

HEADQUARTERS BUSINESS CLEARANCE PROCESS



Guiding Principles

- Timely acquisition planning is critical
- Effective oversight control systems are essential to ensuring the high quality/integrity of procurement transactions
- Collaboration and cooperation are required for timely, effective procurement processes

Overview

This guide chapter provides guidance regarding the policies and procedures governing the Headquarters Business Clearance Review (BCR) process, the process by which certain procurement actions (solicitations, contracts, major contract changes, etc.) are reviewed and approved by the DOE Senior Procurement Executive (SPE) as a condition precedent to executing them. This section does not apply to the National Nuclear Security Administration (NNSA). Separate NNSA coverage is in BOP-03.0304.

Background

A. The Flow of Procurement Authority within the Department of Energy (DOE)

The Secretary of Energy designated the Director, Office of Acquisitions and Project Management (OAPM) as the SPE for DOE. This designation includes delegations of authority for contracting and financial assistance. The SPE re-delegates specific contracting authority to a senior management official for each contracting activity, referred to under government-wide acquisition regulations as the Head of the Contracting Activity (HCA). HCAs in DOE have cognizance over one or more procurement offices. The general flow of contracting authority is depicted in Figure 1 below. The NNSA flow is also depicted for information purposes only. Each HCA's specific contracting authority is subject to both dollar thresholds and the requirements of the Federal Acquisition Regulation (FAR), the DOE Acquisition Regulation (DEAR), the DOE Financial Assistance Regulations, and DOE policies and procedures. It is used to manage a broad range of contract placement and administration activities and functions. Each HCA may delegate some, but not all, of his or her specific contracting authority. Acquisition Guide Chapter 1.2 addresses Delegable and Non-delegable HCA Functions and Responsibilities. As used throughout this guide topic, the term Designee means an individual who is designated in writing by the HCA to exercise the HCA's authority (both delegable and non-delegable) when the HCA is unable to do so.

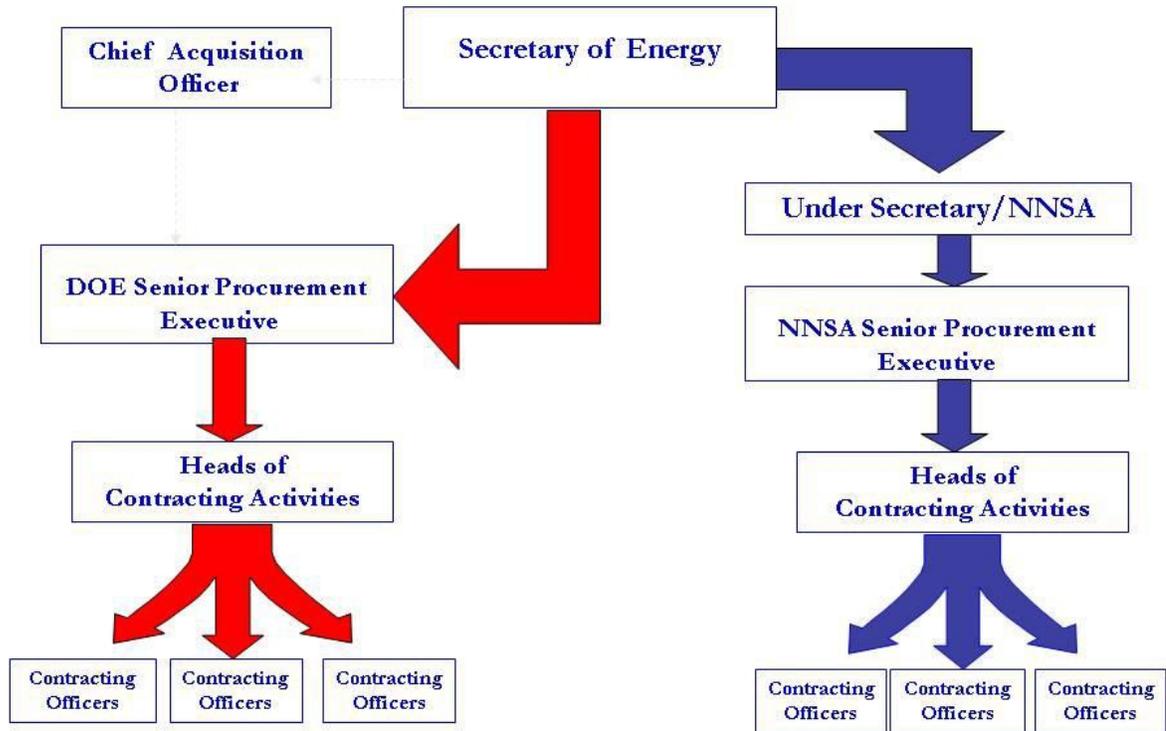


Figure 1

Under a long-standing, formal process known as the BCR process, certain procurement actions (solicitations, contracts, major contract changes, etc.) must be reviewed and approved by the DOE SPE before execution. These actions are actions that are subject to the BCR process as addressed in the BCR section below.

B. The Department’s Procurement System – SPE’s , HCA’s , and Procurement Director’s Responsibilities

The DOE SPE is responsible for ensuring the efficacy and integrity of the Department’s procurement system and has established a number of interdependent processes to fulfill that responsibility. One of those processes, for example, is the Procurement Management Review (PMR) Program within Headquarters, which supplements other contracting activity Performance assessment efforts and augments other corporate-level internal control processes. Dovetailing with these processes, integrating with them, and essential to the efficacy and integrity of the procurement system are contracting activities’ internal policy and oversight and control functions. These functions, among other things, are necessary to ensure the quality and consistency of all procurement actions.

The HCA and the Director of each procurement office share in the SPE’s responsibility for ensuring the efficacy and integrity of the Department’s procurement system. They must

maintain effective policy and internal implementation and oversight processes, with appropriately staffed internal policy and oversight functions. These processes must formally require internal independent reviews of procurement actions and related documentation at the local procurement office level. For actions selected for BCR, local field office policy must require that packages being submitted to Headquarters include evidence of local independent review and coordination, including the formal concurrence of both the procurement office's legal counsel and the Procurement Director. In addition, local field office policy must require that all comments and comment resolution resulting from local independent review be included in the package being submitted.

The Headquarters Business Clearance Review Process

A. The Field Assistance and Oversight Division (FAOD), HCA Authority, and BCR Notification

The FAOD within OAPM holds, among other functional duties, responsibility for the Department's BCR process. Additionally, the FAOD assists Headquarters and field offices in planning and developing business strategies for acquisition, financial assistance, and other actions (e.g., interagency agreements, major modifications). In accomplishing its mission, the FAOD reviews acquisition plans, solicitations, source selection documents, contracts, and other relevant transactional documentation. FAOD may be contacted for assistance on any action, regardless of dollar value. FAOD is readily available to consult with Headquarters and field office personnel on any action, including those that are likely to provoke unusual public interest, are of a new and unusual nature, or raise questions of policy or procedural nature that come up in the course of planning, solicitation, evaluation, negotiation, award, and administration.

