical Experience.}

(Note to evaluators: Include references to proposal page and paragraph numbers (or slides for oral presentations) for each finding. Add specific proposal preparation instruction references or reference specific statement of work paragraphs, as appropriate. Ensure each finding is properly categorized and narratives support assigned rating points. Avoid double counting, particularly in the area of risks and weaknesses. Attach additional pages as necessary.)

Strengths	**Reference**

Attachment 2
SET Form 1A

( ) Initial Proposal
( ) Final Proposal Revision

EVALUATION WORKSHEET

Offeror: _____ Evaluator: _____ Date: _____

Evaluation Criterion: {Insert evaluation criterion or evaluation criterion paragraph number and title, e.g., M.03, Area A, Technical Experience.}

Weaknesses/Risks	**Reference**

Significant Weaknesses/Risks	**Reference**

Attachment 2

SET Form 1B

( ) Initial Proposal
( ) Final Proposal Revision

EVALUATION WORKSHEET

Offeror: _____ Evaluator: _____ Date: _____

Evaluation Criterion: {Insert evaluation criterion or evaluation criterion paragraph number and title, e.g., M.03, Area A, Technical Experience.}

Deficiencies	**Reference**

Questions to be Asked of Offeror (Discussion Questions)	**Reference**

Attachment 2
SET Form 1C
( ) Initial Proposal
( ) Final Proposal Revision

EVALUATION WORKSHEET

Offeror: _____ Evaluator: _____ Date: _____

Evaluation Criterion: {Insert evaluation criterion or evaluation criterion paragraph number and title, e.g., M.03, Area A, Technical Experience.}

Ambiguities (Perceived Errors, Omissions, or Mistakes)	**Reference**

Questions to be Asked of Offeror (Communications)	**Reference**

Other Comments	**Reference**

Attachment 2
SET Form 1D
( ) Initial Proposal
( ) Final Proposal Revision

EVALUATION WORKSHEET
Continuation Sheet

Offeror: _____ Evaluator: _____ Date: _____

Evaluation Criterion: {Insert evaluation criterion or evaluation criterion paragraph number and title, e.g., M.03, Area A, Technical Experience.}

Attachment 3
SET Form 2
( ) Initial Proposal
( ) Final Proposal Revision

SCORING WORKSHEET

Offeror: _____ Evaluator: _____ Date: _____

Evaluation Criteria	Rating Points	x	Weighting Factor	=	Weighted Score
Subtotal					
Subtotal					
Subtotal					

TOTAL WEIGHTED POINT SCORE _____

CONTRACTOR PERFORMANCE EVALUATION FORM

[ ] Final **[ ] Interim — Period Report** **From: _____** **To: _____**

1. Contractor Name and Address (identify division):	2. Contract Number:	3. Current Contract Value (basic plus exercised options):
4. a. Contract Award Date: b. Contract Completion Date:	4. c. Performed As: ☐ Prime Contractor ☐ Subcontractor	

5.a. Type of Contract (Check all that apply): ☐ FFP ☐ FPI ☐ FP-EPA ☐ T & M ☐ CPFF-Completion ☐ CPFF-Term ☐ CPIF ☐ Labor Hour ☐ CPAF ☐ IDIQ ☐ Requirements ☐ BOA/BPA	5.b. (Check all that apply): ☐ SBSA/8(a) ☐ Sealed Bid ☐ Negotiated

6. Description of Product/Service:

7. Ratings: Summarize contract performance below and circle the number in the column on the right which corresponds to the performance rating for each rating category. Attach additional pages as necessary. Please see the attached "Performance Rating Guidelines". {Tailor the rating categories to the evaluation criteria in the RFP.}

Quality of Product/Service	Comments	0 1 2 3 4 5
Cost Control	Comments	0 1 2 3 4 5
Timeliness of Performance	Comments	0 1 2 3 4 5
Business Practices	Comments	0 1 2 3 4 5
Customer Satisfaction (end users)	Comments	0 1 2 3 4 5
Mean Score (add the ratings above and divide by number of areas rated)		

8. Contractor's Key Personnel:

Project/Program Manager's Name: _____ Inclusive Dates in Key Position: _____
Comments: _____
Rating: 0 1 2 3 4 5

Name/Title: _____ Inclusive Dates in Key Position: _____
Comments: _____
_____
Rating: 0 1 2 3 4 5

Name/Title: _____ Inclusive Dates in Key Position: _____
Comments: _____
_____
Rating: 0 1 2 3 4 5

Name/Title: _____ Inclusive Dates in Key Position: _____
Comments: _____
_____
Rating: 0 1 2 3 4 5

(Add Additional Pages as Necessary)

9. Would you select this firm again? Please explain.

10. Contractor's Review. a. Was the contractor provided an opportunity to respond to their performance evaluation? ☐ No ☐ Yes
b. Were comments, rebuttals, or additional information provided? ☐ No ☐ Yes, Please attach comments.
c. How were any disagreements between the performance evaluation and the contractor's rebuttal resolved? Please attach comments.

11. Evaluator's Name/Organization:	Signature:
Phone Number/Fax Number/Internet Address:	Date:

CONTRACTOR PERFORMANCE EVALUATION INSTRUCTIONS

General questions regarding this performance evaluation may be directed to:
, DOE/AL/CPD, (505) {Insert name and telephone number of point of contact.}

Block 1: Contractor Name and Address. Identify the specific division being evaluated if there is more than one.

Block 2: Contract number of contract being evaluated.

Block 3: Contract value shall include base plus options. If funding was increased or decreased during the evaluation period, the value in this block should reflect the change.

Block 4: Contract award date and anticipated contract completion date. Contractor performed the effort as a prime contractor or as a subcontractor.

Block 5: Type of Contract. Check all that apply.

Block 6: Provide a description of the work being done under the contract and identify the key performance indicators. This description should include enough detail to allow a comparison of statements of work. If the contractor performed as a subcontractor, specifically identify the work associated with its effort.

Block 7: Circle rating in far right column and provide brief narrative for each of the categories rated. Indicate the contract requirements that were exceeded or were not met by the contractor and by how much. Also calculate the mean score of the ratings.

Block 8: List the names and employment dates of the contractor's key personnel. This will provide a record of how long these managers worked on the contract. If there were many changes in these managers, a second page may be necessary. On the comment/rating line, briefly describe the performance of the manager and key personnel, as applicable. Also provide a rating of 1-5 for each key individual identified.

