



POLICY FLASH 2007-40

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DATE: June 4, 2007

TO: Procurement Directors

FROM: Office of Procurement and Assistance Policy, MA-61
Office of Procurement and Assistance Management

SUBJECT: **FY 2007 Funding and Congressionally Directed Awards -
Additional Guidance**

SUMMARY: This Policy Flash provides additional guidance to Contracting Officers with respect to Congressionally directed awards (“earmarks”) subject to guidance and direction set forth in the February 2, 2007 memorandum from the Secretary of Energy’s Chief of Staff to Department of Energy Program Secretarial Officers. That memorandum provided the decision framework to be used to determine the funding of Fiscal Year 2007 Congressional earmarks. The Office of Procurement and Assistance Management (OPAM) provided a copy of this direction to Contracting Officers for information purposes through the issuance of Policy Flash 2007-24 on March 13, 2007. Subsequent to the issuance of this Flash, questions have arisen concerning the application of the decision framework to specific actions. OPAM has worked with the Headquarters Office of the Chief Financial Officer to provide additional information and clarification concerning the application of the decision framework as it pertains to Contracting Officer responsibilities for award actions, as follows:

1. A new earmark identified for Fiscal Year 2007 is subject to the Chief of Staff’s direction and decision framework. Contracting Officers with requisite authority may execute an award for such an earmark, provided that: an affirmative determination has been made by the Program Office to fund the award pursuant to the decision framework set forth in the Chief of Staff’s memo; appropriate documentation supporting such an affirmative determination is received as part of the procurement request; and, that the award can be made in accordance with

applicable procurement or financial assistance regulations, policies and procedures.

2. An earmark identified for, or prior to, Fiscal Year 2006, but not yet awarded is not subject to the Chief of Staff's direction and decision framework. Contracting officers with requisite authority may execute an award for such an earmark, provided that: funding for the earmark had been previously identified; the funding is now available in Fiscal Year 2007 as a result of those funds having been carried over into Fiscal Year 2007 for that purpose; and, that any award be made in accordance with applicable procurement or financial assistance regulations, policies and procedures.

3. Contracting Officers with requisite authority may continue, supplement, or extend an existing award for an earmark made for, or prior to, Fiscal Year 2006, for which Fiscal Year 2007 new budget authority is made available, provided that: an affirmative determination has been made by the Program Office to continue, supplement, or extend the award pursuant to the Chief of Staff's direction and decision framework; appropriate documentation supporting such an affirmative determination is received as part of the procurement request; and, that any continuation, supplemental, or extension can be made in accordance with applicable procurement or financial assistance regulations, policies and procedures.

This Flash will be available online within a day, at the following website:
http://www.management.energy.gov/policy_guidance/policy_flashes.htm.

Questions concerning this policy flash should be directed to Jackie Kniskern at 202-287-1342 or Jacqueline.Kniskern@hq.doe.gov.



Michael P. Fischetti, Director
Office of Procurement and
Assistance Policy