B. The BCR Process

1. Prior to the beginning of each fiscal year, the FAOD issues a request for each procurement office to provide a projection for the upcoming fiscal year of contract, financial assistance, and other actions (e.g., interagency agreements, subcontract consents) that exceed its HCA's procurement authority, thereby making the actions subject to the BCR process.
2. Each procurement office must also report through the HCA to the FAOD all actions that arise during the fiscal year that meet the criteria prescribed in paragraphs C. and D. below, but were not submitted in response to the annual FAOD request for projected actions. HCAs should ensure that such notification is provided as soon as the requirement is known to ensure sufficient time to complete the potential BCR of the action.
3. Based on a risk based analysis of the procurement office's submission, the FAOD will select specific actions for Headquarters review and approval.
4. For each action selected, the FAOD will notify the cognizant HCA and Procurement Director of the scope of the Headquarters review/approval. The FAOD may select an action for full review (e.g., require that all documentation from acquisition planning through selection/award be reviewed/approved by Headquarters), or limited review (e.g., require review of only certain transaction-related documentation, such as the acquisition plan and/or solicitation). See attachments A through H of this guide for specific

information of format and timing of the submittals.

5. The FAOD shall review and approve the selected actions.
6. Actions that are not selected for FAOD review and approval are deemed to have received a waiver from the BCR.

Note: For program elements that have centralized HCA authority (Environmental Management (EM) and Science (SC), the BCR process requirements apply individually to each procurement office under the HCA's cognizance.

C. Actions Subject to the BCR Process - General

1. Actions for which authority is not delegated to the HCA pursuant to the HCA's written delegation of authority from the SPE.
2. Actions whose value exceeds the HCA's delegated authorities, including actions that exceed the transaction specific dollar thresholds (see paragraph D).
3. Actions for which the approving authority is prescribed in law, regulation, or DOE policy as a specific senior DOE official (e.g., the DOE SPE, the Secretary of Energy). Such actions include, but are not limited to: authority to use the M&O form of contract; ratifications; award of Technology Investment Agreements (TIAs); performance incentive plans for all contracts whose value exceeds \$50M; Contract Management Plans for all contracts whose value exceeds \$50M; and final indirect cost rate agreements.
4. Actions which, based on the judgment of the HCA and/or the SPE (regardless of the dollar value of the transaction), involve significant litigation or performance risk, or may generate unusual interest from the public, media, congress, or other governmental entity.

Note: The SPE may, at any time, tailor all or individual HCA delegated authorities based on Government-wide procurement initiatives, Office of Federal Procurement Policy (OFPP) guidance, General Accountability Office (GAO) audits, Inspector General (IG) audits, Procurement Management Reviews, and other relevant bases (e.g., changes to law or regulation).

D. Actions Subject to the BCR Process - Transaction Specific

The requirements for transactions that are subject to the BCR process are generally the same for DOE's Non-Power Marketing Administration (PMA) procurement offices (Richland Operations Office, Environmental Management Consolidated Business Center, Savannah River Operations Office, Office of River Protection, Golden Field Office, Office of Headquarters Procurement Services, Idaho Operations Office, National Energy Technology Laboratory, Strategic Petroleum Reserves Project Management Office, Oak Ridge Operations Office, Chicago Operations Office) and for DOE's PMA procurement offices (Western Area Power Administration, Southwestern Power Administration, and Southeastern Power Administration).

However, based on the difference in the nature and the dollar value of transactions, the SPE

established delegation thresholds are different for Non-PMA procurement offices and PMA procurement offices. Each HCA is delegated specific dollar authority in a memo signed by the SPE. The different thresholds determine who must review and approve actions.

For non-PMA procurement offices:

Actions that must be approved by the HCA include, at a minimum, the acquisition plan and final award. The review and approval of other supporting actions (e.g., solicitation) are at the discretion of the HCA.

The HCA must concur on all actions to be approved by FAOD before they are submitted to OAPM and the BCR process.

The HCA may redelegate authority for actions up to \$25,000,000 for: competitive and non-competitive acquisitions, contract modifications, Interagency Agreements where DOE is the requesting agency, Financial Assistance and Subcontracts.

FAOD may select actions whose value is between \$25,000,001 and \$50,000,000 for BCR. In those instances, the HCA does not have approval authority, but must concur on the action before it is submitted to OAPM and the BCR process begins at DOE Headquarters.

Each procurement office (PMA and Non-PMA) must participate in the annual FAOD data call and submit information for transactions in each area listed below that exceed its HCA's threshold for consideration by FAOD for BCR. If the procurement office cannot identify at least five actions in each area that exceed its HCA's threshold, the five highest dollar actions for that period must be submitted for consideration by FAOD for BCR.

1. New Competitive Acquisitions:

Includes both competitive contracts and competitive task orders awarded under GSA Multiple Award Schedule (MAS) contracts, Government-wide Acquisition Contracts (GWACs), DOE multiple-award, IDIQ contracts and the required business case analysis for certain agency-specific contracts or agency-specific blanket purchase agreements (BPA) and certain multi-agency contracts and certain multi-agency BPAs. See Acquisition Guide Chapter 17.1 Interagency Acquisitions, Interagency Transactions and Interagency Agreements paragraph D.1.f on business case analysis for details.

2. New non-competitive awards:

Includes both non-competitive contracts and non-competitive task orders awarded under GSA MAS contracts, GWACs, and DOE multiple-award, IDIQ contracts.

3. Contract Modifications:

- a. Administrative modifications and funding modifications are not subject to BCR.
- b. Any contract modification for which the estimated value exceeds both 20% of the Original contract value and \$10 million is subject to BCR (for non-PMA procurement offices only).
- c. Any contract modification that increases the total contract value above the HCA's

delegation threshold for new competitive acquisitions is subject to BCR.

- d. Any modification to a contract originally approved by Headquarters, regardless of the estimated value, that involves a significant restructuring of contract terms and conditions (e.g., contract type, deviations/modification of standard clauses) is subject to BCR.

4. Interagency Agreements:

As prescribed in FAR 17.503(d), if the servicing agency is not covered by the FAR, the SPE must approve the Determination and Findings (D&F). Interagency agreements subject to BCR are those valued in excess of the HCA's delegation threshold and that involve DOE as the requesting agency.

5. Subcontracts:

- a. Each procurement office must submit information on subcontracts that exceed its HCA's threshold, pursuant to the FAOD data call, for consideration by FAOD for BCR.

6. Financial Assistance:

- a. Financial assistance actions that are subject to BCR include funding opportunity announcements, new awards (competitive and non-competitive), renewals, and supplemental amendments that increase the scope and value of an agreement that exceeds the HCA authority.
- b. The total value of a financial assistance action is its total project cost, inclusive of non-federal cost share and Federally Funded Research and Development Center funding.
- c. Administrative amendments and funding amendments are not subject to BCR.

