



Chemical Safety and Hazard Investigation Board

OFFICE OF GENERAL COUNSEL

Memorandum

To: Board Members

From: Richard C. Loeb *Rcz*

Cc: Leadership Team
Christina Morgan
Mark Kaszniak

Subject: Board Action Report – Notation Item 2013-55

Date: October 21, 2013

On September 30, 2013, the Board approved Notation Item 2013-55, thereby designating Recommendations 2011-06-I-HI-R2 through R4, to the Office of the Procurement Executive, U.S. Department of the Treasury (from the Donaldson Enterprises Investigation), with the status of Open – Acceptable Response.

Voting Summary – Notation Item 2013-55

Disposition: APPROVED

Disposition date: September 30, 2013

	Approve	Disapprove	Calendar	Not Participating	Date
R. Moure-Eraso	X				9/23/2013
M. Griffon	X				10/8/2013
B. Rosenberg	X				9/30/2013



Recommendation Response Evaluation
U.S. Chemical Safety and Hazard Investigation Board
Office of Recommendations

Report:	Donaldson Enterprises, Inc. Fatal Fireworks Disassembly Explosion and Fire
Recommendation Number(s):	2011-06-I-HI-R2 thru R4
Date Issued:	January 17, 2013
Recipient:	Office of Procurement Executive (OPE), Treasury Department
Date(s) of Response(s):	April 17, 2013
Status recommendation to the Board:	R2: Open – Acceptable Response R3: Open – Acceptable Response R4: Open – Acceptable Response

Background:

On April 8, 2011, an explosion and fire occurred in a leased magazine at Waikele Self Storage in Waipahu, Hawaii that was being used by Donaldson Enterprises, Inc. (DEI) for seized fireworks storage and disposal-related activities. As a result of the explosion and fire, five DEI personnel were fatally injured and a sixth sustained minor injuries.

As part of its investigation, the CSB reviewed the U.S. Department of the Treasury's federal forfeiture program and its associated contracts for storing, transporting and disposing of illegally imported and seized fireworks. The CSB determined that the Department of the Treasury Acquisition Regulation (DTAR), Treasury's supplement to the Federal Acquisition Regulations (FAR), did not impose sufficient requirements for safe practices and subcontractor selection and oversight with respect to the unique hazards associated with handling, storing and disposing of hazardous explosive materials, such as fireworks.

To address these shortcomings, the Board voted to issue three recommendations to the Office of Procurement Executive (OPE) of the Department of the Treasury.

Recommendation(s):

See Evaluation section below for text of CSB Recommendations.

Response Summary:

An initial notification letter was sent to Treasury's OPE by the Chair on February 19, 2013. On April 17, 2013, a response (see **Attachment 1**) was received from Ms. Cathy C. Higginbotham, Senior Procurement Executive (Acting), OPE.

Evaluation of Recipient Action(s):

CSB Recommendation No. 2011-06-I-HI-R2:

Establish formal policy requiring that:

- *Solicitations for contracts dealing with the storage, handling, and disposal of explosive hazardous materials, including fireworks, incorporate rigorous safety-related contractor selection provisions such as those provided in the DoD's Contractor's Safety Manual for Ammunition and Explosives, Section C1.5, "Pre-Award Safety Survey"; and*
- *Contracts dealing with the storage, handling, and disposal of explosive hazardous materials, including fireworks, include a provision requiring that any subcontract (regardless of tier) for the storage, handling, and disposal of explosives (including fireworks) be selected based on rigorous safety-related contractor selection provisions such as those provided in the DoD's Contractor's Safety Manual for Ammunition and Explosives, Section C1.5, "Pre-Award Safety Survey,"*

In her April 17, 2013 response, Ms. Higginbotham replied:

OPE will establish formal selection policies for contractors and subcontractors as recommended. OPE has partnered with Treasury's Office of Environment, Health & Safety (OEHS) to determine and execute the most appropriate course of action. Consideration will be given to use of relevant guidance found in the Department of Defense Contractor's Safety Manual for Ammunition and Explosives (DoD Contractor Safety Manual), Section C1.5. "Pre-Award Safety Survey"; policy and practices of other organizations, to include the Occupational Safety and Health Administration (OSHA); and/or, development of comparable local policies and provisions.

CSB Recommendation No. 2011-06-I-HI-R3:

Establish a formal policy requiring that contracts and subcontracts dealing with the storage, handling, and disposal of explosive hazardous materials, including fireworks, incorporate rigorous safety-related contractor oversight provisions such as those provided in the DoD's Contractor's Safety Manual for Ammunition and Explosives, Section C1.6, "Pre-Operational Safety Survey" and C1. 7, "Post-Award Contractor Responsibilities" to provide effective oversight of subcontractors handling and disposing of explosives and hazardous materials.

Regarding R3, Ms. Higginbotham provided the following response:

In collaboration with Treasury's OEHS, OPE will establish a formal policy for safety-related contract oversight as recommended. Similar to our response to Recommendation R2, we will consider use of relevant sections of the DoD Contractor Safety Manual as well as policy and practices of other organizations as our point of

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reference and compliance or develop internal provisions similar to those determined most appropriate for Treasury operations.

CSB Recommendation No. 2011-06-I-HI-R4:

When the NFPA guidance developed by the National Fire Protection Association for the safe disposal of fireworks as recommended under recommendation 2011-06-I-HI-R7' is completed, incorporate this document by reference into the formal policies established by 2011-06-I-HI-R2 and 2011-06-I-HI-R3.

Regarding R4, Ms. Higginbotham provided the following response:

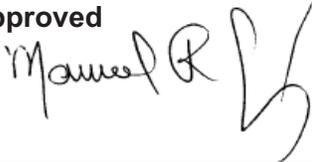
Once the National Fire Protection Association (NFPA) develops guidance for the safe disposal of fireworks (per CSB recommendation 2011-06-I-H I-R7), the document will be incorporated by reference into the Treasury policies created by 2011-06-1-HI-R2 and 2011-06-1-HI-R3.

Ms. Higginbotham further stated that she anticipates all actions to be completed in regard to the CSB recommendations by September 30, 2013 and that the Treasury procurement and OEHS departments are now working in close coordination to develop, implement and oversee these new contractor policies and procedures.

As the response provided by the OPE in the Treasury Department appears to meet the intent of the provisions listed in CSB Recommendations No. 2011--06-I-HI-R2 through R4, it is recommended that the status of R2 through R4 be changed to: **"Open—Acceptable Response."**

Evaluator: Mark Kaszniak Date: 5-9-2013

Approved



Manuel Gomez, DrPH, MS, CIH
Director, Office of Recommendations

Concurrence:



Dan Tillema
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Dan Tillema, PE, CFEI
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