

Date: 05/18/12



**Environmental Management Consolidated Business Center (EMCBC)**

**Subject: Review and Approval of Proposed Sales, Procurement, Financial Assistance, and Subcontract Actions**

PROCEDURE

APPROVED: (Signature on File)

EMCBC Director

ISSUED BY: OFFICE OF CONTRACTING

---

1.0 PURPOSE

The purpose of this procedure is to establish the review thresholds and process to be utilized for independent reviews of proposed sales, contract, financial assistance, and subcontract actions.

2.0 SCOPE

The Head of Contracting Activity (HCA) Office of Environmental Management has authorized the Assistant Director, Office of Contracting (OOC), to establish this procedure for review and approval of proposed sales, contract, financial assistance, and subcontract actions.

3.0 APPLICABILITY

3.1 This procedure is applicable to all sales, contract, financial assistance, and subcontract actions completed by the EMCBC and serviced sites under the authority of the Environmental Management (EM) Head of Contracting Activity (HCA). All actions shall be reviewed in accordance with the thresholds established by this procedure.

3.2 Incremental funding modifications are exempt from review.

4.0 REQUIREMENTS AND REFERENCES

4.1 Requirements

- 4.1.1 Federal Acquisition Regulation (FAR)
- 4.1.2 Department of Energy Acquisition Regulation (DEAR)
- 4.1.3 Delegation of Authority/Designation as Head of Contracting Activity (HCA) for the Office of Environmental Management, E. Simpson to J. Surash, dated November 15, 2007
- 4.1.4 Environmental Management Head of Contracting Activity Implementation, J. Surash to R. Holland, dated December 4, 2007
- 4.1.5 DOE Acquisition Guide Chapter 71, Review and Approval of Contract and Financial Assistance Actions

## 4.2 References

- 4.2.1 [TI-OOC-001, Organization of Contract, Financial Assistance and Interagency Agreement Files](#)
- 4.2.2 IP-243-03, Identifying, Filing and Maintaining Records

## 5.0 DEFINITIONS – NOT APPLICABLE

## 6.0 RESPONSIBILITIES

- 6.1 The OOC Assistant Director is responsible for ensuring that reviews are conducted in accordance with this procedure.
- 6.1.1 The OOC Assistant Director is responsible for assuring that review/ approval/concurrence is appropriately performed in accordance with the Independent Review Monetary Thresholds table (Attachment A).
- 6.1.2 The OOC Assistant Director is responsible for making determinations for issue resolution in the event that consensus cannot be reached for resolution of comments received during the review process.
- 6.1.3 The OOC Assistant Director is responsible for approving all waivers of internal review for actions between \$1M and \$25M and actions waived by MA-62 through the annual HQ Business Clearance Review Plan. The OOC Assistant Director is responsible for concurring on all requests for waivers of internal review for actions over \$25M but under \$50M before the actions are sent to the HCA for review. The OOC Assistant Director is responsible for concurring on all requests for waivers for actions requiring DOE Headquarters (HQ) Office of Contract Management (MA-62) review prior to submittal to HQ.
- 6.2 The OOC Review Team is the primary independent review for the following sales, contract, financial assistance, and subcontract actions within the monetary thresholds, if applicable, defined in Attachment A:
- Contract actions (solicitations, source selections, and modifications)
  - Subcontract consent requests and modifications
  - Task/Delivery Orders (under ID/IQ and requirements contracts)
  - Financial assistance actions (grants, cooperative agreements, and modifications)
  - Justifications for Other Than Full and Open Competition
  - Terminations
  - Contract/Task Management Plans
  - Post-award actions such as Requests for Equitable Adjustment (REAs), and DOE directed changes
  - Ratifications
  - Sales of Government property