Block 9: If given a choice, please explain why you would or why you would not select the contractor for this contract again.

Block 10: Annotate whether or not the contractor was provided an opportunity to respond to the performance evaluation, and attach any comments or rebuttals the contractor submitted. Also identify how rebuttals were resolved.

Block 11: The program office person most familiar with the contractor's performance should sign this block; generally this person is the Contracting Officer's Representative.

MAIL THE COMPLETED FORM TO: U.S. Department of Energy, Albuquerque Operations Office
Attn: , CPD
P.O. box 5400
Albuquerque, NM 87185-5400

"TO BE OPENED BY ADDRESSEE ONLY – SOURCE SELECTION INFORMATION UNDER SOLICITATION NO. "

PERFORMANCE RATING GUIDELINES				
Summarize contractor performance in each of the rating areas. Assign each area a rating of 0 (Unsatisfactory), 1 (Poor), 2 (Fair), 3 (Good), 4 (Excellent), or 5 (Excellent Plus). Use the following instructions as ***guidance*** in making these evaluations. Ensure that this assessment is consistent with any other assessments made (i.e., for payment of fee purposes). {Tailor to the evaluation criteria in the RFP.}				
	Quality of Product/Service	**Cost Control**	**Timeliness of Performance**	**Business Practices**
	• Compliance with contract requirements • Accuracy of reports • Appropriate labor mix and skills • Technical excellence	• Within budget (over/under target costs) • Current, accurate, and complete billings • Relationship of negotiated costs to actuals • Effectively control expenditures • Reasonably priced change proposals	• Met interim milestones • Delivered or performed on schedule • Completed wrap-up and contract administration in a timely manner • No liquidated damages assessed	• Effective management • Responsive to contract requirements • Early notification of problems • Strives to maintain workforce stability • Pro-active • Effective contractor-recommended solutions • Effectively manages small/ small disadvantaged business subcontracting program and strives to meet goals
0. Unsatisfactory	Nonconformance is compromising the achievement of contract requirements.	Cost issues are compromising performance of contract requirements.	Delays are compromising the achievement of contract requirements.	Response to inquiries, technical/ service/administrative issues is not effective and responsive.
1. Poor	Nonconformance requires major DOE assistance or relief to ensure achievement of contract requirements.	Cost issues require major DOE assistance or relief to ensure achievement of contract requirements.	Delays require major DOE assistance or relief to ensure achievement of contract requirements.	Response to inquiries, technical/ service/administrative issues is marginally effective and responsive.
2. Fair	Nonconformance requires minor DOE assistance or relief to ensure achievement of contract requirements.	Cost issues require minor DOE assistance or relief to ensure achievement of contract requirements.	Delays require minor DOE assistance or relief to ensure achievement of contract requirements.	Response to inquiries, technical/ service/administrative issues is somewhat effective and responsive.
3. Good	Nonconformance does not impact achievement of contract requirements.	Cost issues do not impact achievement of contract requirements.	Delays do not impact achievement of contract requirements.	Response to inquiries, technical/ service/administrative issues is usually effective and responsive.
4. Excellent	There are no quality problems.	There are no cost issues.	There are no delays.	Response to inquiries, technical/ service/administrative issues is effective and responsive.
5. Excellent Plus	The contractor has demonstrated an exceptional performance level in any of the above four categories that justifies adding one point to the score. It is expected that this rating will be used in those rare circumstances when contractor performance clearly exceeds the performance levels described as "Excellent."			

ORAL PRESENTATION WORKSHEET

Offeror: _____ Evaluator: _____ Date: _____

Instructions:

This form will be used by evaluators to record information. The notes will be used to develop strengths, deficiencies, weaknesses, significant weaknesses, risks and ratings for SET Form 1, for {e.g., Technical and Business Management} Areas.

Evaluation Criterion	**Notes** (Consider the following when taking notes: Did the offeror satisfy the RFP requirements and address all the evaluation criteria? What criteria was not addressed? What information presented did not meet the RFP requirements and why? What exceeded the requirements and why? Is there any area which needs some clarification and why does it need clarification? Consider including references to slide numbers for reference.)

Other comments: _____
_____
_____

Attachment 6
SET Form 5
( ) Initial Proposal
( ) Final Proposal Revision

SET OFFEROR SUMMARY SCORING WORKSHEET

Offeror: _____ Date: _____

Evaluation Criteria	Evaluator 1	Evaluator 2	Evaluator 3	Evaluator 4	Evaluator 5	Average Weighted Points	Consensus	Adjectival Rating
Criterion 1: Subcriterion 1 Subcriterion 2								
Subtotal								
Criterion 2: Subcriterion 1 Subcriterion 2								
Subtotal								
Criterion 3: Subcriterion 1 Subcriterion 2								
Subtotal								
Total								

Attachment 7
SET Form 6
( ) Initial Proposal
( ) Final Proposal Revision

OFFEROR DOCUMENTS CHECKLIST

Offeror: _____

Reviewer: _____ Date: _____

Met Proposal Due Date/Time: ☐ Yes ☐ No
Met Page Limitation for Each Volume: ☐ Yes ☐ No

	Included	Not Included
1. Proposal Form		
• Fully Executed	_____	_____
• Acceptance Period	_____	_____
• Signature Authority	_____	_____
2. Offeror Representations, Certifications, And Other Statements of the Offeror Fully Executed (Including Organizational Conflict of Interest and Foreign Ownership, Influence And Control)	_____	_____
3. Acknowledgement of RFP Amendments	_____	_____

4. Exceptions and Deviations taken to the model contract:

5. Exceptions and Deviations taken in volumes other than Volume 1, Offer:

6. Other comments:

Attachment 8
SET Form 7
(X) Initial Proposal
( ) Final Proposal Revision

SET Offeror Summary Matrix

Example

Offeror	Technical		Past Performance		Most Probable Cost *{or Proposed Cost}*	Include in Competitive Range (Yes/No)
ABC	Excellent	95	Good	88	$16,500,000	Yes
HIJ	Good	85	Good	80	$15,200,000	Yes
XYZ	Marginal	45	Satisfactory	66	$17,300,000	No

