

other law, for rules relating to public property, loans, grants, benefits or contracts (5 U.S.C. 553(a)), a Regulatory Flexibility Analysis is not required and has not been prepared for this notice, 5 U.S.C. 601 *et seq.*

Dated: May 26, 2009.

Patrick D. Gallagher,
Deputy Director.

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DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No.: 090306286-9288-01]

Recovery Act National Institute of Standards and Technology Construction Grant Program

AGENCY: National Institute of Standards and Technology (NIST), Department of Commerce.

ACTION: Notice of availability of funds.

SUMMARY: The National Institute of Standards and Technology (NIST) announces that it will hold a NIST Construction Grant Program competition under the American Recovery and Reinvestment Act of 2009 and is soliciting proposals for financial assistance.

DATES: A Letter of Intent is required and must be received no later than 3 p.m. Eastern Time, Thursday, June 25, 2009. A corresponding full proposal must be received no later than 3 p.m. Eastern Time, Monday, August 10, 2009. Review, selection, and grant award processing is expected to be completed in February 2010.

ADDRESSES: Letters of Intent may only be submitted by paper to: National Institute of Standards and Technology; 100 Bureau Drive, Stop 4701; Gaithersburg, MD 20899-4701. Full proposals may be submitted by paper and electronically. Paper Submissions: National Institute of Standards and Technology; 100 Bureau Drive, Stop 4701; Gaithersburg, MD 20899-4701. Electronic submissions: www.grants.gov.

FOR FURTHER INFORMATION CONTACT: Barbara Lambis at 301-975-4447 or by e-mail at barbara.lambis@nist.gov.

SUPPLEMENTARY INFORMATION:

Additional Information. The full Federal Funding Opportunity (FFO) announcement for this request for proposals contains detailed information and requirements for the program. Proposers are strongly encouraged to

read the FFO in developing proposals. The full FFO announcement text is available at <http://www.grants.gov> and on the NIST Recovery Act Web site at <http://www.nist.gov/recovery>.

Statutory Authority. The statutory authority for this program is the American Recovery and Reinvestment Act of 2009 (Recovery Act) (Pub. L. 111-5, 123 Stat. 115).

CFDA 11.618, NIST Construction Grant Program

Program Description. The American Recovery and Reinvestment Act of 2009 (Recovery Act) (Pub. L. 111-5, 123 Stat. 115) appropriated \$180 million to NIST "for a competitive construction grant program for research science buildings." Additional information on the program was provided on page 418 of the Conference Report to accompany House Report 111-16 (Feb. 12, 2009), which indicated that "* * * \$180,000,000 shall be for the competitive construction grant program for research science buildings, including fiscal year 2008 and 2009 competitions."

Consistent with the Conference Report language NIST intends to issue grant awards for approximately \$60 million to unfunded meritorious proposals submitted under the fiscal year 2008 competition and issue grant awards for approximately \$120 million under a new fiscal year 2009 competition.

The goals and objectives of the program are to provide competitively awarded grant funds for research science buildings through the construction of new buildings or expansion of existing buildings. For purposes of this program, "research science building" means a building or facility whose purpose is to conduct scientific research, including laboratories, test facilities, measurement facilities, research computing facilities, and observatories. In addition, "expansion of existing buildings" means that space to conduct scientific research is being expanded from what is currently available for the supported research activities.

Consistent with Section 3 of the Recovery Act, the projects undertaken through this program will result in the preservation of jobs and the promotion of economic recovery; the provision of investments needed to increase economic efficiency by spurring technological advances; and the investment in infrastructure that will provide long-term economic benefits. Activities will be commenced as quickly as possible while ensuring prudent management.

Unallowable/Ineligible Projects

The following projects are unallowable/ineligible under this program:

a. Projects to construct or expand a building not intended for performing research or that will predominately be equipped with routine office equipment and/or lecture/classroom furnishings.

b. Projects to construct facilities that will primarily benefit undergraduate research training programs, rather than the creation of new graduate level research programs, or expanding existing graduate level research programs.

c. Projects to construct facilities that will primarily benefit the education of the general public rather than support research activities.

d. Projects that include tasks for constructing shell space that will not be completed into research space within the grant will have these tasks removed.