- 6.2.1 The OOC Review Team is responsible for establishing an annual review plan identifying forecasted sales, contract, financial assistance, and subcontract review areas and estimated review timeframes. It is noted that not all reviews can be anticipated. The review plan shall be used as a resource planning tool and allow flexibility to modify review timeframes and schedule newly identified reviews of unanticipated actions.
- 6.2.2 In accordance with an established annual review plan, the OOC Review Team is responsible for periodically assessing procurement and financial assistance actions below the thresholds shown in Attachment A, as well as areas of contract management, such as invoice payments, contract reporting, contract files, and compliance with OOC procedures.
- 6.2.3 The OOC Review Team is responsible for tracking review actions and performing an analysis of findings to determine if recurrent problems exist with contract actions conducted under OOC authority.
- 6.2.4 The OOC Review Team is responsible for preparing periodic reports summarizing review findings in a timely manner.
- 6.3 The Contracting Officer (CO)/Contract Specialist (CS) is responsible for processing documents for review and approval in accordance with this procedure.
  - 6.3.1 The CO/CS is responsible for obtaining concurrence from site program/project offices and other EMCBC functional offices, such as Office of Financial Management, Office of Legal Services, and Office of Logistics Management prior to submitting a procurement package for review.
  - 6.3.2 The CO/CS is responsible for ensuring that the signed Record of Independent Review sheet (Attachment C) is included with the contract review package.
  - 6.3.3 The CO/CS is responsible for providing the OOC Review Team with a review package, electronic or hard copy, consisting of the all applicable documentation which may be needed to facilitate review.
  - 6.3.4 The CO/CS is responsible for taking action following the OOC Review Team review to appropriately disposition review recommendations.
  - 6.3.5 Prior to any departure from the recommendations of the OOC Review Team occurs, the CO/CS is responsible for obtaining approval from the Approving Official (see Attachment A), documenting the file, and providing a copy of such documentation by electronic mail to the OOC Review Team.
- 6.4 The OOB Branch Chief is responsible for reviewing and approving submittals as shown in Attachment A and is responsible for the quality of all sales, contract, financial assistance, and subcontract actions under their corresponding Branch.

- 6.5 The Office of Legal Services (OLS), Office of Financial Management (OFM), and Office of Logistics Management (OLM) are responsible for reviewing proposed sales, procurement, and financial assistance actions when submitted in accordance with this procedure.

## 7.0 GENERAL INFORMATION

All actions requiring submittal to MA-62 for Business Clearance Review are required to be submitted through the Office of the HCA (EM-50). Generally, actions that will be subject to the Business Clearance Review process are those in which the total dollar value will exceed the applicable HCA delegation threshold (see Attachment A). Other actions that are subject to the Business Clearance Review process that are not tied to the HCA delegation thresholds are as follows:

- Actions in which the approving authority is prescribed in law, regulations, or DOE policy as the Director, Office of Contract Management, Office of Procurement and Assistance Management, the DOE Senior Procurement Executive (SPE), or other senior DOE official. Such actions include authority to use the M&O form of contract; ratifications; award of technology investment agreements; performance incentive plans for M&O and other major site and facility management contracts; final indirect cost rate agreements; acquisitions valued in excess of \$3 million that will not be set-aside for small business; acquisitions which constitute contract bundling; actions related to the purchase, transfer, utilization, disposal, or sale of personal property; and review and approval of contractor human resources actions (pension, benefits and compensation).
- Actions that, based on the judgment of the HCA and/or the SPE, involve significant litigation or performance risk, or that may generate unusual interest from the public, media, congress, or other governmental entity (e.g. Government Accountability Office, Small Business Administration). Examples include terminations, contracting officer final decisions, actions based on statute/congressional direction, etc.

## 8.0 PROCEDURE

- 8.1 In accordance with the Independent Review Monetary Thresholds (Attachment A) the process for review and approval of proposed procurement, financial assistance, and subcontract actions is illustrated in the OOC Review and Approval Flow Diagram in Attachment B.
- 8.2 All submissions for review and approval shall contain IP-540-15-F1, “EMCBC Office of Contracting Independent Record of Review” (Attachment C). The completed form will become part of the contract file.