Milestone Schedule

Event	Target Date
Receive Proposal(s)	
Check Debarred List	
Request Audit/Advisory Report(s)	
Conduct Oral Presentations	
Receive Audit/Advisory Report(s)	
Complete Technical Evaluations	
Complete Cost/Price Analysis	
Competitive Range Briefing	
Approval of Competitive Range	
Pre-Negotiation Objective Approved	
Written/Oral Discussions	
Request Final Proposal Revisions	
Receive Final Proposal Revisions	
Complete Final Evaluation Report	
Conduct Source Selection Decision Briefing	
Source Selection Statement	
Equal Employment Opportunity Clearance	
Final Contract Preparation	
Contract Review	
Congressional Notification	
Contractor Signature	
Award and Distribution	
Debrief	
Lessons Learned Complete	

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Appendix M

CERTIFICATE FOR PERSONNEL PARTICIPATING IN SOURCE SELECTION CONCERNING NONDISCLOSURE, CONFLICTS OF INTEREST, AND RULES OF CONDUCT	
Name: _____	Organization:_____
Title: _____	Source Selection:_____
1. I acknowledge that I have been selected to participate in the source selection identified above. I certify that I will not knowingly disclose any contractor bid or proposal or source selection information directly or indirectly to any person other than a person authorized by the head of the agency or the contracting officer to receive such information. I understand that unauthorized disclosure of such information may subject me to substantial administrative, civil and criminal penalties, including fines, imprisonment, and loss of employment under the Procurement Integrity Law or other applicable laws and regulations.	
2. To the best of my knowledge, I certify that neither I nor my spouse nor my dependent children, nor members of my household, nor personnel with whom I am seeking employment have any direct or indirect financial interest in any of the firms submitting proposals, or their proposed subcontractors or have any other beneficial interest in such firm except as fully disclosed on an attachment to this certification.	
3. I certify that I will observe the following rules of conduct:	
a. I will not solicit or accept, directly or indirectly, any promise of future employment or business opportunity from, or engage, directly or indirectly, in any discussion of future employment or business opportunity with, any officer, employee, representative, agent, or consultant of a competing contractor.	
b. I will not ask for, demand, exact, solicit, seek, accept, receive, or agree to receive, directly or indirectly, any money, gratuity, or other thing of value from any officer, employee, representative, agent, or consultant of any competing offeror for this acquisition. I will advise my family that the acceptance of any such gratuity may be imputed to me as a violation, and must therefore be avoided.	
c. I will not discuss evaluation of source selection matters with any unauthorized individuals (including Government personnel), even after contract award, without specific prior approval from proper authority.	
d. I understand that my obligations under this certification are of a continuing nature. If at any time during the source selection process, I receive a contract from a competing contractor concerning employment or other business opportunity, the offer of a gift from a competing contractor, or I encounter circumstances where my participation might result in a real, apparent, or potential conflict of interest, I will immediately seek the advice of an Ethics Counselor and report the circumstances to the Source Selection Authority.	
I understand that making a false, fictitious, or fraudulent certification may subject me to prosecution under Title 18, United States Code, Section 1001.	
Signature:_____	Date:_____

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Appendix N

Sample Financial Assistance Selection Plan

The sample Selection Plan is also located on the P drive in the EE Procurement folder.
EE_Pub ~1 on `EENOV1/Public` (P:)

SELECTION PLAN
BROAD-BASED SOLICITATION
INFORMATION DISSEMINATION AND OUTREACH FOR FISCAL YEAR 2001

Solicitation No. (*Enter Solicitation Number*)

The attached documents represent the plan approved by the Office of Energy Efficiency and Renewable Energy for evaluating and selecting applications received in response to applications under Financial Assistance Solicitation Number_____. This selection plan will govern the selection of applications received under the solicitation issued on _____..

Approved by the Source Selection Official:

_____
Signature

_____
Name

_____ _____
Title Date

SELECTION PLAN

This document represents the plan of the Office of Energy Efficiency and Renewable Energy (EERE) for evaluating and selecting applications received in response to Financial Assistance Solicitation Number _____.. .

Summary and Objectives

EERE is competitively soliciting applications for grants and cooperative agreements for information dissemination, public outreach, training, and related technical analysis and technical assistance activities relating to renewable energy and energy efficiency. The objectives of the solicitation are to provide financial support to information dissemination, public outreach, training, and related technical analysis and technical assistance activities which will: (1) increase the understanding and/or awareness of energy efficiency and renewable or alternative energy uses and technologies; and (2) stimulate increased energy efficiency in transportation, buildings, industry, and the federal sector and encourage increased use of renewable and alternative energy. Financial assistance will be provided in seven general EERE program areas involving the Office of Power Technologies; the Office of Industrial Technologies; the Office of Transportation Technologies; the Office of Building Technology, State, and Community Programs; the Office of the Assistant Secretary for Energy Efficiency and Renewable Energy; Million Solar Roofs Initiative; and the Federal Energy Management Program.

Conflict of Interest and Confidentiality

All persons involved in the merit review and selection process will sign a conflict of interest/non-disclosure certificate prior to their review of applications. (Attachment 1 contains a sample of this form). The current representative of the Task Force on the Broad-Based Solicitation from each EERE sector and the staff of the Office of Management and Operations, in coordination with the chairperson of each Merit Review Committee, will be responsible for obtaining signed certificates from all Merit Review Committee members, initial reviewers, program policy reviewers, and the Source Selection Official and providing copies to the Contracting Officer(s). The following individuals will be responsible for obtained signed certificates in the designated Program Areas of Interest:

* Chairperson # 1 -- Program Area of Interest 1;
* Chairperson # 1 -- Program Area of Interest 2;
* Chairperson # 1 -- Program Area of Interest 3;
* Chairperson # 1 -- Program Area of Interest 4;
* Chairperson # 1 -- Program Area of Interest 5;
* Chairperson # 1 -- Program Area of Interest 6;
* Chairperson # 1 -- Program Area of Interest 7; and
* Chairperson # 1 -- Program Area of Interest 8.

Reviewers should notify the chairperson of any potential conflicts of interest or any actions that might give the appearance of a conflict of interest. The chairperson will direct questions concerning potential conflicts of interest to their Contracting Officer.

All materials pertinent to the applications reviewed are privileged communications prepared for use only by DOE staff and the Merit Review Committee. These materials should not be shared or discussed with any other individuals. Review committee members shall not independently solicit opinions or reviews on particular applications from experts outside the pertinent Merit Review Committee. Privileged information in financial assistance applications shall not be used to the benefit of the reviewer.

Evaluation/Award Administration Matrix

The following Procurement Offices have been designated to coordinate the evaluation process, and the award/administration for the program areas indicated.