Unallowable/Ineligible Costs

The following items, regardless of whether they are allowable under the Federal cost principles, are unallowable under this program:

a. Any equipment used for research or otherwise that is not an integral part of the building's structure, *e.g.*, MRI, portable air conditioners, etc.

b. Costs or charges associated with routine maintenance, operation, interior decorating, or landscaping of any building.

c. Purchase of land.

d. Costs incurred prior to award are not eligible for reimbursement or as cost share.

Limit on Proposals per Applicant. Proposals are limited to one per applicant organization. Distinct academic campuses (that award their own degrees, have independent administrative structures, admission policies, alumni associations, etc.) within multi-campus systems qualify as separate institutions.

Funding Availability. Approximately \$120 million is available for new grants for the FY 2009 competition. NIST anticipates funding 8-12 projects with Federal shares in the \$10 million-\$15 million range with a project period of performance of up to five (5) years, although there is an expectation that most of the projects will be completed prior to five years. The anticipated start date will be one month after the award is made. The period of performance depends on the construction schedule proposed.

Eligibility Criteria. U.S. institutions of higher education and non-profit organizations are eligible to apply.

Cost-Sharing Requirements. Although cost sharing is not required, NIST encourages cost sharing in order for a proposal to be competitive, and it will be considered as part of the Selection Factors. A cost share of 25% would be viewed favorably, 50% even more favorably.

The purchase of land cannot be used as cost sharing. See also section IV.6. Funding Restrictions of the Federal Funding Opportunity.

Evaluation Criteria. The evaluation criteria that will be used in evaluating proposals are as follows:

a. Scientific and technical merit of the proposed use of the facility and the need for Federal funding (50 percent).

This criterion addresses the intellectual merit and broader impacts of the proposed use of the facility; the strategic research directions planned with the facility and how well the plan is conceived and organized; what the facility will enable in terms of the advancement of knowledge and understanding within a specific field(s) or across different fields; the qualifications of the proposed key researchers (individuals or teams) which will use the facility, as well as the management team that will lead them; the potential for targeted impacts resulting from the use of the facility that are unlikely to be achieved with the current infrastructure, such as what transformative or creative concepts may expand the science and technology knowledge base; the extent to which the facility will enhance collaborations within and outside of the institution; and the need for Federal funding due to a lack of alternative funding sources, specifically what other sources were pursued.

b. The quality of the design of the research science building (25 percent).

This criterion addresses the quality of the design information provided for the building/facility to establish that the design has the ability to meet the safety, physical, environmental, experimental/research (e.g. unique environmental controls—vibration, humidity, temperature, etc.), and operational (e.g. utilities and circulation of people) requirements of the science and technology activities the building/facility is expected to support. It also addresses whether or not preliminary drawings and plans, together with appropriate estimates, of in-house or vendor costs, are complete, in progress, or planned. Furthermore, it addresses the rationale for and summary specifications of the building/facility, including location, size, configuration, environmental controls for research space, utility needs, gross and/or

assignable square footage, assignments of square footage to research- and non-research-related activities (e.g. routine administrative office space, conference rooms, classrooms etc.), and the assigned purpose by areas.

c. Adequacy of the detailed Project Management Plan for construction of the research science building/facility (25 percent). The program will evaluate the following four aspects of the Project Management Plan:

(1) Project Scope and Requirements:

This criterion addresses the description and organization of project work packages (project tasks/elements) in a clear and complete Work/Task Breakdown Structure (WBS) approach that comprises the total scope of the building/facility project from inception through commissioning of the facility, including descriptions of each work package and its associated subtasks, the relationship between the work packages and their associated subtasks, consolidated into a unified project scope description that will be used by project management key personnel throughout the project management life-cycle to identify and monitor project progress, as well as link and track work packages and subtasks to the budget and schedule plans addressed in c.(2) below. In addition, this criterion addresses which work packages are proposed to be within, before or after the project period. The project period covers only the Federal and the allowable auditable cost share portion of the project.

(2) Adequacy of the Proposed Project Time Schedule and Linkage to the Budget, including the Clarity of the Budget and the Budget Narrative:

This criterion addresses the time schedule for implementing the work packages and associated subtasks described within the WBS addressed in c.(1) above, and how the budget costs associated with the work packages correctly sum up to each of the cost categories of the SF-424C by project year.

