



Chemical Safety and Hazard Investigation Board

Memorandum

To: Board Members

From: Rafael Moure-Eraso

A handwritten signature in black ink that reads "Rafael Moure-Eraso".

Cc: Leadership Team

Subject: Notation Item 805

Date: September 28, 2010

Attached for your review and vote is Notation Item 805. This item provides for Board approval of the award of, and allocation of funds for, the blowout preventer failure analysis contract, in support of the BP Deepwater Horizon investigation. Board approval is required because the total estimated cost of the contract exceeds \$50,000.

Some of you had questions about the obligation of Fiscal Year (FY) 2010 funds to cover the cost of this contract. After consulting with GAO, and conducting its own research, the OGC possesses a reasonable degree of confidence that the obligation of FY 2010 funds for this contract is consistent with the *bona fide* needs rule of appropriations law. However, as with any appropriations law question, only a final written opinion of the Comptroller General offers definitive guidance. The OGC memorandum on this issue will be distributed to you via e-mail later tonight, so that you may review it prior to casting your vote on this urgent matter. If you have any specific questions on the memorandum, please contact Chris Kirkpatrick via e-mail.

You may direct any technical questions about the proposed contract to Don Holmstrom. Questions about the budgetary/financial aspects of the contract should be directed to Bea Robinson. Please return completed vote sheets to Chris Kirkpatrick as soon as possible. Thank you for your attention to this item.



Chemical Safety and Hazard Investigation Board

Rafael Moure-Eraso, Ph.D., CIH
Chairperson and CEO

John S. Bresland
Board Member

Mark Griffon
Board Member

William B. Wark
Board Member

William E. Wright
Board Member

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD MEMBER VOTING RECORD

Notation No.: 805

Voting Period: Urgent Notation Item, September 28 – October 5, 2010, but votes are requested as soon as possible.

Subject: Approval of Support Contract for BP Deepwater Investigation

Whereas,

1. In June 2010, the CSB – pursuant to its authority under 42 U.S.C. § 7412(r)(6)(C)(i), and at the request of the House Committee on Energy and Commerce – initiated an investigation of the blowout and explosion that occurred on the BP Deepwater Horizon on April 20, 2010;
2. Because it appears that an immediate cause of the April 20th incident was the failure of a blow out preventer (BOP) device, thorough technical testing and analysis of the recovered device are crucial elements of the CSB's investigation;
3. Because of the amount, and technical sophistication, of the work required to conduct a failure analysis of the BOP device, the CSB investigation team has determined that they require specialized contractor support for that area of the investigation;
4. Accordingly, the CSB conducted an acquisition process for, and is prepared to make an award of, a contract for the services of a firm with the requisite engineering/technical expertise to consult on the CSB's preparation for and participation in the joint testing of the BOP device, and to develop an independent failure analysis for the CSB based upon the testing results (*see* Attachment A to this item for a summary of the proposed contract's scope of work);
5. The proposed BOP failure analysis contract consists of a six-month period of performance, with an estimated cost of \$450,000;
6. Obtaining the BOP failure analysis is an immediate, non-recurring need of the CSB, arising specifically from the initiation of the BP Deepwater Horizon incident investigation during Fiscal Year (FY) 2010, such that monies appropriated to the CSB for FY 2010 can be used to fund the BOP failure analysis contract, if it is awarded during, and some work begins in, FY 2010;

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Subject: Approval of Support Contract for BP Deepwater Investigation

7. Funding for the full estimated cost of the BOP failure analysis contract is available within the CSB FY 2010 Operating Budget from unexpended monies in the “Other Services” and “Supplies” categories of various budgetary units, as shown in Attachment B to this item;
8. The Director of Financial Operations has determined that these unexpended monies can be reallocated to the “Other Services” category in the Investigations budgetary unit for the purpose of funding the BOP failure analysis contract without triggering congressional budget reprogramming reporting requirements;
9. Board Order 027 requires that the Board approve the allocation of funds for contracts exceeding \$50,000; and
10. Board Order 028 requires that the Board approve contracts exceeding \$50,000.

Therefore, the Board hereby votes:

- a. To approve the award and execution of a contract for the blowout preventer failure analysis, with a maximum value not to exceed \$450,000.
- b. To approve the reallocation of \$450,000 in unexpended FY 2010 monies from the “Other Services” and “Supplies” categories, in the individual amounts and from the budgetary units shown in Attachment B to this item, to the “Other Services” category in the Investigations budgetary unit for the purpose of funding the blowout preventer failure analysis contract.