Application Receipt Closing Dates	Headquarters	Oakland	Seattle	Boston
10/Jan.	1F - OPT 7 - MSR	1A, 1C - OPT	*NO ACTIVITY*	*NO ACTIVITY*
17/Jan.	2 - OIT	1J - OPT	3A, 3C - OTT	*NO ACTIVITY*
24/Jan.	6A, 6B - ASEE	1D - OPT	3B - OTT	4 - BTS
*TBD	8A, 8B - FEMP	1I - OPT	*NO ACTIVITY*	*NO ACTIVITY*

***TBD -** Program Areas 1I, 8A and 8B are subject to the availability of funding. Program area 1I funding will be confirmed during the second quarter of FY01.

Review of Pre-Applications

Applicants for Program Areas of Interest 1D, 4, 6A and 6B are encouraged to submit pre-applications. The pre-applications must be submitted by December 1, 2000. The Selection Official for Program Areas of Interest 1D, 4, 6A and 6B shall appoint a committee to review the pre-applications (see Attachment 2), and the pre-applications will be reviewed in accordance with the Pre-Applications Checklist (set forth in Attachment 3). Those submitting pre-applications will be sent a letter by December 31, 2000, informing them whether they are encouraged or discouraged from submitting an application. (See Attachment 4 for sample letter.)

Initial Review

Applications will undergo a preliminary review by the assigned contract specialist(s) to determine: (1) whether the information required by the solicitation has been submitted and is properly completed; (2) whether the applicant has submitted all necessary representations and certifications; and (3) whether cost-sharing requirements have been met.

Program officials will conduct a concurrent preliminary review to determine: (1) whether the application is relevant to the EERE program and responsive to the technical requirements of the designated Program Area of Interest; (2) whether the application falls within the parameters of the State Energy Program Special Projects for FY 2001 (for States, Territories, and the District of Columbia) or the Million Solar Roofs Initiative Solicitation for MSR Partnership support (see Section IV.1. of the solicitation); and (3) whether Volume II

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Appendix O

Sample Rating Schemes

Sample Color Rating Schemes

Color	Rating	Definition
Blue	Exceptional	Exceeds Specified Minimum Performance or Capability Requirements in a Way Beneficial to the DOE.
Green	Acceptable	Meets Specified Minimum Performance or Capability Requirements Necessary for Acceptable Contract Performance.
Yellow	Marginal	Does Not Clearly Meet Some Specified Minimum Performance Or Capability Requirements Necessary For Acceptable Contract Performance, But Any Proposal Inadequacies Are Correctable.
Red	Unacceptable	Fails to meet specified minimum performance or capability requirements. Proposals with an unacceptable rating are not awardable

Sample Rating Scheme for Evaluation of Proposal Risk

Proposal risk assessment focuses on the risks and weaknesses associated with an offeror's proposed approach. Assessment of risk is done at the subfactor (or element, if used) level, and includes potential for disruption of schedule, increased cost, degradation of performance and the need for increased Government oversight as well as the likelihood of unsuccessful contract performance. For any risk identified, the evaluation must address the offeror's proposal for mitigating those risks and why that approach is or is not manageable. Note that if a combination of significant weaknesses leads to unacceptably high proposal risk, this is a deficiency in the proposal. (See FAR 15.301, Definitions.) Proposal risk shall be evaluated using the following ratings:

Rating.	**Definition**
High.	Likely to cause significant disruption of schedule, increased cost or degradation of performance. Risk may be unacceptable even with special contractor emphasis and close Government monitoring.
Moderate.	Can potentially cause some disruption of schedule, increased cost, or degradation of performance. Special contractor emphasis and close Government monitoring will probably be able to overcome difficulties.
Low.	Has little potential to cause disruption of schedule, increased cost or degradation of performance Normal contractor effort and normal Government monitoring will probably be able to overcome difficulties.

Samples of Adjectival Rating Schemes

Outstanding: An outstanding proposal is characterized as follows:

- The proposed approach indicates an exceptionally thorough and comprehensive understanding of the program goals, resources, schedules, and other aspects essential to performance of the program.
- In terms of the specific factor (or significant subfactor), the proposal contains major strengths, exceptional features, or innovations that should substantially benefit the program.
- There are no weaknesses or deficiencies.
- The risk of unsuccessful contract performance is extremely low.

Good: A good proposal is characterized as follows:

- The proposed approach indicates a thorough understanding of the program goals and the methods, resources, schedules, and other aspects essential to the performance of the program.
- The proposal has major strengths and/or minor strengths, which indicate the proposed approach, will benefit the program.
- Weaknesses, if any, are minor and are more than offset by strengths.
- Risk of unsuccessful performance is very low.

Satisfactory: A satisfactory proposal is characterized as follows:

- The proposed approach indicates an adequate understanding of the program goals and the methods, resources, schedules, and other aspects essential to the performance of the program.
- There are few, if any, exceptional features to benefit the program.
- The risk of unsuccessful performance is low.
- Weaknesses are generally offset by strengths.

Marginal: A marginal proposal is characterized as follows:

- The proposed approach indicates a superficial or vague understanding of the program goals and the methods, resources, schedules, and other aspects essential to the performance of the program.
- The proposal has weaknesses that are not offset by strengths.
- The risk of unsuccessful contract performance is moderate.

Unsatisfactory: An unsatisfactory proposal is characterized as follows:

- The proposed approach indicates a lack of understanding of the program goals and the methods, resources, schedules, and other aspects essential to the performance of the program.
- Numerous weaknesses and deficiencies exist.
- The risk of unsuccessful performance is high.

The following is a *sample* adjectival rating scale that could be used to evaluate past performance factors and subfactors.

Outstanding -- The offeror's performance of previously awarded relevant contract(s) met contractual requirements and exceeded many to the Government's benefit. The prior performance being assessed was accomplished with very few or very minor problems for which corrective actions taken by or proposed to be taken by the offeror were, or are expected to be highly effective. Performance of completed contracts either was consistently of the highest quality or exhibited a trend of becoming so. The offeror's past performance record leads to an extremely strong expectation of successful performance.

Good -- The offeror's performance of previously awarded relevant contract(s) met contractual requirements and exceeded some to the Government's benefit. The prior performance being assessed was accomplished with some minor problems for which corrective actions taken by or proposed to be taken by the offeror, were, or are expected to be effective. Performance over completed contracts either was consistently of high quality or exhibited a trend of becoming so. The offeror's past performance record leads to a strong expectation of successful performance.