(3) Capability to Manage the Project:

This criterion addresses the approach planned for project management monitoring and risk control during the life of the award, from kick-off through close-out, which may include tools, techniques and processes (manual and automated systems). It also addresses an analysis of potential project risks (e.g. timing, cost and/or scope changes), where in the schedule risk(s) may be expected, and how the risk(s) may be mitigated through specific control mechanisms, and the planning/control decisionmaking process to implement the control mechanisms. Finally, it addresses the management plan for

direction and implementation of the project, including capability descriptions of the performing organizations and experience summaries for the manager with fiduciary project responsibility, the project manager, and other key project personnel as appropriate.

(4) Soundness of the Financial Commitments to Implement the Project Management Plan:

This criterion addresses the current and any pending commitments required for the building/facility to be constructed, commissioned and become fully operational, including any risk(s) associated with finalizing funding commitments and the organizational name/contact that has the fiduciary authority over the funding commitments.

Letters of Intent

Each eligible organization can submit only one Letter of Intent in response to this solicitation. A Letter of Intent, in paper form only, is mandatory and must be received by NIST no later than 3 p.m. Eastern Time, Thursday, June 25, 2009. If a full proposal is submitted to NIST from an applicant who did not submit the required Letter of Intent, the full proposal will be rejected and not reviewed. It is expected that the Letter of Intent, which is to provide an overview of responsible personnel and estimated costs, will be reviewed for eligibility, and whether or not the project complements one or more of the program priorities. NIST will send an acknowledgement of the Letter of Intent to all applicants who timely submit a Letter of Intent. The information required in a Letter of Intent is provided in the full FFO announcement for this request for proposals.

Each applicant organization may only submit one Letter of Intent. Submission of multiple Letters of Intent from one applicant organization is not allowed. If more than one Letter of Intent is received from the same applicant organization, NIST will acknowledge each Letter of Intent received from the same applicant organization and provide notice that if more than one full proposal is received from the same applicant organization at the time of full proposal submission, all full proposals from that same applicant organization will be rejected without review.

Selection Process

An initial administrative review of timely received full proposals will be conducted to determine compliance with requirements and completeness. Responsive and complete proposals will be considered further. Proposals that are

nonresponsive and/or incomplete will be eliminated. Each of the remaining proposals will receive a minimum of three independent reviews, which will include written evaluations and scores, based on the evaluation criteria.

Reviews concerning evaluation criteria b. and c. above may be performed by non-Federal Engineers or Architects. No consensus advice will be given by the reviewers. The individual proposal evaluations and scores will be considered by an Evaluation Board(s) (a committee made up of Federal employees). This Board(s) will present rankings in numerical order and funding recommendations based on the evaluation criteria to a Selecting Official for further consideration. In making final selections, the Selecting Official (Chief Facilities Management Officer, NIST) will select funding recipients based upon the Evaluation Board's rank order of the proposals and the selection factors. The selection of proposals by the Selecting Official is final and cannot be appealed. NIST reserves the right to negotiate the cost and scope of the proposed work with the applicants that have been selected to receive awards. This may include requesting that the applicant delete from the scope of work a particular task that is deemed by NIST to be inappropriate for support (or of a lower priority compared with competing uses of funds) against the evaluation criteria or selection factors. NIST also reserves the right to reject a proposal where information is uncovered that raises a reasonable doubt as to the responsibility of the applicant. The final approval of selected proposals and award of grants will be made by the NIST Grants Officer. The award decision of the NIST Grants Officer is final and cannot be appealed.

Applicants may not submit replacement and/or revised pages and/or documents for any portion of a proposal once that portion has been submitted unless specifically requested by NIST.

One copy of each incomplete, nonresponsive, or non-selected proposal will be retained for three (3) years for record keeping purposes and the other two (2) copies will be destroyed. After three (3) years the remaining copy will be destroyed.

Selection Factors. The Selecting Official shall recommend proposals for award based upon the Evaluation Board's rank order of the proposals, and may select a proposal out of rank based on one or more of the following selecting factors: a. Degree to which the project complements one or more programs of DoC's three science organizations' science and technology

program priorities (see Program Priorities below), including the amount and quality of experience that the institution that will use the facility has had with novel research.

b. Ability of a project to fulfill objectives of the Recovery Act, as described in the Program Description above: preservation of jobs and the promotion of economic recovery; provision of investments needed to increase economic efficiency by spurring technological advances; and investing in infrastructure that will provide long-term economic benefits, through activities that will commence as quickly as possible while ensuring prudent management.

c. Degree to which the applicant proposes an early construction start date and/or is close to or has awarded a construction contract for the facility. For example, an early start date for construction of a ready to proceed project may be considered more favorably than a project that requires a longer time to complete design requirements.

