

U.S. Department of Energy
Washington, D.C.

ORDER

DOE O 542.2

Approved: 10-28-96
Sunset Review: 10-28-98
Expires: 10-28-00

SUBJECT: UNSOLICITED PROPOSALS

1. OBJECTIVES.

- a. To set forth Department of Energy (DOE) requirements for the receipt, processing, and review of unsolicited proposals.
- b. To ensure proposal submitters are notified in a timely manner of the status (e.g., funded or declined) of their proposals or applications.

2. CANCELLATION. The Order listed below is canceled. Cancellation of an Order does not, by itself, modify or otherwise affect the contractual obligation to comply with such an Order. A canceled Order incorporated by reference in a contract shall remain in effect until the contract is modified to delete the reference to the requirements in the canceled Order.

DOE 4210.9A, UNSOLICITED PROPOSALS, of 1-6-96

3. APPLICABILITY.

- a. DOE Elements. Except for the exclusions in paragraph 3c, the provisions of this Order apply to all Department of Energy Elements receiving unsolicited proposals for the purpose of obtaining a contract or financial assistance from the Department or submitted in response to a notice of program interest, as defined in the Department of Energy Acquisition Regulation (DEAR), subpart 915.504.
- b. Contractors. This Order does not apply to contractors.
- c. Exclusions. The provisions of this Order do not apply to:
 - (1) proposals or applications submitted in response to invitations for bids, requests for proposals, requests for quotations, program opportunity notices, program research and development announcements, research

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opportunity announcements, program rules, solicitations for cooperative agreement proposals, or solicitations with a common cutoff date for submissions and under which the submissions are evaluated concurrently;

- (2) communications titled "proposal" that are in fact clearly advertising material, commercial product offers, contributions, technical correspondence, and suggestions;
- (3) unsolicited proposals submitted to the Power Marketing Administrations or the Office of Naval Reactors.

4. **REQUIREMENTS.**

- a. Nondisclosure of Information. DOE personnel shall not disclose restricted information included in any unsolicited proposal. The disclosure of such information concerning trade secrets, processes, operations, style of work, apparatus, and other matters, except as authorized, may result in criminal penalties under 18 United States Code 1905.
- b. Presubmission Discussions.
 - (1) Presubmission discussions with a prospective submitter shall be limited to a discussion of the DOE mission and needs relative to the type of effort contemplated.
 - (2) Advance discussions with potential submitters shall not encourage or otherwise authorize the submitter to perform any work at DOE expense in anticipation of award.
- c. Unsolicited Proposal Control.
 - (1) Except for classified unsolicited proposals and fossil energy related proposals received and controlled by the Pittsburgh Energy Technology Center, all unsolicited proposals shall be sent to the Unsolicited Proposals Coordinator in the Office of Clearance and Support.
 - (2) The Unsolicited Proposals Coordinator shall take the following actions upon receipt of unsolicited submissions.
 - (a) Acknowledge receipt of the proposal to the outside submitter.

- (b) Enter information pertaining to the proposal and the submitter into the System for Proposal Information Network (SPIN) within 5 days of receipt.
 - (c) Forward the proposal to the appropriate program office.
 - (3) The Deputy Assistant Secretary for Procurement and Assistance Management, through the Director, Office of Clearance and Support, shall inform submitters of which program office has been assigned to review their proposals.
 - (4) The Office of Nonproliferation and National Security shall, upon receipt of a classified unsolicited proposal (e.g., SECRET), submit to the Unsolicited Proposals Coordinator:
 - (a) a written report of receipt,
 - (b) an unclassified summary of the proposal, and
 - (c) a statement of disposition.
 - (5) Program offices shall maintain adequate records, in accordance with DOE 1324.5B, RECORDS MANAGEMENT PROGRAM, to respond to subsequent inquiries regarding the basis for the decision to support or not support an unsolicited proposal.
 - (6) The Unsolicited Proposals Coordinator shall prepare a monthly report using SPIN data and provide it to each program office assigned an unsolicited proposal. Program offices shall review these reports to ensure they accurately reflect the status of the proposal.
- d. Unsolicited Proposal Processing and Evaluation.
 - (1) The Unsolicited Proposals Coordinator shall send letters of acknowledgment to members of Congress who forward unsolicited proposals to DOE. The Unsolicited Proposals Coordinator shall send all such letters to the Executive Secretariat for Congressional and Intergovernmental Affairs for concurrence and mailing.
 - (2) Within 5 days of receipt, the Unsolicited Proposals Coordinator shall

review unsolicited proposals to ensure they comply with the FAR, subpart 15.505.

