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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

See Form #115 for Title

B-19184 **RESTRICTED** — Not to be released outside the ~~General~~, 1978
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The Honorable John D. Dingell
Chairman, Subcommittee on
Energy and Power
Committee on Interstate and
Foreign Commerce
House of Representatives

RELEASED



Dear Mr. Chairman:

Your April 24, 1978, letter requested our comments on the proposed Department of Energy procurement regulations. You expressed particular interest in (1) their adequacy from the standpoint of small business participation and competition, (2) the extent to which approval of contracts is permitted by Department offices without headquarters' review, including why some offices have authority to approve contracts at higher amounts than others, and (3) the effect of the proposed regulations on functions transferred from agencies other than the former Energy Research and Development Administration.

The Department of Energy was established by the Department of Energy Organization Act (42 U.S.C. 7101), effective October 1, 1977, by Executive Order 12009, dated September 13, 1977. The functions of the following organizations were transferred to the Department of Energy under the act-- Federal Energy Administration, Energy Research and Development Administration, and Federal Power Commission (now the Federal Energy Regulatory Commission). Certain functions previously performed by the Interstate Commerce Commission, the Department of the Interior, the Department of Housing and Urban Development, the Department of the Navy, and the Department of Commerce were also transferred to the new Department.

The Department of Energy's proposed procurement regulations implement and supplement the Federal Procurement Regulations issued by the General Services Administration. These Government-wide regulations cover procurements of goods and services, including research and development, by Federal civil agencies. When approved, the proposed regulations will be part of the Federal Procurement Regulation System.

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Our work was limited to a comparative analysis of the proposed Department of Energy procurement regulations with the Federal Procurement Regulations and the Armed Services Procurement Regulation (now Defense Acquisition Regulation).

We believe that the proposed implementing regulations are consistent with the Federal Procurement Regulations in regard to small business matters and competition. These regulations contain procurement policies that are currently considered to be reasonably sufficient for the protection of the interests of the United States Government. We found no indication in the Department's supplementation that it fails to recognize the desirability of competition, or the need for recognition of the interests of small business to the extent practicable.

The Department's proposed regulations also conform in substance with the Armed Services Procurement Regulation. We have noted in the armed services procurements that most of the problems are attributable to the manner in which the procurement policies are carried out, rather than the written policies themselves. During the coming year, our Energy and Minerals Division plans to conduct a review of procurements made by the Department of Energy or its predecessors, including the former Energy Research and Development Administration, and specifically evaluate the manner in which the procurement policies are or have been carried out by these agencies. We will furnish you a copy of this report when it is published.

The Office of Federal Procurement Policy has informed us that it has not objected to the Department's proposed procurement regulations.

The proposed Department of Energy regulations permit approval of various dollar values of contracts by Department field offices, but require substantial headquarters' review of the more significant procurements as outlined below:

- Source-selection for competitive and noncompetitive negotiated procurements in excess of \$10 million.
- Source-selection for any specifically designated negotiated procurement regardless of dollar value.
- Review and approval of contract actions for contracts and subcontracts that are matters of a new or unusual nature or matters likely to provoke public interest.

--Review and approval of contract actions that either are or estimated to be in excess of authority delegated to buying offices. (Enclosure I is a listing of the Department's buying offices and their delegated procurement authorities.)

Some buying offices have been granted authority to approve contracts in larger amounts than others on the basis of the level of confidence placed in them by headquarters. The amount is determined by periodic reviews made by headquarters procurement personnel, plus an evaluation of the number, grade levels, training, and experience of the work force involved. We were also advised that a reassessment of the buying offices' approval authority is made periodically and that the next reassessment will be made early in 1979.

We do not believe that the Department's proposed procurement regulations will have an injurious effect on functions that were transferred from other agencies. It should also be noted that deviation from written policies and procedures is permitted when such action is considered in the best interests of the Government. Further, the Department of Energy has indicated its willingness to follow a liberal deviation policy.

