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MANUAL FOR PROCESSING UNSOLICITED PROPOSALS



U.S. DEPARTMENT OF ENERGY

Deputy Assistant Secretary for Procurement and Assistance Management

Distribution:
All Departmental Elements

Initiated By:
Office of Clearance and Support

**MANUAL FOR PROCESSING UNSOLICITED PROPOSALS
SUBMITTED TO THE DEPARTMENT OF ENERGY**

1. PURPOSE. This Manual provides detailed requirements to supplement DOE O 542.2, UNSOLICITED PROPOSALS, of 10-28-96, which establishes the requirements for receipt, processing, and review of unsolicited proposals, and general requirements to evaluate the submitted proposals.
2. SUMMARY. This Manual is composed of two chapters. Chapter I contains detailed procedures for handling and controlling unsolicited proposals submitted to the Department. Chapter II contains requirements for evaluating the unsolicited proposals and criteria for determining whether the proposal is to be one of acquisition or assistance.
3. REFERENCES. DOE O 542.2, UNSOLICITED PROPOSALS, 10-28-96.
4. CONTACT. Questions concerning this Manual should be referred to the Office of Clearance and Support, (202) 586-9065.

BY ORDER OF THE SECRETARY OF ENERGY:



ARCHER L. DURHAM
Assistant Secretary for
Human Resources and Administration

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CHAPTER I

HANDLING PROCEDURES

1. RECEIPT OF PROPOSALS. Department of Energy (DOE) elements that receive unsolicited proposals that must be submitted to the Unsolicited Proposals Coordinator, as required by DOE O 542.2, shall promptly forward the proposals with a letter of transmittal, via the element's Program Unsolicited Proposals Liaison Officer.
2. INITIAL ANALYSIS AND CONTROL NUMBER ASSIGNMENT.
 - a. The Unsolicited Proposals Coordinator will conduct the initial analysis of the proposal and, according to the research and programmatic objectives proposed, will assign it to the appropriate program or staff office for review. The Unsolicited Proposals Coordinator will acknowledge receipt within 5 working days after receipt of the submission and inform the submitter which program office has been assigned the responsibility for conducting the programmatic review of the proposal. The Unsolicited Proposals Coordinator will assign a proposal number and enter the proposal into the DOE System for Proposal Information Network (SPIN).
 - b. Within 5 working days after receipt of the proposal, the Unsolicited Proposals Coordinator will forward proposals to the Headquarters Program Unsolicited Proposals Liaison Officer designated by each office. This Headquarters Program Unsolicited Proposals Liaison Officer shall forward the proposal to the assigned reviewer within 2 working days of receipt in the program office.
3. PROPRIETARY INFORMATION. In order that proposals may be handled in confidence consistent with Department of Energy Acquisition Regulation (DEAR), Federal Acquisition Regulation (FAR), and Title 10 Code of Federal Regulation (CFR) Part 600, the notice contained in Attachment I-1 of this Manual shall be affixed to each proposal upon receipt by DOE and to any reproduction or abstract thereof. The notice contained in Attachment I-2 shall be affixed to all unsolicited proposals in DOE custody that contain data that has been designated with a restrictive legend identifying it as proprietary information.
4. PRELIMINARY REVIEW. The 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; 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. The reviewer will notify the submitter within 30 calendar days if the submission qualifies as an unsolicited proposal, with a copy of the notification provided to the Headquarters Program Unsolicited Proposals Liaison Officer who will forward the information to the Unsolicited Proposals Coordinator. 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. MULTIPLE REVIEWING OFFICES. When a proposal is sent to more than one office by the Unsolicited Proposals Coordinator, the first program office listed on the DOE cover sheet shall be designated the principal reviewer having the responsibility for responding to the submitter and providing status to the Unsolicited Proposals Coordinator. Subsequently listed reviewers are designated as co-reviewers. Any response a co-reviewer desires to make to the proposer should be coordinated with the principal reviewer. The co-reviewers have the responsibility for notifying the principal reviewer within 21 calendar days after receipt of a proposal of any potential interest or action on their part with respect to such proposal. After 21 days, the principal reviewer may take independent action on the proposal if notice has not been received from co-reviewers of potential interest or action on their part. Where such notice of potential interest has been received, the principal reviewer's action should be coordinated with the interested co-reviewers. The designated principal reviewer responsibility may be transferred to a co-reviewer if agreed to by the principal reviewer and the co-reviewer, as described in Paragraph 6 below.
6. TRANSFER TO ANOTHER OFFICE. To transfer a proposal and its review responsibility from the assigned reviewing office to another office, the individual to whom the proposal was originally assigned shall prepare a memorandum to the individual to whom the proposal is being transferred, indicating the Unsolicited Proposal Number, submitter, reason the proposal is being transferred, and other pertinent information. No transfer of a proposal shall occur without prior discussions and concurrence between the originally assigned office and the office to which the proposal is being transferred. A copy of such memorandum shall be provided to the Unsolicited Proposals Coordinator through the Headquarters Program Unsolicited Proposals Liaison Officer. In the event that a proposal must be reassigned to ensure proper review, it is essential that such transfer be effected immediately since the period for completion of review, 6 months, begins with receipt of the proposal in the Department and does not restart upon transfer.
7. COMPLETED EVALUATION. When the evaluation is completed and it is determined that the proposal will be supported or not supported, the responsible program official or designee will promptly notify the Unsolicited Proposals Coordinator of intended disposition. If the proposal is to be declined, the responsible program official shall prepare a letter informing the submitter, with a copy to the Unsolicited Proposals Coordinator through the Headquarters Program Unsolicited Proposals Liaison Officer, of the reason for declination. If the determination is made that the proposal will be supported, a copy of the approved procurement request, with the unsolicited proposal number annotated, shall be provided to the Unsolicited Proposals Coordinator through the Headquarters Program Unsolicited Proposals Liaison Officer. Evaluation and disposition of all unsolicited proposals should be accomplished within 6 months of receipt of the completed unsolicited proposal. 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.
8. STATUS INQUIRIES. The Unsolicited Proposals Coordinator will not respond directly