**NOTE: It is required that all actions over \$1,000,000 receive a review by the EMCBC Office of Legal Services.**

- 8.3 In determining the level of review that is required for actions, the following criteria shall apply:

- 8.3.1 For financial assistance, the dollar value of the action is the estimated amount for the project period including both the Government and awardee share amounts, including the value of any in-kind contributions.
- 8.3.2 For acquisition, the dollar value of the action includes the total fixed price or estimated cost plus fee, if any, for the basic award plus the value of any priced options or the estimated amount of any unpriced options.
- 8.3.3 For contract modifications, the dollar value of the action is based on the absolute cost of both increases and decreases. For example, a \$4,500,000 modification [resulting from a work scope increase of \$5,500,000 and a work scope decrease of \$1,000,000] has an absolute cost of \$5,500,000 for the purpose of determining the level of review and approval required for the action.
- 8.4 The CO/CS shall coordinate review of proposed sales, contract, financial assistance, and subcontract actions with OLM and OFM that contain terms and conditions relative to logistics (e.g., property management, security, emergency management, records management, etc.) and financial management (e.g., project management, project controls, etc.). Based upon the scope of the action under review, OLM and OFM will perform a review to ensure the action reflects current requirements and policies in their knowledge areas. For actions that will be administered by the EMCBC, the CO/CS shall include OOC Branch C in the review.
- 8.5 The OOC Assistant Director shall make determinations for issue resolution in the event that consensus cannot be reached for resolution of comments received during the review process.
- 8.6 Submissions to the OOC Review Team for review shall be in accordance with Attachment A of this procedure. For actions that are submitted by remote site offices, electronic, telephonic, and video-teleconferencing methods may be used if determined appropriate by the OOC Review Team.
- 8.6.1 Submissions should include the following and be organized in accordance with [TI-OOC-001, Organization of Contract, Financial Assistance and Interagency Agreement Files](#) when applicable:
- contract file for new awards;
  - modification file;
  - funding documents;
  - Justifications for Other Than Full and Open Competition; and
  - all other relevant documents.
- 8.6.2 The OOC Review Team shall enter all submittals of packages for review into the OOC Review Team log and include the receipt date, description of action, and review completion date.

- 8.6.3 The OOC Review Team has three (3) working days from the receipt of an action to provide comments or concurrence to the CO/CS.
- 8.6.4 Following concurrence, the OOC Review Team shall place the review package for the OOC Assistant Director's review and concurrence/approval in the "Review Actions" inbox located outside the OOC Assistant Director's office. The packages shall be assembled as follows:
  - 8.6.4.1 The executed Form IP-540-15-F1, "Office of Contracting Record of Independent Review," shall be placed in a YELLOW review folder.
  - 8.6.4.2 The YELLOW review folder shall be attached (clip or rubber band) to the review package with the YELLOW review folder on top.
- 8.7 The approval authority (as identified in Attachment A) has three (3) working days from the date of OOC Review Team concurrence to provide comments or approval to the CO/CS.
- 8.8 Prior to the execution of sales, contract, financial assistance, and subcontract actions, the CO/CS shall disposition all comments to the satisfaction of the reviewers. Prior to any departure from comments of the OOC Review Team, the CO/CS shall obtain approval from the Approving Official (see Attachment A), document the file, and provide a copy of such documentation to the OOC Review Team.
- 8.9 Other Reviews:
  - 8.9.1 Actions of particular complexity, sensitivity or otherwise controversial in nature are subject to this procedure and may be selected by either the CO, OOC Branch Chief or OOC Assistant Director, regardless of dollar value.
  - 8.9.2 All formal correspondence with HQ (original submittal for review and formal responses to HQ comments) will be approved by the OOC Assistant Director, Office of Contracting.
  - 8.9.3 The HCA and EMCBC Director have the authority to require submission for review any action, regardless of dollar value.
- 8.10 All requests for waiver of review for actions between \$1M and \$25M and those waived through the annual HQ Business Clearance Review Plan shall be submitted to the OOC Assistant Director for approval. A waiver request must include appropriate rationale justifying such a request, signed by the CO and the corresponding OOC Branch Chief.
- 8.11 Request for Waiver of HQ Review (Does not apply to actions for which review has already been waived through the annual HQ Business Clearance Review Plan):
  - 8.11.1 The CO/CS may prepare a written request for waiver for an action requiring MA-60 Business Clearance review (over \$50M) or a waiver for HCA review (between \$25M-\$50M).