Satisfactory -- The offeror's performance of previously awarded relevant contract(s) met contractual requirements. The prior performance being assessed was accomplished with some problems for which corrective actions taken by, or proposed to be taken by, the contractor were, or are expected to be, for the most part effective. Performance over completed contracts was consistently of adequate or better quality or exhibited a trend of becoming so. The offeror's past performance record leads to an expectation of successful performance.

Neutral -- The offeror lacks a record of relevant or available past performance history. There is no expectation of either successful or unsuccessful performance based on the offeror's past performance record.

Marginal -- The offeror's performance of previously awarded relevant contracts did no meet some contractual requirements. The prior performance being assessed reflected some serious problems, for which the contractor either failed to identify or implement corrective actions in a timely manner, or for which the corrective actions implemented or proposed to be implemented were, or are expected to be, only partially effective. Performance over completed contracts was consistently of mediocre quality or exhibited a trend of becoming so. The offeror's past performance record leads to an expectation that successful performance might be difficult to achieve or that it can occur only with increased levels of Government management and oversight.

Unsatisfactory -- The offeror's performance of previously awarded relevant contract(s) did not meet most contractual requirements and recovery did not occur with the period of performance. The prior performance being assessed reflected serious problem(s) for which the offeror either failed to identify or implement corrective actions or for which

corrective actions, implemented, or proposed to be implemented, were, or are expected to be, mostly ineffective. Performance over completed contracts was consistently of poor quality or exhibited a trend of becoming so. The offeror's past performance record leads to a strong expectation that successful performance will not be achieved or that it can occur only with greatly increased levels of Government management and oversight.

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Appendix P

Interagency Agreements

Information for this Appendix should be taken from the current Acquisition Guide.
Sample IA and Legal Authority.

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Appendix Q

Financial Assistance Transaction/Public Purpose Determination

The Federal Grant and Cooperative Agreement Act of 1977 established criteria for a Federal agency to use to determine whether a transaction is procurement of financial assistance. 10 CFR 600.5 requires that a transaction determination be made for all financial assistance actions. The transaction determination document describes the project and summarizes its importance and benefits to the Government/Public. The document should as a minimum contain:

- Brief description of the public purpose of support or stimulation to be served by the proposed award, and, in non-technical terms, identification of any particular significance or specialized character of the proposed activity to be funded.

- Anticipated type of financial assistance instrument and rational for selection, substantial involvement expected or not expected.

- Description of the nature of the financial assistance to be provided (e.g., basic research, applied research, demonstration project, conference and anticipated cost share percentages).

- How the project will benefit the nation/public, e.g. saving energy, scientific value, increase domestic employment, technology transfer, etc.

- Estimated amount, availability and anticipated term (*number of years/ budget periods*) of the award.

- Specific statutory authority if funds are non-discretionary.

Include the following as the last paragraph:

In accordance with the Federal Grant and Cooperative Agreement Act of 1977, as amended [31 United States Code (U.S.C.) 6301-6306], and with the execution of this determination, it has been established that the principal instant purpose of the proposed transaction is the transfer of money and/or property to directly and instantly accomplish a public purpose of support. This transaction does not involve a procurement whereby the principal purpose of the transaction is the acquisition of supplies and/or services for the direct benefit of the Government. Based on the nature of the program, the appropriate instrument for award of financial assistance is a _____(enter Grant or Cooperative Agreement, as appropriate)

_____ _____

NAME AND TITLE DATE

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Appendix R

Notice of Program Interest

(Executive Summary)

The Notice of Program Interest describes broad, general, technical problems and areas of investigation for which DOE may award grants or cooperative agreements. The notice must include:

- A brief description of the areas of interest for which DOE may provide financial assistance;
- Nature of the financial assistance being proposed (e.g. basic research, applied research or product demonstration etc.);
- A statement about how resulting applications will be evaluated and the criteria for selection and funding;
- An expiration date with an explanation that such a date does not represent a common deadline for applications but rather that applications may be submitted at any time before the notice expires; and
- The location for application submission.

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Appendix S

Financial Assistance Announcement of Selection of Applicant (s) Checklist

1. **Confirmation Of Completion of Selection Paperwork** -- Prior to scheduling of any announcement, the program representative (Taskforce member, Office Director, other designee) should contact the appropriate supporting Contracting Officer and confirm that all necessary selection paperwork has been completed. This paperwork should include the basic paperwork identified in appropriate checklist and selection plan as well as a prioritized listing of applications for processing (rank the applications in considerations, such as the date of an upcoming workshop requiring fast-track processing.

2. **Completion of Rejections Letters** -- At least 48 hours before the planned announcement, the program representative should E-mail copies of all draft rejection letters to the supporting Contracting Officer for signature.

3. **Designation of Any Necessary Secretarial Notifications** -- Notify your appropriate point of contact in the Office of Congressional and Intergovernmental Affairs of the planned announcement of the intended award(s). The program representative should receive a response within 36 hours whether the Secretary, Deputy Secretary or Under Secretary desires to make any of the notification calls.

4. **Identification of Any Press Sensitiveities** -- Notify your appropriate point of contact in the Office of Procurement Budget and Management Office of Outreach of the planned announcement. The program representative should be notified within 36 hours whether the planned announcement should be coordinated or integrated with any upcoming EE events and whether any Wednesday news brief or press release is necessary.

5. **Notification to Directors or Deputy Directors of Regional Support Offices** – Program representatives will notify Regional Support Office Directors or Deputy Directors immediately prior to Congressional notifications.

6. **Notifications to Senior Officials of Selected Organizations** -- Personal calls by the Office of the Assistant Secretary and the Deputy Assistant Secretary will be made at least three hours following the Congressional notifications. (Thus, if the Congressional notifications are made by mid-morning, the applicant notifications can be made by the afternoon).

7. **Notification of Administrative Contracts at Selected Organizations** -- Following the completion of personal calls to the senior officials in the selected organization, the program representative shall contact the supporting Contracting Officer, who will direct the contracting staff to notify the administrative contact at the selected organizations. In these calls, the DOE contracting staff will indicate the expected timetable for completion of the actual award.

8. **Mailing of Rejection Letter** – The supporting Contracting Officer should send the rejection letters on the same day that notifications are made to successful applicants.

