



NNSA Policy Letter: BOP-003.0304R5
Revision 5
Date: August 8, 2007

TITLE: NNSA Headquarters Approval of Contract Actions Process (CAP)

I. OBJECTIVES:

- A. Ensure compliance with laws, executive orders, regulations, policy issuances and procedures, and sound business practices;
- B. Provide appropriate checks and balances, and reasonable assurances against fraud, waste, and abuse;
- C. Facilitate the exercise of sound business judgment with the advice of subject matter experts as appropriate;
- D. Drive down decision making by using risk based coordination and approvals; and,
- E. Promote expeditious completion of acquisitions consistent with quality and regulatory requirements.

II. APPLICABILITY:

- A. This Policy Letter applies to all National Nuclear Security Administration (NNSA) organizations, to NNSA personnel having contracting authority to obligate NNSA or non-NNSA funds, and personnel otherwise involved in processing NNSA procurement actions. For the purpose of this Policy Letter, the term "contract actions" includes procurement and assistance related actions detailed in Exhibit #1, Headquarters Approval of Contract Actions Table. Aspects of this Policy Letter implement approval for actions that are covered by other NNSA policy issuances. Those other policies may exempt certain NNSA organizations or elements from their provisions. Organizations and elements that believe they are exempt from some aspects of this Policy Letter due to an exemption granted from another policy issuance of NNSA shall request exemption from those aspects of this Policy Letter in writing to the Director, Office of Acquisition and Supply Management (NA-63). The Director will review any exemptions for applicability and grant or deny such requests in writing.

- B. Contractors. When NNSA contractors have a requirement to obtain Contracting Officer consent or approval for certain subcontract actions, the Contracting Officer responsible for review and approval shall ensure that the contractor provides documentation equivalent to that required for Federal submissions.

III. REQUIREMENTS:

- A. All organizational elements within NNSA, responsible for contract actions, must comply with Exhibit #1 unless otherwise exempt under Paragraph II.A above.
- B. Headquarters Approval.
 - 1. The Deputy Director, Office of Acquisition and Supply Management, NA-63, is the Head of Contracting Activity (HCA) for contract actions in excess of \$25 Million (M). The Associate Director of the Office of Business Services, NNSA Service Center, is the HCA for all other contract actions.
 - 2. Either HCA may require approval of actions not reflected in the Exhibit #1.
 - 3. HQ approvals of contract actions, excluding M&O contract actions (see #7 below), will be based on oral exchanges during formal briefings by the Contracting Officer, to assigned HQ staff. Briefings and exchanges will normally focus on strategies, approaches, methodologies, evaluations, assessments and decisions associated with contract actions. HQ approvals will not normally include review of specific documents associated with contract actions, though such reviews may be performed should issues identified during oral exchanges so dictate. Following the briefing(s) the Contracting Officer shall document the outcome of the discussions in the official contract file. Additionally, the required HQ approval shall be documented, in some manner, for the official contract file.
 - 4. Those involved in a review of contract actions may vary depending on the action being reviewed. Participation may include legal, small business, and program office representation and other members as may be appropriate for a given action.
 - 5. HQ will provide an approval decision at each phase requiring approval of a contract action (i.e., planning phase; solicitation; pre-negotiation phase; post negotiation phase; or prior to sealed bid award), within five days after conduct of oral briefings or receipt of supporting documentation, when necessary. Should additional time be necessary to complete the review, HQ will notify the Contracting Officer of the delay, the rationale, and the expected length of delay.

6. Contract actions shall not be executed until the appropriate approvals in this Policy Letter have been accomplished. A record of Reviews and Approvals shall be included in every acquisition or financial assistance file that requires approval beyond the Contracting Officer; and, the HQ Review or Approval Document (see Exhibit #2) may be included in each file that requires HQ review or approval. An individual HQ Review or Approval Document is not required for every action requiring HQ review or approval if proof of the review and/or approval is otherwise evident.
7. HQ approval of M&O contract actions and subcontracts will be based on reviews of documentation as well as strategies, approaches, methodologies, evaluations, assessments and decisions. However, the HCA may elect to perform M&O contract or subcontract reviews in a manner similar to that used for other contract actions.