NIST will emphasize the selection of projects that are ready to proceed and will thereby stimulate local economies through the creation or retention of jobs in U.S. jurisdictions, as well as yield significant program benefits. Projects that are ready to proceed are generally those where feasibility studies and/or other baseline information required for a design to commence are completed, where required consultations and permits, if not in-hand, are either in progress or where there is reasonable assurance provided that they can be attained quickly, and where National Environmental Policy Act (NEPA) or equivalent analysis and any environmental permits and authorizations are finished or can be expeditiously completed, so that projects can be implemented shortly after funding is made available. The adequacy of information needed to assess compliance with and to make a determination under NEPA, as described below, may be considered.

d. Assuring a balance/distribution of projects across the program priorities (see Program Priorities below).

e. Availability of Federal funds.

f. Experience or potential of promoting national impacts through research outcomes, training, cooperation with Federal programs, and/or opportunities for visiting researchers.

g. Credibility of plans to transition to operational status (*i.e.*, staffing and equipping the research science building, and operational readiness).

h. Degree to which the project considers and incorporates green/sustainable design practices.

i. Although cost sharing is not required, the degree to which the applicant is proposing cost share will be considered. (A cost share of 25% would be viewed favorably; 50% even more favorably.)

j. Whether this project duplicates other projects funded by DoC or other Federal agencies.

k. Applicant's prior Federal award performance.

Program Priorities

All applicable fields of science that complement one or more programs of DoC's three science organizations: NIST, the National Oceanic and Atmospheric Administration (NOAA), and the National Telecommunications and Information Administration (NTIA). Specifically, these include science related to measurements, oceans and atmosphere, and telecommunications. More information about those programs can be found on the agencies' Web sites (www.nist.gov, www.noaa.gov, and www.ntia.doc.gov).

Proposals are only required to link to the program priorities of one of the three DoC science organizations. Proposals that address program priorities of more than one organization are not considered to be more competitive.

Executive Order 12372 (Intergovernmental Review of Federal Programs). Proposals under this program are not subject to Executive Order 12372.

Administrative Procedure Act and Regulatory Flexibility Act. Prior notice and comment are not required under 5 U.S.C. 553, or any other law, for rules relating to public property, loans, grants, benefits or contracts (5 U.S.C. 553(a)). Because prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis is not required and has not been prepared.

E.O. 13132 (Federalism). This notice does not contain policies with Federalism implications as defined in Executive Order 13132.

E.O. 12866 (Regulatory Planning and Review). This notice is determined to be not significant under Executive Order 12866.

Paperwork Reduction Act. Notwithstanding any other provision of the law, no person is required to, nor shall any person be subject to a penalty for failure to, comply with a collection of information subject to the

requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This notice contains collection-of-information requirements subject to the PRA. The use of Form S NIST-1101, NIST Construction Grant Program Budget Narrative, NIST-1101A, NIST Construction Grant Program Budget Narrative, and NIST-1101B, NIST Construction Grant Program Details on Unallowable Project Costs, has been approved under OMB Control No. 0693-0055; and SF-424, Application for Federal Assistance, SF-424C, Budget Information—Construction Programs, SF-424D, Assurances—Construction Programs, and SF-LLL, Disclosure of Lobbying Activities, have been approved by OMB under the respective control numbers 4040-0004, 4040-0008, 4040-0009, and 0348-0046.

Security Interest. Grant recipients will be required to execute a security interest or other statement of NIST's interest in the property (building), acceptable to NIST, which must be perfected and placed on record in accordance with local law. This security interest will provide that, for the estimated useful life of the building (20 years), the recipient will not sell, transfer, convey, or mortgage any interest in the real property improved in whole or in part with Federal funds made available under the award, nor shall the recipient use the property for purposes other than the purposes for which the award was made, without the prior written approval of the Grants Officer. Such approval may be withheld until such time as the recipient first pays to NIST the Federal share of the property as provided in 15 CFR Part 14.

DoC Pre-Award Notification Requirements. The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements, which are contained in the **Federal Register** Notice of February 11, 2008 (73 FR 7696-01), are applicable to this solicitation.

