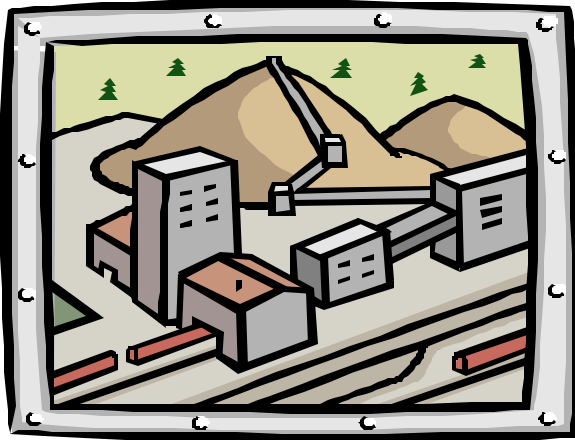


## PROGRAM OPPORTUNITY NOTICE



### Guiding Principle

Program Opportunity Notices accelerate the demonstration of the technical feasibility and commercial application of non-nuclear energy sources and utilization technologies.

### Overview

This section discusses procedures for the submission, evaluation, and selection for award of proposals offered in response to Program Opportunity Notices (PONs) which may be used to solicit proposals from any party other than another Federal agency.

### Background

The PON is a special solicitation technique established by the Federal Nonnuclear Energy Research and Development Act of 1974. DOE can issue a PON to solicit proposals for demonstrations of various forms of non-nuclear energy and technology utilization. The goals of such projects are to accelerate the demonstration of the technical, operational, economic, and commercial feasibility and environmental acceptability of particular energy technologies, systems, subsystems, and components.

Typical projects range from demonstrations of technological advances including field demonstrations of new methods and procedures to demonstrations of prototype commercial applications for the exploration, development, production, transportation, conversion, and utilization of non-nuclear energy resources.

### Determination to Use

Before a procurement request for a PON is issued, the program office should consult with the Head of the Contracting Activity to assure that the PON is the appropriate solicitation method. A written program determination based on a detailed discussion of the Federal support criteria

below is then included with the procurement request to support the conclusion that the use of the PON procedure is both necessary and appropriate.

### **Federal Support Criteria**

In determining the appropriateness of using a PON solicitation approach, DOE reviews the extent to which the proposed area of demonstration activity meets criteria such as:

1. The urgency of public need for the potential results of the research, development, or demonstration effort is high, and it is unlikely that similar results would be achieved in a timely manner in the absence of Federal assistance.
2. The potential opportunities for non-Federal interests to recapture the investment in the undertaking through the normal commercial utilization of proprietary knowledge appear inadequate to encourage timely results.
3. The extent of the problems treated and the objectives sought by the undertaking are national or widespread in their significance.
4. The opportunities to induce non-Federal support of the undertaking through regulatory actions, end-use controls, tax and price incentives, public education, or other alternatives to direct Federal financial assistance are limited.
5. The degree of risk of loss of investment inherent in the research is high, and the availability of risk capital to the non-Federal entities which might otherwise engage in the field of the research is inadequate for the timely development of the technology.
6. The research, development, and application objectives anticipated by the activities or facilities proposed support national interests or objectives.
7. The economic, environmental, and societal significance which a successful demonstration may have for the national fuels and energy system.
8. The availability of non-Federal participants to construct and operate the facilities or perform the activities associated with the proposal and to contribute to the financing of the proposal.

### **Elements to Be Included In PON Solicitations**

The following elements are to be provided, as appropriate, in a PON solicitation:

1. The goal of the intended demonstration effort.
2. A time schedule for submission of, and action on, proposals.
3. Evaluation criteria, including an indication, when determined practicable to do so, of the approximate cost and project completion schedule(s).
4. Program policy factors.
5. A statement that additional information, consistent with the overall concepts and approaches developed in the proposal, may be required regarding the statement of work and the proposed budget (e.g., a notice that a detailed cost breakdown may be required from the proposers being considered).
6. Any other information, terms, or conditions that apply to the particular solicitation.
7. A place and manner of submission.
8. A late proposal provision (see FAR 15.208 and 52.215-1).

## Information to Be Provided By Proposers

Proposers submit the following information:

1. Proposer identification and business submission data including certifications and representations.
2. An outline and discussion of the proposed demonstration which, if applicable and to the extent possible, specifically address and reference the evaluation criteria and include:
  - a. Specification of the technology.
  - b. Proposed statement of work to be performed.
  - c. Description of prior operation experience with the technology.
  - d. Preliminary design of the demonstration plan.
  - e. Time tables containing proposed construction or fabrication and installation and operation plans.
  - f. Budget-type estimates of construction or fabrication and operation costs.
  - g. Description and proof of title to land for proposed site, natural resources, electricity and water supply, and logistical information related to access to raw materials to construct and operate the plant and dispose of salable products from the plant.
  - h. Assessment of the environmental impact of the proposed plant and plans for disposal of wastes resulting from the operation of the plant.
  - i. Plans for continued use of the technology if the demonstration is successful.
  - j. Plans for continued use of the plant if the demonstration is successful.
  - k. Plans for dismantling of the plant if the demonstration is unsuccessful or otherwise abandoned.
  - l. Form and amount of assistance or participation being sought.
  - m. Form and amount of funding, or other contribution to be provided by the proposer, including proposed disposition of revenues generated.
  - n. The extent to which the proposed expenditures would constitute permanent (non-separable) improvement to property now owned by the Government.
  - o. Proposed plans for the disposal (through acquisition by the contractor or otherwise) of any such improvements.
  - p. Names of key personnel to be involved, brief biographical information, including relevant experience.
  - q. A current financial statement.
  - r. Each proposal containing technical data or proprietary or business confidential information, should be marked on the cover sheet with the legend prescribed in FAR 15.609 if the proposer intends the information to be used by DOE for evaluation purposes only.