IV. RESPONSIBILITIES:

- A. Deputy Director, Office of Acquisition and Supply Management (NA-63)
will:
 1. Establish policy for approval of contract actions at the HQ level. Policy below the HQ level is established by the Service Center and the Site Offices.
 2. Oversee contracting practices used by organizational elements within NNSA to ensure compliance with laws, regulations, sound business practices, and policy.
 3. Approve contract actions identified for HQ approval in Exhibit #1, or waive approval.
 4. Approve contract actions greater than \$25 M.
- B. Associate Director, Office of Business Services, NNSA Service Center
will:
 1. Implement this Policy Letter at the Service Center.
 2. Establish processes, policies, and procedures for contract actions performed by the Service Center, including review and approval of contract actions at the Service Center.

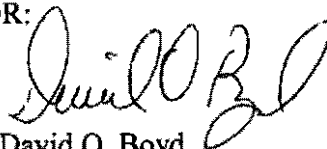
3. Establish policy for approval of contract actions at the Service Center level. Policy below the Service Center level is established at the Site Offices.
 4. Ensure that all Service Center contract actions represent good business deals for the NNSA and are supported by quality documentation that reflects a high degree of professionalism.
 5. Waive approval requirements, as deemed necessary, for specific Service Center, Site Office or M&O Contractor contract actions above established administrative approval thresholds but less than or equal to \$25 M.
 6. Approve Service Center and Site Office contract actions above established administrative approval thresholds but less than or equal to \$25 M.
 7. Approve Contracting Officer consent to M&O Contractor subcontract actions that exceed the M&O Contractor's approval threshold but are less than or equal to \$25 M.
 8. Approve all Small Business Waivers (Non M&O) for actions greater than \$100 Thousand (K) but less than or equal to \$1 M.
 9. Approve mistakes in bid before-award for actions less than or equal to \$25 M.
- C. Site Office Managers/Deputy Site Managers will:
1. Implement this Policy Letter for contract actions under their cognizance. This responsibility extends to assuring independent review of actions so that individuals responsible for initiating an action do not approve the action; and, establishing processes, policies, and procedures for contract actions performed by the Site Office, including review and approval of contract actions at the Site Office.
 2. For contract actions over which they have cognizance, perform the duties specified in applicable acquisition regulations as being performed at a level above the Contracting Officer but that are below the level of the HCA.
- D. Office of Chief Counsel, NNSA Service Center and Office of General Counsel, NNSA HQ will coordinate all legal, financial, and patent input, to ensure the initiator is provided one comprehensive set of advisory comments.

E. Contracting Officers will:

1. Ensure that contract actions are reviewed, coordinated and approved in accordance with this Policy Letter.
2. Plan the solicitation, evaluation, and award of contract actions in a manner that precludes the need for expedited coordination and approval.
4. Ensure resolution of comments.
5. For subcontracts requiring HCA approval, ensure documentation equivalent to that required for Federal acquisitions is provided to the HCA and reviewers.
6. Ensure that contract and financial assistance actions requiring HQ approval have been fully coordinated through appropriate HQ functional experts as necessary prior to submission to the HCA or Senior Procurement Executive (SPE). Subject areas requiring HQ function coordination include, but are not limited to:
 - a. contract law,
 - b. financial assistance law,
 - c. appropriations law,
 - d. intellectual property,
 - e. real and personal property,
 - f. contractor human relations,
 - g. small business issues,
 - h. environmental, safety and health (ES&H),
 - i. National Environmental Policy Act (NEPA),
 - j. Department of Energy (DOE) special authorities, e.g., barter, loan guarantees, etc., and
 - k. NNSA implementation of DOE Order 413.3 "Program and Project Management for the Acquisition of Capital Assets," or successor Order, as applicable.

V. POINT OF CONTACT FOR ADMINISTRATION OF THE POLICY LETTER:
Deputy Director, Office of Acquisition and Supply Management (NA-63), at 202-586-6681.