- (3) The Unsolicited Proposal Liaison Officer within the program office shall receive unsolicited proposals from the Unsolicited Proposal Coordinator. The Unsolicited Proposal Liaison Officer shall ensure the proposal complies with the requirements specified in Federal Acquisition Regulation (FAR), subparts 15.506-1, 5.509-1, 15.509(c), and 15.509(d).
- (4) Preliminary Review.
 - (a) The Unsolicited Proposal Liaison Officer shall forward the proposal to a reviewer within the program office for a preliminary review to determine if further consideration of the proposal is warranted. Preliminary review should include an assessment of whether there are any impediments to a noncompetitive award, such as:
 - 1 lack of programmatic interest;
 - 2 failure to demonstrate a unique or innovative method, approach, or idea;
 - 3 lack of funds for support;
 - 4 substantial duplication of known research; and
 - 5 recent, current, or planned solicitation or program opportunity notice.
 - (b) Submitters shall be notified by the program office of the results of the preliminary review within 30 days after receipt of the submission. After the 31st day, if the program office has not responded to the submitter, the Unsolicited Proposals Coordinator shall notify the submitter that the program office does not have any interest in the proposal, unless the program office requests an extension of the 30-day preliminary review period.
- (5) Completion of Unsolicited Proposal Evaluation. Proposals not rejected as a result of the preliminary review shall be given a comprehensive

evaluation. Once the program office completes its evaluation of an unsolicited proposal, it must determine whether the proposal should be rejected or noncompetitively awarded. If the program office determines that it can be noncompetitively awarded, the Program Unsolicited Proposals Liaison Officer shall complete the following actions:

- (a) Prepare an adequate written record justifying the decision to fund or not fund a specific proposal.
- (b) Prepare the justification of acceptance in accordance with the Manual for the Processing of Unsolicited Proposals and in accordance with the requirements of:
 - 1 the FAR, subpart 15.5,
 - 2 the DEAR, subpart 915.5; and
 - 3 10 CFR Part 600.6(d), "Approval requirements."

Heads of Departmental Elements shall concur in and approve justifications for acceptance of unsolicited proposals.

- (c) Append to the procurement request the approved written justification addressing each of the evaluation factors.
- (d) Forward proposals selected for support, with supporting documentation, to the appropriate procurement office for award.

If the program office decides to reject the proposal, the Program Unsolicited Proposals Liaison Officer shall complete the following actions:

- (e) Prepare a declination letter to the submitter that sets forth the basis of rejection and obtain the signature of the responsible program official or designee.
- (f) Promptly return all copies of the proposal when the proposal resembles, in substance, that of an intended formal competitive solicitation or program opportunity notice. The submitter will be advised of:
 - 1 the potential solicitation,

- 2 that the submitter will be added to the source list,
- 3 that the proposal may be resubmitted in accordance with the requirements of the competitive announcement.

The Program Unsolicited Proposals Liaison Officer shall forward a copy of each disposition action and acceptance/declination letter to the Unsolicited Proposals Coordinator.

- (6) The Unsolicited Proposals Coordinator enters each disposition decision into SPIN within 5 working days of receipt.
- (7) Proposal reports shall be completed and a decision reached within 6 months after the proposal's receipt. If a final decision has not been made by that time, a 6-month report, specifying the status of the review and an expected final decision date, will be forwarded to the submitter by the program office.
- (8) Unless the program office has requested an extension of the review period, if a final decision has not been made within 12 months of receipt of the proposal, the Unsolicited Proposals Coordinator will notify the submitter that the program office does not have any interest in the proposal. This action will be taken after coordination with the program office.

5. **RESPONSIBILITIES.**

- a. Deputy Assistant Secretary for Procurement and Assistance Management, through the Director, Office of Clearance and Support.
 - (1) Manages the SPIN and monitors its compliance with this Order.
 - (2) Receives, acknowledges, assigns, and monitors the progress of unsolicited proposals forwarded to the Department of Energy for evaluation.
 - (3) Issues Departmental policy on unsolicited proposal procedures, their submission, evaluation, and disposition.
 - (4) Provides training or other assistance to Departmental Elements upon request.

- (5) Serves as the Department's focal point of contact on unsolicited proposals.
- (6) Provides monthly reports to affected Departmental Elements.
- (7) Appoints an Unsolicited Proposals Coordinator.

b. Unsolicited Proposals Coordinator.

- (1) Maintains centralized control of program office review, tracking, and reporting of unsolicited proposals.
- (2) Maintains a listing of:
 - (a) all contact points; and
 - (b) program office representatives empowered to speak for programmatic interests.

c. Heads of Departmental elements.

- (1) Ensure timely and accurate reporting to Unsolicited Proposals Coordinator on status of proposal evaluations.
- (2) Provide for the adequate and proper maintenance of records.
- (3) Develop detailed procedures for the timely and fair handling and review of unsolicited proposals.
- (4) Appoint an individual (or individuals) to provide unsolicited proposal liaison with the responsible procurement organization.

d. Program offices shall appoint an individual (or individuals) to act as Unsolicited Proposal Liaison Officer.

6. **REFERENCES.**

- a. Federal Acquisition Regulation (FAR), subpart 15.5, covers unsolicited proposals.
- b. Department of Energy Acquisition Regulation (DEAR), subpart 915.5, covers unsolicited proposals, and section 915.504, covers notices of program interest.

- c. Title 10 CFR, Part 600, Department of Energy (DOE) Financial Assistance Rules, section 600.6, cover unsolicited applications, and section 600.9, covers notices of program interest.
 - d. DOE 4200.1C, COMPETITION IN CONTRACTING, of 1-9-87, establishes policies and procedures to ensure that Departmental competitive contract procedures conform to the requirements of the Competition in Contracting Act.
 - e. Manual for Processing Unsolicited Proposals Submitted to the Department of Energy.
7. **CONTACT.** Questions concerning this Order should be referred to the Deputy Assistant Secretary for Procurement and Assistance Management, Office of Clearance and Support, at (202) 586-9065.

BY ORDER OF THE SECRETARY OF ENERGY:



ARCHER L. DURHAM
Assistant Secretary for
Human Resources and Administration