## Publicizing PON Solicitations Availability

A description of each PON solicitation is to be posted at Fed Biz Ops and Grants.Gov/Find prior to release. Notice may also be provided directly to potentially interested individuals, private and public entities (excluding Federal agencies) and associations. Special attention should be given

to small business concerns, small disadvantaged concerns, and women-owned small business concerns to insure that they are given every opportunity to participate in such acquisitions.

### **Cost Participation**

Unless exempted by the Under Secretary, cost participation is required for demonstration projects resulting from PONs.

### **Method and Criteria for Evaluation and Selection**

When the aggregate of expected award values, plus costs shared by the contractor and/or other parties, together with later phases of the same project, is expected to warrant the use of a Source Evaluation Board (SEB), a comprehensive evaluation is conducted by a specially constituted board which follows procedures and documentation requirements of the Source Selection Guide found at Subchapter 15.4 of the DOE Acquisition Guide as may be modified to conform to the specifics of the solicitation process.

When the aggregate of expected award values, plus costs shared by the contractor and/or other parties, together with the later phases of the same project is not expected to necessitate the use of an SEB, proposals submitted in response to a PON are evaluated by a panel which is appointed by the cognizant program office. The panel is composed of program office and other personnel, including representatives of procurement, counsel, and, as deemed appropriate by the appointing official, supplemented by personnel from other Government agencies. The representative of counsel is an ex-officio (nonvoting) member of the panel. The panel should utilize any of the procedures and documentation requirements of the Source Selection Guide (modified as appropriate) whenever necessary to ensure the impartial, equitable and thorough evaluation of each proposal. The panel also assures that DOE conflict of interest and nondisclosure of information requirements are followed especially where management and operating contractor or other personnel outside the Government are used as advisors.

The evaluation criteria are specified in the notice along with a narrative description of their relative importance. Examples of the types of individual criteria are:

1. The overall technical feasibility of the proposed effort.
2. The contribution which the proposed effort is expected to make to DOE in carrying out its program responsibilities, including, but not limited to, solving energy extraction and storage, transportation, conversion, waste utilization, and conservation problems.
3. The capabilities, related experience, facilities, instrumentation, or techniques which the proposer possesses and offers, and which are considered to be integral factors for achieving the objective(s) of the proposal.
4. The qualifications, capabilities, experience, and availability of the proposed key personnel.
5. The ability of the proposer to furnish necessary financial support.
6. Project and financial plans for management of the activities including the adequacy of proposed arrangements among all participants.

7. Plans for involvement of the small business community.
8. Cost realism and probable cost to the Government.

### **Program Policy Factors**

Program policy factors are those factors which, while not appropriate indicators of a proposal's 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 the program objectives. All such factors are predetermined and specified in the notice so as to notify proposers that factors which are essentially beyond their control will affect the selection process. The following are examples of program policy factors:

1. 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 demonstration projects with a broad or specific geographic distribution.
2. It is desirable to select for award (for stated reasons) projects from diverse types and sizes of proposing organizations.
3. It is desirable to select for award a group of projects which represents a diversity of methods, approaches, applications, or kinds of work.
4. It is desirable, due to the nature of certain projects or proposing organizations, to select for award duplicative or complementary efforts or projects.

### **Approval of PON Solicitation Content**

When the dollar amounts are less than the SEB level, a PON solicitation is concurred in by counsel and approved by the senior program official or his/her designee prior to the release by the contracting officer. When an SEB is required, the solicitation is reviewed and approved by the SEB after prior concurrence by counsel, and the senior program official or designee.

### **Preliminary Review**

Prior to making a comprehensive evaluation of a proposal, the SEB, or the receiving office when an SEB is not required, determines that the proposal:

1. Contains sufficient technical, cost, and other required information to enable comprehensive evaluation.
2. Has been signed by a responsible official of the proposing organization or a person authorized to obligate such organization. If the proposal does not meet these requirements, a comprehensive evaluation is not made. In such a case, a prompt reply is sent to the proposer, indicating the reason(s) for its not being selected for award under the PON.

### **Comprehensive evaluation**

The basic task in the evaluation and selection of proposals for award is to assess their relative merit in order to determine which of them offers the greatest likelihood for achievement of the

program objectives stated in the notice, considering technical quality, ability of the proposer, estimated cost, and other relevant factors.

Proposals which survive preliminary review are evaluated by an SEB or a panel, as applicable, in accordance with the criteria stated in the PON. The findings of the SEB or panel are then forwarded to the SSO. In reviewing the findings, the SSO also takes into account the relevant program policy factors in order to determine the mix of proposed projects which best furthers specific program goals.

All findings and selections are documented, signed, and maintained to provide an adequate record of the proceedings.

### **Best Practices**

The funding program office identifies all eligible entities which, during the preceding two years, have expressed an interest in participating in, or entering into arrangements for, commercial demonstration in the particular energy field. Copies of the PON notice and/or PON solicitation are forwarded to such parties.

The PON clearly acknowledges the importance of the Program Selection factors and notes that DOE may accept for award all, none, or any number or part of the proposals submitted.

Where a large number of proposals are anticipated, proposals may be limited to technical considerations with cost proposals subsequently requested from those proposers whose technical proposals are evaluated as technically acceptable.

As a result of a PON, a contract, a grant or a cooperative agreement may be awarded. However, if prior to the release of a solicitation it is known that the intended relationship is expected to be primarily one of financial support or stimulation of a public purpose, then the solicitation should be issued as a financial assistance program announcement in accordance with the DOE financial assistance regulations at 10 CFR 600.