E. BCR Document Submission/Coordination Requirements

1. General:

- a. The HCA is responsible for ensuring the submission of a complete and high-quality package for actions that are selected for BC review and approval. Experience has shown that early and substantive collaboration between field office staffs FAOD and Headquarters functional counterparts streamlines the acquisition process by, among other things, eliminating repetitive reviews.
- b. Procurement offices must process all review and approval actions via the Strategic Integrated Procurement Enterprise System (STRIPES). If hard copies of documents/packages must be submitted, the number of copies required for hard copy submission shall be coordinated in advance with the procurement office's designated FAOD Liaison.
- c. The attachments section of this Guide chapter prescribes the documents that are

required for submission to FAOD by action type and provides a summary of the general scope of FAOD's review of those documents. The attachments address the most common actions that are subject to the BCR process. For actions that are not addressed in the attachments section, the Contracting Officer should consult the applicable regulation, policy, or the procurement office's designated FAOD Liaison.

- d. The time required for complete Headquarters BCR and subsequent approval depends on the complexity of the procurement, the quality of the documents submitted for review, the nature and extent of the questions, comments, issues, and/or suggestions that must be resolved, and the time required by the HCA for resolution. Because of the complexity and significance of issues that are inherent to competitive major site and facility management contracts, these actions have historically taken a significant and difficult to predict amount of time to process from the acquisition planning phase through selection and award, including the time required for Headquarters BCR.

2. HCA Responsibilities:

- a. Consistent with the requirements and principles prescribed in Acquisition Guide Chapter 7, Acquisition Planning, the HCA shall ensure early and substantive collaboration and coordination between his/her field office staff (e.g., Contracting Officer, Integrated Project Team (IPT) members, Source Evaluation Board (SEB) members, procurement, legal, finance, safety, security, and industrial relations), the FAOD Liaison, and their Headquarters functional counterparts. Depending upon the nature of the action, such Headquarters functional counterparts typically include, but are not limited to the Assistant General Counsel for Procurement and Financial Assistance (GC-61); the Office of Policy (MA-61) (Contract and Financial Assistance Policy Division, Contractor Human Resources Policy Division and/or Personal Property Division); Assistant General Counsel for Technology Transfer and Intellectual Property (GC-62); the cognizant Headquarters program official; the Office of Small and Disadvantaged Business Utilization (OSDBU); the Office of Health, Safety, and Security; the Deputy General Counsel for the Environment and Nuclear Programs (GC-50); the Office of Legacy Management (LM-1); and the Office of Acquisition and Project Management (MA-63).

For actions that will be subject to Headquarters review and approval, the key to effective acquisition planning and to executing the planning is ensuring that all affected stakeholders are engaged at the earliest practicable stages of the planning process. Such collaboration and coordination can significantly streamline the acquisition process and related review processes by identifying and resolving issues at the earliest stages of the acquisition cycle.

- b. Through coordination with the procurement office's cognizant FAOD Liaison, the HCA shall ensure that the acquisition plan milestone schedules factor in an appropriate amount of time for Headquarters BCR for selected actions. In the event that unforeseen circumstances require an expedited review to support program needs, the HCA should contact the procurement office's cognizant FAOD

Liaison as soon as practicable.

- c. The HCA shall concur in and forward all packages to be submitted to the Director, FAOD.
- d. Prior to submission of a final package to FAOD, the HCA shall:
 - 1) Ensure that the documents have been through the sites internal review process (i.e., Q/A checks including Procurement Director and local legal counsel reviewed concurrence). Documents that do not evidence these quality checks will be rejected by FAOD and returned to the HCA. The FAOD advisor should be involved in the development of documents with the program from the early stages of the product development. Therefore, the CO is strongly encouraged to submit drafts of documents soliciting advice from the FAOD Liaison throughout the acquisition process.
 - 2) In accordance with DOE Acquisition Guide Chapter 1.1, obtain the cognizant Procurement Director's written affirmation of compliance with all statutory, regulatory (FAR, DEAR) and administrative (Acquisition Letters, Acquisition Guide, DOE Directives, etc.) requirements. This includes affirmation of compliance with all prescribed policies and procedures, inclusion of all prescribed provisions and clauses without deviation, and/or the specific identification of deviations from prescribed policies, procedures, provisions and clauses. The Procurement Director's written affirmation shall be included with the submission. Failure to provide the affirmation of compliance is cause for immediate rejection of a package by FAOD.
 - 3) Consistent with paragraph 2.a., ensure that all necessary prior collaboration and coordination by field office functional experts (e.g., IPT members, industrial relations specialist, legal counsel, safety/security officials, small business specialist) is conducted with the FAOD Liaison and appropriate Headquarters functional stakeholders (e.g., Headquarters Offices of Resource Management, General Counsel, Health, Safety and Security, OSDBU) in advance of submission of the package to FAOD.
 - 4) Ensure that the cognizant Procurement Director or Contracting Officer consult with the designated FAOD Liaison to schedule, if appropriate, an orientation briefing or video teleconference of the package to be conducted within 5 business days before or after submission of the package. If a briefing is held, participants should include all field office and Headquarters functional experts as necessary.
 - 5) Ensure the effective management and timely resolution of issues resulting from Headquarters BCR, and the timely resubmission of amended packages for final review and approval by FAOD.

3. FAOD Responsibilities:

- a. Through coordination with the HCA and Procurement Director, the FAOD will

- engage on actions either formally (e.g., as an advisor to IPTs), or informally (e.g., preliminary review/consultation of draft documents), to the extent required and/or appropriate, at the earliest practicable stages (e.g., acquisition strategy development) to expedite document development and streamline subsequent Headquarters BCR.
- b. To expedite the formal Headquarters BCR s, the HCA or other appropriate official (e.g., Procurement Director, Contracting Officer) should consult with the cognizant FAOD Liaison for review/discussion of issues prior to submission of a final package. An advance review may be of value and can be performed on a less than complete package not subjected to complete internal field office local review.
 - c. Following receipt of a complete and final package, the FAOD shall conduct an initial review of the package to ensure compliance with the requirements prescribed in paragraph 2. The target milestone for FAOD initial review is 10 business days from the date of receipt of a complete package.
 - d. Based on the type of action, the FAOD will coordinate the package for review and formal concurrence by the appropriate Headquarters program/staff offices, which (depending on the nature of the action) typically include, but are not limited to the following:
 - 1) Assistant General Counsel for Procurement and Financial Assistance (GC-61);
 - 2) The Office Policy (MA-61);
 - a. Contract and Financial Assistance Policy Division,
 - b. Contractor Human Resources Policy Division and/or
 - c. Personal Property Division
 - 3) Assistant General Counsel for Technology Transfer and Intellectual Property (GC-62);
 - 4) The cognizant Headquarters program official;
 - 5) The Office of Small and Disadvantaged Business Utilization (ED-3);
 - 6) The Office of Health, Safety, and Security (HS-1);
 - 7) The Deputy General Counsel for the Environment and Nuclear Programs (GC-50);
 - 8) The Office of Legacy Management (LM-1); and
 - 9) The office of Acquisition and Project Management (MA-63).

Note: Certain regulations and DOE policies prescribe requirements for the coordination of packages with specific Headquarters offices for review and formal concurrence prior to submission to FAOD for Headquarters Business Clearance review (e.g., coordination with ED-3 for Advance Planning Acquisition Team (APAT) review and small business set-aside determinations).

