United States Government Department of Energy

memorandum

DATE: May 2, 2003

REPLY TO ATTN OF: Office of NEPA Policy and Compliance (Mansoor, 202-586-9326)

SUBJECT: DOE-wide National Environmental Policy Act (NEPA) Contracts

TO: Secretarial Officers and Heads of Field Organizations (list attached)

We are pleased to provide the attached *Brief Guide: DOE-wide National Environmental Policy Act Contracts*, which our Offices, with the assistance of the National Nuclear Security Administration (NNSA) Service Center, prepared to replace a 1998 Guide of similar title. The *Brief Guide* provides information on the six new indefinite delivery/indefinite quantity (task order) contracts that the NNSA Service Center, on behalf of the Department, issued in late 2002 to provide support services for NEPA document preparation and related environmental tasks.

These contracts are a key tool in our continuing efforts to streamline the NEPA process, reducing time and cost while maintaining the high quality of DOE NEPA documents. The contracts provide NEPA Document Managers with well-qualified contractor support on short notice and reduce administrative burdens on contracting offices. DOE's experience with the similar previous contracts was highly successful: 25 DOE Offices issued 106 task orders totaling more than $57 million.

Two of the new contracts have been awarded to small businesses. These contracts have the same statement of work and were awarded using the same evaluation criteria as those under full and open competition. Use of these contracts will help the Department meet its small business contracting goals.

Any Program or Field Office of DOE (including NNSA) and the Federal Energy Regulatory Commission may use these contracts. Management and operating contractors of DOE Field Offices also may issue task orders under these contracts. Although the NNSA Service Center will administer the contracts, each issuing Office is responsible for awarding, administering, and funding its own tasks.

We encourage you to take advantage of these cost- and time-saving contracts and to distribute this *Guide* to your project, environmental, and contracting staffs. Additional information can be found at the DOE NEPA Web site at http://tis.eh.doe.gov/nepa/ under a link entitled "DOE-wide NEPA Contracting." Please direct any questions to the DOE-wide NEPA Contracts Administrator, David Gallegos, NNSA Service Center, at 505-845-5849 or dgallegos@doeal.gov.

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A BRIEF GUIDE:
DOE-WIDE NATIONAL ENVIRONMENTAL POLICY ACT CONTRACTS

Revised May 2003

INTRODUCTION

The Department of Energy (DOE) Office of Environment, Office of Procurement and Assistance Management, and National Nuclear Security Administration (NNSA) Office of Procurement and Assistance Management, with the assistance of the NNSA Service Center, prepared this Brief Guide to the DOE-wide National Environmental Policy Act (NEPA) Contracts. It replaces a 1998 Guide of similar title.

Part I of this Guide provides information about the contracts and Part II on how to use them.

Address questions and requests for information or copies of the contracts to the DOE-wide NEPA Contract Administrator: David Gallegos, NNSA Service Center, at 505-845-5849 or dgallegos@doeal.gov.

Part I: ABOUT THE DOE-WIDE NEPA CONTRACTS

1. What Are the DOE-Wide NEPA Contracts?

The DOE-wide NEPA contracts are indefinite delivery/indefinite quantity (task order) contracts to procure support services for:

- Preparing environmental impact statements (EISs) and environmental assessments (EAs) under the NEPA process
- Preparing environmental reports (ERs) and other documentation required by the Nuclear Regulatory Commission in its review of license applications
- Preparing floodplain and wetlands assessments
- Complying with Executive Orders, statutes such as the National Historic Preservation Act and the Endangered Species Act, and their implementing regulations and procedures
- Incorporating NEPA values (such as analysis of cumulative, offsite, ecological, and socioeconomic impacts) to the extent practicable into documents prepared under the Comprehensive Environmental Response, Compensation, and Liability Act
- Preparing supplement analyses
- Compiling environmental information to support the NEPA process
- Evaluating environmental information used in EISs, EAs, ERs, and other environmental documents

The NNSA Service Center, on behalf of DOE, issued six DOE-wide NEPA contracts (table on next page) in late 2002 to replace earlier contracts at the end of their performance period. Two of the contracts are with small businesses. All contracts have the same statement of work and a performance period of five years.