In a meeting, your staff expressed particular concern with the effect of the proposed procurement regulations on the Federal Energy Regulatory Commission. The Federal Energy Regulatory Commission is independent of the Secretary of Energy, and this independence has been considered in a memorandum of understanding between the Executive Director of the Federal Energy Regulatory Commission and the Director of Procurement and Contract Management, Department of Energy. A copy of this memorandum has been furnished to your staff.

The Department of Energy Organization Act states that the procurement of services of experts and consultants for the Federal Energy Regulatory Commission is a responsibility of the Chairman of the Commission.

The memorandum of understanding establishes a separate Commission procurement office at the site of the Federal Energy Regulatory Commission for the purpose of directly procuring the services of experts and consultants. Also the Commission has signatory authority for all of its procurement actions. We were informed by that office that the Commission

B-191841

has a need for quick, timely procurements of experts' and consultants' services for short periods of time and, frequently, procures these services on a sole-source basis. We were also informed that such procurements are being made on the basis of written, factual justifications, in accordance with both Government-wide and the Department of Energy procurement regulations.

We plan to distribute this report 10 days after the date of the report, unless you publicly announce its content earlier or notify us otherwise, at which time we will release this report to interested parties.

Sincerely yours,


ACTING Comptroller General
of the United States

Enclosure

PROCUREMENT AUTHORITY DELEGATED TO
DEPARTMENT OF ENERGY BUYING OFFICES

<u>Office</u>	<u>Contracts</u>	<u>Request for proposals (note a)</u>
<u>Operations</u>		
Albuquerque	\$10,000,000	\$1,000,000
Chicago	15,000,000	5,000,000
Idaho	5,000,000	500,000
Nevada	5,000,000	1,000,000
Oak Ridge	15,000,000	5,000,000
San Francisco	15,000,000	5,000,000
Savannah River	5,000,000	500,000
Richland	5,000,000	1,000,000
Grand Junction	5,000,000	1,000,000
Headquarters Directorate (note b)	25,000,000	5,000,000
Fast Flux Test Facility	5,000,000	1,000,000
Clinch River Breeder Reactor	5,000,000	1,000,000
Pittsburgh Naval Reactors	25,000,000	5,000,000
Schenectady Naval Reactors	25,000,000	5,000,000
Environmental Measurements Lab (note c)	100,000	-
Strategic Petroleum Res. Off.	25,000,000	5,000,000
<u>Power Administrations</u>		
Bonneville (note d)	1,000,000	500,000
Southwestern	1,000,000	100,000
Southeastern	1,000,000	100,000
Alaska	1,000,000	100,000
Western	1,000,000	100,000
<u>Navy (note e)</u>		
California	500	-
Wyoming	500	-
<u>Regional Office</u>		
Boston (note e)	10,000	-
New York	10,000	-
Philadelphia	10,000	-
Atlanta	10,000	-

<u>Office</u>	<u>Contracts</u>	Request for proposals (note a)
Chicago	\$ 10,000	\$ -
Dallas	10,000	-
Kansas City	10,000	-
Denver	10,000	-
San Francisco	10,000	-
Seattle	10,000	-
 <u>Energy Research Center</u>		
Pittsburgh	250,000	-
Morgantown	500,000	-
Bartlesville	500,000	-
Grand Forks	50,000	-
Laramie	100,000	-

a/Request for proposals over value listed are to be forwarded to headquarters for review at time of release to prospective proposers.

b/All Naval Petroleum and Oil Shale Reserve Procurement actions over \$1 million must be forwarded to the Director of Procurement and Contracts Management Directorate for approval.

c/All procurement actions over delegated authority must be forwarded to the Director of Procurement and Contracts Management Directorate for approval.

d/Amount shown is for Bonneville negotiated procurements only.

e/All procurement actions over delegated authority must be forwarded for processing and execution by the Office of Procurement Operations.