

**FINANCIAL ASSISTANCE
FUNDING OPPORTUNITY ANNOUNCEMENT**



**U.S. Department of Energy
Office of Science**

**Submission of Supplemental Applications
for Phase II SBIR/STTR Grants**

Funding Opportunity Number: DE-PS02-08ER08-22

Announcement Type: Initial

CFDA Number: 81.049

Issue Date: April 8, 2008

Letter of Intent Due Date: Not Applicable

Pre-Application Due Date: Not Applicable

TECHNICAL ALERT

The Grants.gov system is currently experiencing intermittent technical issues. These technical issues are inhibiting the submission of applications. Therefore, the application due date has been extended by one week to allow submissions. We apologize for any inconvenience.

Revised Application Due Date: May 16, 2008, 8:00 p.m. EST

NOTE: NEW REQUIREMENTS FOR GRANTS.GOV

Where to Submit: Applications must be submitted through Grants.gov to be considered for award. You cannot submit an application through Grants.gov unless you are registered. Please read the registration requirements carefully and start the process immediately. Remember you have to update your CCR registration annually. If you have any questions about your registration, you should contact the Grants.gov Helpdesk at 1-800-518-4726 to verify that you are still registered in Grants.gov.

Registration Requirements: There are several one-time actions you must complete in order to submit an application through Grants.gov (e.g., obtain a Dun and Bradstreet Data Universal Numbering System (DUNS) number, register with the Central Contract Registry (CCR), register with the credential provider, and register with Grants.gov). See <http://www.grants.gov/GetStarted>. Use the Grants.gov Organization Registration Checklist at <http://www.grants.gov/assets/OrganizationRegCheck.doc> to guide you through the process. Designating an E-Business Point of Contact (EBiz POC) and obtaining a special password called an MPIN are important steps in the CCR registration process. Applicants, who are not registered with CCR and Grants.gov, should allow at least 21 days to complete these requirements. It is suggested that the process be started as soon as possible.

IMPORTANT NOTICE TO POTENTIAL APPLICANTS: When you have completed the process, you should call the Grants.gov Helpdesk at 1-800-518-4726 to verify that you have completed the final step (i.e. Grants.gov registration).

MICROSOFT VISTA AND OFFICE 2007 COMPATIBILITY: Grants.gov is currently incompatible with both the new Microsoft (MS) Vista Operating System and the new Microsoft (MS) Office 2007 versions of Word, Excel and Power Point. In order to create and submit your application to Grants.gov, you must find a computer with a previous version Microsoft Operating System, such as Windows XP.

If you attach a file created using MS Office 2007, you will not get an error message when you submit the application, HOWEVER your entire application will not be able to be processed or accepted at Grants.gov and will not reach DOE. Grants.gov can accept applications with attachments created in MS Office 2007 if the attachments are saved in the prior format. See www.grants.gov/www.grants.gov/assets/Vista_and_office_07_Compatibility.pdf for detailed instructions on how to do this. A file created in MS Office 2007 can be identified by the "x" at the end of the file extension, for example "sample.docx" for a Word file. Contact Grants.gov at 1-800-518-4726 with any questions.

Questions: Questions relating to the registration process, system requirements, how an application form works, or the submittal process must be directed to Grants.gov at 1-800-518-4726 or support@grants.gov. Part VII of this announcement explains how to submit other questions to the Department of Energy.

Application Receipt Notices: After an application is submitted, the Authorized Organization Representative (AOR) will receive a series of five e-mails. It is extremely important that the AOR watch for and save each of the e-mails. It may take up to two (2) business days from application submission to receipt of e-mail Number 2. When the AOR receives e-mail Number 5, it is their responsibility to follow the instructions in the e-mail to logon to IIPS and verify that their application was received by DOE. The titles of the five e-mails are:

Number 1 – Grants.gov Submission Receipt Number

Number 2 – Grants.gov Submission Validation Receipt for Application Number

Number 3 – Grants.gov Grantor Agency Retrieval Receipt for Application Number

Number 4 – Grants.gov Agency Tracking Number Assignment for Application Number

Number 5 – **DOE e-Center Grant Application Received**

The last e-mail will contain instructions for the AOR to register with the DOE e-Center. If the AOR is already registered with the DOE e-Center, the title of the last e-mail changes to:

Number 5 – **DOE e-Center Grant Application Received and Matched**

This e-mail will contain the direct link to the application in IIPS. The AOR will need to enter their DOE e-Center user id and password to access the application.

