




## Department of Energy

Washington, DC 20585

January 11, 2010

MEMORANDUM FOR ANTHONY CUGINI  
ACTING DIRECTOR  
NATIONAL ENERGY TECHNOLOGY LABORATORY

FROM:

  
EDWARD R. SIMPSON  
DIRECTOR  
OFFICE OF PROCUREMENT AND  
ASSISTANCE MANAGEMENT

SUBJECT: Interim Delegation of Authority/Designation as Head of Contracting Activity (HCA) for the National Energy Technology Laboratory

Department of Energy (DOE) Delegation of Authority Orders 00-022.00B and Re-delegation Order 00-011.02 set forth various authorities delegated to the Director, Office of Procurement and Assistance Management (herein referred to as the "Director"), and provides that these authorities may be further delegated in whole or in part as may be deemed appropriate. This memorandum serves to designate the Interim Director, National Energy Technology Laboratory, as the Head of the Contracting Activity (HCA) for the National Energy Technology Laboratory in accordance with Federal Acquisition Regulation (FAR) 1.601. Except as expressly stated herein, you may not further delegate your HCA authority; however, HCA authority is conferred to individuals serving in your stead as Acting Director, National Energy Technology Laboratory, provided that such acting authority is designated in writing.

As HCA, you are hereby delegated the following specific authorities, some of which you may further delegate as set forth below. The delegated authorities set forth below are conditioned upon your full conformance with applicable laws, the FAR, the DOE Acquisition Regulation (DEAR), DOE Directives and policies and procedures, including Acquisition Letters and the DOE Acquisition Guide, notably Chapter 71, which prescribes actions requiring Headquarters review and the process for their selection. In determining whether an action is within a delegated monetary authority, the determination must be based on the total value, including options, in-kind contributions and contractors/recipients cost share. Moreover, where actions involve a combination of additional work and deductive work, the total value shall be based on the absolute value of the work contemplated. The delegated authorities are set forth below:

1. **ACQUISITION:**

- (A)(i) Enter into, approve, administer, modify, close-out, terminate, and take such other actions as may be necessary and appropriate with respect to procurement transactions including competitive acquisitions, non-competitive acquisitions, contract modifications, interagency agreements, and consent to subcontracts that bind DOE to the obligation and expenditure of public funds. The acquisition authorities described in this



paragraph may be delegated only to a Contracting Officer (CO) (in accordance with section 5, Contracting Officers) without the power of further delegation.

- (A)(ii) Actions exceeding the delegated monetary levels specified below or that meet the requirements prescribed in Acquisition Guide Chapter 71 shall have the prior approval, or waiver thereof, of the Director, or designee.

Actions within the delegated monetary levels specified below that exceed \$25 million and that are not subject to business clearance, shall have the prior approval of the HCA for the actions identified in Acquisition Guide Chapter 71. Authority to approve transactions at this level and that meet these conditions is non-delegable. Authority to approve actions below \$25 million that are not subject to business clearance is re-delegable at the discretion of the HCA.

<b>Type of Acquisition</b>	<b>Delegated Monetary Authority</b>
Competitive Acquisitions	\$50 million
Non-Competitive Acquisitions	\$50 million
Contract Modifications <sup>1</sup>	\$50 million
Interagency Agreements where a servicing agency will award or modify a contract on behalf of DOE (includes award and modification <sup>2</sup> )	\$50 million
Subcontracts (solicitation, award, modification, and termination <sup>3</sup> )	\$50 million

Notes 1, 2, and 3: Administrative modifications, e.g., funding modifications are not subject to the limitation in the delegated monetary authority

- (B) Designate a Competition Advocate, in accordance with DEAR 906.5, to perform those duties required by FAR 6.5. Such designation(s), if below the GM/GS-15 level, shall be approved by the Director. The authority to designate a Competition Advocate may not be further delegated.
- (C) Appoint a Contracting Activity Ombudsman for task and delivery order contracts in accordance with FAR 16.505(b)(5) as authorized by DEAR 916.505(b)(5). The FAR requires that the person be a senior agency official who is independent from the CO and the DEAR requires that the person appointed be a senior manager. This authority may be delegated to the same person serving as Competition Advocate discussed in paragraph 1(B) above.

paragraph may be delegated only to a Contracting Officer (CO) (in accordance with section 5, Contracting Officers) without the power of further delegation.

