

**DEPARTMENT OF COMMERCE****National Institute of Standards and Technology**

[Docket Number: 000505126-0126-01

RIN 0693-ZA37

**Materials Science and Engineering Laboratory, NIST Center for Neutron Research Supplemental Grants Program—Availability of Funds****AGENCY:** National Institute of Standards and Technology, Commerce.**ACTION:** Notice.

**SUMMARY:** The purpose of this notice is to inform potential applicants that the National Institute of Standards and Technology Center for Neutron Research (NCNR) is establishing a supplemental program within the Materials Science and Engineering Laboratory (MSEL) Grants Program, offering financial assistance in the field of Neutron Scattering Research and Spectroscopy.

**DATES:** Proposals for the NCNR Supplemental Grants Program must be received no later than 5:00 p.m. Eastern Standard Time (June 26, 2000). Applications received after the closing time and date will not be accepted, and they will be returned to the sender.

**ADDRESSES:** Each applicant must submit one signed original and two paper copies of a proposal with a Grant Application (Standard Form 424, Rev. 7/97 series and other required forms) to Denise Sullivan, National Institute of Standards and Technology, NIST Center for Neutron Research, STOP 8560, Gaithersburg, Maryland 20899-8560, Phone (301) 975-5831. Facsimile, electronic mail, and other forms of electronic application submissions will not be accepted.

**FOR FURTHER INFORMATION CONTACT:** Ms. Denise Sullivan (301) 975-5831.

**SUPPLEMENTARY INFORMATION:**

*Catalog of Federal Domestic Assistance Name and Number:* Measurement and Engineering Research and Standards—11.609.

**Authority:** As authorized under 15 U.S.C. 272(b)(7) and (c)(16), the MSEL conducts a basic and applied research program directly and through grants and cooperative agreements to eligible recipients.

**Program Description/Objectives**

The primary objective of the supplemental program in Neutron Research is to develop new areas of neutron instrumentation with emphasis on cold neutrons; to explore and develop new areas of neutron scattering science, with emphasis on macromolecular science, condensed

matter physics, and chemistry; to assist and train facility users in their research, and to conduct other outreach and educational activities that advance the use of neutrons by U.S. university and industrial scientists.

**Eligibility**

The NCNR Supplemental Grants Program will be open to colleges and universities in the United States.

**Funding Instrument**

The funding instrument will be a cooperative agreement, to allow substantial NIST involvement in directing and collaborating on the scope of work.

**Funding Availability**

Proposals will be considered for research projects with durations up to five years, subject to the availability of funds, satisfactory progress, and continuing relevance to the objectives of the NIST Center for Neutron Research. The anticipated level of funding for the supplemental program in Neutron Research in the MSEL Grants Program is for one ward of up to \$2,000,000 per year.

**Proposal Review and Evaluation Criteria**

Proposals will be reviewed in a two-step process. First, an independent, objective panel of at least three individuals knowledgeable about neutron scattering research and spectroscopy will conduct a technical review of proposals, based on the evaluation criteria. Second, the Center Director will make the final award selection. In making the final award selection, the Center Director will take into consideration the results of the panel's evaluations, including rank, the compatibility of the applicant's proposal with the program objectives of the NCNR, and the Center Director's judgment as to which application, when the slate is taken as a whole, is likely to best further the objectives of the NCNR Supplemental Grants Program, described above in the "Program Description/Objectives" section. If an award is made to an applicant inconsistent with the ranking by technical reviewers, the Center Director shall justify the selection in writing. The final approval of the selected application and award of a cooperative agreement will be made by the NIST Grants Officer based on compliance with program requirements and whether the recommended applicants appear competently managed, responsible, and committed to achieving project

objectives. The decision of the Grants Officer is final.

For the NCNR Supplemental Grants Program, the evaluation criteria the technical reviewers will use in evaluating the proposals are as follows:

1. Qualifications and experience of the Principle Investigator in neutron scattering research, as demonstrated by extensive publications and invited lectures in condensed matter physics, chemistry, material science, macromolecular science or related fields. (15%)
2. Qualifications and experience of the proposed staff of the university in neutron scattering research or in related scientific or engineering areas that are key to the activities contained in the proposal, as demonstrated by resumes of staff proposed for this program. (25%)
3. Quality of the proposed research and development plan and its potential impact on neutron scattering science, particularly in the areas of macromolecular science, condensed matter physics, and chemistry. (30%)
4. Quality of the plan in the terms of providing research assistance to U.S. neutron researchers using the NCNR facilities and related training, education, and outreach plan. (20%)
5. Quality of the plan for special engagement and outreach to minority or female students, professional scientists, or institutions. (10%)

**Award Period**

Proposals will be considered for research projects with a duration of up to five years. When a proposal for a multi-year award is approved, funding will generally be provided for only the first year of the program. If an application is selected for funding, NIST has no obligation to provide any additional funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of NIST. Funding for each subsequent year of a multi-year proposal will be contingent upon satisfactory progress, continued relevance to the mission of the NCNR program, and the availability of funds.