TABLE OF CONTENTS

PART I – FUNDING OPPORTUNITY DESCRIPTION

PART II – AWARD INFORMATION

- A. Type of Award Instrument**
- B. Estimated Funding**
- C. Maximum and Minimum Award Size**
- D. Expected Number of Awards**
- E. Anticipated Award Size**
- F. Period of Performance**
- G. Type of Application**

PART III – ELIGIBILITY INFORMATION

- A. Eligible Applicants**
- B. Cost Sharing or Matching**
- C. Other Eligibility Requirements**

PART IV – APPLICATION AND SUBMISSION INFORMATION

- A. Address to Request Application Package**
- B. Letter of Intent and Pre-Application**
- C. Content and Form of Application**
- D. Submissions from Successful Applicants**
- E. Submission Dates and Times**
- F. Intergovernmental Review**
- G. Funding Restrictions**
- H. Other Submission and Registration Requirements**

PART V – APPLICATION REVIEW INFORMATION

- A. Criteria**
- B. Review and Selection Process**
- C. Anticipated Notice of Selection and Award Dates**

PART VI – AWARD ADMINISTRATION INFORMATION

- A. Award Notices**
- B. Administrative and National Policy Requirements**
- C. Reporting**

PART VII – QUESTIONS/AGENCY CONTACTS

- A. Questions**
- B. Agency Contacts**

PART VIII – OTHER INFORMATION

- A. Modifications**
- B. Government Right to Reject or Negotiate**
- C. Commitment of Public Funds**

- D. Proprietary Application Information**
- E. Evaluation and Administration by Non-Federal Personnel**
- F. Intellectual Property Developed under this Program**
- G. Notice of Right to Request Patent Waiver**
- H. Notice Regarding Eligible/Ineligible Activities**

PART I – FUNDING OPPORTUNITY DESCRIPTION

The Department of Energy (DOE) announces an opportunity for currently active DOE SBIR and STTR Phase II grantees that were awarded Phase II in response to the 2006 Phase II Funding Opportunity Notice (DE-FG02-06ER06-09) to request supplemental funding for their Phase II research projects. Applicants must have already satisfactorily completed at least one year of their Phase II research project and must be formally invited by their DOE Project Officer to submit a request for supplemental funds to support their existing Phase II project. Proof of DOE Project Officer approval is required as part of the Project Narrative in the Supplemental Grant Application.

Comment [SO1]: Eric confirmed that we should not accept applications awarded against a funding opportunity notice that did not allow for supplemental funding. Therefore, these are the only ones that would be eligible, not any that have been previously extended.

Two types of supplemental applications may be submitted:

Comment [SO2]: Do you want to say that proof, in the form of a letter or e-mail from the DOE Project Officer, should be attached to the project narrative?

Type 1. If the grantee is requesting financial support for a new task or activity to be added to the existing Phase II grant: The additional work must be in line with the original scope of work. These applications will undergo merit review and will compete for funding with other new Phase II applications.

Type 2. If the awardee needs additional funds:

- a. for increased costs that could not have been predicted when the application was originally approved; or
- b. to increase the level of effort or accelerate the project with no change to the project description as contained in the approved application. These applications will be reviewed for approval by the technical DOE Project Officer assigned to the original Phase II grant.

Comment [SO3]: Why would more money be needed to accelerate the project. We're not going to pay for overtime. The only way I can think of where accelerating would cost more is if additional level of effort is added in order to complete the project more quickly. Suggest deleting "or accelerate the project".

