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**U.S. House of Representatives**  
**Committee on Energy and Commerce**  
**Washington, DC 20515-6115**

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February 29, 2008

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The Honorable Michael Chertoff  
Secretary  
U.S. Department of Homeland Security  
1300 Pennsylvania Avenue, N.W.  
Washington, D.C. 20229

Dear Secretary Chertoff:

The Committee on Energy and Commerce and its Subcommittee on Oversight and Investigations are continuing to investigate certain aspects of the non-competitive contract that the Department of Homeland Security (DHS) Directorate for Science and Technology (S&T) awarded to American Superconductor Corporation (AMSC) and Consolidated Edison Company of New York (Con Edison) for a project to develop a prototype resilient electricity grid in New York City.

In response to the Committee's June 28, 2007, letter to you, DHS provided a number of documents relating to the submission and approval of the contract with AMSC and Con Edison, including documents entitled "Determination and Findings Authority to Use Letter Contract" and "Justification for Other Than Full and Open Competition" (Justification), both of which were signed and certified by S&T Contract Officer Margaret Graves on March 29, 2007.

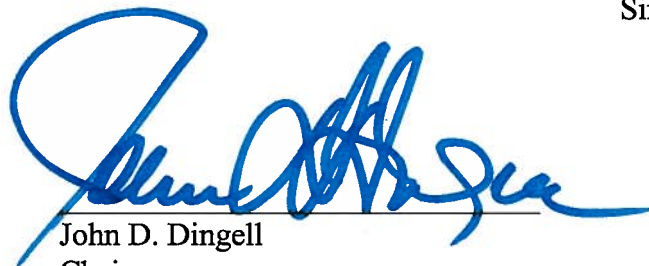
While both of these documents refer and attempt to address Federal Acquisition Regulation (FAR) requirements for awarding the contract to AMSC and Con Edison under other than full and open competition, their use raises a number of concerns. First, neither document fully articulates the efforts DHS may have made in determining if there were other sources available for the project. In addition, they do not show what, if any, market research may have been conducted to determine if AMSC was the only provider of the "inherent fault current limiting high-temperature superconductor cable" that was to be used in the project. Lastly, in its apparent haste to move the project forward, DHS procurement officials do not appear to have solicited and/or received any interest in the project from other providers as may be mandated by FAR requirements.

Although the Justification further states that AMSC and Con Edison will conduct full and open competition for Phase 1B of the project, we remain concerned—based upon the documents received to date—how or if DHS will ensure that either or both parties follow through with this assertion.

In order to fully understand the process used by DHS in determining the justification to award this contract to AMSC and Con Edison, we request that Ms. Graves provide Committee investigators with a detailed briefing on the procedures and criteria DHS employed to determine that a non-competitive contract be issued for this project. Additionally, we request that Ms. Graves provide Committee investigators—within one week of that date of this letter—with copies of any comparative analysis that was done in the course of evaluating and selecting AMSC and Con Edison as the final contractors for the project along with a copy of the final contract, including all subsequent amendments to the contract, list of deliverables, and due dates.

If you have any questions and to arrange for the briefing, please have your staff contact John F. Sopko, Chief Counsel for Oversight, or Richard Miller, Investigator, with the Committee staff at (202) 226-2424.

Sincerely,



John D. Dingell  
Chairman



Bart Stupak  
Chairman  
Subcommittee on Oversight and Investigations

cc: The Honorable Joe Barton, Ranking Member  
Committee on Energy and Commerce

The Honorable John Shimkus, Ranking Member  
Subcommittee on Oversight and Investigations