- e. The FAOD will review the package; manage the coordinated reviews addressed in paragraph E.3.d. and assist the HCA in reconciling comments resulting from these reviews.
- f. For procurement packages requiring FAOD review, FAOD staff shall consider, at a

minimum, the following types of issues:

- 1) Are there any potential violations of statute, regulation, directive, policy or case Law?
 - 2) Does the document suggest or create substantial business risk for the Department?
 - 3) Does the document suggest or create substantial legal risk for the Department?
 - 4) Are there any potential policy impacts for the Department suggested or created by the document?
 - 5) Are there any contract interpretation problems (e.g., ambiguities, conflicts, etc.)?
 - 6) Are there any other sensitivities (e.g., political, etc.) that may arise?
- g. FAOD Liaisons are expected to exercise prudent business judgment utilizing their BCR. In feedback to the HCA, the following comments will be labeled, “Mandatory”:
- 1) Violations of law, regulation, policy or directive.
 - 2) Unacceptable business and/or legal risk.
 - 3) Significant ambiguities and/or conflicts within the document which would put the Department at risk.

FAOD Liaisons are also required to opine on issues which (although not designated for mandatory correction) should be considered by the contracting official. These suggestions do not require subsequent review by FAOD. In feedback to the HCA, issues (such as those listed below) will be labeled, “Highly Recommended”, “Suggestion”, “Clarification”, or “Editorial”:

- 1) Risk based on business sensitivities and case law, but not to the level of an unacceptable business/legal risk.
 - 2) Potential policy impact for DOE.
 - 3) Conflict with DOE procurement guides.
 - 4) Issues of business judgments.
 - 5) Minor ambiguities/conflicts within the document.
- h. The FAOD will coordinate and consolidate all comments/issues for consideration and/or resolution resulting from the Headquarters BCR process with the HCA or other appropriate official (e.g., the Procurement Director, Contracting Officer). Once a review has been provided to the HCA, all “mandatory” comments need to be corrected before resubmitting for review and approval. If there is a mandatory comment with which the HCA or other appropriate official (e.g., the Procurement Director, Contracting Officer) does not agree, the cover memo of the revised package should specifically address what was not corrected and the rationale for not correcting it. The FAOD Liaison and contracting official will attempt to resolve the issue. If resolution is unachievable at that level, then both the contracting official and the FAOD Liaison will raise the issue to their respective supervisors for open discussion. Once those issues are resolved, the FAOD Liaison will then conduct a review of the replacement pages on all identified

issues where there are corrections/changes. While FAOD will assist in the correction of any issues resulting from actions taken by contracting and program officials, FAOD will not serve as the focal point for corrective actions or the explanation of program/contracting outcomes.

It should be noted that all “Highly Recommended”, “Suggestion”, “Clarification”, or “Editorial” comments do not need to be resubmitted for concurrence. If a document does not have any mandatory comments, it is approved.

- i. Following the HCA’s resolution of mandatory Headquarters BCR comments/issues, FAOD will provide final approval of the action. To the extent practicable and deemed appropriate by the Director, FAOD will provide approval of an action conditioned on the HCA’s written agreement to address/resolve mandatory Headquarters BCR comments. It should be noted that FAOD review of resubmitted documents (due to mandatory comments) is considered a separate action.

F. Streamlined BCR Process for Pre-negotiation memoranda for Post Award Actions (e.g., Major Change Orders and Other Major Contract Modifications)

1. General:

The streamlined BCR process establishes procedures for expedited reviews of pre-negotiation memoranda for certain post award actions. It does not relax any requirement for document submission. Application of this process must be agreed to by all parties and will be determined by FAOD based upon the complexity of the particular action. Of critical importance for the use of a streamlined process is a properly submitted proposal by the contractor. All the steps in the process must be followed without deviation or the action will be processed in accordance with standard Business Clearance procedures. The quality, depth, and robustness of the information contained in the pre-negotiation memorandum and supporting documentation are critical for the process to work effectively.

2. Documentation Requirements:

This Guide Chapter contains information on the documents and information required to be submitted in the package to achieve business clearance approval. The pre-negotiation model and accompanying guidance are contained in Acquisition Guide Chapter 15.4-3, Negotiation Documentation: Pre-Negotiation Plan and Price Negotiation Memorandum.

3. Steps in the Process

a. Dry run briefing

The dry run briefing must be held at least two weeks prior to final package submission. At least two days prior to the briefing, the HCA shall provide briefing materials to FAOD. The briefing shall be attended by all parties from the site responsible for the pre-negotiation memorandum development. The briefing shall thoroughly address the pre-negotiation objectives, areas of concern, and unique

aspects of the contractor's proposal or DOE's objectives following the standard briefing template.

b. Use of Video Conferencing

Video conferencing is the preferred method for communicating among the various sites. If there are circumstances where videoconferencing is unavailable, teleconferencing may be used. When absolutely necessary, travel is an option.

c. Staggered Submission of Documents

To expedite the review process, a complete pre-negotiation package need not be submitted at the beginning of the process. Completed documents (e.g, technical evaluation of cost, audit reports, etc.) should be submitted as they become available.

d. Package Review in 3-5 business days.

- 1) The assigned FAOD Liaison will serve as the Headquarters point of contact. All documents shall be submitted to FAOD for concurrent review by MA and the Program. Comments will be consolidated by FAOD.
- 2) If all documents required for the package are not received by the agreed upon dates, the review will be processed in accordance with standard Business Clearance procedures.

e. Decision Meeting

- 1) Within four working days of the field site receiving comments on its package, a Decision Meeting will be held by videoconference. The meeting shall be attended by all necessary parties from the site responsible for the pre-negotiation memorandum development and all parties from Headquarters that provided comments. The objective will be to resolve comments and achieve either full or conditional approval.
- 2) If comments are resolved, verbal approval will be provided followed by a written approval memo. If comments remain unresolved, the action will be processed in accordance with standard Business Clearance procedures.

ATTACHMENTS

Attachment A – Contract Solicitations Including RFQ’s Against GSA, GWAC or DOE IDIQ

Attachment B – Non-Competitive Contracts/Contract Modifications

Attachment C – Source Selection Memorandum

Attachment D –Financial Assistance

Attachment E –Management and Operating Contracts

Attachment F – Ratification Actions

Attachment G – Subcontract Actions

Attachment H – Interagency Agreements

Attachment I – Performance Based Incentives/Award Fee/Incentive Fee Plans

ATTACHMENT A — CONTRACT SOLICITATIONS, INCLUDING RFQ'S AGAINST GSA, GWAC OR DOE IDIQ (See note 1)

DOCUMENTS SUBMISSION

Acquisition Plan

Acquisition Plan (AP)(AP must include discussion of Site Utilization Management Planning (SUMP) per AL 2009-03 if applicable;
Name, telephone number and email address of the cognizant CO and contract specialist;
Name and telephone number of the cognizant Headquarters program official; and
Evidence of local independent review and approval, including legal review in accordance with local procedures. This includes submission of comments and comment resolution.