Employer/Taxpayer Identification Number and Dun and Bradstreet Data Universal Numbering System

On the form SF-424 items 8.b. and 8.c., the applicant's 9-digit Employer/Taxpayer Identification Number (EIN/TIN) and 9-digit Dun and Bradstreet Data Universal Numbering System (DUNS) number must be consistent with the information on the Central Contractor Registration (CCR) (www.ccr.gov) and Automated Standard Application for Payment System (ASAP). For complex organizations with

multiple EIN/TIN and DUNS numbers, the EIN/TIN and DUNS numbers MUST be the numbers for the applying organization. Organizations that provide incorrect/inconsistent EIN/TIN and DUNS numbers may experience significant delays in receiving funds if their proposal is selected for funding. Please confirm that the EIN/TIN and DUNS number are consistent with the information on the CCR and ASAP.

National Environmental Policy Act. The Department must analyze the potential environmental impacts, as required by the National Environmental Policy Act (NEPA), for applicant projects or proposals which are seeking Recovery Act funding. General information on compliance with NEPA can be found at the following Web sites: <http://www.nepa.noaa.gov>, and the Council on Environmental Quality's (CEQ) NEPANet, <http://ceq.hss.doe.gov/nepa/nepanet.htm>.

Consequently, as part of an applicant's proposal, and under their description of their program activities, applicants are required to provide detailed information on the activities to be conducted, safety concerns, locations, site characteristics, surrounding environment, species and habitat that might be affected, construction activities, and any environmental concerns that may exist (e.g., the use and disposal of hazardous or toxic chemicals, impacts to endangered and threatened species, or any social, economic or cultural impacts to the surrounding environment) in accordance with the required NIST-1101B, NIST Construction Grant Program Environmental Compliance Questionnaire.

It is the applicant's responsibility to obtain all necessary Federal, state, and local government permits and approvals where necessary for the proposed work to be conducted. Applicants are expected to design their projects so that they minimize the potential for adverse impacts to the environment. Applicants will also be required to cooperate with the Department in identifying feasible measures to reduce or avoid any identified adverse environmental impacts of their proposed project. The failure to do so will be grounds for not awarding a grant.

Documentation of requests/completion of required environmental authorizations and permits, including the Endangered Species Act, if applicable, should be included in the proposal. Applications will be reviewed to ensure that they contain sufficient information to allow Department staff to conduct a NEPA analysis so that appropriate NEPA documentation,

required as part of the proposal, can be submitted to the NIST Grants and Agreements Management Division along with the recommendation for funding for selected applications.

Applicants proposing activities that cannot be covered by a Program Environmental Assessment (PEA) and Finding of No Significant Impact (FONSI) or whose activities are not covered under another agency's NEPA compliance procedures that can be analyzed and adopted for use by the Department, will be informed after the technical review stage to determine if NEPA compliance and other requirements can otherwise be expeditiously met so that a project can proceed within the timeframes anticipated under the American Recovery and Reinvestment Act.

If additional information is required after an application is accepted, funds can be withheld by the Grants Officer under a special award condition requiring the recipient to submit additional environmental law compliance information sufficient to enable the Department to make an assessment on any impacts that a project may have on the environment.

Notification of Recovery Act Requirements. Recovery Act limitations are applicable to the projects funded under this Notice. Recipients must comply with the following three provisions of the Recovery Act, as applicable, and any other terms required by the Act or that may be added to the recipient's award pursuant to guidance implemented by the Office of Management and Budget.

a. Buy American Recovery Act Provision. Unless waived by DoC, none of the funds appropriated or otherwise made available by ARRA, may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. This provision shall be applied in a manner consistent with United States obligations under international agreements.

b. Davis-Bacon Act. Under Section 1606 of the ARRA, projects using ARRA funds require the payment of not less than the prevailing wages under the Davis-Bacon Act to "all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government."

c. False Claims Act. Each recipient or sub-recipient awarded funds under the ARRA shall promptly refer to an appropriate inspector general any

credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.

Ensuring Responsible Spending of Recovery Act Funds. The agency intends to implement this program in compliance with Office of Management and Budget guidance on the President's Memorandum for the Heads of Executive Departments and Agencies of March 20, 2009. Ensuring Responsible Spending of Recovery Act Funds, 74 FR 12531 (Mar. 25, 2009), when such guidance becomes available.

Best Practices to Promote Equality of Opportunity. Pursuant to OMB Guidance (see, e.g., "Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009," April 3, 2009) and consistent with the Recovery Act and other applicable laws, DoC encourages recipients to implement best practices to promote equality of opportunity, to provide opportunities for small and disadvantaged businesses, including veteran-owned small businesses and service disabled veteran-owned small businesses, and to follow sound labor practices.