Contract Contact Information

AGEISS ENVIRONMENTAL, INC.

Program Manager	Jeffrey B. Lawrence jeffl@ageiss.com Phone: (303) 674-7819 Fax: (303) 674-7281
Address	AGEISS Environmental, Inc. 266 Kings Road Evergreen, CO 80439
Contract No.	DE-AM04-03AL67464 (Expires 11-4-07) Small Business

BATTELLE MEMORIAL INSTITUTE

Program Manager	Lucinda Low Swartz swartzl@battelle.org Phone: (301) 933-4668 Fax: (301) 933-6796
Address	Battelle Memorial Institute 4112 Franklin Street Kensington, MD 20895
Contract No.	DE-AM04-02AL67952 (Expires 9-23-07)

JASON ASSOCIATES CORPORATION

Program Manager	Ernie Harr eharr@jason.com Phone: (301) 432-4414 Fax: (301) 432-4414
Address	Jason Associates Corporation 113 Grove Lane Boonsboro, MD 21713-1149
Contract No.	DE-AM04-02AL67953 (Expires 9-23-07)

POTOMAC-HUDSON ENGINEERING, INC.

Program Manager	David C. McGaw dave@phe.com Phone: (301) 907-9078 Fax: (301) 907-3446
Address	Potomac-Hudson Engineering, Inc. Suite 100 4833 Rugby Avenue Bethesda, MD 20814
Contract No.	DE-AM04-03AL67465 (Expires 11-4-07) Small Business

SCIENCE APPLICATIONS INTERNATIONAL CORPORATION

Program Manager	Patricia Wherley wherleyp@saic.com Phone: (301) 353-8346 Fax: (301) 428-3482
Address	Science Applications International Corporation Suite 300 20201 Century Boulevard Germantown, MD 20874
Contract No.	DE-AM04-02AL67954 (Expires 9-23-07)

TETRA TECH, INC.

Program Manager	Thomas E. Magette tom.magette@tetratech.com Phone: (703) 931-9301 Fax: (703) 931-9222
Address	Tetra Tech, Inc. Suite 1400 5205 Leesburg Pike Falls Church, VA 22041
Contract No.	DE-AM04-02AL68285 (Expires 9-23-07)

2. Why Were the Contracts Established?

To provide highly qualified NEPA support: The Source Evaluation Team, which included DOE NEPA Compliance Officers, subjected the DOE-wide NEPA contract proposals to a rigorous selection process to ensure that the selected contractors have appropriate NEPA document preparation experience, management and technical capability, staffing, and successful past performance.

To provide for timely start of work: Contracts have been established in advance of the need for an individual NEPA document. The Ordering Contracting Officer must comply with requirements of the Federal Acquisition Regulation (FAR) at 16.505(b) and the ordering requirements of the contract to provide NEPA contractors a "fair opportunity to be considered" when issuing task orders under the NEPA contracts. (See Section H of the contracts, clause H.10, "Procedures for Issuing Task Orders.") The ordering procedures provide a streamlined process that allows placement of task orders:

- Without a Justification for Other than Full and Open Competition
- Without a synopsis in Federal Business Opportunities (www.fedbizopps.gov)
- Without the task order being subject to protest

To provide flexibility and promote an efficient NEPA process: The DOE-wide NEPA contracts allow for phased task assignments, modification of the statement of work, performance-based statements of work, and an active role for the DOE NEPA Document Manager. These features allow flexibility in task order strategies and are intended to increase the usefulness of contractor products.

To provide cost saving incentives: An Ordering Contracting Officer may issue a task order on a firm-fixed price, cost-plus fixed fee, or cost-plus incentive fee basis, depending on how specifically the scope of work may be described in advance. An Ordering Contracting Officer can choose the option that tailors incentives for efficiency to the nature of the task.

To provide performance incentives: The competitive environment fostered by the "fair opportunity to be considered" for issuance of a task order will maintain pressure for NEPA contractors to provide the best performance and price throughout the contract period. Contractor performance is evaluated at the completion of each task. An Ordering Contracting Officer may award tasks based entirely or in part on contractor performance on previous tasks.