The supplemental funding may extend the Phase II grant for only 1 year and the combined Phase II and supplemental award should typically not exceed 3 years duration unless an unforeseen delay is encountered.

Comment [SO4]: Presumably, this applies to both types of "supplements", in which case it needs to be a separate paragraph.

Supplemental funding requests will only be accepted from Phase II grantees that have an active Phase II project at least 90 days prior to expiring and are received by the deadline of this funding notice. There is no resubmission at a later date if a supplemental application is declined.

Comment [SO5]: When? At the time of submission? The due date for applications? Need to clarify. Don't think it can be at the time of award.

Submission to DE-PS02-08ER08-22 will require completion of the Grants.gov R&R forms. The application package is attached to the Funding Opportunity Announcement. Since the SF-424 (R&R) form has no specific section on the form that requests the grant number, please enter the grant number into block #4 (Federal Identifier) and the type of submission (supplemental) following it.

PART II – AWARD INFORMATION

Comment [h6]:

A. TYPE OF AWARD INSTRUMENT.

DOE anticipates awarding grant amendments under this program announcement.

B. ESTIMATED FUNDING.

In FY 2008, the DOE SBIR and STTR budgets are expected to be approximately \$124 Million and \$14 Million, respectively. About 70 percent of the total budgets will be allocated to new Phase II's and supplemental awards.

C. MAXIMUM AND MINIMUM AWARD SIZE.

Ceiling (i.e., the maximum amount for an individual award made under this announcement): \$250,000 OR the dollar difference between \$1,000,000 and the dollar amount of the awarded Phase II project. The total amount funded by DOE for Phase II including the supplemental work must not exceed \$1,000,000.

Comment [S07]: Consider this change so that potential awardees understand the total project funding ceiling.

Floor (i.e. the minimum amount for an individual award made under this announcement): None.

D. EXPECTED NUMBER OF AWARDS.

DOE will only make awards under this announcement if the work is desired, of high quality, and approved by the DOE Project Officer of the Phase II grant. The government is under no obligation to make any supplemental awards.

E. ANTICIPATED AWARD SIZE.

Up to \$250,000 or the dollar difference between \$1,000,000 and the dollar amount of the awarded Phase II project for up to 12 months. The total amount funded by DOE for Phase II including the supplemental work must not exceed \$1,000,000.

Comment [S08]: See Comment S07

F. PERIOD OF PERFORMANCE.

DOE anticipates that supplemental awards will typically not exceed 12 months.

G. TYPE OF APPLICATION

DOE is accepting supplemental applications under this announcement. Supplemental applications are requests for additional funding for the current project period or for a period subsequent to that provided by a current award. Supplemental applications are subject to a technical evaluation, are selected through a competitive process, and must be submitted by an established due date/deadline.

PART III - ELIGIBILITY INFORMATION

A. ELIGIBLE APPLICANTS

Only currently active DOE SBIR or STTR Phase II grantees that have written approval from their DOE Project Officer are eligible to apply for supplemental funding.

Satisfactory completion of at least 1 year of the current Phase II project is required in order to submit a supplemental request for funding. There must be at least 90 days remaining in the period of performance for the Phase II project at the time of the award.

B. COST SHARING

Cost sharing is not required.

C. OTHER ELIGIBILITY REQUIREMENTS.

n/a

Comment [SO9]: These recipients must meet eligibility requirements for the type of grant they seek. For Example: An STTR recipient must have its research institution participate and receive additional funding; i.e., if small business increases level of effort, then the research institute must increase level of effort in order to ensure proper % or work completed (proper split 60/40 or 50/50 – whatever the case is). If this requirement is not made clear here, it must be made clear somewhere in this announcement.

Comment [SO10]: What about meeting the criteria for being a small business? What about meeting the level of effort percentage requirements? PI hours? Etc.?