to inquiries regarding the status of unsolicited proposals. Inquiries on proposals received by DOE will be referred for response to the office assigned the review function.

ATTACHMENT I-1

**UNSOLICITED PROPOSAL
USE OF DATA LIMITED**

All Government and non-Government personnel must exercise extreme care to ensure that the information in this proposal is not disclosed to an individual who has not been authorized access to such data in accordance with Federal Acquisition Regulation 3.104, and is not duplicated, used or disclosed in whole or in part for any purpose other than evaluation of the proposal, without the written permission of the offeror. If a contract is awarded on the basis of this proposal, the terms of the contract shall control disclosure and use.

This notice does not limit the Government's right to use information contained in the proposal if it is obtainable from another source without restriction.

This is a Government notice, and shall not by itself be construed to impose any liability upon the Government or Government personnel for disclosure or use of data contained in this proposal.

ATTACHMENT I-2

NONDISCLOSURE OF DATA

DOE personnel shall not disclose restrictive 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 by law, may result in criminal penalties under 18 U.S.C. 1905.

CHAPTER II

EVALUATING PROCEDURES

1. ACQUISITION AND ASSISTANCE CRITERIA.

- a. The evaluation criteria used in reviewing unsolicited proposals are contingent upon whether the proposal is to be considered principally one of acquisition or assistance.
 - (1) If the program is principally one of acquisition, the award instrument will be a contract. The evaluation criteria for contracts are set forth in FAR 15.506-2. Proposals for demonstration projects will be evaluated in accordance with the DOE policy on cost participation set forth in DEAR 917.70, the Federal support criteria contained in DEAR 917.7201-3, and the evaluation criteria for proposals submitted in response to program opportunity notices set forth in DEAR 917.7203(c)(1)-(8).
 - (2) If the program is principally one of assistance, the award instrument will be an assistance agreement; i.e., either a grant or a cooperative agreement. The selection criteria for noncompetitive or restricted eligibility assistance agreements are set forth in the DOE Financial Assistance Rules, 10 CFR Section 600.6.
- b. The recommendation of whether a specific proposal is to be principally one of acquisition or assistance will be made by the cognizant program manager in coordination with the program contracting officer. Heads of Departmental Elements will ensure that this recommendation is reviewed at the program policy level. The criteria for preparation of a determination and findings implementing the recommendation are contained in FAR 1.7.
- c. A contract shall be used as the award instrument whenever:
 - (1) the principal purpose is the acquisition by purchase, lease, or barter of property, or services for the direct benefit or use of the Federal Government; or
 - (2) DOE determines, in a specific instance, that the use of a contract is appropriate.
- d. An assistance agreement will be used as the award instrument whenever the principal purpose is to accomplish a public purpose of support or stimulation authorized by Federal statute.
 - (1) A grant type of assistance agreement will be used whenever no substantial involvement is anticipated between DOE and the recipient during performance of the activity.