8.11.2 The waiver request will consist of the following:

- Introductory Summary
- Scope of the Action
- Details of the Action
- Basis of Request for Waiver Review
- Summary

8.11.3 The CO/CS shall submit the request for waiver of review to the corresponding OOC Branch Chief for concurrence. The OOC Branch Chief will review the documentation and, if in agreement, will submit to the OOC Assistant Director for review and approval. If the OOC Assistant Director approves, the Contract Specialist will prepare a letter to HQ (EM-50) from the OOC Assistant Director, requesting waiver of HQ review of the subject contract/subcontract or financial assistance action.

8.11.4 All actions for which waiver of HQ review and approval is obtained shall be reviewed in accordance with Attachment A, unless a waiver of internal review is approved by the OOC Assistance Director. In the case of waiver of HQ review and approval, the OOC Assistant Director becomes the final approval authority for the action.

## 9.0 RECORDS MAINTENANCE

9.1 Records generated as a result of implementing this procedure are identified as follows, and are maintained in accordance with the Office of Contracting File Plan:

9.1.1 ADM 03-03-A1A – Routine Procurement Files – Transactions above the Simplified Acquisition Threshold

9.1.2 ADM 03-14.1 – Grant Files

## 10.0 FORMS USED

10.1 Forms used shall be the latest revision unless otherwise stated.

10.1.1 IP-540-15-F1 -“OOO Record of Independent Review”

## 11.0 ATTACHMENT

11.1 Attachment A – Independent Review Monetary Thresholds

11.2 Attachment B – OOC Review and Approval Flow Diagram

11.3 Attachment C – IP-540-15-F1, EMCBC Office of Contracting Record of Independent Review

**INDEPENDENT REVIEW MONETARY THRESHOLDS**

| <p><b>Action</b></p> <hr/> <p><b>\$ Threshold</b></p>  | <p>&gt;\$100K - &lt;\$1M</p>   | <p>\$1M - &lt;\$5M</p>  | <p>\$5M - \$25M</p>   | <p>&gt;\$25M</p>   |
|--|--|---|---|--|
| <p><b>Competitive:</b> e.g., contracts and multiple-award ID/IQ task orders; these thresholds are applicable to solicitations and source selection actions.</p>  | <p>CO approval</p>   | <p>OOC Review Team concurrence; OOC Branch Chief approval</p>   | <p>OOC Branch Chief concurrence; OOC Review Team concurrence; OOC Assistant Director approval</p> | <p>OOC Branch Chief concurrence; OOC Review Team concurrence; OOC Assistant Director concurrence + HQ* review/approval</p> |
| <p><b>Subcontracts:</b> first tier subcontracts plus modifications thereto.</p>  | <p>CO approval</p>   | <p>OOC Review Team concurrence; OOC Branch Chief approval</p>   | <p>OOC Branch Chief concurrence; OOC Review Team concurrence; OOC Assistant Director approval</p> | <p>OOC Branch Chief concurrence; OOC Review Team concurrence; OOC Assistant Director concurrence + HQ* review/approval</p> |
| <p><b>Task/Delivery Orders:</b> Under single award ID/IQ and requirements contracts. Task orders under multiple award ID/IQ and requirements contracts are address under the “Competitive” category above.</p> | <p>CO approval</p>   | <p>OOC Review Team concurrence; OOC Branch Chief approval</p>   | <p>OOC Branch Chief concurrence; OOC Review Team concurrence; OOC Assistant Director approval</p> | <p>OOC Branch Chief concurrence; OOC Review Team concurrence; OOC Assistant Director concurrence + HQ* review/approval</p> |
| <p><b>Justifications for Other than Full and Open Competition (FAR 6.304)</b></p>  | <p>OOC Branch Chief and OOC Review Team concurrence; CO approval for actions not exceeding \$550,000</p> | <p>(&gt;\$550,000 - \$11.5M) OOC Branch Chief concurrence; OOC Review Team concurrence; OOC Assistant Director approval.<br/>                 (&gt;\$11.5M - \$57M) OOC Branch Chief concurrence; OOC Review Team concurrence; OOC Assistant Director concurrence + HCA approval.<br/>                 (&gt;\$57M) OOC Branch Chief concurrence; OOC Review Team concurrence; OOC Assistant Director concurrence; HCA concurrence; Senior Procurement Executive approval.</p> |   |  |
| <p><b>All Other Acquisition Actions:</b> e.g., modifications (excluding incremental funding modifications) to existing contracts, Requests for Equitable Adjustment, DOE directed changes, change orders.</p>  | <p>CO approval</p>   | <p>OOC Review Team concurrence; OOC Branch Chief approval</p>   | <p>OOC Branch Chief concurrence; OOC Review Team concurrence; OOC Assistant Director approval</p> | <p>OOC Branch Chief concurrence; OOC Review Team concurrence; OOC Assistant Director concurrence + HQ* review/approval</p> |