PART IV – APPLICATION AND SUBMISSION INFORMATION

A. ADDRESS TO REQUEST APPLICATION PACKAGE.

• Application forms and instructions are available at Grants.gov. To access these materials, go to <http://www.grants.gov>, select “Apply for Grants,” and then select “Download Application Package.” Enter the CFDA and/or the funding opportunity number located on the cover of this announcement and then follow the prompts to download the application package. **NOTE: You will not be able to download the Application Package unless you have installed PureEdge Viewer (See: <http://www.grants.gov/DownloadViewer>).**

B. LETTER OF INTENT AND PRE-APPLICATION.

1. Letter of Intent.

Letters of Intent are not required.

2. Pre-application.

Pre-applications are not required.

C. CONTENT AND FORM OF APPLICATION – SF 424 (R&R)

Applicants must complete the mandatory forms in accordance with the instructions on the forms and the additional instructions below. **Files that are attached to the forms must be in Adobe Portable Document Format (PDF) unless otherwise specified in this announcement.**

1. SF 424 (R&R). Complete this form first to populate data in other forms. Complete all the required fields in accordance with the pop-up instructions on the form. To activate the instructions, turn on the “Help Mode” (Icon with the pointer and question mark at the top of the form). The list of certifications and assurances referenced in Field 18 can be found on the Applicant and Recipient Page at <http://grants.pr.doe.gov>.

2. RESEARCH AND RELATED Other Project Information. Complete questions 1 through 5. The files must comply with the following instructions:

Project Summary/Abstract (Field 6 on the Form)

• The project summary/abstract must contain a summary of the proposed activity suitable for dissemination to the public and should be no longer than 3 paragraphs in length.

Project Narrative (Field 7 on the form)

The project narrative shall not exceed 15 pages and must include written approval to apply from the DOE Project Officer. The supplemental work must fall within the scope of the present Phase II project proposal. The project narrative will contain the following:

- an executive summary of the Commercialization Plan
- a discussion of the new R&D activities, if applicable
- an updated milestone chart, if applicable
- a listing of key personnel including qualifications and a description of their involvement in the supplemental work
- an explanation of the need for additional funding

Bibliography & References Cited (Field 8 on the form)

Include this information, if any, in the project narrative. Do not attach a file in this field.

Facilities & Other Resources (Field 9 on the form)

Include this information, if any, in the project narrative. Do not attach a file in this field.

Equipment (Field 10 on the form)

Include this information, if any, in the project narrative. Do not attach a file in this field.

Other Attachments (Field 11 on the form)

If you need to elaborate on your responses to questions 1-5 on the “Other Project Information” document, provide the information in a single file named “projinfo.pdf”. Click on “Add Attachments” in Field 11 to attach file.

Also, attach the following files:

- Letters of Commitment, if any, from consultants, subcontractors or other third parties. The letters must **include a breakdown of costs (labor, materials, supplies, travel, etc.)** and be signed by the consultant or subcontractor or authorizing party, certifying their availability and salary (for consultants). Note: Consultants are not employees of either the small business or any subcontractor.

3. RESEARCH AND RELATED BUDGET. You must provide a budget for the support requested. Applicants may request funding of up to \$250,000 OR the dollar difference between \$1,000,000 and the dollar amount of the awarded Phase II project for up to 12 months. The total amount funded by DOE for Phase II including the supplemental work must not exceed \$1,000,000.

Complete the Research and Related Budget form in accordance with the instructions on the form (Activate Help Mode to see instructions) and the following instructions. The form will generate a cumulative budget for the total project period. You may request funds under any of the categories listed as long as the item and amount are necessary to perform the proposed work, meet all the criteria for allowability under the applicable Federal cost principles, and are not prohibited by the funding restrictions in this announcement (See PART IV, G).

4. BUDGET JUSTIFICATION (FIELD K ON THE FORM). Provide the required supporting information for all proposed costs. Provide any other information you wish to submit to justify your budget request. Attach a single budget justification file for the entire supplemental project period in Field K. The file automatically carries over to each budget year.

Notes:

All equipment will be carefully reviewed relative to need and appropriateness for the research or R&D proposed.

