



REQUEST REPLY BY: 9/22


UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

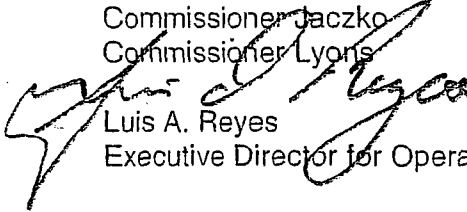
COMSECY-06-0044

September 7, 2006

Disapprove with comments.

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


Dale E. Klein 10/19/06

FROM: 
Luis A. Reyes
Executive Director for Operations

SUBJECT: STREAMLINING CHAIRMAN REVIEW PROCESS AND ENHANCING
CONTRACT OVERSIGHT

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

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

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

CONTACT: Mary Lynn Scott, DC/ADM
(301) 415-6179

CHAIRMAN'S COMMENTS ON COMSECY-06-0044

Although I recognize that the staff has devoted considerable time and effort to develop proposals for streamlining the contract review process for actions valued between \$1 million and \$3 million, I am unable to support COMSECY-06-0044, which would change the basis for the Chairman's formal review from the existing dollar threshold to a Commission interest basis, which is to be determined by the Chairman's review of a "Notification of Planned Acquisitions." I do not believe that screening an annotated list of projects is consistent with the Commission's original purpose in approving the review process nor is it likely to illuminate the real issue that is the focus of the Chairman's review - - whether the proposed contract vehicle is appropriately designed to accomplish the project, which in all cases has already been approved by the Commission during consideration of the budget.

Nonetheless, I also agree with Commissioner Lyons that resource and timeliness issues are important considerations in defining and shaping viable agency internal processes. Equally important to our future success are mechanisms to ensure that we are expending public funds wisely and have adequate controls over the work being performed through external acquisitions of goods and services, particularly when we are embarking on new work with a heavy reliance on contractor support. We now need to find appropriate ways to make the process work.

In that regard, and in recognition of the Commission majority on this issue, I am prepared to continue the current Commission-approved review process for contracts and laboratory agreements between \$1million and \$3 million. In my view, however, the current review process is not entirely satisfactory because it relies on the Commission, and in particular on the Chairman's Office, to provide the permanent management direction necessary to fix a contracting process perceived by the Commission to be fundamentally flawed. Ideally, the Chairman's review process should be relatively routine because the important considerations with respect to management and policy implementation have already been addressed by the staff before the review package is provided to the Chairman and the Commission. This is the appropriate role of the Executive Director for Operations, and his cover memorandum accompanying contract review packages should explicitly state how his office has addressed and resolved the management/ policy implementation issues that are of concern to the Commission. To do this, the staff needs to take a comprehensive and fresh analytical look at current staff practices to ensure that the root-causes of the Commission's concerns are being identified and addressed, to improve the quality of the review packages, and ultimately to improve the contract oversight process.



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September 7, 2006

*Disapproved.
Cover in Commission
Herrifield's comments.
E. J. [Signature]
9/27/06*

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

FROM: *[Signature]*
Luis A. Reyes
Executive Director for Operations

SUBJECT: STREAMLINING CHAIRMAN REVIEW PROCESS AND ENHANCING CONTRACT OVERSIGHT

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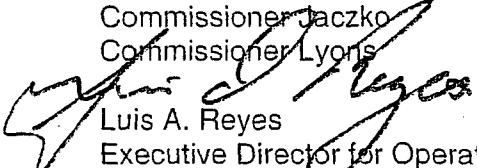
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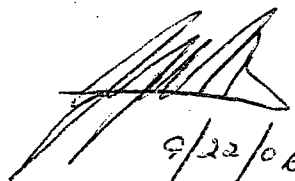
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*Strongly
Disapprove.*

See attached comments.

