

September 7, 2006

MEMORANDUM TO: Chairman Klein
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Jaczko
Commissioner Lyons

FROM: Luis A. Reyes */RA/*
Executive Director for Operations

SUBJECT: STREAMLINING CHAIRMAN REVIEW PROCESS AND ENHANCING
CONTRACT OVERSIGHT

The purpose of this memorandum is to provide you with recommendations to streamline the procurement review process in response to the April 18, 2006, Staff Requirements Memorandum (SRM) on SECY-06-0071, "Chairman Review Thresholds for Contractual Decisions." This memorandum also addresses the direction provided by former Chairman Diaz's June 30, 2006, memorandum requesting periodic submittal of data summarizing the status of all current contracts and Department of Energy (DOE) laboratory agreements.

The Chairman review process was initiated on a pilot basis for one year in response to the December 14, 2004, SRM on SECY-04-0201, "Chairman Review Thresholds for Contractual Decisions." The process was developed to address the Commissions' desire for enhanced decision making and accountability through implementation of an oversight process for DOE laboratory agreements and commercial procurements valued at \$1 million or more but less than \$3 million. The procedures also require approval of DOE laboratory agreements valued at \$3 million or more, consistent with the approval requirement for commercial procurements. This memorandum does not address the Chairman approval process for procurements valued at \$3 million or more, which will remain the same.

Currently, for actions valued at \$1 million or more but less than \$3 million, memoranda requesting Chairman review, accompanied by a Statement of Work (SOW), are developed jointly by the sponsoring office and by the Division of Contracts (DC), Office of Administration (ADM) for commercial procurements. For DOE laboratory agreements, the Chairman review memoranda and SOW are prepared by the sponsoring office and are provided for parallel review and concurrence to the Office of the General Counsel (OGC), the Office of the Chief Financial Officer (CFO), DC, and other offices, as required, during a ten business day time period.

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Subsequently, the packages are sent to my office for review and signature within five business days and then forwarded to the Chairman, with copies to the Commission, for review. The Chairman advises the sponsoring office or DC within 15 business days after the package is received whether they may proceed with initiation of the procurement process.

After its first year of implementation, the staff completed an assessment of this process and provided the results in a March 30, 2006, Commission paper (SECY 06-0071). The paper noted that there were significant staff resources expended and a consequent lengthening of the overall procurement process associated with the Chairman paper process as implemented in FY 2005. To address the resource and timeliness issues, the paper provided three options for the Commission's consideration. In its April 18, 2006, SRM the Commission approved Option 1, which is to continue implementation of the current procurement review process on a permanent basis with a provision that recommendations for streamlining the contract review process for preparing review packages would be considered.

In consideration of the time/resources expended in the review process and the impact of the review process on the procurement process lead times, the staff has developed for the Commission's consideration, a streamlined approach which will be applied to both commercial procurements and DOE laboratory projects valued at \$1 million or more but less than \$3 million. A detailed description of this approach is provided as an attachment.

Administratively less burdensome to staff, this process would continue to provide key information for each proposed procurement requiring Chairman review. By making greater use of electronic submittals for transmitting the documents and providing notification and concurrence, requiring an Acquisition Note only for projects of interest to the Chairman and Commission, and by modifying the criteria for concurrence of DOE laboratory projects, the review process would be significantly streamlined for both DOE laboratory projects and commercial contracts. Use of this approach would require no additional resources. In addition, this process can be implemented without requiring a change in delegations of contractual authority. The staff will revisit this new process after two years of experience to assess its effectiveness.

Semi-annual Reports of Planned Acquisitions and the Status of Current Procurements

The semi-annual reports of the status of all procurements (i.e., contracts, DOE laboratory agreements, interagency agreements and financial assistance awards), requested by former Chairman Diaz, will be submitted by November 30 and May 30. These reports will be submitted by DC through my office with the notification of planned acquisition (NPA) reports (further discussed in the enclosure) on planned actions valued at \$1 million or more but less than \$3 million. The list of current DOE laboratory agreements, interagency agreements and financial assistance awards will be provided to DC by the Office Directors based on the current priorities and knowledge at the time of submittal.

This memorandum has been coordinated with the major program offices, including the OCFO. OGC has reviewed this memorandum and has no legal objection.

SECY, please track.

Enclosure: As Stated

cc: SECY
OGC
OCA
OPA
CFO

The Commission

-3-

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Enclosure: As Stated

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Chairman Review Procedure for Procurements Valued at \$1 Million or More but Less than \$3 Million

1. Notification of Planned Acquisitions

Twice a year (November 30 and May 30), the Division of Contracts (DC) will submit a Notification of Planned Acquisitions (NPA) for proposed procurement actions valued at \$1 million or more but less than \$3 million. The information provided in the NPA includes data provided by the Office Directors based on the current priorities and knowledge at the time of the submittal. The NPA will be submitted to the Chairman's office, with copies to the Commission, by the Office of the Executive Director for Operations (OEDO).