Travel funds must be justified and related **to the needs of the project**. Travel expenses for technical conferences are not permitted unless the purpose of attending the conference directly relates to the project (e.g., to present results of the project). **Foreign travel is not normally an appropriate expense.**

5. R&R SUBAWARD BUDGET ATTACHMENT(S) FORM.

Budgets for Subawardees (including research institutions). You must provide a separate cumulative R&R budget and budget justification for each subawardee that is expected to perform work estimated to be more than \$100,000 or 50 percent of the total work effort (whichever is less). Download the R&R Budget Attachment from the R&R SUBAWARD BUDGET ATTACHMENT(S) FORM and e-mail it to each subawardee that is required to submit a separate budget. Note: Subawardees must have installed PureEdge Viewer before they can complete the form. After the Subawardee has e-mailed its completed budget back to you, attach it to one of the blocks provided on the form. Use up to 10 letters of the subawardee's name (plus .xfd) as the file name (e.g., ucla.xfd or energyres.xfd).

6. SF-LLL DISCLOSURE OF LOBBYING ACTIVITIES If applicable, complete SF- LLL. Applicability: If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the grant/cooperative agreement, you must complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying."

D. SUBMISSIONS FROM SUCCESSFUL APPLICANTS

- If selected for award, the Department reserves the right to request additional or clarifying information for any reason deemed necessary, including but not limited to:
 - Indirect cost information
 - Fee justification
 - Other budget information
 - Representation concerning financial management system
 - Consultant documentation/verification of rates

E. SUBMISSION DATES AND TIMES.

1. Pre-application Due Date. Pre-applications are not required.

2. Application Due Date.

Supplemental applications must be received no later than **May 9, 2008 by 8:00 p.m. EST.**

F. INTERGOVERNMENTAL REVIEW.

This program is not subject to Executive Order 12372 – Intergovernmental Review of Federal Programs.

G. FUNDING RESTRICTIONS.

Cost Principles. Costs must be allowable in accordance with the applicable Federal cost principles referenced in 10 CFR Part 600. The Cost Principles for Commercial Organizations may be found at FAR Part 31.

Pre-award Costs. Recipients may charge to an award resulting from this announcement preaward costs that were incurred within the ninety (90) calendar day period immediately preceding the effective date of the award, if the costs are allowable in accordance with the applicable Federal cost principles referenced in 10 CFR part 600. Recipients must obtain the prior approval of the contracting officer for any pre-award costs that are for periods greater than this 90 day calendar period.

Pre-award costs are incurred at the applicant's risk. DOE is under no obligation to reimburse such costs if for any reason the applicant does not receive an award or if the award is made for a lesser amount than the applicant expected.

H. OTHER SUBMISSION AND REGISTRATION REQUIREMENTS

1. Where to Submit.

• **APPLICATIONS MUST BE SUBMITTED THROUGH GRANTS.GOV TO BE CONSIDERED FOR AWARD.** Submit electronic applications through the "Apply for Grants" function at www.Grants.gov. If you have problems completing the registration process or submitting your application, call Grants.gov at 1-800-518-4726 or send an email to support@grants.gov.

2. Registration Process.

• You must COMPLETE the one-time registration process (all steps) before you can submit your first application through Grants.gov (See www.grants.gov/GetStarted). **We recommend that you start this process at least two weeks before the application due date.** It may take 21 days or more to complete the entire process. Use the Grants.gov Organizational Registration Checklists at <http://www.grants.gov/assets/OrganizationRegCheck.doc> to guide you through the process.

IMPORTANT: During the CCR registration process, you will be asked to designate an EBIZ Point of Contact (EBIZ POC). The EBIZ POC must obtain a special password called "Marketing Partner identification Number" (MPIN).

Part V - APPLICATION REVIEW INFORMATION

A. CRITERIA

1. Initial Review Criteria.

n/a

2. Merit Review Criteria.

The supplemental application must contain enough information on progress accomplished under Phase II to enable an evaluation of the project's potential for success if continued. Only Type 1 (See Part I for description) supplemental applications will be subjected to external merit peer review. Type 2 (See Part I for description) supplemental applications will be evaluated internally by DOE technical experts.