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

FROM: 
Luis A. Reyes
Executive Director for Operations


9/22/06

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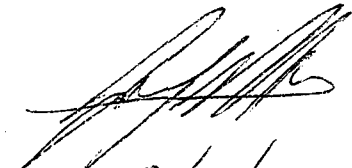
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Commissioner Merrifield's comments on COMSECY-06-0044:

I disapprove the staff's recommendations to streamline the Chairman procurement review process for Department of Energy laboratory agreements and commercial procurement valued at \$1 million or more, but less than \$3 million. The Chairman had the responsibility to review commercial contracts over \$3 million prior to this change instituted by the Commission to broaden the scope of Chairman approval in 2004. I do not recall staff complaints of significant resources expended and a lengthening in the overall procurement process at that time. All the Commission has done here is lowered the threshold for Chairman approval of commercial contracts from \$3 million to \$1 million and added DOE laboratory contracts. It is not clear to me why the process used for contracts over \$3 million could not be used for these categories of contracts. I do not oppose the staff streamlining its process for preparing the documentation, but it should not come to the detriment of providing the Chairman with sufficient time and adequate information to carry out his responsibilities in approving these contracts or providing the Commission with sufficient time and information to provide advice to the Chairman on these matters.



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MEMORANDUM TO: Chairman Klein
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Commissioner Lyons

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

SUBJECT: STREAMLINING CHAIRMAN REVIEW PROCESS AND ENHANCING
CONTRACT OVERSIGHT

Disapproved. See attached comments.

[Signature]
Gregory B. Jaczko

10/3/06

Date

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**Commissioner Jaczko's Comments on COMSECY-06-0044
Streamlining Chairman Review Process and Enhancing Contract Oversight**

I disapprove of the staff's proposal to streamline the Chairman's review of procurement actions valued at \$1 million but less than \$3 million. The staff proposes to streamline the process of awarding commercial contracts and Department of Energy agreements by providing the Chairman with an up-to-date list of its planned acquisitions. The Chairman would evaluate the list of planned acquisitions and select specific projects for review potentially eliminating the number of "routine" procurement actions requiring formal review.

While I continue to support the current process for review of planned procurement actions, I support any efforts by the staff to streamline its own process for preparing the necessary documentation prior to providing it to the Commission as Commissioner Merrifield suggests. Additionally, I would welcome the staff providing the Commission with additional details about future procurement actions through the proposed Notification of Planned Acquisitions.

These procurement actions play a crucial role in supporting the Agency's goals and objectives. Therefore, I believe the Commission should have visibility of the results of significant procurement actions to ensure the effectiveness of the acquisitions. This could be done through the annual Commission program briefings or through any other form of communication the staff believes is appropriate to provide the Commission with feedback of the results of these actions.



Gregory B. Jaczko

12/3/06

Date

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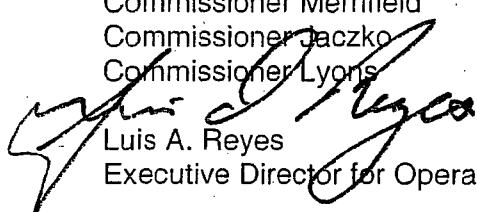
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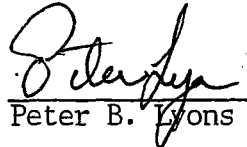
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I approve staff's recommendation to streamline the process subject to the attached comments.

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

FROM:  Luis A. Reyes
Executive Director for Operations

 9/13/06
Peter B. Lyons Date

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Commissioner Lyons' Comments on COMSECY-06-0044

I agree with the staff recommendations to streamline the Chairman procurement review process and staff's proposal for providing semi-annual reports of the status of all procurement actions valued at \$1 million but less than \$3 million.

As I noted in my vote to SECY-06-0071, that while I acknowledged my fellow Commissioners' opinions that the review process increases discipline and accountability in the NRC's contracting process, I found that the increase in discipline attributed to the review process is outweighed by the administrative burden posed on the staff and an increase in processing time caused by the review process - at that time an average of 45 additional calendar days.

This proposed streamlining does save time but the process still appears to require between 750 and 840 business days to administer the program based on 25 to 28 submissions. This estimate does not include staff time to develop the products used in the review process, which could total approximately 250 to 280 business days. As such I request that my fellow Commissioners' consider changing the \$1 million threshold to a higher value to reduce the processing burden on staff, or delegating the responsibility for contracts in this range with notification to the Commission after the fact. I believe that delegation of the responsibility is the prudent course of action in these cases.


Peter B. Lyons 9/13/06
Date