3. Who May Use the Contracts?

Any Program or Field Office of DOE (including NNSA) and the Federal Energy Regulatory Commission (FERC) with responsibilities for preparation or review of NEPA and other environmental documents may use these contracts. Management and operating contractors of DOE Field Offices also may use these contracts. Each issuing Office is responsible for awarding, administering, and funding its own tasks. The NNSA Service Center is responsible for overall administration of the contracts.

Any Contracting Officer of DOE (including NNSA) and FERC may issue task orders. Similarly, any management and operating contractor's authorized procurement official may issue task orders (Section H.11 of the contracts). In the DOE-wide NEPA contracts, a person who may issue task orders is referred to as an "Ordering Contracting Officer."

A DOE NEPA Document Manager may provide technical direction for a task order by being formally certified and designated as the Ordering Contracting Officer's Representative. Management and operating contractors should use their own requirements and guidance to determine who may provide technical direction and the training or other qualification required.

4. Must Offices Use the Contracts to Prepare NEPA Documents?

Use of the DOE-wide NEPA contracts is optional; the decision rests with the NEPA Document Manager and Ordering Contracting Officer.

5. How Long Does It Take to Issue a Task Order?

Task orders can normally be issued within one to three weeks from preparation of the task statement of work, depending on the complexity of the task and the method used to select the contractor.

6. What Are the Small Business Contracting Considerations?

The six DOE-wide NEPA contracts include two contracts that were set-aside for small businesses. These contracts were awarded on the basis of the same evaluation criteria and with the same scope as the contracts awarded under full and open competition.

The intent of awarding two of the DOE-wide NEPA contracts to small businesses is to help the Department meet its small business contracting goals as stated in Secretary of Energy Spencer Abraham's "Policy Statement on Supporting Small Businesses in Implementing DOE Missions" (9/25/02) and NNSA Acting Administrator Linton Brooks' memorandum "NNSA Commitment to Small Business Programs" (8/29/02).

An office that issues a task order to a DOE-wide NEPA small business contractor will receive credit toward meeting its small business contracting goal.

The four contracts awarded under full and open competition were awarded to large businesses. Although each of these contracts have a subcontracting plan that includes goals for small business subcontracting, an office will not receive small business credit for work performed by a small business subcontractor on a task order issued to a prime contractor that is a large business.

7. What Information Is Available Online?

To aid potential users of the DOE-wide NEPA contracts, relevant information has been posted on the DOE NEPA Web site at http://tis.eh.doe.gov/nepa/ under a link entitled "DOE-wide NEPA Contracting."

- Guidance and information resources provided are the contracts' statement of work, the contractor points of contact (page 2 of this Brief Guide), and this Brief Guide.

- Forms and tools provided are the Request for Task Proposal/Task Order Form, the Performance Evaluation Form, and an Incentive Fee Calculator.
- Background documents provided are the DOE Contracting Reform Guidance of December 1996 and the Secretary of Energy Policy Statement and NNSA memorandum referred to in 6 above.

Part II: HOW TO USE THE DOE-WIDE NEPA CONTRACTS

The figure at the end of this Brief Guide illustrates the sequence and responsibility for the steps described below. After defining the work required, the NEPA Document Manager/Ordering Contracting Officer's Representative works together with the Ordering Contracting Officer to establish the task order strategy, define contractor selection criteria and prepare and issue a request for task proposal, evaluate task proposals and select a contractor, fund and administer the task, and evaluate contractor performance at task completion.

> For the convenience of users of these contracts, *references in italics* are posted at http://tis.eh.doe.gov/nepa/ under "DOE-wide NEPA Contracting."

Step 1. Prepare a Statement of Work.

The NEPA Document Manager/Ordering Contracting Officer's Representative may use his/her own methods for preparing a task order statement of work to fit the NEPA document being prepared. One option is to modify the *statement of work in the DOE-wide NEPA contracts*. (See Section C of the contracts.)

Make the task statement of work as specific as possible. The strength of task order contracts in achieving both cost savings and efficiency lies in their ability to make a task statement of work specific to the task at hand. A specific statement of work gives the contractor clear direction on DOE's expectations, and gives the NEPA Document Manager (and ideally, DOE management as well) opportunity to think carefully about what should and should not be part of the NEPA process for a particular project -- from alternatives, to number of scoping meetings, to a realistic assessment of the NEPA document and project schedules.