Provided, however, that these approvals to award and execute the contract, and to reallocate FY 2010 monies to fund the contract, shall lapse if the contract is not awarded on or before September 30, 2010.

_____ I **APPROVE** this notation item **AS PRESENTED**.

_____ I **CALENDAR** this notation item for discussion at a Board meeting.

_____ *Some of my concerns are discussed below or on the attached memorandum.*

_____ I **DISAPPROVE** this notation item.

_____ *A dissent is attached.*

_____ *I will not file a dissent.*

_____ I am **NOT PARTICIPATING**.

Note: An urgent notation item is either adopted or disapproved when the affirmative or negative votes of a majority of the participating members are received by the Office of General Counsel.

Date: _____

Member: _____

OBJECTIVE AND SCOPE OF WORK FOR PROPOSED BLOWOUT PREVENTER FAILURE ANALYSIS PROCUREMENT

OBJECTIVE:

The objective of this solicitation is to obtain the services of an expert or group of experts who can advise CSB and develop a detailed failure analysis report for the blowout preventer (BOP) in service for the Deepwater Horizon at the time of the incident.

SCOPE:

Consulting on BOP Failure Analysis - Testing

The contractor will be required to perform work at its own facilities and travel to NASA Michoud in New Orleans, Louisiana to observe the actual testing. The tasks to be accomplished by the contractor related to testing include:

1. Review the design, maintenance, and other documents related to the BOP and advise CSB as to additional documents that might be necessary for the BOP failure analysis. Develop a report identifying issues or concerns identified from the documentation review and make recommendations for additional document requests to facilitate obtaining the appropriate documentation necessary for the BOP failure analysis.
2. Review the protocols developed for the BOP failure analysis and advise CSB on adequacy to determine root causes and systemic problems. Propose modified language as appropriate.
3. Attend the testing / failure analysis of the BOP expected to last up to 5 weeks.
4. Consult with CSB Investigators to confirm that protocols are being properly implemented.
5. If field changes to the protocol become necessary advise CSB on appropriate actions and modifications to the protocol.
6. Document the BOP failure analysis by taking notes, developing sketches, and taking photographs and videos.
7. Develop summary report of daily testing activities.
8. Advise the CSB if evidence indicates additional testing or alternative techniques are more appropriate than what was outlined in the testing protocol.
9. Develop or assist in the development of proposed modifications to the protocol language or additional protocols as appropriate.

Consulting on BOP Failure Analysis - Overall

The contractor will be required to perform work at its own facilities. The tasks to be accomplished by the contractor upon completion of testing include:

10. Develop monthly progress reports.
11. Develop a final report on the BOP failure analysis within 60 days of completion of testing.
12. Develop a report to address recommendations to prevent recurrence based on the final report on the BOP failure analysis (Task 11).
13. Review US and International Standards related to BOP and prepare a report on adequacy of existing standards, gaps between international and US standards, and gaps between US and international practices.
14. Recommend additional areas of analysis as appropriate based on the findings from the BOP failure analysis.
15. Conduct additional areas of analysis as appropriate based on the findings from the BOP failure analysis and develop reports as appropriate.
16. Consult with CSB on additional investigation needs related to the BOP or drilling operations that may have affected the BOP on an “as needed” basis.

Provide Testimony at CSB Public Meeting

After the analysis period of this contract is completed, the expert(s) may be asked to present testimony at a CSB public meeting. The task to be accomplished by the expert during this period of the contact is listed below:

17. As requested by the IIC, prepare and deliver testimony at CSB public meeting(s) pertaining to the analyses and findings developed by the expert during the analysis period of this contract

**FUNDING SOURCES FOR PROPOSED
BLOWOUT PREVENTER FAILURE ANALYSIS PROCUREMENT**

Budgetary Unit	Other Services	Supplies	Total
Board Members	\$110,716 ^a	\$0	\$110,716
Investigations	120,439 ^b	0	120,439
OSH	19,000	0	19,000
Recommendations	2,000	0	2,000
CPBA	146,302 ^c	0	146,302
Administration	15,121	10,029	25,150
Human Resources	13,893	0	13,893
Equal Employment Opportunity	12,500	0	12,500
Totals	\$439,971	\$10,029	\$450,000

Explanation of Significant Funding Sources

- ^a Funding largely available from unallocated line item.
- ^b Funding largely available from funds budgeted for investigation consultants for other investigations that were not needed in FY 2010.
- ^c Funding largely available from funds budgeted for safety videos and DVD replication and distribution that were not needed in FY 2010.