application satisfies one or more of the following selection criteria.

(1) The activity to be funded is necessary to the satisfactory completion of, or is a continuation or renewal of, an activity presently being funded by DOE or another Federal agency, and for which competition for support would have a significant adverse effect on continuity or completion of the activity.

(2) The activity is being or would be conducted by the applicant using its own resources or those donated or provided by third parties; however, DOE support of that activity would enhance the public benefits to be derived and DOE knows of no other entity which is conducting or is planning to conduct such an activity.

(3) The applicant is a unit of government and the activity to be supported is related to performance of a governmental function within the subject jurisdiction, thereby precluding

DOE provision of support to another

entity.

(4) The applicant has exclusive domestic capability to perform the activity successfully, based upon unique equipment, proprietary data, technical expertise, or other such unique qualifications.

(5) The award implements an agreement between the United States Government and a foreign government

to fund a foreign applicant.

(6) Time constraints associated with a public health, safety, welfare or national security requirement preclude

competition.

(7) The proposed project represents a unique or innovative idea, method, or approach which would not be eligible for financial assistance under a recent, current, or planned solicitation, and if, as determined by DOE, a competitive solicitation would not be appropriate.

(8) The responsible program Assistant Secretary (or official of equivalent authority), with the approval of the Deputy Assistant Secretary for Procurement and Assistance Management, determines that a noncompetitive award is in the public interest. This authority may not be delegated.

(d) Documentation requirements. A determination of noncompetitive financial assistance (normally prepared by the responsible program official (project officer)) is required to explain the basis for the proposed noncompetitive award and shall be

placed in the award file.

(e) Approval requirements.

Determinations of noncompetitive awards shall be approved, prior to award, by the initiating program official, by the responsible program Assistant

Secretary (or official of equivalent authority) or designee, who shall be not less than two organizational levels above that of the project officer, by the Contracting Officer and shall be concurred in by local legal counsel. Where the amount of DOE funds is less than \$1,000,000 for a noncompetitive financial assistance award, the determination shall be approved by the cognizant HCA and the Contracting Officer. Concurrence may be waived by local legal counsel.

§ 600.7 Small and disadvantaged and women-owned business participation.

(a) DOE encourages the participation in financial assistance awards of small businesses, including those owned by socially and economically disadvantaged individuals and women, of historically black colleges, and of colleges and universities with substantial minority enrollments.

(b) For definitions of the terms in paragraph (a) of this section, see the Higher Education Act of 1965, and 15 U.S.C. 644, as amended by the Federal Acquisition Streamlining Act, and implementing regulations under FASA issued by the Office of Federal Procurement Policy.

(c) DOE shall require recipients and subrecipients to take affirmative action with respect to such entities in contracts under financial assistance awards and subawards as required under Sections 600.144 and 600.236.

§ 600.8 Solicitation.

(a) General. A solicitation for financial assistance applications shall be in the form of a program rule or other publicly available document which invites the submission of applications by a common due date or within a prescribed period of time.

(1) A Program Assistant Secretary (or official of equivalent authority) may annually issue a program notice describing research areas in which financial assistance is being made available. Such notice shall also state whether the research areas covered by the notice are to be added to those listed in a previously issued program rule. If they are to be included, then applications received as a result of the notice may be treated as having been in response to that previously published program rule. If they are not to be included, then applications received in response to the notice are to be treated as unsolicited applications. Solicitations may be issued by a DOE Contracting Officer or program office with prior concurrence of the contracting office.

(2) DOE shall publish either a copy or a notice of the availability of a financial

assistance solicitation in the **Federal Register**. DOE shall publish solicitations or notices in the Commerce Business Daily when potential applicants include for-profit organizations or when there is the potential for significant contracting opportunities under the resulting financial assistance awards.

(b) Subawards. In accordance with the provisions of the applicable statute and program rules, if a DOE financial assistance program involves the award of financial assistance by a recipient to a subrecipient, the recipient shall provide sufficient advance notice so that potential subrecipients may prepare timely applications and secure prerequisite reviews and approvals.

(c) Contents of solicitation. Each solicitation shall include the following types of information and such other information as may be necessary to allow potential applicants to decide whether to submit an application, to understand how applications will be evaluated, and to know what the obligations of a recipient would be.

(1) A control number assigned by the

issuing DOE office;

(2) The amount of money available for award and, if appropriate, the expected size of individual awards broken down by areas of priority or emphasis, and the expected number of awards;

(3) The type of award instrument or instruments to be used;

(4) Catalog of Federal Domestic Assistance number for the program;

(5) Who is eligible to apply;

(6) The expected duration of DOE support or the period of performance;

(7) Application form or format to be used, location for application submission, and number of copies required;

- (8) The name of the responsible DOE Contracting Officer (or, for program notices or solicitations issued by the program office, the program office contact) to contact for additional information, and, as appropriate, an address where application forms may be obtained;
- (9) Whether loans are available under the DOE Minority Economic Impact (MEI) loan program, 10 CFR part 800, to finance the cost of preparing a financial assistance application, and, if MEI loans are available, a general description of the eligibility requirements for such a loan, a reference to Catalog of Federal Domestic Assistance Number 81.063, and the name and address of the DOE office from which additional information and loan application forms can be obtained;
- (10) Appropriate periods or due dates for submission of applications and a statement describing the consequences