

§ 800.101

10 CFR Ch. III (1–1–05 Edition)

Business Administration. The announcement will indicate funds availability, eligibility requirements, application instructions, interest rates, maturities and other key loan terms and any applicable restrictions. In such solicitations, DOE shall further indicate that, in the case of applications for loans relating to bids or proposals for contracts with first-tier subcontractors of DOE operating contractors, information necessary to substantiate such applications may be unavailable to DOE from such subcontractors. If the substantiating information is not made available to DOE in a timely manner, the application may be rejected.

[46 FR 44689, Sept. 4, 1981, as amended at 48 FR 17574, Apr. 25, 1983]

§ 800.101 Application requirements.

(a) Applications for loans shall be filed, one original and three copies with: Department of Energy, Washington, DC 20585, Attention: Announcement No. DE-PS60-MI.

(b) An application for a loan under this regulation must include the following information. Items described in paragraphs (b)(1) through (7) of this section may be submitted for preliminary review in advance of a specific loan request but must be updated at time of loan request to reflect substantial changes.

(1) Applicant's name and address, with a description of the kind and size of its business, its business experience and its history as a minority business enterprise.

(2) Financial statements of applicant and its principals, including source of revenue and balance sheets for the current year and, as to applicant, for the two preceding years of applicant's existence as a business entity. The Secretary may require applicant to provide certification by a public accountant, or other certification acceptable to the Secretary.

(3) A description of any other Federal financial backing (direct loans, guaranteed loans, grants, etc.) applied for or obtained by the applicant within the previous five years, or expected to be applied for.

(4) A description of applicant's management structure, with list of appli-

cant's key persons with their responsibilities and qualifications.

(i) In the case of a specific loan request this list should include any contractor or consultant whose services are proposed in connection with the bid or proposal for which the loan is sought.

(5) Affidavit(s) of eligibility (see § 800.004).

(6) Documentation as to applicant's authority to undertake the activities contemplated by the application. Such documentation shall take substantially the following form:

(i) If the applicant is a corporation, a copy of the charter or certificate and articles of incorporation, with any amendments, duly certified by the Secretary of State of the State where organized, and a copy of the by-laws. There shall also be included a copy of all minutes, resolutions of stockholders or directors or other representatives of the applicant, properly attested, authorizing the filing of the application.

(ii) If the applicant is an association, a verified copy of its articles of association, if any, with an attested copy of the resolution of its governing board, if any, authorizing the filing of the application.

(iii) If the applicant is a business trust, a verified copy of the trust instrument and an attested copy of the resolution or other authority under which the application is made.

(iv) If the applicant is a joint stock company, a verified copy of the articles of association and of the authorizing resolution.

(v) If the application is made on behalf of a partnership, a copy of the partnership agreement, if any; if on behalf of a limited partnership, a duly certified copy, also, of the certificate of limited partnership, if such certificate is required to be obtained under state law governing such limited partnership.

(7) Credit references.

(8) Information on the award to be sought through the bid or proposal, as follows:

(i) Title, and whether in response to a solicitation or unsolicited.

(ii) Brief description of work to be performed.

Department of Energy

§ 800.102

(iii) Sponsoring DOE office, including solicitation number, if any.

(iv) If an unsolicited proposal is planned, the loan application shall indicate the appropriate DOE program personnel to be consulted as to whether there is potential for the proposal to be supported.

(v) Schedule for preparation and submission of the bid or proposal.

(9) Itemized cost estimates (and whether yet incurred).

(10) The required loan amount, not to exceed 75 percent of total bid or proposal costs, in accordance with § 800.200 on allowable costs.

(11) Requested loan maturity, in accordance with § 800.202(a)(3).

(12) How applicant will finance performance of work under a successful bid or proposal.

(13) Such other information as the Application Approving Official may deem necessary for evaluation in accordance with § 800.103 and for compliance with the provisions of this regulation.

(14) The application shall be signed by the applicant or on behalf of the applicant by an authorized representative. Verification may be by affidavit of an authorized representative of an applicant; attestation shall be by the authorized officer of an applicant.

NOTE: Title 18 United States Code, section 1001 provides criminal penalties for fraud and intentional false statements in information submitted in such an application.

§ 800.102 Review by Application Evaluation Panel.

(a) Applications for loans under this regulation shall be reviewed by an Application Evaluation Panel, which shall be appointed by the Application Approving Official. The Panel shall include, at a minimum, a representative of the Office of Minority Economic Impact, the contracting officer and a representative of the Office of the Controller.

(b) Panel review shall be conducted pursuant to paragraph (c) or (d) of this section, as applicable, to evaluate, to clarify and to develop information contained in the application and such other information as the Application Approving Official or the Panel may request.

(1) The Panel shall give priority to applications relating to a competitive solicitation, because of time limits on such solicitations. The Panel may defer action a maximum of five days after a solicitation has been announced in the *Commerce Business Daily* to provide all interested applicants an opportunity to apply.

(2) Initial screening will be in the order applications are received, but time required to process an application may vary from case to case.

(c) Panel review of specific loan requests.

(1) If an application contains a specific loan request, and complies with § 800.101, the Panel shall arrange for risk analysis, independent of any such analysis submitted by or on behalf of the applicant. Risk analysis shall be directed both to the loan request and to applicant's prospective performance of work pursuant to the bid or proposal.

(2) The Panel shall evaluate the loan request in light of the risk analysis, and shall give its conclusions in writing to the Application Approving Official, with respect to the following and to such other considerations as that official may direct:

(i) Applicant's eligibility as a minority business enterprise.

(ii) Compliance with the application requirements of § 800.101.

(iii) Compliance with § 800.200 on allowable costs.

(iv) Applicant's financial ability to make the bid or proposal without the loan.

(v) Applicant's contribution of, or ability to contribute, the 25% minimum share of allowable costs, or more.

(vi) Applicant's ability to prepare an adequate bid or proposal, if the loan is made.

(vii) Possibility of award to applicant pursuant to its bid or proposal.

NOTE: Normally, not more than three loans will be approved for the same competitive award.

(viii) Applicant's ability to perform pursuant to the bid or proposal.

(ix) Likelihood that applicant will repay the requested loan, regardless of success of applicant's bid or proposal.

(x) Optimal use of available program funds.