- (2) A cooperative agreement will be used whenever substantial involvement is anticipated between DOE and the recipient during performance of the activity. Each cooperative agreement shall include an explicit statement of the nature, character, and extent of anticipated DOE involvement.

2. COMPREHENSIVE REVIEW.

- a. If the proposal is determined to be for an acquisition action, the responsible program official or designee shall designate generally at least three qualified individuals (in addition to the official responsible for selection) to perform an objective merit review and evaluation of the proposal. The individuals may be any mixture of Federal or non-Federal experts, including individuals from within the assigned reviewing program office.
- b. If the proposal is determined to be for an assistance action, the responsible program official or designee shall designate generally at least three qualified individuals (in addition to the official responsible for selection) to perform an objective merit review and evaluation of the proposal. The individuals may be any mixture of Federal or non-Federal experts, including individuals from within the assigned reviewing program office, except that anyone who, on behalf of the Federal Government, performed or is likely to perform any of the following duties for any of the applications, is ineligible:
 - (1) providing substantive technical assistance to the applicant;
 - (2) approving/disapproving or having any decisionmaking role regarding the application;
 - (3) serving as the project officer or otherwise monitoring or evaluating the applicants's programmatic performance;
 - (4) serving as the Contracting Officer or performing business management functions for the project;
 - (5) auditing the applicant or the project; or
 - (6) former employees of the cognizant program office who have left that office within the past year.

Anyone who has line authority over a person who is ineligible is also excluded from serving as a reviewer.

- c. All reviewers, whether Federal or non-Federal employees, shall execute a conflict of interest statement, Attachment II-1. Further, for acquisition actions, each evaluator shall complete the certification contained on Attachment II-2 of this manual. The reviewing program office shall maintain a listing of all personnel authorized access by the reviewing program office to proprietary information, and shall attach the list to the unsolicited proposal.

3. DETERMINATIONS. A favorable comprehensive evaluation of an unsolicited proposal is not, in itself, sufficient justification for negotiating on a noncompetitive basis with the submitter. When a document qualifies as an unsolicited proposal, but the substance (a) is available to the Government without restriction from another source, or (b) closely resembles that of a recent, current, or planned competitive solicitation or program opportunity notice, or (c) is otherwise not sufficiently unique to justify acceptance, the unsolicited proposal shall not be accepted.

4. EXTERNAL REVIEW.

- a. In some instances, particularly in basic research, the responsible program official may find it advantageous to submit the proposal to peer review by scientific and technical personnel external to the Federal Government. Use of such external reviewers is particularly appropriate for the review and evaluation of the merit of the proposal, the competence of the submitter, and the adequacy of support facilities. (Internal program staff may choose to concentrate on program relevance and funding priorities.)
- b. If an unsolicited proposal is received without any restrictive legend and it is necessary or appropriate to obtain an evaluation of the proposal from personnel external to the Government, a cover sheet with the legend of Attachment I-1 shall be placed on the proposal. Written permission shall be obtained from the submitter prior to release of the proposal for evaluation by reviewers external to the Government.
- c. If the proposal under consideration expressly indicates that only Government evaluation is authorized and evaluation by personnel external to the Government is nevertheless desired, the submitter should be advised that DOE may be unable to give full consideration to the proposal unless the submitter consents in writing to having the proposal evaluated outside the Government. Final decision on disposition of proposals submitted to DOE must be made only by DOE employees.

