



# Fermilab

May 14, 2002

TO: Division/Section Heads

FROM: Bruce Chrisman

SUBJECT: Procurement of Construction and Construction-Related Services;  
After-the-Fact Procurement

Recently, construction occurred on the Laboratory site prior to completion of DOE review for Davis-Bacon Act coverage, prior to establishment of a Purchase Order, and without proper coordination with FESS. This event forces me to remind you of important aspects of Fermilab policies related to construction management and procurement.

First, I bring to your attention to Director's policy 18.000, "Construction/Modification." (Attachment A) This policy assigns the responsibility for all construction activities to FESS. The only exception is where the Director expressly delegates the responsibility to another organization for a specific project. In the case referenced above, there was no such delegation and the initiating division did not request that FESS design, review or oversee the construction project. To preclude this from happening in the future, I expect you will ensure that your personnel clearly understand this policy.

Second, I bring to your attention to Director's policy 6.000, "Procurement." (Attachment B) I would like to emphasize that the commencement of work can only be authorized by procurement personnel with proper authority. The Laboratory is not obligated and will not pay for work or services that were initiated before a legally binding subcontract or purchase order becomes effective. Besides being subject to potential disciplinary action, it is possible that the Fermilab staff person making a commitment could be personally liable for work he or she induced to begin work prior to the existence of a subcontract.

Finally, the aforementioned situation of after-the-fact construction raised another irregularity that needs to be addressed. Time and Materials (T&M) subcontractors should not be used for cost estimation services. Cost estimates are to be developed in-house or through appropriate Architect/Engineering subcontracts, coordinated by FESS. T&M subcontractors should only be approached for estimates for work that is actually contemplated to be performed by those subcontractors, and then only through the Fermilab T&M Office. If a T&M estimate is obtained, then that estimate may not be

used to recommend or justify selection of a potential fixed price subcontractor's proposal. If the requester obtains a T&M estimate and subsequently chooses to proceed with the work through a fixed price solicitation, prior approval is required from the Associate Director for Operations Support. Cost estimates obtained from potential construction subcontractors are not binding. Only quotes or proposals obtained by the Procurement Department or the T&M Office can be accepted.

Please see that appropriate members of your organizations understand these rules.

#### Attachments

cc: G. Brown                      M. Shaevitz  
R. Grant                         K. Stanfield  
S. Holmes                       M. Witherell  
H. Montgomery