- (A)(ii) Actions exceeding the delegated monetary levels specified below or that meet the requirements prescribed in Acquisition Guide Chapter 71 shall have the prior approval, or waiver thereof, of the Director, or designee.

Actions within the delegated monetary levels specified below that exceed \$25 million and that are not subject to business clearance, shall have the prior approval of the HCA for the actions identified in Acquisition Guide Chapter 71. Authority to approve transactions at this level and that meet these conditions is non-delegable. Authority to approve actions below \$25 million that are not subject to business clearance is re-delegable at the discretion of the HCA.

<b>Type of Acquisition</b>	<b>Delegated Monetary Authority</b>
Competitive Acquisitions	\$50 million
Non-Competitive Acquisitions	\$50 million
Contract Modifications <sup>1</sup>	\$50 million
Interagency Agreements where a servicing agency will award or modify a contract on behalf of DOE (includes award and modification <sup>2</sup> )	\$50 million
Subcontracts (solicitation, award, modification, and termination <sup>3</sup> )	\$50 million

Notes 1, 2, and 3: Administrative modifications, e.g., funding modifications are not subject to the limitation in the delegated monetary authority

- (B) Designate a Competition Advocate, in accordance with DEAR 906.501, to perform those duties required by FAR 6.5. Such designation(s), if below the GM/GS-15 level, shall be approved by the Director. The authority to designate a Competition Advocate may not be further delegated.
- (C) Appoint a Contracting Activity Ombudsman for task and delivery order contracts in accordance with FAR 16.505(b)(5) as authorized by DEAR 916.505(b)(5). The FAR requires that the person be a senior agency official who is independent from the CO and the DEAR requires that the person appointed be a senior manager. This authority may be delegated to the same person serving as Competition Advocate discussed in paragraph 1(B) above.

- (D) Waive the requirement for submission of cost or pricing data, in accordance with, FAR 15.403-1(c)(4) without power of further delegation. Prior to approving such a waiver, the HCA shall obtain written concurrence from the Director for all procurement actions over \$5 million in value.
- (E) Exercise all other authorities specifically granted to the HCA by the FAR and DEAR. In some cases, FAR specified authorities are modified by the DEAR. These HCA authorities may be further delegated unless expressly prohibited by either the FAR or DEAR.

## 2. **ASSISTANCE**

- (A)(i) Enter into, approve, administer, modify, close out, terminate, and take such other actions as may be necessary and appropriate with respect to financial assistance agreements including grants and cooperative agreements whether or not binding DOE to the obligation and expenditure of public funds. These assistance authorities may be delegated only to a CO (in accordance with section 5, Contracting Officers) without the power of further delegation.
- (A)(ii) Actions exceeding \$50 million shall have the prior approval, or waiver thereof, of the Director or designee. Additionally, any funding opportunity announcement which may result in financial assistance or incentive award or multiple awards with a collective value of \$50 million or more shall have prior approval, or waiver thereof, of the Director or designee.

Actions within the delegated monetary level specified above that exceed \$25 million and that are not subject to business clearance, shall have the prior approval of the HCA for the actions identified in Acquisition Guide Chapter 71. Authority to approve transactions at this level and that meet these conditions is non-delegable. Authority to approve actions below \$25 million that are not subject to business clearance is re-delegable at the discretion of the HCA.