5. SELECTION OF EXTERNAL REVIEWERS.

- a. The selection of external reviewers is an important responsibility of the program office assigned to review the unsolicited proposal. Reviewers must be chosen carefully relative to their scientific and technical knowledge in the area of the proposed effort under consideration. The program office must ensure that the proposed reviewer has no real or apparent interests that are contrary to or in conflict with the submitter or organization submitting the request for funding. When this is not possible, for example, where required expertise is extremely limited, mechanisms shall be established to mitigate the effects of such circumstances. When mitigating steps are determined to be necessary, the evaluation report should contain a description of such mitigating steps and an explanation which adequately demonstrates how such mitigating steps will be effective.
- b. Reviewers should be balanced, as warranted, among various institutional and

demographic factors, such as geographic location, type of institution, and special interest groups. The DOE program office also should be conscious, in the selection of reviewers, of the need to avoid potential scientific/technical or personal biases of reviewers to ensure that the proposal is accorded fair, equitable, and impartial review on its merits and relevance to program objectives.

6. AGREEMENT WITH EXTERNAL REVIEWERS. When the Government determines that a proposal will be evaluated by an external reviewer, such as by consultants, grantees, or contractors, including those who manage Government-owned facilities, the agreement in Attachment II-3 of this Manual, or an equivalent arrangement for the treatment of the proposal, shall be obtained from the outside reviewer before DOE furnishes a copy of the proposal. (In addition, the handling notice required in Chapter I, Paragraph 3, of this Manual, should be affixed to the proposal before it is disclosed to the reviewer.)

ATTACHMENT II-1

CONFLICT OF INTEREST CERTIFICATE

UNSOLICITED PROPOSAL NUMBER _____

I certify that I am not aware of any matter which might reduce my ability to participate in the review of the subject unsolicited proposal in an objective and unbiased manner or which might place me in a position of a conflict, real or apparent, between my responsibilities as a reviewer of the proposal and other interests.

In making this certification, I have considered all my stocks, bonds, other financial interests, and employment arrangements past, present, or under consideration, and, to the extent known by me, all the financial interests and employment arrangements of my spouse, my minor children, and other members of my immediate household.

Signature

Date

**ATTACHMENT II-2
PROCUREMENT INTEGRITY CERTIFICATION
FOR PROCUREMENT OFFICIALS**

As a condition of serving as a procurement official, I, _____, hereby certify that I am familiar with the provisions of subsections 27(b), (c), and (e) of the Office of Federal Procurement Policy Act (41 U.S.C. 423) as amended by section 814 of Public Law 101-189 and by Section 4304 of Public Law 104-106. I further certify that I will not engage in any conduct prohibited by such subsections and will report immediately to the contracting officer any information concerning a violation or possible violation of subsections 27(a), (b), (d), or (f) of the Act and applicable implementing regulations. A written explanation of subsections 27(a) through (f) has been made available to me. I understand that, should I leave the Government during the conduct of a procurement for which I have served as a procurement official, I have a continuing obligation under section 27 not to disclose proprietary or source selection information relating to that procurement and a requirement to so certify.

SIGNATURE OF PROCUREMENT OFFICIAL

DATE

DEPARTMENT OR AGENCY

OFFICE TELEPHONE NUMBER

OPTIONAL FORM 333

ATTACHMENT II-3

CONDITIONS FOR EVALUATING PROPOSALS

Whenever DOE furnishes a proposal for evaluation, I, _____, the recipient, agree to use the information contained in the proposal only for DOE evaluation purposes and to treat the information obtained in confidence. This requirement does not apply to information obtained from any source, including the proposer, without restriction. Any notice or restriction placed on the proposal shall be conspicuously affixed to any reproduction or abstract thereof and its provisions strictly complied with. Upon completion of the evaluation, I shall return all copies of the proposal and abstracts, if any, to the DOE office which initially furnished the proposal for evaluation. Unless authorized by the DOE initiating office, I shall not contact the originator of the proposal concerning any aspect of its contents.

Recipient

Date