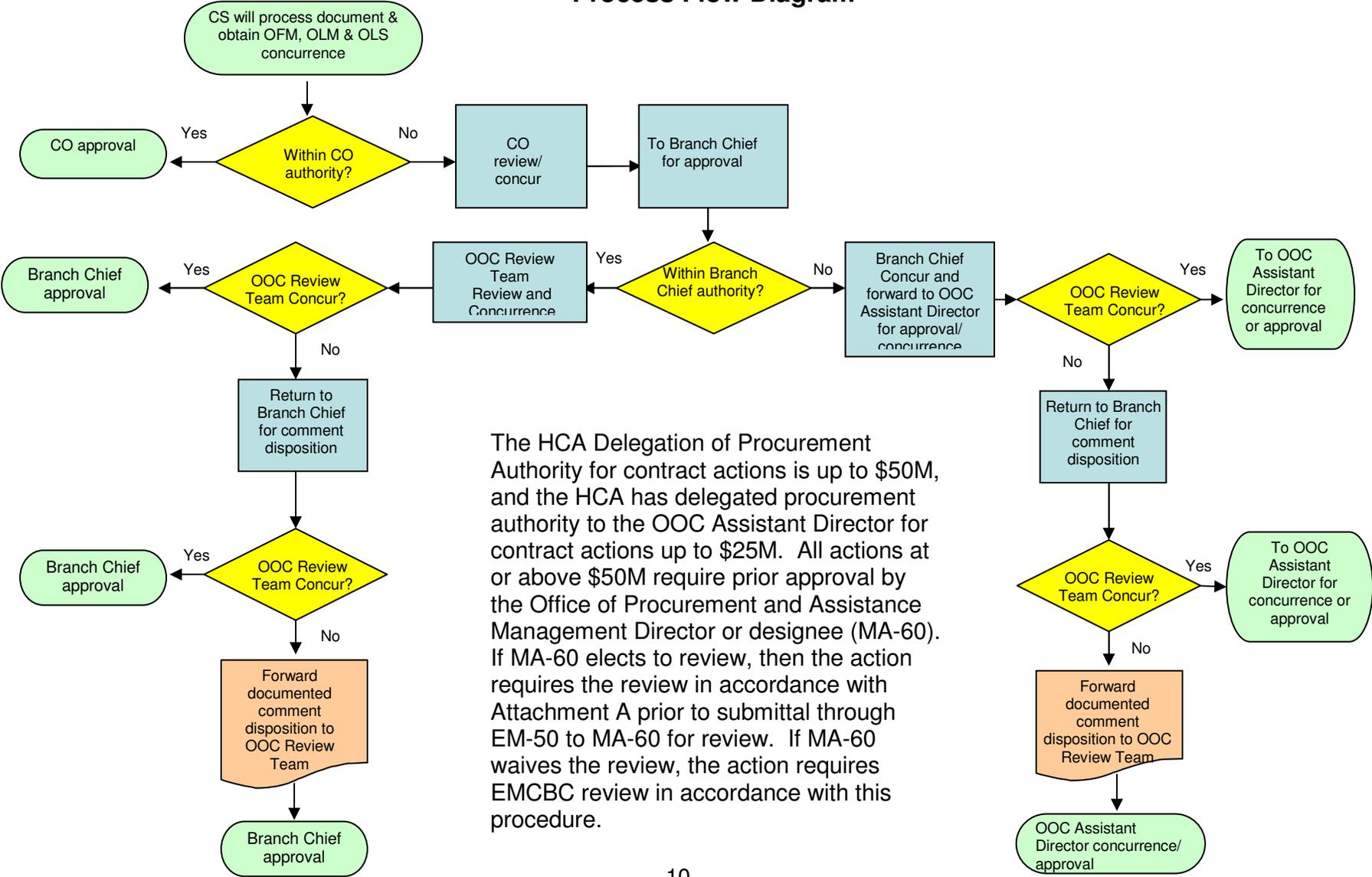
| <b>Action</b><br><br><b>\$ Threshold</b>  | <b>&gt;\$100K - &lt;\$1M</b>   | <b>\$1M - &lt;\$5M</b>                                 | <b>\$5M - \$25M</b>  | <b>&gt;\$25M</b>  |
|---|--|--|--|---|
| <b>Financial Assistance:</b> grants, cooperative agreements, and modifications (excluding incremental funding modifications to existing financial assistance instruments) | CO approval  | OOC Review Team concurrence; OOC Branch Chief approval | OOC Branch Chief concurrence; OOC Review Team concurrence; OOC Assistant Director approval | OOC Branch Chief concurrence; OOC Review Team concurrence; OOC Assistant Director concurrence + HQ* review/approval |
| <b>Ratification of Unauthorized Commitments: all ratification actions</b>   | All unauthorized commitments up to \$25,000 are required to be submitted to the HCA for ratification. All unauthorized commitments exceeding \$25,000 are required to be submitted to the HCA for review and subsequent ratification by the DOE Procurement Executive. The supporting documentation for the ratification action shall receive the following review prior to submittal to the HCA: OOC Branch Chief concurrence; OOC Review Team concurrence; and OOC Assistant Director concurrence. |  |  |   |