**Matching Funds**

This program does not require the recipient to provide any matching funds.

**Application Kit**

An application kit, containing all required application forms and certifications is available by contacting Ms. Denise Sullivan, (301) 975-5831. The application kit includes the following:

SF 424 (Rev 7/97)—APPLICATION FOR FEDERAL ASSISTANCE  
 SF 424A (Rev 7/97)—BUDGET INFORMATION—Non-Construction Programs  
 SF 424B (Rev 7/97)—ASSURANCES—Non-Construction Programs  
 CD 511 (7/91)—CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS; DRUG-FREE WORKPLACE REQUIREMENTS AND LOBBYING  
 CD 512 (7/91)—CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION—LOWER TIER COVERED TRANSACTIONS AND LOBBYING  
 SF-LLL—DISCLOSURE OF LOBBYING ACTIVITIES  
 CD-346—APPLICANT FOR FUNDING ASSISTANCE

### Paperwork Reduction Act

The Standard Form 424 and other Standard Forms in the application kit are subject to the requirements of the Paperwork Reduction Act and have been approved by OMB under Control No. 0348-0043, 0348-0044, 0348-0040, 0348-0046, and 0605-0001.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

### Additional Requirements

*Primary Application Certifications:* All primary applicant institutions must submit a completed form CD-511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying" and the following explanations must be provided:

1. *Nonprocurement Debarment and Suspension.* Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

2. *Drug-Free Workplace.* Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, subpart F, "Government wide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

3. *Anti-Lobbying.* Persons (as defined at 15 CFR part 28, section 105) are

subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contacting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than \$100,000, and loans and loan guarantees for more than \$150,000, or the single family maximum mortgage limit for affected programs, whichever is greater.

4. *Anti-Lobbying Disclosure.* Any applicant institution that has paid or will pay for lobbying using any funds must submit an SF-LL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, appendix B.

5. *Lower-Tier Certifications.* Recipients shall require applicant/bidder institutions for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD-512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions and Lobbying" and disclosure form, SF-LLL, "Disclosure of Lobbying Activities." Form CD-512 is intended for the use of recipients and should not be transmitted to NIST. SF-LLL submitted by any tier recipient or subrecipient should be submitted to NIST in accordance with the instructions contained in the award document.

### Name Check Reviews

All for-profit and non-profit applicants will be subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing, criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity. Form CD-346 must be completed for all personnel with key programmatic or fiduciary responsibilities.

### Preaward Activities

Applicants (or their institutions) who incur any costs prior to an award being made do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that may have been provided, there is no obligation on the part of NIST to cover pre-award costs.

### No Obligation for Future Funding

If an application is accepted for funding, DOC has no obligation to

provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of NIST.

### Past Performance

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

### False Statements

A false statement on an application is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

### Delinquent Federal Debts

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

1. The delinquent account is paid in full,
2. A negotiated repayment schedule is established and at least one payment is received, or
3. Other arrangements satisfactory to DoC are made.

### Indirect Costs

Regardless of any approved indirect cost rate applicable to the award, the maximum dollar amount of allocable indirect costs for which the DoC will reimburse the Recipient shall be the lesser of:

- (a) the Federal Share of the total allocable indirect costs of the award based on the negotiated rate with the cognizant Federal agency as established by audit or negotiation; or
- (b) the line item amount for the Federal share of indirect costs contained in the approved budget of the award.

### Purchase of American-Made Equipment and Products

Applicants are hereby notified that they are encouraged, to the greatest practicable extent, to purchase American-made equipment and products with funding provided under this program.

### Federal Policies and Procedures

Recipients and subrecipients under each of the above grant programs shall be subject to all Federal laws and Federal and Departmental regulations, policies, and procedures applicable to financial assistance awards.

Each of the above grant programs does not directly affect any state or local government.

Applications under these programs are not subject to Executive Order

12372, "Intergovernmental Review of Federal Programs."

### Executive Order Statement

This funding notice was determined to be "not significant" for purposes of Executive Order 12866.

Dated: May 22, 2000.

**Karen H. Brown,**

*Deputy Director, NIST.*

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## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Solicitation of Public Comments on Establishing a Review Process for Mandatory Conditions Developed by the Departments of the Interior and Commerce in the Context of Hydropower Licensing

**AGENCIES:** Office of the Secretary, Interior; National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of solicitation of public comments.