Reporting. Award Recipients shall provide access to information that is required to assess the project's progress throughout the project life cycle. The following reports are required:

a. *Technical Performance Reports.* Award Recipients shall submit a technical performance report in triplicate (an original and two copies) on a calendar quarter basis for the periods ending March 31, June 30, September 30, and December 31, or any portion thereof. Reports are due no later than 30 days following the end of each reporting period. A final technical performance report shall be submitted within 90 days after the expiration date of the award. Two copies of the technical performance reports shall be submitted to the Project Manager and the original report to the NIST Grants Officer. Technical performance reports shall contain information as prescribed in 15 CFR 14.51.

b. *Financial Reports.* For recipients under this program, Article A.01 of the DoC Financial Assistance Standard Terms and Conditions dated March 2008 is revised as follows:

Award Recipients shall submit a Federal Financial Report (SF-425) in triplicate (an original and two copies) on a calendar quarter basis for the

periods ending March 31, June 30, September 30, and December 31, or any portion thereof. Reports are due no later than 30 days following the end of each reporting period. A final SF-425 shall be submitted within 90 days after the expiration date of the award. All SF-425s shall be submitted to the NIST Grants Officer.

c. *Recovery Act Reports—Job Creation and Retention.* As set out in Sec. 1512(c) of the Recovery Act, no later than ten (10) days after the end of each calendar quarter, any recipient that received funds under the Recovery Act from NIST must submit a report to NIST that contains the following four items:

(1) The total amount of Recovery Act funds received from NIST.

(2) The amount of Recovery Act funds received that were obligated and expended to projects or activities. This reporting will also include unobligated allotment balances to facilitate reconciliations.

(3) A detailed list of all projects or activities for which recovery funds were obligated and expended, including:

(a) The name of the project or activity;

(b) A description of the project or activity;

(c) An evaluation of the completion status of the project or activity;

(d) An estimate of the number of jobs created and the number of jobs retained by the project or activity; and

(e) For infrastructure investments made by State and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under this Act, and name of the person to contact at the agency if there are concerns with the infrastructure investment.

(4) Detailed information on any subcontracts or subgrants awarded by the recipient to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), allowing aggregate reporting on awards below \$25,000 or to individuals, as prescribed by the Director of the Office of Management and Budget (OMB).

Recipients that must report information in accordance with paragraph (4) above must register with the Central Contractor Registration database (<http://www.ccr.gov/>) or complete other registration requirements as determined by the Director of OMB. Section 1512(d) further requires that no later than thirty (30) days after the end of each calendar quarter, NIST must make the information in reports submitted under section 1512(c) of the Recovery Act as

outlined above publicly available by posting the information on a Web site. OMB Memo M-09-10, "Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009," which can be accessed at <http://www.recovery.gov/>, provides information on requirements for Federal agencies under the Recovery Act.

Additional guidance may be forthcoming related to responsibilities of recipients of grants and cooperative agreements under the Recovery Act.

Reporting requirements are described in the Department of Commerce Financial Assistance Standard Terms and Conditions dated March, 2008, found on the Internet at: <http://oamweb.osec.doc.gov/docs/GRANTS/DOC%20STCsMAR08Rev.pdf>.

The references to Financial Reporting Form SF-269 in the DoC Standard Terms & Conditions, A.01 and B.01, are hereby replaced with the SF-425, "Federal Financial Report," as required by the Office of Management and Budget (OMB) (73 FR 61175, October 15, 2008). As authorized under 15 CFR 14.52 and 24.41, the OMB approved SF-425 shall be used in the place of the SF-269 and SF-272 under the uniform administrative requirements and elsewhere under awards in this program where such forms are referenced.

Dated: May 26, 2009.

Patrick Gallagher,
Deputy Director.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XP00

Small Takes of Marine Mammals Incidental to Specified Activities; Open-water Marine Survey Program in the Chukchi Sea, Alaska, During 2009-2010

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; proposed incidental take authorization; request for comments.

SUMMARY: NMFS has received an application from Shell Offshore Inc. and Shell Gulf of Mexico Inc., collectively known as Shell, for an Incidental Harassment Authorization (IHA) to take marine mammals incidental to an open-water marine survey program, which includes shallow hazards and site