Type 1 supplemental applications will be evaluated using the following criteria:

- **Strength of the scientific/technical approach:** (1) will the completion of the project activity lead to a solid foundation of the scientific and engineering knowledge and understanding base, (2) has the project progressed satisfactorily in the Phase II activity to justify supplemental funding, (3) is the proposed plan a sound approach establishing technical feasibility that could lead to commercialization?
- **Ability to carry out the project in a cost effective manner** as evidenced by the qualifications of the Principal Investigator, other key staff, consultants and subcontractors, if any, and the level of adequacy of equipment and facilities.
- **Impact** as evidenced by: (1) the significance of the technical and/or economic benefits of the proposed work, if successful, (2) the likelihood that the proposed work could lead to a marketable product or process, and (3) the likelihood that the project could attract further development funding after the SBIR or STTR project ends.

3. Other Selection Factors.

Supplemental applications will be considered among other new incoming Phase II grant applications and will compete for the same pool of funds until the funds are exhausted. DOE Project Officers will determine priority of funding based on critical needs of the Department and the Nation.

B. REVIEW AND SELECTION PROCESS.

1. Merit Review.

Phase II supplemental applications will be subject to a detailed technical evaluation by experts, both inside and outside the Government. The DOE will not fund any grant application for which there are weaknesses identified with respect to any of the three evaluation criteria, as determined by the review process. In addition, because the DOE supports only high quality research and development, grant applications will be considered candidates for funding only if they receive positive remarks from the peer reviewers with respect to at least two of the three criteria and no major weaknesses are identified in the proposal.

2. Selection. Selection will be determined by the technical program area's SBIR/STTR Portfolio Manager who is responsible for the coordination of all recommended award selections in a given technical program area. Adequate progress must be shown in the

existing Phase II project including a strong explanation as to why the project warrants additional funding. The Government is under no obligation to fund any supplemental awards.

3. Discussions and Award.

The Government may enter into discussions with a selected applicant for any reason deemed necessary, including but not limited to: (1) the budget is not appropriate or reasonable for the requirement; (2) only a portion of the application is selected for award; (3) the Government needs additional information to determine that the recipient is capable of complying with the requirements in 10 CFR part 600; and/or (4) special terms and conditions are required. Failure to resolve satisfactorily the issues identified by the Government will preclude award to the applicant.

C. ANTICIPATED NOTICE OF SELECTION AND AWARD DATES.

The Department anticipates making award decisions by **mid-June 2008**. Supplemental awards are expected to begin by September 30, 2008.

Comment [SO11]: We need at least two months for these actions, plus a margin of error given the fact that we will also be negotiating all of the Phase II awards at the same time. This was confirmed with Eric.

Part VI - AWARD ADMINISTRATION INFORMATION

A. AWARD NOTICES.

1. Notice of Selection.

The SBIR/STTR Program will notify all applicants that request supplemental funding via email of the outcomes.

2. Notice of Award.

A Notice of Financial Assistance Award (NFAA) issued by the contracting officer is the authorizing award document. The initial funding NFAA normally includes, either as an attachment or by reference: 1. Special Terms and Conditions; 2. General Terms and Conditions for DOE SBIR and STTR grants; 3. Application as approved by DOE/NNSA.; 4. National Policy Assurances to be incorporated as award terms; 5. Budget Summary; 6 Federal Assistance Reporting Checklist and Instructions, which identifies the reporting requirements; and 7. DOE assistance regulations at 10 CFR Part 600. The subsequent amendment normally includes the Budget Summary. The NFAA for any amendments resulting from this notice will only include those items not already included in the award or those items that need to be updated.

B. ADMINISTRATIVE AND NATIONAL POLICY REQUIREMENTS.

1. Terms and Conditions and National Policy Requirements

If a grant is awarded, the grantee must comply with the terms and conditions in the formal award document provided by the contracting officer at the time of award. The National Policy Assurances to be incorporated as award terms are located at <http://grants.pr.doe.gov>.