Draft Request for Proposal (RFP) (Including the Model Contract)(See note 2)

The following documents and information shall be submitted:

Draft RFP, including the model contract;
Name, telephone number and email address of the cognizant CO and contract specialist;
Name and telephone number of the cognizant Headquarters program official; Acquisition Plan (if DOE Order 413.3 is applicable, include a copy of the Secretarial Acquisition Executive or Acquisition Executive approval, or, if a project Acquisition Strategy was developed, a copy of that approved Strategy);
Justification for Other Than Full and Open Competition (JOFOC), if applicable;
Rating Plan or Source Selection Plan, if applicable;
A synopsis of the major areas to be addressed in the Contract Management Plan (CMP). Once the draft CMP is completed by the procurement representative to the SEB, it is to be submitted for review to the FAOD (MA-621). It is to be submitted as soon as it is completed but not later than 30 days after contract award. (See Chapters 7 and 42 for guidance on contract management planning and creating formal CMPs. If a CMP is required, the procurement representative to the SEB shall be responsible for preparation of the synopsis/CMP.);
Copies of any deviations being requested; and,
Evidence of local independent review and approval including legal review. This includes submission of comments and comment resolution.

Note 1: By previous Secretarial direction, OPAM, through FAOD, is responsible for the review and approval of solicitations and contracts for privatization projects funded by the Office of Environmental Management. Accordingly, acquisition plans, solicitations, and contracts for EM-funded privatization projects are to be submitted to FAOD for review and approval. FAOD will provide for the coordination of the review and approval process with other cognizant Headquarters organizations.

Note 2: The FAOD Liaison should be involved in the development of the draft RFP at the earliest possible stages of document development. With initial involvement in the draft RFP, FAOD will then only review those areas that have been changed between the draft

RFP and the final RFP and only if the changes are significant.

Draft Invitation for Bid (IFB) (Including the Model Contract)

The following documents and information shall be submitted:

Draft IFB;

Name, telephone number and email address of the cognizant CO and contract specialist;

Name and telephone number of the cognizant Headquarters program official;

Acquisition Plan (if DOE Order 413.3 is applicable include a copy of the Secretarial Acquisition Executive (SAE) or Acquisition Executive approval, or if a separate Project Acquisition Plan was developed, a copy of that approved Plan); and

Evidence of local independent review and approval including legal review. This includes submission of comments and comment resolution.

DOCUMENTS REVIEW

Acquisition Plan (AP)

The BCR of the AP will include:

Verification of the appropriateness and adequacy of the acquisition strategy in meeting program requirements;

Verification that the AP addresses Site Utilization Management and Planning (SUMP) in accordance with Acquisition Letter (AL) 2009-03 (if required); and

Verification that the requirements of FAR Part 7.105, and DOE Acquisition Guide Chapter 7 were sufficiently addressed and specific emphasis on:

- Capability or Performance (FAR 7.105(a)(4)). Are the required capabilities or performance standards consistent with the programmatic need?
- Logistics Strategies (FAR 7.105(b)(13)). Is the acquisition consistent with Department of Energy (DOE) wide logistics strategies, if any? Does the logistics strategy make sound business sense?
- Risks (FAR 7.105(a)(7)). Does the contract, and/or contract management plan address and or mitigate identified risks?
- Contract Type (FAR 7.105(b)(4)). Does the proposed contract type make sound business sense?
- Performance-Based Contracting. Does the proposed procurement/contract maximize the use of performance-based contracting techniques? If not, is there adequate rationale for not using a performance-based contract?
- Competition (FAR 7.105(b)(2)(i)). Is full and open competition sought to the maximum extent practicable? If competition is not being sought, is the proper authority cited and is the basis for not seeking full and open competition well documented? Has market research been completed and documented?
- Socioeconomic Considerations. Is the proposed procurement consistent with DOE small businesses and/or other socioeconomic policies and strategies?

Draft RFP/RFP (Including the Model Contract)

The BCR of the solicitation/model contract package will include:

Verification of the appropriateness and adequacy of the acquisition strategy;

Review of the solicitation to ensure that it is internally consistent. For example, verify the following:

- Sections I and L are consistent, e.g., any contract requiring the DEAR 52.204-2, Security clause, in Section I, would require the DEAR 952.204-73 Facility Clearance provision, in Section L;
- Sections L and M are consistent and there are no discrepancies between what offerors are asked to provide in section L versus what the Government plans to evaluate as stated in section M;
- Section M is consistent with the rating/source selection plan;

- The evaluation criteria are clear, allow for discrimination between proposals and do not overlap;
- The evaluation criteria are appropriate for the acquisition, including how cost/price will be evaluated and how best value trade-offs will be determined; and
- Past performance is evaluated in accordance with FAR Part 15, and that the information requested in the past performance questionnaire is consistent with the information requested in section L and in section M.
- Compliance with the requirements of FAR Part 19. Review the solicitation for price evaluation adjustment factors and any other required evaluation factors for small disadvantaged business, HUBZone business, SDVOSB and WOSB participation as specified in FAR Subparts 19.11, 19.12, 19.13, 19.14 and 19.15.

Verification of regulatory and policy compliance;

Verification that position descriptions are clear and appropriately written to meet the Government's requirements (that is, not overly restrictive or overly permissive);

Verification that the clauses, including the Section H, Special Contract Requirements and deviations are appropriate for the type of contract requirements;

Verification of the following, as appropriate:

- Appropriate security clauses are included if access to restricted or classified data is anticipated;
If the solicitation contemplates a set-aside, the required small business or small disadvantaged business clauses are included; Organizational Conflicts of Interest clauses specified by FAR Subpart 9.5 and Department of Energy Acquisition Regulation (DEAR) Subpart 909.5; are included
- The RFP contains performance based elements. The Statement of Work (SOW) is written in terms of results/outcome vs. how the work is to be accomplished. Performance objectives are focused on the outcome and results rather than process or activities.
- Performance requirements define the work in measurable, mission-related terms.
- Performance standards (e.g., quality, timeliness, quantity, cost control) are tied to the performance requirements
- For capital asset acquisitions above the General Plant Project (GPP) threshold, DOE Order and Manual 413.3B must be followed, especially regarding Section H special provisions related to project management and Earned Value Management, and required deliverables (including as appropriate, requirements for submission of a Project Control System Definition, Project Control System Description, Project Schedule and Cost Baselines, and Project Risk Assessment, etc.)
- A Government quality assurance (QA) plan that describes how the contractor's performance will be measured against the performance standards must be included.
- Positive and negative incentives tied to the Government QA plan measurements must be included.
- The performance objectives, measures and performance based incentives (PBIs) must be appropriate in scope, number, etc., and the fee allocated to the specific objective is reflective of the value or importance of the work contemplated.
- If the SOW is not performance based, the cognizant contracting officer must provide a written explanation as to why the solicitation cannot be performance based or why it is exempt from the requirement.
- The SOW does not contain any inherently Governmental functions.

- The synopsis of the major areas to be addressed in the CMP includes:
 - Compliance with existing guidance on CMPs, and
 - Coverage of significant contract management concerns (risk areas, contract type, transition, etc.)

The BCR of the model contract will include:

- Verification of consistency with the RFP.
- Any items that may not have been in the RFP, but are involved in the model contract (such as fee incentive plans and government QA plans) will be reviewed at this point.