Specificity in the task statement of work, including such details as the number of review cycles and printing requirements, is especially important for firm fixed price task orders. Such specificity allows contractors to submit proposals that do not include large contingency fees for unknown, potentially costly, task activities.

Step 2. Establish a Task Order Strategy.

To prepare an effective task order strategy, the NEPA Document Manager/Ordering Contracting Officer's Representative and the Ordering Contracting Officer should determine:

- Whether the preparation of the NEPA document is best ordered as a single task or several phased tasks
- Which method to use to provide NEPA contractors a "fair opportunity" to be issued a task order or whether an exception to the "fair opportunity" requirement exists

- Which contractor selection criteria reflect the critical success factors for the NEPA document (for example, key personnel experience, technical approach)
- Which pricing method to use, which could vary among multiple task orders for a single NEPA document
- Whether preference should be given to a DOE-wide NEPA small business contractor to support the Department's small business contracting goals. If such preference is given, the Request for Task Proposal (see Step 3) should clearly say so.

"Fair opportunity to be considered" for issuance of a task order may be accomplished by evaluation of contractors' task proposals based on technical, cost, or other criteria. "Fair opportunity to be considered" for issuance of a task order may also be accomplished by evaluation of contractors' past performance alone without requesting task proposals from the contractors. (See Section H of the contracts, clause H.10, "Procedures for Issuing Task Orders" and FAR 16.505(b).) (In certain cases, a task order may be issued without using the "fair opportunity" process. Consult with the DOE-wide NEPA Contract Administrator for details.)

To provide NEPA contractors a "fair opportunity" to be issued a task based entirely on performance of previous tasks, evaluate the records of all six contractors' technical performance and cost control on previous tasks under the six DOE-wide NEPA contracts, taking into account performance on the tasks most comparable to the prospective task. To issue tasks on this basis when not all the NEPA contractors have performed tasks under these contracts, consider the quality of the contractors' technical proposals under the solicitation leading to their contract award, taking into account the portion of the proposal most comparable to the prospective task.

Past performance data on previous tasks issued under the six contracts are available from the DOE-wide NEPA Contract Administrator on request by an Ordering Contracting Officer.

Step 3. Prepare a Request for Task Proposal.

The Ordering Contracting Officer completes the *Request for Task Proposal/Task Order Form* (Attachment J-2 of the contracts) or uses an alternate form selected by his/her contracting office. The form should specify the due date for task proposals, NEPA document preparation milestones, pricing, and selection factors.

Based on the strategy developed for the task order, the Ordering Contracting Officer provides the form, the statement of work, and any special requirements (for example, security, safety, subcontracting targets) to one or all the DOE-wide NEPA contractors. (The Ordering Contracting Officer may not also compete the task order among management and operating contractors or Federally Funded Research and Development Centers (such as DOE national laboratories) because they are prohibited from competing directly with private sector entities.)

To expedite the process, e-mail should be used by the Ordering Contracting Officer to transmit a Request for Task Proposal/Task Order and by contractors to submit their task proposals.

For highly complex and/or high dollar value document tasks (e.g., a site-wide or programmatic EIS), it may be helpful for the Ordering Contracting Officer to provide a draft statement of work to the contractors for a brief (one- or two-day) comment period before requesting task proposals. This would allow contractors to ask questions and plan for the preparation of timely and responsive proposals.

Establishing proposal page limits helps the contractor to control proposal preparation costs and expedites the technical review of proposals.

Step 4. Prepare Task Proposals.

The contractors' proposals should include all the information specified in Section H.9 of the contracts, and any additional information requested in the Request for Task Proposal.

Step 5. Evaluate Task Proposals.