BY ORDER OF THE ADMINISTRATOR:



David O. Boyd
Senior Procurement Executive
National Nuclear Security Administration

Exhibits:

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1. Headquarters Approval of Contract Actions Table
 2. HQ Review or Approval Document

**EXHIBIT 1
HEADQUARTERS APPROVAL OF CONTRACT ACTIONS TABLE**

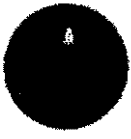
<u>ACTION CODES:</u> A - Approval C - Review & Comment S - Signature N - Notification Numbers beside the letters (e.g., C1, A2) reflect order in which to accomplish actions. Numbers within parenthesis, e.g. (1) indicate notes which are located at the end of the table.	General Counsel	HQ Competition Advocate	NA-63 Small Business Program Manager	OSDBU	Head of Contracting Activity – NA-63	Senior Procurement Executive	Deputy or Assoc. Administrator	Administrator	Agency Head
Designation of Source Selection Authority >\$25 M					A1				
Major Facilities					C1	A2			
Solicitations for GSA Schedule Buys – Best Value: >\$25M					A1				
Source Selection Decision for GSA Schedule Buys – Best Value: >\$25M					C1				
Written Acquisition Plans: >\$25M					A1				
Justifications for Other Than Full & Open Competition (FAR 6.3) >\$25M to \$50M >\$50M		C1			A2				
Small Business Waivers (Non-M&O) > \$1 M - ≤ \$3 M >\$3M			C1		C2	C3	A4		
Small Business Review (DOE Form 4220.2) >\$3M *if not reserved exclusively for small business ** Delegated to the NNSA Field SBPM, in his absence must be sign by the Hdqrs Comp Advocate			C1	C2	C3	C4	A5		
Draft and Final Solicitations & Amendments (Non-M&O): >\$25M (1) * Source Selection Plan must accompany the final solicitation for competitive source selection actions, unless otherwise agreed to by the HCA					A1*				
Mistakes in Bid: >\$25M					A1				
Mistakes in Bid, After Award (FAR 14.407-4 & 33.2)					C1	A2			
OCI Waiver >\$25M					A1				
Source Evaluation Plans/Reports: >\$25M (3)					C1				
Source Selection Decisions: >\$25M (3)					C1				
Pre-Negotiation Plans (3): >\$25M					A1				
Letter Contract – written					A1				

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determination (FAR 16.603-3) (2)									
Agency Level Protest Decision (4) Decision to Continue with Award or Performance Corrective Relief					S1 C1 A1	A2	(5)		
GAO Level Protest Agency Report Decision to Continue with Award or Performance					N1 S3	N2 A1	(5)	A2	
Modifications (Non M&O) - Other than funding, in excess of \$25M or causing the contract value to be >\$25M					A1				
Terminations (complete or partial) & Settlement Review Boards (SRBs) (Non M&O) (FAR 49) ≥\$10 M to \$25M >\$25M					N1 A1	N2(6) N2(6)			
Extraordinary Contractual Actions Indemnification under PL 85-804 (FAR Part 50) <\$50K >\$50K	C1 C1				C2 C2	A4 C3	C3 C4	C5	A6
Waiver Required for Submission of Cost or Pricing Data: >\$25M					A1				
Waive Inclusion of FAR 52.223-13: >\$25M					A1				
Pre-Contract Costs – period greater than 15 days (FAR31.205-32 and DEAR 931.205-32): >\$25M					A1				
Ratifications: >\$25K					C1	A2			
Subcontract Consents (FAR 44.2) Required Subcontract Consents (Non-M&O) >\$25M					A1				
Purchasing System Approvals (M&O)					C1				
Subcontract Consents (M&O)(7) Exceeding Site Approval Threshold (8) or of an Unusual Nature: >\$25M					A1				
Determination of Non-Competitive									

ACTION CODES: A - Approval C - Review & Comment S - Signature N - Notification	General Counsel	HQ Competition Advocate	NA-63 Small Business Program Manager	OSDBU	Head of Contracting Activity – NA-63	Senior Procurement Executive	Deputy or Assoc. Administrator	Administrator	Agency Head
Numbers beside the letters (e.g., C1, A2) reflect order in which to accomplish actions. Numbers within parenthesis, e.g. (1) indicate notes which are located at the end of the table.									
Financial Assistance (9): >\$1M					C1	C2	A3		
Financial Assistance Solicitations and Awards: >\$25M					A1				
Utility Procurement Plans (Includes draft contracts regardless of dollar value or type) (FAR 41); >\$25M					C1	A3	C2 (10)		
Interagency Agreements - Funds-Out Only >\$25M(11)					A1				
Contract Awards – M&O					C1	A2	N3	N4	
Extend/Compete Recommendations and Decision (M&O)(7) (FAR 17.602, DEAR 917.602 and 605, AL-96-09)					C1	C2	C3	C4	S5
Exercise Option to Extend a Competitively Awarded M&O Contract (7)(AL-96-09)					C1		A2		
Modifications Beyond the Administrative Authorities Granted Pursuant to FAR Part 42.302 (>\$25M) – M&O(7)					A1				
Contract Management Plan: >\$25M and/or M&O (7)					C1				

