

EXHIBIT

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Maurice Kaya/DBEDT

08/30/07 04:22 PM

To John Tantlinger/DBEDT@DBEDT

cc Priscilla Thompson/DBEDT@DBEDT, William
Parks/DBEDT@DBEDT, William.Parks@hq.doe.gov

bcc

Subject Fw: hydrogen bid redo

FYI.

----- Forwarded by Maurice Kaya/DBEDT on 08/30/2007 04:22 PM -----



Mark

Anderson/FTZ/DBEDT

08/30/2007 03:48 PM

To Theodore E Liu/DBEDT@DBEDT, Maurice

Kaya/DBEDT@DBEDT, Ken Kitamura/DBEDT@DBEDT

cc

Subject hydrogen bid redo

I would like to give my two cents on the hydrogen bid.

First, I think it is dangerous to have Ted go into the hearing next week upset and looking for a fight. He will be baited into making comments that will open up all our procurement actions to examination. We could have additional audits and hearings and must consider how this distraction will impact our agenda.

The central questions is does the director have the legal authority to select any bid off of a final ranked list of three. If he does how must he make his decision. This question needs to be put to our AG and SPO.

For Tuesday:

Source of funds - funds came to HSDC (exempt from procurement), program responsibility came to SID (subject to procurement). HSDC and SID entered into an agreement to effectuate the program. Assumed that because the funds will be expended by SID we must follow procurement. Choose RFP method.

Procurement method - exhaustive description of RFP method (generic), ranked list, best offer, negotiations.

Description of goods/services - description of goods and services we sought to procure.

Procurement process up to ranked list - Maurice Kaya

Ranked list to award - Ted Liu. Decision to award third ranked bidder should be made on criteria of RFP.

Where we are now - Highlight the fact that we are in dispute on this bid and have frozen it. We welcome a timely review by SPO and AGs office and will postpone award until review is completed.

We should also consider cancelling the RFP.

We have no obligation to repeat the same RFP process or even to go through an RFP process if we use HSDC as the expending agency.

JT - 355
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