Draft IFB

The BCR of the model contract will include:

Verification of regulatory and policy compliance;
 Verification that the clauses, including the Section H, Special Contract Requirements, and deviations are appropriate for the type of contract requirements;
 Verification of the following as appropriate:

- Appropriate security clauses are included if access to restricted or classified data is anticipated;
- If the solicitation contemplates a set-aside, the required small business or small disadvantaged business clauses are included;
- Organizational Conflicts of Interest clauses specified by FAR Subpart 9.5 and Department of Energy Acquisition Regulation (DEAR) Subpart 909.5 are addressed
- The contract complies with the requirements of FAR Part 14 and FAR Part 19.
- For capital asset acquisitions above the General Plant Project (GPP) threshold, DOE Order and Manual 413.3B must be followed, especially regarding Section H special provisions related to project management and Earned Value Management, and required deliverables (including as appropriate, requirements for submission of a Project Control System Definition, Project Control System Description, Project Schedule and Cost Baselines, and Project Risk Assessment, etc.)
- The SOW does not contain any inherently Governmental functions.

ATTACHMENT B — NON-COMPETITIVE CONTRACTS AND CONTRACT MODIFICATIONS

DOCUMENTS SUBMISSION

The following documents and information shall be submitted:

Draft RFP/contract modification;

Name, telephone number and email address of the cognizant CO and contract specialist;

Name and telephone number of the cognizant Headquarters program official;

Justification for Other Than Full and Open Competition (JOFOC), if applicable;

Documentation (including technical evaluation of costs) to support a pricing action;

Pre-negotiation memorandum;

Copies of any deviations processed or being requested; and

Evidence of local independent review and approval, including legal review in accordance with local procedures. This includes submission of comments and comment resolution; and Draft CMP. (See Chapters 7 and 42 for guidance on contract management planning and creating formal CMPs.)

Prior to the Completion of Negotiations/Discussions. If there were significant departures from the objectives of the pre-negotiation memorandum, including new and significant issues that were not addressed in the pre-negotiation plan, the CO shall submit these revisions to the FAOD for BCR and approval.

After Completing Negotiations but Prior to Award. One copy of the post negotiation summary and negotiated contract shall be submitted for Headquarters BCR and approval. In the event all of the pre-negotiation objectives were substantially met, FAOD may elect to waive, or limit, its review of post-negotiation documents. In this event, the CO should provide FAOD with a copy for information purposes only.

DOCUMENTS REVIEW

The BCR of the RFP/contract modification will include:

- Verification of the appropriateness and adequacy of the acquisition strategy;
- Verification of regulatory and policy compliance;
- Verification that the clauses, including the Section H, Special Contract Requirements and deviations are appropriate for the type of contract requirements;
- Verification that the contract/contract modification is in compliance with the terms and conditions of the contract.
- Verification that the SOW does not contain any inherently governmental functions;
- Verification that release language, if appropriate, is included;
- Verification that the cost evaluation makes sound business sense and was accomplished using all appropriate resources (e.g. DCAA audit reports, government estimate, technical evaluation of costs, etc.);
- For capital asset acquisitions above the General Plant Project (GPP) threshold, DOE Order and Manual 413.3B must be followed, especially regarding Section H

- special provisions related to project management and Earned Value Management, and required deliverables (including as appropriate, requirements for submission of a Project Control System Definition, Project Control System Description, Project Schedule and Cost Baselines, and Project Risk Assessment, etc.); and
- Verification that the CMP comports with existing guidance and addresses the significant administration/management concerns under the contract.

ATTACHMENT C — SOURCE SELECTION MEMORANDUMDOCUMENTS SUBMISSION

The following documents and information shall be submitted to the FAOD, in accordance with the procurement cycle phase set forth below:

Prior to the briefing of the Source Selection Official. If award without discussions or the start of formal negotiation (discussions) are contemplated, the following are required: Name and telephone number of the cognizant Headquarters program official; Name, telephone number and email address of the cognizant CO and contract specialist; Technical Evaluation Committee (TEC) or Source Evaluation Board (SEB) report; Draft (unsigned) Source Selection Statement (SSS) Documentation (including technical evaluation of costs) to support a pricing action (including evaluation of fee or profit); and Evidence of local independent review and approval, including legal review in accordance with local procedures. This includes submission of comments and comment resolution.

After completion of negotiations/discussions. The documents as identified above shall be submitted for Headquarters BCR and approval.

For IFBs, the following is required: Record of bid opening and selection; Name and telephone number of the cognizant Headquarters program official; Name, telephone number and email address of the cognizant CO and contract specialist; A copy of the successful bid; A record of the price analysis that was performed; and Evidence of local independent review and approval, including legal review. This includes submission of comments and resolution thereof.

DOCUMENTS REVIEW

The BCR of the pre-negotiation package will:

- Ensure that the TEC or SEB report is consistent with the rating/source selection plan; Ensure that the evaluation (technical and cost) of offers conforms with Sections L and M of the solicitation;
- Ensure that strengths and weaknesses cited in the TEC or SEB report are supportable and properly documented;
- Ensure that evaluation of offerors was in accordance with the rating/source selection plan;
- Ensure that the cost evaluation makes sound business sense and was accomplished using all appropriate resources (e.g., DCAA audit reports, government estimate, technical evaluation of costs, etc.);
- Ensure if discussions were held; they meaningful;
- Ensure that the Source Selection Statement (SSS) is consistent with the rating/source selection plan, applies sound business judgment, and is legally supportable; and

- Ensure that the SSS contains a sufficiently documented discussion of the rationale for cost vs. technical tradeoffs. Specifically, the SSS must document that any additional technical merit that will be delivered is worth the additional price premium that will be paid.

IFBs

The BCR of the IFB will:

- Ensure a price analysis was performed in accordance with FAR 15.404-1 and it makes sound business sense and is properly documented;
- Ensure that the award will be made to the lowest acceptable bidder; and
- Ensure that the apparent successful bid, and the award, conforms to the provisions of the IFB.

ATTACHMENT D — FINANCIAL ASSISTANCE AND TECHNOLOGY
INVESTMENT AGREEMENTS (TIAs)

DOCUMENTS SUBMISSION

Prior to the release of the funding opportunity announcement, the following documents and information shall be submitted:

Name, telephone number and email address of the cognizant CO and contract specialist;
Name and telephone number of the cognizant Headquarters program official;
Copies of any deviations processed or being requested;
Evidence of local independent review and approval, including legal review in accordance with local procedures. This includes submission of comments and comment resolution; and the draft funding opportunity announcement, including merit review criteria, Program Policy Factors, and the Merit Review Plan.

Prior to the approval of a Determination of Non-Competitive Financial Assistance (DNFA), except for the public interest criterion in 10 CFR 600.6(c) (8), the following documents and information shall be submitted:

- The DNFA; and
- Supporting documentation such as a copy of the application and merit review documentation.

Prior to the award of a competitive or non-competitive financial assistance action and TIAs, the following documents and information shall be submitted:

- The draft agreement; and
- Supporting documentation such as a copy of the selected proposal, budget review documentation and technical evaluation (if applicable);
- A recommendation to the Selection Official and the Selection Statement (if applicable);
- Evidence of local independent review and approval including legal review. This includes submission of comments and resolution thereof; and renewal applications/awards.