C. REPORTING.

Reporting requirements are identified on the Federal Assistance Reporting Checklist, DOE F4600.2, attached to the award agreement.

PART VII - QUESTIONS/AGENCY CONTACTS

A. QUESTIONS

Questions regarding the content of the announcement must be submitted through the "Submit Question" feature of the DOE Industry Interactive Procurement System (IIPS) at <http://e-center.doe.gov>. Locate the program announcement on IIPS and then click on the "Submit Question" button. Enter required information. You will receive an electronic notification that your question has been answered. DOE/NNSA will try to respond to a question within 3 business days, unless a similar question and answer have already been posted on the website.

Questions relating to the registration process, system requirements, how an application form works, or the submittal process must be directed to Grants.gov at 1-800-518-4726 or support@grants.gov. DOE cannot answer these questions.

Questions regarding program requirements must be directed to: 301-903-1414 or sbirsttr@science.doe.gov.

B. Agency Contact

Name: Carl Hebron

E-mail: Carl.hebron@science.doe.gov

FAX: 301-903-5488

Telephone: 301-903-1414

PART VIII - OTHER INFORMATION

A. MODIFICATIONS.

Notices of any modifications to this announcement will be posted on Grants.gov and the DOE Industry Interactive Procurement System (IIPS). You can receive an email when a modification or an announcement message is posted by joining the mailing list for this announcement through the link in IIPS. When you download the application at Grants.gov, you can also register to receive notifications of changes through Grants.gov.

B. GOVERNMENT RIGHT TO REJECT OR NEGOTIATE.

DOE reserves the right, without qualification, to reject any or all applications received in response to this announcement and to select any application, in whole or in part, as a basis for negotiation and/or award.

C. COMMITMENT OF PUBLIC FUNDS.

The Contracting Officer is the only individual who can make awards or commit the Government to the expenditure of public funds. A commitment by anyone other than the Contracting Officer, either explicit or implied, is invalid.

D. PROPRIETARY APPLICATION INFORMATION.

Patentable ideas, trade secrets, proprietary or confidential commercial or financial information, disclosure of which may harm the applicant, should be included in an application only when such information is necessary to convey an understanding of the proposed project. The use and disclosure of such data may be restricted, **provided the applicant includes the following legend on the first page of the project narrative and specifies the pages of the application which are to be restricted:**

“The data contained in pages _____ of this application have been submitted in confidence and contain trade secrets or proprietary information, and such data shall be used or disclosed only for evaluation purposes, provided that if this applicant receives an award as a result of or in connection with the submission of this application, DOE shall have the right to use or disclose the data herein to the extent provided in the award. This restriction does not limit the government’s right to use or disclose data obtained without restriction from any source, including the applicant.”

NOTE: The proprietary data legend on the first page of your project narrative must separately identify those pages of the application which contain proprietary technical data from any pages which contain other types of proprietary information as defined by the funding opportunity notice (e.g., confidential personnel information, or proprietary commercial or financial information).

To protect such data, each line or paragraph on the pages containing such data must be specifically identified and marked with a legend similar to the following:

“The following contains proprietary information that (name of applicant) requests not be released to persons outside the Government, except for purposes of review and evaluation.”

Failure to follow these instructions, or a discrepancy between the pages listed on the first page of the project narrative and the pages actually marked may result in DOE's inability to treat such information as proprietary and will delay the award process.

E. EVALUATION AND ADMINISTRATION BY NON-FEDERAL PERSONNEL.

In conducting the merit review evaluation, the Government may seek the advice of qualified non-Federal personnel as reviewers. The Government may also use non-Federal personnel to conduct routine, nondiscretionary administrative activities. The applicant, by submitting its application, consents to the use of non-Federal reviewers/administrators. Non-Federal reviewers must sign conflict of interest and non-disclosure agreements prior to reviewing an application. Non-Federal personnel conducting administrative activities must sign a nondisclosure agreement.