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Appendix T

Nomination/Certification of Contracting Officer Representative

(*Enter name and grade of nominee*) _____, who occupies the position of _____at _____ _____(*enter activity*), is hereby nominated to serve as the contracting officer's representative (COR) on the (enter contract, cooperative agreement or *grant)* _____*which may result from this requirement. (Enter the proposed solicitation number if known or the contract, cooperative agreement or grant instrument number if nominating a COR after award*.)

I hereby certify that this nominee, by virtue of his/her education, experience and/or achievements, is qualified to act as a Contracting Officer's Representative (COR) and will be available during the base/budget period of the contract, cooperative agreement or grant. I further certify that this individual meets the requirements set forth in DOE Order 541.1A Appointment of Contracting Officers and Contracting Officer Representatives and the DOE Acquisition Guide, Chapter 1. I finally certify that I am authorized to make such certification by being at least one level above the COR or designee.

_____

(TYPE NAME AND TITLE OF NOMINATOR) DATE

_____

SIGNATURE OF NOMINATOR

Note: Nominees are required to file a Confidential Financial Disclosure Report (SF450) upon being nominated. DOE Order 541.1A paragraph 4d.

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Appendix U

EERE Unsolicited Proposals Evaluation Process

Background and Purpose. The Competition in Contracting Act requires full and open competition for acquisition actions except in limited circumstances. Similarly, the Department of Energy (DOE) Financial Assistance Regulations (10 CFR 600.6) requires the competitive award of grants and cooperative agreements to the maximum extent in competitive solicitations. There are, however, unsolicited proposals that may merit funding through non-competitive means. These procedures will address the appropriate processing of unsolicited proposals that have been determined to possess sufficient merit to be considered for non-competitive financial assistance.

Submission of An Unsolicited Proposal. The Office of Energy Efficiency and Renewable Energy (EERE) encourages the submission of unsolicited proposals that will contribute to its mission objectives. We consider proposals in all areas of energy efficiency and renewable energy related research and development with emphasis on long-term, high-risk, high-payoff technologies. An unsolicited proposal may be accepted by EERE if it:

- Demonstrates a unique and innovative concept;
- Demonstrates a unique capability of the submitter;
- Offers a concept or service not otherwise available to the Government; and,
- Does not resemble the substance of a pending competitive action.

The unsolicited proposal is the document intended to persuade the staff of EERE, and possibly other qualified members of the scientific and engineering community who review and advise on the proposed work, that the project represents a worthwhile approach to the investigation of an important, timely problem. Each proposal should be self-contained and written with clarity and thoroughness.

In the unsolicited proposal, the proposer must present objectives and the pertinence of the proposed work to DOE, the rationale of the approach, the methods to be pursued, the qualifications of the investigators and the institution, if applicable, and the level of funding required to attain the objectives.

A program office may encourage researchers to submit unsolicited proposals by issuing a Notice of Program Interest (NOPI). A NOPI provides general, broad information about the particular DOE program interest in obtaining research applicable to general problem areas or program objectives. These are not formal solicitations. A NOPI is a communication device which informs and helps potential interested proposers to focus on broad areas where submission of an unsolicited proposal may be mutually beneficial to both DOE and the proposer.

Presubmission Discussions. EERE is not responsible for costs incurred in the preparation of proposals. Therefore, EERE encourages potential proposers to consult with program personnel before expending resources in the development or writing of unsolicited proposals.
The proposer may inquire informally prior to the formal submission of the proposal as to the possible interest of DOE in the research and development area involved. Interested parties are urged to discuss the proposed project informally by letter, telephone, or personal visit with the DOE Headquarters Program Office which has the greatest interest in the work. Presubmission discussions with prospective submitters must be limited to discussions of the DOE mission and needs relative to the type of effort contemplated by the submitter. The purpose of any such presubmission discussions is to establish that the contemplated submission has the potential to meet the Department's mission and program needs, reduce paperwork, and save considerable time and effort for the submitter and the Department.

Should a proposer need assistance in locating the appropriate DOE office that has programmatic responsibility for a particular area of research, and an EERE contact is unable to direct that inquiry, he/she should contact:

Unsolicited Proposal Manager
U.S. Department of Energy
National Energy Technology Laboratory
P. O. Box 10940, MS 921-107
Pittsburgh, PA 15236
Telephone (412) 386-4524
Facsimile No.: 412-386-6137
e-mail: john.augustine@fetc.doe.gov

Note: Offerors must be cautioned that such meetings with EERE are only informal discussions and in no way will be considered to provide authorization to perform work at EERE expense in anticipation of an acquisition/assistance award. The transmittal letter accompanying the formal proposal should include the name(s) of the EERE staff with whom the proposer had preliminary discussions on the proposed work.

When To Submit. There are no specific dates for the submission of unsolicited proposals. However, because a comprehensive review is required before a proposal can be acted upon, new proposals should be submitted as early as possible, usually six months in advance of the desired beginning of support. Receipt of proposals will be acknowledged and the proposer will be notified when a decision is made on the proposal. If a proposer wishes to have a proposal withdrawn from consideration, he/she should promptly notify EERE in writing.

It is the policy of EERE to evaluate each proposal fairly and objectively, and to process proposals expeditiously and, where practicable, to keep proposers advised as decisions are made.

Receipt and Handling of Unsolicited Proposals. *Unsolicited proposals should be submitted directly to the DOE Unsolicited Proposals Coordinator.* The Unsolicited Proposals Coordinator for DOE is Mr. John Augustine of the National Energy Technology Laboratory (NETL). Mr. Augustine may be contacted at the previously listed address and telephone number.

When NETL (e.g. DOE's Unsolicited Proposals Coordinator) receives an unsolicited proposal from EERE, they are responsible to:

- Conduct the initial analysis of the proposal;
- Assign the unsolicited proposal to the appropriate program office for review;
- Acknowledge receipt of the unsolicited proposal within 5 working days;
- Assign a proposal number;
- Enter the proposal into DOE's System for Proposal Information (SPIN); and,
- Forward the unsolicited proposal to the appropriate Headquarters Program Unsolicited Proposals Liaison Officer within five working days, who will forward the proposal to the assigned program reviewer.

However, unsolicited proposals are often submitted directly to EERE, and often to a program office. When this occurs, DOE regulations require that upon receipt of an unsolicited proposal, the Program Unsolicited Proposals Liaison Officer shall promptly forward the proposals with a letter of transmittal to the Unsolicited Proposals Coordinator. The Program Unsolicited Proposals Liaison Officer for EERE is LaTonya Poole of the Field Management and Operations organization (EE 3.2).