The CO shall notify FAOD when a renewal will cause the financial assistance award to exceed the delegation authority of the contracting activity and ask for guidance on FAOD review.

DOCUMENTS REVIEW

The BCR of the FOA package prior to release of the announcement will include:

- Verification of the solicitation strategy to include technical, business and financial aspects;
- Verification of regulatory and policy compliance; and verification that the announcement's provisions are appropriate (e.g. non-profit, universities, etc.).

The BCR of the DNFA package prior to approval will include:

- Verification that the DNFA is thorough and is a sound management decision; and
- Verification that the eligibility criteria are appropriate and concurrence and approval are at the appropriate level.

The BCR of the agreement/award package and TIAs prior to award of the financial assistance action or TIA will include:

- Verification that the budget review makes sound business sense and was accomplished using all appropriate resources (e.g. government estimate, technical evaluation of costs, etc.); and
- Verification that the special terms and conditions are consistent with the programs objectives and the project description. Ensure performance metrics, if applicable, and reporting are appropriate. Verification that agreement is consistent with the administrative provision in 10 CFR 600.

ATTACHMENT E — MANAGEMENT AND OPERATING CONTRACTSDOCUMENTS SUBMISSIONExtend/Compete Actions (including options in non-competitively awarded contracts)

The first step in the competition/extension process is for the responsible Cognizant Secretarial Office (CSO), with support from the local Site Office Management, to analyze the acquisition alternatives and strategies, in the development of the contract competition or the contract extension package (listed below). This analysis and its related concurrences for the proposed M&O contract action must occur at least 24 months before contract expiration. It must be consistent with AL 2009-03, FAR Part 17.6, DEAR 917.6, and FAR Part 6. The package contents must include a discussion of all procurement alternatives and briefing materials for all involved HQ officials, for example, the SPE, the GC, the Deputy Secretary, and the Secretary.

An Acquisition Plan approved by the Deputy Secretary and prepared in accordance with FAR Part 7 and DOE Acquisition Guide Chapter 7.1. The acquisition plan must include:

- A description of the incumbent's performance history in areas such as program accomplishment, safety, health, environment, energy conservation, financial, and business management and socio-economic programs, including measurable results against established performance measures and criteria;
- Identification of significant projects planned during the period of performance;
- For capital asset acquisitions above the General Plant Project (GPP) threshold, DOE Order and Manual 413.3B must be followed, especially regarding Section H special provisions related to project management and Earned Value Management, and required deliverables (including as appropriate, requirements for submission of a Project Control System Definition, Project Control System Description, Project Schedule and Cost Baselines, and Project Risk Assessment, etc.)
- Identification of principal issues, negotiation objectives, and/or significant changes to the current contract's terms and conditions, including the extent to which performance based management provisions are or will be negotiated into the contract;
- If the contract is for a Federally Funded Research and Development Center (FFRDC), a review of the use and continued need for the FFRDC designation in accordance with FAR 35.017-4 (FFRDC designations are limited to a 5 year time period). Include a request for the authorization for a FFRDC as a separate attachment, to be signed by the Secretary;
- A determination that the M&O contract or performance based management contract remains appropriate (M&O type of contract determinations by the Secretary are limited to a 10 year time period);
- A discussion of the potential impact of a change in contractor on program needs;
- Rationale that competition for the period of the extension is not in DOE's best interest; and
- Site Utilization and Management Planning Discussion

After approval of the Acquisition Plan, a JOFOC (if extension is recommended) is prepared in accordance with FAR Part 6;

The JOFOC must include a separate Certification by the HCA and cognizant program Assistant Secretary that the use of full and open competition is not in the best interests of the Department (if extension is recommended);

Exercise of Option

The exercise of an option shall be approved by the Senior Procurement Executive and the cognizant Assistant Secretary(ies). The documentation required is identical to the documentation required in any contract option exercise as prescribed in FAR Part 17 plus reviews as prescribed by the Program Office and HCA. The option exercise as discussed here is for option periods that were evaluated during a competitive M&O RFP process. The contracting activity shall submit documentation prepared by the CO, and approved by the cognizant Assistant Secretary(ies), that the exercise of the option is in the best interest of the Government to the Procurement Executive. The Procurement Executive will provide correspondence of their approval.

DOCUMENTS REVIEW

Extend/Compete Actions

The BCR of extend/complete packages will include:

The cognizant Program Office will prepare documentation and provide coordination and briefings necessary for review and approval of this action. When a contract extension is decided, the Acquisition Plan, JOFOC, M&O designation, and possible FFRDC designation documentation will be coordinated by the Cognizant Secretarial Office (CSO) as listed above. The CSO office combined with field office management will prepare documentation and manage reviews, approvals and document changes as needed as the extend compete package makes it way through the management review and approval process. Memorandums for the Secretary, developed by the CSO, must be provided to the Executive Secretary for routing. Briefings of Senior DOE Management may be required by different Offices/individuals depending on the Program Office. The CSO office will prepare letters notifying Congress of non-competitive extensions as appropriate. The SPE will be included in the review/concurrence of extend compete actions. The SPE is the responsible official for review and approval of the JOFOC.

Exercise of Option for an M&O or Other Major Site or Facility Contract

The BCR of the option exercise package will include:

- Review supporting documents,
- OPAM will prepare an Action Memo for the Senior Procurement Executive for M&O Option exercise approval.

ATTACHMENT F — RATIFICATION ACTIONS

DOCUMENTS SUBMISSION

The DOE Senior Procurement Executive (SPE) is authorized to ratify any unauthorized commitments. The ratification authority of the Senior Procurement Executive is delegated to the HCA for individual unauthorized commitments of \$25,000 or under. The ratification authority of the HCA is non-delegable. The following documents and information shall be submitted for ratification of an unauthorized commitment to the HCA for unauthorized commitments under \$25,000 and to the SPE for unauthorized commitments over \$25,000:

- All records and documents concerning the commitment;
- A written statement through the cognizant Contracting Officer and Procurement Director containing:
 1. The name of the Government representative who entered into the unauthorized commitment;
 2. A statement as to why authorized procurement procedures were not used;
 3. The rationale for selection of the contractor;
 4. A list of other sources considered;
 5. A description of work performed or products delivered;
 6. A reference to funds availability at the time of the unauthorized commitment;
 7. The status of the work; and recommendation(s) for corrective action(s) for avoidance of unauthorized commitments; and a document originated by the CO and approved by the HCA that includes:
 - A statement that supplies or services have been provided and accepted by the Government, or that the Government has or will obtain a benefit resulting from performance;
 - A synopsis of events that transpired resulting in the unauthorized commitment;
 - A statement that the resulting contract would have been proper if made by a CO;
 - A determination by the CO that the price is fair and reasonable;
 - A statement by the CO recommending payment;
 - Evidence of local legal review; and
 - A statement that funds are currently available.

DOCUMENTS REVIEW

The BCR of the ratification package will include:

- Forward any comments to CO for response/resolution;
- Obtain GC's concurrence;
- Prepare a point paper to present to the Procurement Executive with a recommendation to either approve or not approve the ratification; and
- Send response back to the CO.