F. INTELLECTUAL PROPERTY DEVELOPED UNDER THIS PROGRAM.

a. Proprietary Information – Information contained in unsuccessful grant applications will remain the property of the applicant. The government will retain for three years one file copy of each unsuccessful grant application. Public release of information in any grant application submitted will be subject to existing statutory and regulatory requirements, such as the Freedom of Information and Privacy Acts. If proprietary information is provided in a grant application that constitutes proprietary technical data, confidential personnel information, or proprietary commercial or financial information, it will be treated in confidence, to the extent permitted by law, provided this information is clearly marked by the applicant in accordance with paragraph D., above, and provided appropriate page numbers are inserted in the Proprietary Notice legend printed on the first page of the Project Narrative.

NOTE: The proprietary data legend on the first page of your project narrative must separately identify those pages of the application which contain proprietary technical data from any pages which contain other types of proprietary information as defined by the funding opportunity notice (e.g., confidential personnel information, or proprietary commercial or financial information).

Applications will not automatically be withheld in their entirety unless justified by the applicant. The government will limit dissemination of such information to official channels to the extent permitted by law. Any other legend may be unacceptable to the government and may constitute grounds for removing the grant application from further consideration and without assuming any liability for inadvertent disclosure.

b. Protection of Grant Application Information – DOE's policy is to use data included in grant applications for evaluation purposes only and to protect, to the extent allowed by law, such information from unauthorized use or disclosure.

In addition to government personnel, scientists and engineers from outside the government may be used in the grant application evaluation process. The decision to obtain outside evaluation will take into consideration requirements for the avoidance of organizational conflicts of interest and the competitive relationship, if any, between the

applicant and the prospective outside evaluator. The evaluation will be performed under an agreement with the evaluator that the information contained in the grant application will be used only for evaluation purposes and will not be further disclosed.

c. Rights in Data Developed Under SBIR/STTR Funding Agreements – Rights in technical data, including software developed under the terms of any funding agreement resulting from grant applications submitted in response to this solicitation, shall remain with the grantee, except that the government shall have the limited right to use such data for government purposes and shall not release such proprietary data outside the government without permission of the grantee for a period of not less than four years from delivery of the last deliverable under that agreement (either Phase I, Phase II, or Federally funded SBIR Phase III). Agencies are released from obligation to protect SBIR data upon expiration of the protection period except that any such data that is also protected and referenced under a subsequent SBIR award must remain protected through the protection period of that subsequent SBIR award. However, effective at the conclusion of the four-year period, the government shall retain a royalty-free license for government use of any technical data delivered under an SBIR/STTR award whether patented or not.

d. Copyrights – With prior written permission of the cognizant DOE Contracting Officer, the awardee may copyright and publish (consistent with appropriate national security considerations, if any) material developed with DOE support. DOE receives a royalty-free license for the Federal Government and requires that each publication contain an appropriate acknowledgment and disclaimer statement.

e. Patents – Small businesses may retain the principal worldwide patent rights to any invention developed with Federal support. The government receives a royalty-free license for Federal use, reserves the right to require the patent holder to license others in certain circumstances, and requires that anyone exclusively licensed to sell must normally manufacture it domestically. Information regarding patent rights in inventions supported by Federal funding can be found in the Code of Federal Regulations, 37 CFR Part 401.

f. Distribution of Intellectual Property and Commercialization Rights Between the Small Business and Subcontractor – When using subcontractors, including research institutions, the small business is responsible for protecting its own interests with regard to the retention of intellectual property and commercialization rights.

G. NOTICE OF RIGHT TO REQUEST PATENT WAIVER

n/a

H. NOTICE REGARDING ELIGIBLE/INELIGIBLE ACTIVITIES

Eligible activities under this program include those which describe and promote the understanding of scientific and technical aspects of specific energy technologies, but not those which encourage or support political activities such as the collection and dissemination of information related to potential, planned or pending legislation