Unsolicited Proposal Point of Contact. EERE sectors are required to designate a single representative to coordinate receipt and handling of unsolicited proposals. Sector representatives need to coordinate the receipt and handling of an unsolicited proposal directly with the Program Unsolicited Proposals Liaison Officer.

For additional information, NETL maintains the DOE Guide for Submission of Unsolicited Proposals on their website. This information provides DOE stakeholders with current information about how to submit an unsolicited proposal.

USP Liaison Officer Responsibilities.

- Upon receipt of the unsolicited proposal from NETL, forward the proposal to the appropriate program reviewer for action, and copy the sector representative.
- Ensure program reviewing officials determine USPs comply with the requirements pecified in FAR parts 15.606-1, 15.609(f)(3), 15.609(g), and 15.609(h)(2) and all subsequent reviews comply with the applicable rules and regulations.

- Forward USPs to reviewers within the program office (program reviewing officials) for preliminary review to determine whether further consideration is warranted.
- Notify the USP manager by memorandum, within 5 business days of receipt of a USP, of the identity of the program reviewing official assigned the proposal.
- Notify the USP manager of the results of the preliminary reviews within 20 business days after receipt of proposals by program reviewing officers.
- Ensure that written permission is obtained from USP submitter prior to having non federal government personnel review perform the preliminary or merit review if the USP is received without any restrictive legend.

Preliminary Screening of Unsolicited Proposals. The program reviewer will first determine if the work scope of the proposal has any relevance to the programmatic interests of their sector, as well as the programmatic interests of any other DOE offices. If the scope of the proposal has no relevance to the programmatic interests of their sector, but does have relevance to the programmatic interests of another DOE office, the program reviewer will coordinate the reassignment of the proposal to another office through the program Unsolicited Proposals Liaison Officer. If the work scope of the proposal has relevance to the programmatic interests of the sector, and other DOE offices, the program reviewer will coordinate the preliminary review of the proposal with the other offices. The program reviewer will perform a preliminary review to determine if there are any immediately identifiable impediments that would prevent the proposal from being funded, such as

- Lack of programmatic interest or failure to contribute to the agency's or activity's mission [FAR, parts 15.606-2(a)(3) and 15.607(a)(3)];
- Failure to demonstrate a unique, innovative, or meritorious idea,
- Method, or approach [FAR, parts 15.606-2(a)(1) and 15.607(a)(4)and 10 CFR 600.6(c)(7)];
- Lack of funds for support [FAR, part 15.607(b)(3)];
- Availability to the Government without restriction from another source [FAR, part 15.607(a)(1)]; and
- Close resemblance to a recent, current, or planned solicitation or program opportunity notice [FAR, part 15.607(a)(2)].
- Lack of sufficient detail to permit adequate technical or budgetary evaluation.

The preliminary review must be completed in 20 business days.

Review and Evaluation. If the program reviewer determines that the unsolicited proposal can be supported, the program reviewer will first determine if the principal purpose of the proposal is one of acquisition or financial assistance. A financial assistance instrument will be used as the award instrument whenever the principal purpose is to accomplish a public purpose of support or stimulation involvement is anticipated between DOE and the recipient during performance of the activity.

Financial Assistance. If the program reviewer determines that a financial assistance instrument is applicable, the program reviewer will complete a draft Determination of Non-Competitive Financial Assistance (DNFA) for the proposal. Guidance and format of a DNFA are contained in Appendix C The DNFA needs to specifically cite the applicable exception cited in 10 CFR 600.6(c)(7) and the associated rationale that supports a non-competitive award.

A cooperative agreement will be used whenever substantial involvement is anticipated between DOE and the recipient during performance of the activity. If a cooperative agreement is to be used, the program reviewer will prepare an explicit statement of the nature, character, and extent of anticipated DOE involvement (see Appendix I Determination of Substantial Involvement). The program reviewer also will prepare the draft fund transfer or procurement requests, as applicable. When funds from multiple programs are to be used, the program reviewer will provide statements that demonstrate the linkage of the scope of work to the appropriated intent for each funding source that will be used.

Acquisition. If the program reviewer determines that a procurement contract is applicable, the program reviewer will complete a draft Justification for Other Than Full and Open Competition (Appendix B) for the proposal. The justification needs to specifically cite the applicable exception cited in FAR 6.302-1(a)(2)(i) and associated rationale that supports a non-competitive awards.

When a program reviewer has determined that an unsolicited proposal can be supported, the program reviewer will submit a request for a merit review through his/her supervisor to the Deputy Assistant Secretary (DAS) of his/her sector. This request will enclose all supporting documentation, including the draft DNFA or JFOC, the scope of work including any supplementary information provided by the applicant, a justification statement if a cooperative agreement is to be used, and a draft fund transfer/procurement request.

DAS Determination to Conduct Merit Review.

If the DAS determines that insufficient information has been provided to support a merit review of the unsolicited proposal, the information package will be returned to the program reviewer along with a list of any deficiencies or concerns. The program reviewer will then address these deficiencies or concerns to determine if they can be corrected and the package resubmitted for a merit review.

If the DAS determines that the proposal is worthy of further consideration, the DAS will select three members (one will be designated the chairperson) from the sector merit review pool to conduct a merit review. The Merit Review process described in Chapter 5 will be followed with minor exceptions. Members will be selected based on criteria in Chapter 5.

Merit Reviewers, Conflict-of-Interest/Confidentiality Requirements. Each selected reviewer will complete a Conflict of Interest/ Non Disclosure Certificate as described in Chapter 3.

Merit Review, Evaluation Criteria. The Unsolicited Proposal Evaluation Form (Attachment A) will be used to evaluate all unsolicited proposals.

Conduct of Merit Review.

The merit review chairperson will ensure that each member has signed a copy of the Conflict-of-Interest/Non-Disclosure Certificate. The merit review chairperson will then distribute to the merit reviewers the pertinent information provided by the program reviewer to the DAS (the draft DNFA, the scope of work including supplementary information provided by the applicant, the evaluation criteria; and the merit review procedures, as contained in this document. Each merit reviewer will review the evaluation criteria and merit review procedures. Each merit reviewer will then independently review and evaluate the information provided for the project and apply the evaluation criteria and rating scale. Each merit reviewer will independently prepare comments on the merits of the application in accordance with the evaluation criteria and provide an evaluation score using the evaluation criteria and the rating scale. This will result in each merit reviewer having completed a merit review form prior to the merit review meeting.