\* The HCA Delegation of Procurement Authority for contract actions is up to \$50M, and the HCA has delegated procurement authority to the OOC Assistant Director for contract actions up to \$25M. All actions at or above \$50M require prior approval by the Office of Procurement and Assistance Management Director or designee (MA-60). If MA-60 elects to review, then the action requires the review in accordance with this table prior to submittal through the EM-50 to MA-60 for review. If MA-60 waives the review, the action requires EMCBC review in accordance with this procedure. The CO/CS may prepare a written request for waiver for an action requiring MA-60 Business Clearance review (over \$50M) or a waiver for HCA review (between \$25M-\$50M).

Actions that are subject to the Business Clearance Review process that are not tied to the HCA delegation thresholds are as follows:

- Actions in which the approving authority is prescribed in law, regulations, or DOE policy as the Director, Office of Contract Management, Office of Procurement and Assistance Management, the DOE Senior Procurement Executive (SPE), or other senior DOE official. Such actions include authority to use the M&O form of contract; ratifications; award of technology investment agreements; performance incentive plans for M&O and other major site and facility management contracts; final indirect cost rate agreements; acquisitions valued in excess of \$3 million that will not be set-aside for small business; acquisitions which constitute contract bundling; actions related to the purchase, transfer, utilization, disposal, or sale of personal property; and review and approval of contractor human resources actions (pension, benefits and compensation).
- Actions that, based on the judgment of the HCA and/or the SPE, involve significant litigation or performance risk, or that may generate unusual interest from the public, media, congress, or other governmental entity (e.g. Government Accountability Office, Small Business Administration). Examples include terminations, contracting officer final decisions, actions based on statute/congressional direction, etc.

### EMCBC Office of Contracting Review and Approval of Procurement Actions Process Flow Diagram



The HCA Delegation of Procurement Authority for contract actions is up to \$50M, and the HCA has delegated procurement authority to the OOC Assistant Director for contract actions up to \$25M. All actions at or above \$50M require prior approval by the Office of Procurement and Assistance Management Director or designee (MA-60). If MA-60 elects to review, then the action requires the review in accordance with Attachment A prior to submittal through EM-50 to MA-60 for review. If MA-60 waives the review, the action requires EMCBC review in accordance with this procedure.