**SUMMARY:** The Department of the Interior and the Department of Commerce (Departments) have committed to establishing a review process for the mandatory conditions and prescriptions the Departments develop as part of the Federal Energy Regulatory Commission's hydropower licensing proceedings under part I of the Federal Power Act. The Departments have convened a joint drafting committee to develop such a process and, with the input of the public and agency field staffs, will be exploring a variety of options in the coming months.

**DATES:** Comments must be submitted by June 26, 2000.

**ADDRESSES:** Please submit all comments to Liz Birnbaum, U.S. Department of the Interior, Solicitor's Office, MS-6352, 1849 C Street, NW 20240, or by email: <MARP@ios.doi.gov>.

**FOR FURTHER INFORMATION CONTACT:** Liz Birnbaum, U.S. Department of the Interior, 202-208-4423, or Stephen Waste, U.S. Department of Commerce, 301-713-2325, extension 182.

### SUPPLEMENTARY INFORMATION:

#### Background

Pursuant to Part I of the Federal Power Act, 16 U.S.C. 791a *et seq.*, the

Department of the Interior and Department of Commerce possess certain authorities in the process for licensing non-federal hydroelectric generating facilities. Although the final licensing decision lies with the Federal Energy Regulatory Commission (Commission), various bureaus of the Departments provide input to the Commission on a number of issues related to the license application. Among others, the Departments' authorities include the U.S. Fish and Wildlife Service's and National Marine Fisheries Service's authority to prescribe fishways under section 18 of the Federal Power Act, 16 U.S.C. 811, and the Secretary of the Interior's authority with respect to land "reservations" that may contain non-federal hydropower project works, to establish conditions "necessary for the adequate protection and utilization of such reservations" under section 4(e) of the Federal Power Act, 16 U.S.C. 797(e). These reservations may include lands managed principally by the U.S. Fish and Wildlife Service, the National Park Service, the Bureau of Land Management, the Bureau of Reclamation and the Bureau of Indian Affairs.

The Federal Power Act states that both section 18 prescriptions and section 4(e) conditions must be included in any license issued by the Commission. The mandatory nature of these prescriptions and conditions has been upheld by Federal courts, including the Supreme Court. *Escondido Mutual Water Co. v. La Jolla Band of Mission Indians*, 466 U.S. 765 (1984); *Bangor Hydroelectric Co. v. FERC*, 78 F.3d 659 (D.C. Cir. 1996); *American Rivers v. FERC*, 129 F.3d 99 (2d Cir. 1997); *American Rivers v. FERC*, 187 F.3d 1007 (9th Cir. 1999). After incorporation into a license, the prescriptions and conditions are subject to judicial review under the appeal procedures of the Federal Power Act, which places exclusive jurisdiction in the Federal courts of appeals (16 U.S.C. 8251(b)).

Currently, the Departments try to work closely with the license applicant in developing mandatory prescriptions and conditions. However, the Departments understand the interest of licensees and others in having a more formal opportunity to provide input on the Departments' mandatory conditions before FERC issues a license. Such a review process mechanism would provide an opportunity for the Departments and interested parties to work together to improve prescriptions and conditions in advance of license issuance. While it is generally thought that this process would only be

appropriate in a traditional process licensing, the Departments will also evaluate whether such a mechanism should be available for prescriptions and conditions developed during negotiations under the Commission's alternative licensing procedure, or other settlement negotiations.

Before the Departments can establish a review process, a number of issues must be considered and addressed. The Departments do not wish to institute a review process that causes significant delays in developing prescriptions and conditions, or creates unnecessary procedural burdens on the Commission, licensees, or on to balance the need to obtain timely, meaningful input with their legal obligation to support conditions and prescriptions with substantial evidence in the record. Furthermore, in consideration of increasingly significant resource constraints, the Departments must adopt a procedure that is not too burdensome.

Timing will be a particularly important consideration in establishing a review process. While the Departments often have an opportunity to review and comment on draft hydropower licensing applications before the applications are due, they typically do not see the final license application until it is submitted to the Commission. The Departments therefore have very little time to analyze the application and develop appropriate prescriptions and conditions. In addition, they often must wait to receive additional environmental information before being able to develop section 18 prescriptions or Section 4(e) conditions. Commission rules ask that the Departments submit prescriptions and conditions within 60 days after the Commission determines that the application is complete and ready for environmental review. Where there is sufficient information to support a preliminary prescription or condition, the Departments normally take this time to develop prescriptions and conditions that address the application as written, leaving little time for any kind of review process. Once the prescriptions and conditions have been submitted, the Commission's regulations provide a narrow 45-day comment period for public comments. Therefore, in developing a review process, the Departments must consider whether to delay their submissions to the Commission in order to accommodate the new process, use the time period already contemplated under the Commission's regulations, or take other steps to integrate this new process into the licensing procedure.