At the merit review meeting, the chairperson will call on each merit reviewer to present their merit review forms and then initiate discussion. The primary purpose of the discussion phase will be to reach consensus on a recommendation to fund the proposal in whole or in part. This will result in the preparation of a merit review summary statement by the merit review chairperson. On the form in Attachment H, the merit review chairperson will enter the individual ratings of each reviewer and the average of these ratings. A secondary purpose of the merit review committee will be to provide suggested revisions, if required, to the draft DNFA. These suggestions will be provided to the program reviewer. The merit review chairperson will then schedule a meeting with the DAS, who is the selection official, to share all of the information on the application and its merit review.

Unsolicited Proposal Rejection. If the selection official does not approve the application for a non-competitive award, a rationale will be provided. In this case, the merit review chairperson will draft a letter from the selection official to the applicant stating the reason why the application was not approved for award to include (if applicable): (See sample letter at Attachment B.)

- The current or planned solicitation or notice and access information,
- That the proposer will be added to a source list for information on how to access any program's business alert registration, and

- That a proposal or application may be submitted in accordance with the requirements of the competitive solicitation or notice.

The USP program liaison officer must ensure that the following actions are completed:

- Obtain a declination letter setting forth the rationale for rejection from the program reviewing official, and mail it to the submitter.
- Submit a copy of the signed declination letter to the USP manager within 5 business days of the date of the letter.
- Promptly return all copies of the proposal when the proposal resembles, in substance, that of a current or planned competitive solicitation or program opportunity notice.

Unsolicited Proposal Acceptance. If the selection official approves the application for a non-competitive award, the merit review chairperson will prepare a draft selection statement for the selection official signature. The program reviewer will send a revised DNFA or JFOC to the Contracting Officer for review. The program reviewer also will manage the timely processing of a fund transfer or procurement request-authorization for this application. When funds from multiple programs are to be used, the program reviewer will provide statements that demonstrate the linkage of the scope of work to the appropriated intent for each funding source that will be used. These statements will accompany the fund transfer or procurement request package. The program reviewer will provide any additional assistance that the Contracting Officer requires to make an award. The USP program liaison officer must forward a copy of the approved Procurement Request-Authorization (USP number annotated); the procurement office information (i.e., contact name, location, and telephone number); and a copy of the determination or justification for noncompetitive award to the USP manager.

If a proposal has undergone a comprehensive merit review, a final decision must be reached within 90 days after the proposal's receipt by the USP program liaison officer. If a final decision has not been made by that time, a 90 day delinquent report, specifying the status of the review and an expected final decision date, will be forwarded to the USP manager by the USP program liaison officer.

No negotiations should be held with the proposal until a proposal is accepted. The contracting officer in the cognizant procurement office is responsible for directing negotiations to begin at the appropriate time.

References.
FAR Subpart 15.6 Unsolicited Proposals
DEAR, 915.6 Unsolicited Proposals
10 CFR 600.6(c)(7)
DOE O 542.1, Competition in Contracting
DOE Acquisition Guide, Chapter 15
DOE Merit Review Guide for Financial Assistance and Unsolicited Proposals,

Attachment A

Evaluation Form for Unsolicited Proposals

Application/Proposal No:
Applicant:
Project Title:

Evaluation Criteria

- **Significance:** The extent to which the project, if successfully carried out, will make an original and/or important contribution to the field of endeavor (weight of 40 %, 200 maximum evaluation points).

- **Approach:** The extent to which the concept, design, methods, analyses, and technologies are properly developed, well-integrated, and appropriate to the aims of the project (weight of 30%, 150 maximum evaluations points).

- **Feasibility:** The likelihood that the proposed work can be accomplished within the proposed budget by the investigators or the technical staff, given their experience and expertise, past progress, available resources, institutional/organizational commitment, and (if appropriate) access to technologies. Note any unusually high or low cost-effectiveness (weight of 30%, 150 maximum evaluation points)

Narrative Critique: Provide written comments for each of the evaluation criterion on a separate sheet/sheets. Your specific comments on the proposal's strengths and weaknesses with respect to the evaluation criteria are critical to the evaluation process.

Rating Scale: Assign a single rating that reflects the overall merit of the application/proposal based on your consideration of the three evaluation criteria. Check one:

	Rating	Adjective	Definition
_____	5	Excellent	Outstanding application/proposal in all respects; deserves highest priority for support.
_____	4	Very Good	High quality application/proposal in nearly all respects; should be supported if at all possible.
_____	3	Good	A quality application/proposal; worthy of support.
_____	2	Fair	Application/proposal lacking in one or more critical aspects; key issues were not addressed.

_____	1	Poor	Application/proposal has serious deficiencies.
_____	0	Unacceptable	Application/proposal has no merit.

Special Note: If appropriate, provide comments below or on a separate sheet on aspects of the proposal that fall outside of the evaluation criteria review (e.g., environmental or human subjects concerns). Special Note Comments attached: _____Yes _____No

Recommendation: Check one.

_____ Fund project.
_____ Fund in part (Describe which part)

_____ Reject
_____ Other (Explain)

Reviewer:

Name:
E-mail Address:
Phone:

Signature _____ Date: _____

Attachment B

Dear Mr. John Smith
ABC Company
Street
City, State zipcode

Dear Mr. Smith:

Thank you for your unsolicited proposal, “ ”, which was submitted as an attachment to your letter dated xx/xx/xxx.

We have completed our preliminary review of your proposal. The purpose of the preliminary review of an unsolicited proposal is to determine if there are any immediately identifiable impediments that would prevent the proposal from being funded, such as lack of programmatic interest; failure to demonstrate a unique or innovative method, approach, or idea; lack of funds; substantial duplication of known research; or a recent, current, or planned solicitation or program opportunity notice. Unfortunately, we will not be able to fund your proposal because _____.

The _____ program, like other programs in the Office of _____, receives annual appropriations for specific research and development activities. Enclosed is information on these activities (attach program overview, program plan, etc). Some of the work is implemented at the national laboratories. Some of the activities also are implemented through contracts or financial assistance. To the maximum extent feasible, competitive solicitations are issued when contracts or financial assistance instruments are used. In order to receive best value, we encourage all interested parties to submit proposals for our competitive solicitations. Since you have an interest in submitting proposals for __, we are suggesting the enclosed sources of information about our solicitations. In addition, you can contact _____ (Provide national lab project managers and/or Headquarters program manager names and phone numbers).

We appreciate your interest in _____.