ATTACHMENT G — SUBCONTRACT ACTIONS

DOCUMENTS SUBMISSION

The following documents and information shall be submitted to the FAOD as appropriate for the procurement (i.e., sole source or competitive):

Prior to release of subcontract action. Prior to releasing the RFP or model subcontract the following documents are required for review:

Name and telephone number of the cognizant Headquarters program official;
Name, telephone number and email address of the cognizant DOE CO;
Acquisition Plan;
Draft RFP/model subcontract;
If sole source, a copy of the justification for a noncompetitive action;
If competitive, a copy of the source selection criteria; and
Evidence of local independent review and approval, including legal review by both the contractor and DOE Field/Site office. This includes submission of comments and comment resolution.

Prior to the subcontract award. If the subcontract action is competitive, the following documents shall be submitted for review:

Documentation supporting the technical evaluation;
Documentation (including technical evaluation of costs) to support a pricing action (including evaluation of fee or profit);
Draft (unsigned) Source Selection Statement (if applicable); and
Evidence of local independent review and approval, including legal review by both the contractor and DOE Field/Site office. This includes submission of comments and comment resolution.

Prior to the start of negotiations. If the subcontract action is non-competitive, the following documents shall be submitted for review:

Documentation (including technical evaluation of costs) to support a pricing action (including evaluation of fee or profit);
Evidence of local independent review and approval, including legal review by both the contractor and DOE Field/Site office. This includes submission of comments and comment resolution.

Prior to the Completion of Negotiations. If there were significant departures from the objectives of the pre-negotiation plan or provisions of the model contract, or if new and significant issues developed which were not addressed in the pre-negotiation plan, the CO shall submit these revisions to the FAOD for review and approval.

After Completing Negotiations. One copy of the post negotiation summary and negotiated contract shall be submitted for Headquarters Business Clearance review and approval to the FAOD prior to award of the contract. In the event all of the pre-negotiation objectives were substantially met, FAOD may elect to waive, or limit, its review of post negotiation documents. In this event, the CO should provide FAOD with a copy for information purposes and not for the purpose of obtaining FAOD review and approval.

DOCUMENTS REVIEW

The BCR of the subcontract package will include:

- Verification of the acquisition strategy to include business and financial aspects; Verification of regulatory and policy compliance; and
- Verification that the clauses are appropriate for the type of contract and technical requirements;

Review may also include the following:

- Verification of appropriate security clauses are included if access to restricted or classified data is anticipated;
- For capital asset acquisitions above the General Plant Project (GPP) threshold, DOE Order and Manual 413.3B must be followed, especially regarding Section H special provisions related to project management and Earned Value Management, and required deliverables (including as appropriate, requirements for submission of a Project Control System Definition, Project Control System Description, Project Schedule and Cost Baselines, and Project Risk Assessment, etc.)
- If the solicitation contemplates a set-aside, verify inclusion of the required small business or small disadvantaged business clauses;
- Verification of appropriate cost accounting standards clauses; and
- Verification of the inclusion of Organizational Conflicts of Interest clauses specified by
- FAR Subpart 9.5 and DEAR Subpart 909.5.

Review the documentation to ensure that it is internally consistent. For example, verify that:

- The evaluation criteria are clear and do not overlap;
- The evaluation criteria are appropriate for the acquisition including how cost/price will be evaluated;
- Past performance is evaluated;
- Position descriptions are clear and appropriately written to meet requirements (that is, not overly restrictive or overly permissive); and
- The prime contractor may be asked to provide an explanation and justification for any unusual solicitation language.

ATTACHMENT H — INTERAGENCY AGREEMENTSDOCUMENTS SUBMISSION

The following documents and information shall be submitted:

Name and telephone number of the cognizant Headquarters program official;
Name, telephone number and email address of the cognizant CO and contract specialist;
A copy of the SOW and other applicable contractual documents, should the servicing agency be using an existing contract;
The Determination and Findings signed by the CO supporting the use of an interagency agreement (IA); and
Evidence of local independent review and approval, including legal review. This includes submission of comments and comment resolution.

DOCUMENTS REVIEW

The BCR of the IA package will include:

- Verification of regulatory and policy compliance;
- Ensuring that the supplies or services requested under the IA are within the scope of the servicing agency's contract;
- Ensuring that the servicing agency's contract does not circumvent DOE policies with respect to competition, small business and performance based acquisition;
- Verification that any special DOE unique terms and conditions are appropriate for the type of contract requirements;
- Ensuring that the supplies or services being acquired are within the servicing agency's authority; and
- Verification that appropriate security clauses are included if access to restricted or classified data is anticipated.

ATTACHMENT I — PERFORMANCE BASED INCENTIVES/AWARD FEE/INCENTIVE FEE PLANSDOCUMENTS SUBMISSION

The following information shall be provided with the documents submitted to FAOD for Headquarters BCR and approval prior to commencement of negotiations with an offeror, or in the case of existing contracts, the incumbent contractor:

Name and telephone number of the cognizant Headquarters program official;
Name, telephone number and email address of the cognizant CO and contract specialist;
The Performance Evaluation and Management Plan/Award Fee Plan (or equivalent document);
Documentation supporting the fee methodology;
Documentation supporting the selection and/or changes to performance-based requirements, objectives, measures and incentives; and
Evidence of local independent review and approval including legal review. This includes submission of comments and comment resolution.

PBIs/Award Fee/Incentive Fee Plans (to include cost reduction/cost saving incentive programs)DOCUMENTS SUBMISSION

The BCR of the PBIs/Award Fee/Incentive Fee Plans will include:

- Review the relationship of the performance objectives, measures and incentives to the critical strategic path and the tactical objectives of the site;
- Ensure that the performance objectives, measures and incentives are appropriate in scope, number, etc. for the work contemplated;
- Ensure that the objectives to be measured are suited for the application of PBIs/award fee; Review the structure of the PBI itself;
- Ensure that the amount of fee allocated to the specific objective is reflective of the value or importance of the work;
- Ensure that performance objectives are focused on the outcome and results rather than process or activities;
- Review the fee structure and the allocation between and among, objective and subjective measures;
- Ensure that performance objectives, measures and incentives are structured to improve overall contractor performance;
- Verify that any performance objectives, measures and incentives are in accordance with procedures of the applicable Headquarters program office and that appropriate Headquarters program office coordination has occurred;
- Review the relationship of proposed performance objective, measures and incentives to current/past performance objectives, measures and incentives to ensure that proposed metrics have considered/built on past metrics; and
- Ensure that the impact of year-to-year changes to operating conditions have been considered in the development of performance objectives, measures and

incentives

The Senior Procurement Executive may waive review of PBI/Award Fee plans upon an affirmative demonstration by the HCA that internal processes are adequate to ensure that the performance measures and associated fee structures are properly developed and administered. Requests for such a waiver must demonstrate that an internal process exists which: (a) assesses all performance objectives, award fees, and specific incentives tied to discreet performance objectives to ensure they are well-defined, rational, appropriately integrated prior to their negotiation and inclusion in the contract, and (b) ensures that mechanisms exist as part of contract administration for the validation of contractor performance against objectives.