Offerors and prospective Sellers in accordance with applicable statutes and DOE Regulations (41 CFR 9-9.109-6) have the right to request in advance of or within 30 days after the effective date of contracting a waiver of all or any part of the rights of the United States in subject inventions.

Requests should be forwarded to the Department of Energy (DOE) Patent Counsel as far in advance of contract negotiations as possible in order not to delay any negotiations. Should the requestor need further information or assistance the requestor should contact DOE Patent Counsel at 423-576-1076 at its earliest convenience.

UNITED STATES
DEPARTMENT OF ENERGY

PETITION FOR ADVANCE WAIVER OF PATENT RIGHTS UNDER 41 CFR §9-9.109-6

Title of Contract or Proposal _____

RFP No. _____ **Contract No. and Date (if executed)** _____

The _____
(Name and Address of Petitioner)

_____

does hereby petition the Secretary of the United States of America to any invention(s) that may be made in the performance of work under the above-identified contract. It is understood that any waiver of rights shall be subject the conditions set forth in 41 CFR §9-9.109-6.

Is Contractor a small business as defined by 1-1.701 FPR? _____

In support of this petition, answers to the following questions are submitted as an appendix hereto:

1. If this petition is for a waiver of rights other than domestic and foreign patent rights, describe the exact scope of the waiver requested.
2. Give a brief description of the scope of work of the above contract.
3. What is the dollar amount and period of performance of this contract?
4. Briefly describe Contractor's technical competence in the field of technology covered by the scope of work of this contract in terms of prior experience know-how and patent position. (Attach exhibits to substantiate your technical competence, e.g. patents, technical publications, etc. If these are voluminous a representative sample is sufficient.)
5. Briefly describe the Contractor's established commercial position in the field covered by the scope of work of the above contract. (Discuss in terms of selling goods or providing services in such field and in terms of market share where there is an existing market related to the contract work. Identify the proportion of sales to the Government. Attach exhibits to substantiate your commercial position, e.g. sales brochures, etc. If these are voluminous, a representative sample is sufficient.)
6. What is the financial or other investment that has been made by Contractor directly related to the work to be performed under this contract?
7. To what extent will the Contractor make a substantial investment or effort which will directly benefit the work to be performed under the contract?
8. Why will the grant of the above-requested waiver more effectively promote the commercial utilization of any invention made under this contract?
9. What will be the effect on competition and market concentration if the above-requested waiver is granted? Would the acquisition of the waiver rights requested be likely to place Contractor in a preferred or dominant position in this field? Give reasons for your conclusions.

10. What other contracts has Contractor had with any Branch or Agency of the U.S. Government which include all or a part of the scope of work covered by this contract?

11. Is Contractor aware of any governmental regulations which require or which might require the use of the contract subject matter by the general public or a segment thereof? (If yes, explain.)

12. Does the work under the contract require an exploration into fields which concern the public health, safety or welfare; (for example, the development of drugs, medical or safety instruments, anti-pollution devices or such other products that may have a bearing on health, safety or welfare of the general public)? (If yes, explain.)

13. If Contractor is a nonprofit educational institution, what is the technology transfer capability and program of Contractor? Has this technology transfer capability and program been approved by DOE or any other agency?

14. Give any other facts that Contractor believes will establish that the interests of the United States and the general public will best be served by the granting of this waiver. Sufficient information is required so that the Secretary can consider specifically each of the areas and objectives covered in 41 CFR §9-9.109-6.

15. (a) Have you within the past 6 months assigned or conveyed an interest to a party other than DOE in any patent or patent application covering a subject of the work to be performed under the contract or entered into negotiations concerning such an assignment or conveyance? (b) Do you plan to do so prior to contracting? (If yes, give details.)

16. State below the name, address and telephone number of the person to whom correspondence is to be directed.

The facts set forth in this request for waiver are within the knowledge of the requestor and are submitted with the intention that the Secretary or his designee rely on them in reaching the waiver determination.

Respectfully submitted,

_____
(Signature)

_____
(Name and Title of Authorized Representative)

(AN EXECUTED ORIGINAL OF THIS DOCUMENT MUST BE SUBMITTED TO ENERGY SYSTEMS

Date submitted to DOE _____