- (B) A separate addendum to this delegation of authority is required for Technology Investment Agreements and transactions conducted under the "Other Transactions Authority." Therefore, these agreements and transactions cannot be entered into without an explicit delegation of authority from the Director and full compliance with all applicable laws, executive orders, regulations, and directives.

- (C) Submit to Grants.gov for publication all notices of financial assistance funding opportunity announcements. This authority may be delegated to a CO (in accordance with section 5, Contracting Officers) without the power of further delegation.

### 3. **SALES**

Enter into, approve, administer, modify, close out, terminate, and take such other actions as may be necessary and appropriate, with respect to agreements committing the Department to the sale of products and services, including funds-in-interagency agreements and other agreements with non-DOE entities (authority for the disposal of personal property is provided in section 4, Personal Property). These authorities are contingent upon the existence of statutory, other legal, and regulatory authority for sale of products or to perform reimbursable work. Authorization by the designated official responsible for such work, and your full compliance with all applicable laws, executive orders, regulations, and directives governing policies and procedures is also required. These authorities may be delegated with power of further delegation to a CO (in accordance with section 5, Contracting Officers) or to another official who shall be no more than two levels below the HCA, without the power of further delegation.

### 4. **PERSONAL PROPERTY**

Receive, manage and dispose of all personal property held by DOE for official use by Departmental employees, contractors, and recipients, consistent with applicable laws, regulations, executive orders, directives, policies, and procedures. This authority may be delegated only to a professionally certified Organizational Property Management Officer in accordance with DOE Order 361.1B, Chapter II, without the power of further delegation.

### 5. **CONTRACTING OFFICERS**

Appoint COs for acquisition, assistance actions (excluding TIAs unless explicitly approved in advance by the Director), and sales (as described above), in accordance with DOE Order 541.1B, entitled, "Appointment of COs and Contracting Officer Representatives," and any subsequent revisions.

The monetary limitations prescribed in delegation paragraph 1(A)(ii), Acquisition, and 2(A)(ii), Assistance, do not preclude the issuance of CO warrants that provide for unlimited signatory authority provided that the warrants do not exceed the general scope of authority delegated to the HCA in paragraph 1(A)(i), Acquisition, and 2(A)(i), Assistance, and that transactions above the delegated monetary limit have, in accordance with Acquisition Guide Chapter 71, been approved or waived by the Director, or designee.

In designating COs, you shall consider the qualification standards set forth in the FAR, and such other applicable regulations and DOE Directives.

Nothing in this delegation shall preclude the Director from exercising any of the Director's authority whenever, in the Director's judgment, the exercise of such authority is necessary or appropriate to administer the functions vested in that position.

This delegation is effective immediately, and supersedes all previous delegation memoranda issued to your office on the above authorities.



## Department of Energy

Washington, DC 20585

May 12, 2011

MEMORANDUM FOR ANTHONY CUGINI  
ACTING DIRECTOR  
NATIONAL ENERGY TECHNOLOGY LABORATORY

FROM: PATRICK M. FERRARO  
ACTING DIRECTOR  
OFFICE OF PROCUREMENT  
AND ASSISTANCE MANAGEMENT

SUBJECT: Addendum to Delegation of Authority/Designation as Head of Contracting Activity (HCA) for the National Energy Technology Laboratory dated January 11, 2010

The following paragraph is added to the subject Memorandum:

### 6. SECTION 311 NOTICES

Pursuant to section 311 of title III of the Energy and Water Development and Related Agencies Appropriations Act, 2010 (P.L. 111-85), notify the Committees on Appropriations of the Senate and House of Representatives at least three full business days in advance of making a grant allocation, discretionary grant award, discretionary contract award, Other Transaction Agreement, or issuing a letter of intent totaling in excess of \$1,000,000 or to announce publicly the intention to make such an award, including a contract covered by the Federal Acquisition Regulation.

This authority may be re-delegated to your Procurement Director(s), but may not be re-delegated below the Procurement Director.