- (1) If an amendment makes significant changes to the acquisition strategy, or any changes to Sections L and M of the solicitation, review is required in accordance with (IAW) the CAP. Otherwise, no review is required above the level of the Contracting Officer.
- (2) Letter contract definitization follows the same review as other contracts
- (3) Task or delivery orders against priced master contracts are exempt. New task or delivery orders awarded against unpriced basic contracts follow the same review requirements as new contract actions.
- (4) Protest decided by the Senior Procurement Executive:
 - Protester requests decision by the Procurement Executive
 - HCA is the Contracting Officer at the time the protest is filed, having signed either the solicitation where the award has not been made, or the contract, where the award or nomination of the apparent successful offeror has been made; or
 - HCA concludes that one or more of the issues raised in the protest have the potential for significant impact on NNSA acquisition policy.
- (5) Endorsement required by Deputy or Associate Administrator.
- (6) IAW DEAR 949.101, the Senior Procurement Executive shall be notified prior to taking any action to terminate (a) contracts for the operation of Government owned facilities, (b) any prime contract or subcontract in excess of \$10M, and (c) any contract the termination of which is likely to provoke unusual interest.
- (7) Actions taken on or regarding a M&O contract that require Headquarters review and/or approval shall be coordinated with the M&O Support Department in the Office of Business Services prior to submission to Headquarters.
- (8) A Subcontract that exceeds the Site approval level, or a modification that causes the subcontract value to exceed the Site approval threshold or increases the subcontract value by 20% or more. The threshold for each Site is set by the Senior Procurement Executive.

- (9) If the authority being cited is 10 CFR 600.6(c)(8), public interest, the DNFA must be approved by the responsible Program Assistant Secretary, Deputy Administrator, or other equivalent authority. If this is the case, the review procedures for greater than \$1M must be used.
- (10) HQ Office of Defense Programs (NA-10) is the Deputy Administrator for all utility acquisitions. Utility acquisitions requiring NA-10 approval must go through the Assistant Deputy Administrator for Facility and Infrastructure, Acquisition and Operation (NA-17).
- (11) If the basic interagency agreement was reviewed in accordance with this document, review of individual modifications is not required unless the modification adds new work not contemplated in the original award. If the basic award was not reviewed in accordance with this, a review of an individual modification, to include the basic award, will serve as the required review of the entire award.



REVIEW OR APPROVAL DOCUMENT				
TITLE OF DOCUMENT: [Example: New Support Services Contract in support of the XYZ Program, NA-10]			Document No. _____ Modification/Amendment Number _____	
DESCRIPTION: [Example: Pre-negotiation Plan]			Organization/Department: _____ Division (if applicable): _____	
Contract Specialist or Contracting Officer Signature: _____ Date: _____			POC Name and Telephone Number: _____	
COORDINATING/APPROVING OFFICE	ORDER	SIGNATURE	COMMENTS ATTACHED?	DATE
Contracting Officer	A1		Yes <input type="checkbox"/> No <input type="checkbox"/>	
Independent Review	C2		Yes <input type="checkbox"/> No <input type="checkbox"/>	
Office of Council/General Council	C3		Yes <input type="checkbox"/> No <input type="checkbox"/>	
Head of the Contracting Activity	A4		Yes <input type="checkbox"/> No <input type="checkbox"/>	
Senior Procurement Executive			Yes <input type="checkbox"/> No <input type="checkbox"/>	
Deputy or Associate Administrator			Yes <input type="checkbox"/> No <input type="checkbox"/>	
Administrator			Yes <input type="checkbox"/> No <input type="checkbox"/>	
Agency Head			Yes <input type="checkbox"/> No <input type="checkbox"/>	
			Yes <input type="checkbox"/> No <input type="checkbox"/>	

LEGEND FOR ORDER: The numbers reflect the order in which to accomplish the review and coordination.

C-Coordination: review and comment

A-Approval: affixes signature as the approving official
4/2007

S-Signature: signs/executes the document