



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



U. S. Chemical Safety and Hazard Investigation Board RECOMMENDATIONS STATUS CHANGE SUMMARY

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
New Status:	R2: Open – Acceptable Response R3: Open – Acceptable Response R4: Open – Acceptable Response
Date of Status Change:	September 30, 2013

Recommendation Text(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,"*

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.

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.

Board Status Change Decision:

A. Rationale for Recommendation

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 Treasury's federal forfeiture program and its associated contracts for storing, transporting and disposing of illegally imported and seized fireworks. The CSB concluded 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.

Based on the findings of the investigation, the Board voted to issue three recommendations to the Office of Procurement Executive in the Department of the Treasury to address these shortcomings.

B. Response to the Recommendation

In its response to CSB, the Office of the Procurement Executive in the Treasury Department agreed to:

- Establish formal selection policies for contractors and subcontractors as recommended, taking into consideration the 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"; plus the policies and practices of other organizations such as the Occupational Safety and Health Administration (OSHA); and/or to develop of comparable policies and provisions.
- Establish a formal policy for safety-related contract oversight as recommended, taking into consideration relevant sections of the DoD *Contractor Safety Manual* as well as policy and practices of other organizations as a point of reference for compliance, or develop internal provisions similar to those determined most appropriate for Treasury operations.
- Incorporate by reference into the Treasury policies created by CSB Recommendation No's 2011-06-1-HI R2 and R3 guidance for the safe disposal of fireworks upon publication by the NFPA.

C. Board Analysis and Decision

As the response provided by the OPE in the Treasury Department appears consistent with the intent of CSB Recommendations No. 2011--06-I-HI-R2 through R4, the Board voted to change the status of R2 through R4 to: "**Open—Acceptable Response.**"