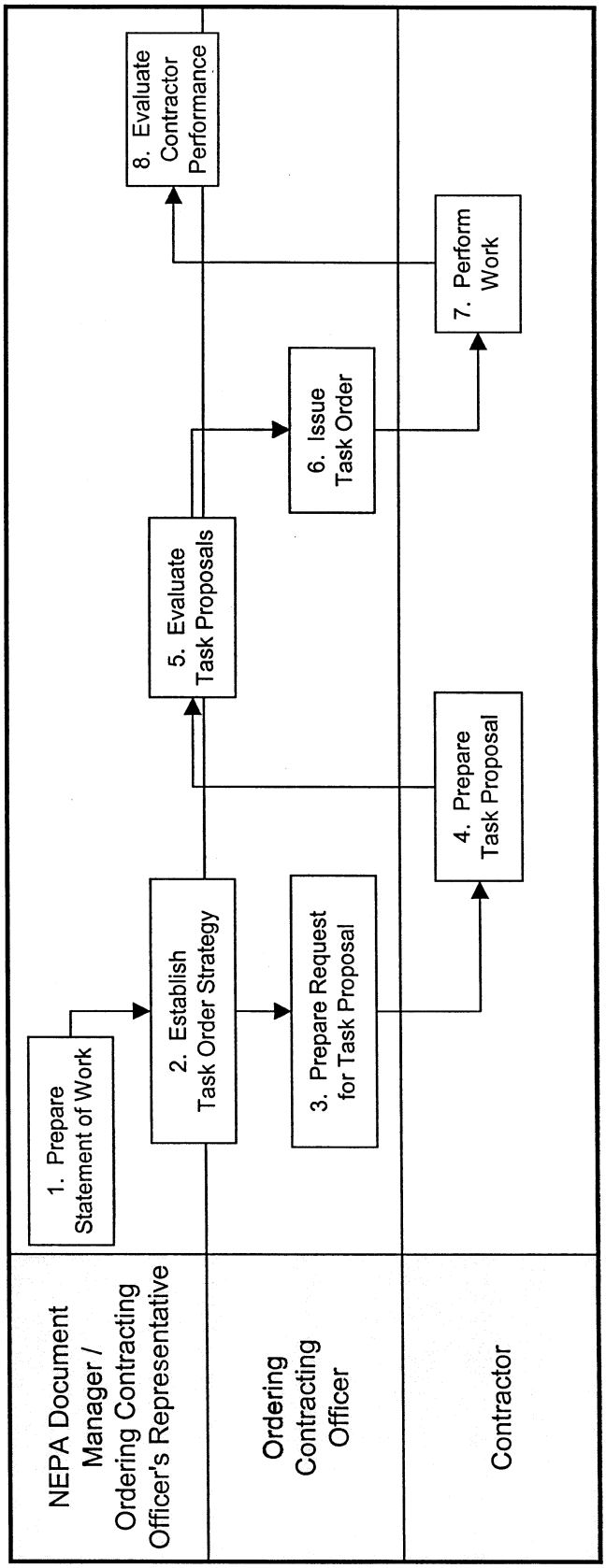
The NEPA Document Manager/Ordering Contracting Officer 's Representative and Ordering Contracting Officer evaluate proposals submitted under the "fair opportunity" process based on the established selection criteria and may talk about task proposals with contractors as necessary, making certain not to give any contractor an unfair competitive advantage.

Step 6. Issue the Task Order.

When the Ordering Contracting Officer issues the task order, he/she is obligating funds and authorizing work to begin. The Ordering Contracting Officer may consult with the DOE-wide NEPA Contract Administrator for tips on completing the Individual Procurement Action Report form. For tracking and reporting purposes, the Ordering Contracting Officer includes the DOE-wide NEPA Contract Administrator on distribution for all task orders and task order modifications issued.

Step 7. Perform Work.

Step 8. Evaluate Contractor Performance.

The NEPA Document Manager/Ordering Contracting Officer's Representative and Ordering Contracting Officer may track performance by using checklists or other methods. At the end of task performance, they should evaluate contractor performance using the DOE NEPA *Contractor Performance Evaluation Form* (provided in Attachment J-3 of the contracts). Copies of completed Contractor Performance Evaluation Forms should be sent to the DOE-wide NEPA Contract Administrator so that past performance information may be available to subsequent NEPA Document Managers. A DOE-wide NEPA contract *Incentive Fee Calculator* for use in determining the incentive fee payable on completed cost-plus incentive fee task orders has been developed to assist Ordering Contracting Officers.

Using the DOE-wide NEPA Contracts