The NPA will include the following information as currently provided in Chairman review memoranda: Title, Procurement Method, Type of Action, Brief Description/Scope, Period of Performance, Total Estimated Cost, Estimated Cost by Fiscal Year, and Job Code.

DC will annotate specific actions, identified by the sponsoring office, that are known to be of particular interest or significance to the Commission.

2. Electronic Notifications from Chairman's Office

Based on a review of the NPA, the Chairman's office notifies the OEDO electronically that certain projects will require a briefing, and approves initiation of those projects that do not require a briefing. This will potentially eliminate a number of routine procurement actions from the full, formal Chairman review process. Electronic transmittals will allow quick dissemination by OEDO of information to all appropriate offices.

3. Preparation of Acquisition Notes

Prior to each briefing, an electronic Acquisition Note and SOW will be prepared to send to the Chairman's office, with copies to the Commission. An Acquisition Note for a DOE laboratory project will be prepared by the sponsoring office. An Acquisition Note for a commercial procurement will be prepared by DC based on information provided by the sponsoring office.

The Acquisition Note will supplement the information provided in the NPA report to ensure the Chairman has all pertinent data consistent with what is currently provided in Chairman review memoranda: Key Milestones/Outputs, Budget Availability, and Relationship of the Work to the Agency's Goals and Objectives.

4. Concurrence Process for Acquisition Notes

The Acquisition Note and SOW will be provided electronically by the sponsoring office or DC to the Office of General Counsel, Office of Chief Financial Officer, and other offices as required, for parallel review and electronic concurrence within ten business days. Unless requested by OEDO, the Office of Administration's concurrence is not required on the acquisition note and SOW for DOE laboratory projects valued at under \$3 million.

While the Director, DC will separately continue to review DOE laboratory projects with an average annual cost of \$1 million or more in accordance with Management Directive 11.7, "Procedures for Placement and Monitoring of Work With DOE," Part II, Section (F), DC will complete this review independent of the Acquisition Note process. This will accelerate the Chairman review process for DOE laboratory agreement actions valued at under \$3 million.

DC will continue to provide oversight for agreements with DOE laboratories and other Federal agencies through periodic reviews of individual projects to assure adherence to sound contract management practices and to provide constructive feedback to the sponsoring office, including specific findings and recommendations for improvement. There has been increased focus on Project Manager training, including a course specifically addressing the award and administration of DOE laboratory agreements. Management Directive 11.7, "NRC Procedures for Placement and Monitoring of Work With the U.S. Department of Energy" and Management Directive 11.8, "NRC Procedures for Placement and Monitoring of Work With Other Federal Agencies Other Than DOE" are being revised to require use of performance-based contracting techniques to the maximum extent practicable when developing SOWs for DOE laboratory projects and interagency agreements. The directives and training are emphasizing the importance of timely and thorough monthly performance assessments as a means of identifying and resolving potential cost and/or performance problems. These measures will help to insure effective management of procurements with DOE laboratories and other Federal agencies, and will result in enhanced contractor performance.

5. OEDO Review

After concurrences are received, the sponsoring office will provide the Acquisition Note and SOW for a DOE laboratory agreement to the OEDO electronically. The Acquisition Note and SOW for a commercial procurement will be provided electronically to the OEDO by DC. The OEDO will provide the Acquisition Note and SOW electronically to the Chairman's office with copies to the Commission within five business days from receipt of the transmittal.

6. Conduct the Briefing

Each briefing will be held prior to initiation of the solicitation process, within the fifteen business day review period from receipt of the electronic Acquisition Note by the Chairman's office, at a date determined by the Chairman's office. Keeping within the fifteen business day review period, the Chairman's office will electronically advise the OEDO and the sponsoring office or DC whether the initiation of the procurement process may proceed. If the review is completed prior to the end of the fifteen business day review period and issuance of an electronic response is provided, this will accelerate the procurement process.

Procurement Actions Not Included on NPA

A separate Chairman memorandum will be submitted for any procurements valued at \$1 million or more but less than \$3 million that are identified subsequent to submittal of the NPA.

Other Actions Requiring an Acquisition Note

To ensure that critical work is not delayed, an Acquisition Note will be used to inform the Chairman, subsequent to taking any procurement action under a commercial contract, DOE project, or an agreement with another Federal agency where the action produces cost changes involving a 20 percent or greater increase to cost estimates that served as the basis for obtaining the Chairman's review or approval of the project, or where work is significantly accelerated.