**EMCBC OFFICE OF CONTRACTING RECORD OF INDEPENDENT REVIEW**

TO: Staff Reviewers Listed Below  
SUBJECT: PROCUREMENT OR FINANCIAL ASSISTANCE (FA) ACTION FOR INDEPENDENT REVIEW AND APPROVAL

The action described below with supporting documents is attached for your review. Indicate your approval/concurrence or disapproval/non-concurrence by initialing in the space provided, annotate your comments on the attached sheet, and forward to next in turn.

- |   |  |
|---|--|
| <input type="checkbox"/> Solicitation   | <input type="checkbox"/> Termination                                 |
| <input type="checkbox"/> Pre-Negotiation Memoranda                            | <input type="checkbox"/> Contract Management Plan                    |
| <input type="checkbox"/> Pre-Award Approval                                   | <input type="checkbox"/> Post-award (REA, DOE directed change, etc.) |
| <input type="checkbox"/> Competitive Contract/Modification                    | <input type="checkbox"/> Change Order                                |
| <input type="checkbox"/> Subcontract  | <input type="checkbox"/> Ratification                                |
| <input type="checkbox"/> Task/Delivery Order                                  | <input type="checkbox"/> Sale of Government Property                 |
| <input type="checkbox"/> Other Acquisition Action (including non-competitive) |  |
| <input type="checkbox"/> Financial Assistance                                 | <input type="checkbox"/> Other _____                                 |

Dollar Value of Action: \_\_\_\_\_

**DESCRIPTION OF ACTION FOR REVIEW AND APPROVAL**

Action No. (Instrument number/mod): \_\_\_\_\_

Action Description \_\_\_\_\_

| NAME OF REVIEWER | OFFICE                          | INITIAL BELOW AND ATTACH COMMENTS |           | DATE |
|------------------|---------------------------------|-----------------------------------|-----------|------|
|                  |                                 | Concur                            | Nonconcur |      |
|                  | EMCBC Office of Legal Services* |                                   |           |      |
|                  |                                 |                                   |           |      |
|                  |                                 |                                   |           |      |
|                  |                                 |                                   |           |      |
|                  |                                 |                                   |           |      |
|                  |                                 |                                   |           |      |
|                  |                                 |                                   |           |      |

Return to: \_\_\_\_\_ Phone: \_\_\_\_\_

INDEPENDENT REVIEW COMPLETE: \_\_\_\_\_ DATE: \_\_\_\_\_

OOO Review Team Lead

| APPROVALS AS APPLICABLE                | NAME/SIGNATURE OF APPROVER   | DATE |
|--|--|------|
| OOO Branch Chief                       |  |      |
| OOO ASSISTANT DIRECTOR (when required) |  |      |
| EMCBC DIRECTOR (when required)         |  |      |
| EM HCA (when required)                 |  |      |
|  | If this is a request for waiver of review, are additional reviews required by EM-50 if the request for waiver is approved by MA-62? Yes <input type="checkbox"/> No <input type="checkbox"/> |      |

\*Office of Legal Services review is required for all actions covered under this procedure over \$1,000,000.

**EMCBC RECORD OF REVISION**

**DOCUMENT TITLE: Review and Approval of Proposed Sales, Procurement, Financial Assistance, and Subcontract Actions**

If there are changes to the controlled document, the revision number increases by one. Indicate changes by one of the following:

- I Placing a vertical black line in the margin adjacent to sentence or paragraph that was revised.
- I Placing the words GENERAL REVISION at the beginning of the text.

---

| <b>Rev. No.</b>  | <b>Description of Changes</b>                 | <b>Revision on Pages</b> | <b>Date</b> |
|------------------|---|--------------------------|-------------|
| 1                | Original Issue                                | All                      | 6/27/08     |
| Page Change (PC) | Update reference from IP-540-13 to TI-OOC-001 | 2, 5                     | 5/18/12     |
| PC               | Section 9.0 Records Maintenance Updated       | 7                        | 5/18/12     |