1 up. You have a point to make?
2 **DR. MELIUS:** (Off microphone) (Inaudible).
3 **DR. ZIEMER:** Oh, okay. Since -- the document
4 that was distributed is focused mainly on the
5 individual dose reconstructions, and since the
6 task that's been awarded already has to do with
7 the site reviews, I wonder if it wouldn't be more
8 appropriate for the moment for us to talk about
9 the site review issue since that's already been
10 awarded and the clock is ticking. So could we
11 talk a little bit about the process for reviewing
12 and approving the procedures that are generated by
13 the contractor? Who has some input on that or
14 discussion or ideas or recommendations or
15 questions?
16 **DR. MELIUS:** I have a question. And it's
17 been answered before, but I've forgotten, I'll
18 admit that. Is can we delegate approval to a
19 workgroup for an issue like this, that we would
20 get back a -- you know, a procedure, whatever,
21 from -- from the contractor for the site profile
22 reviews, can we delegate approval of that to a
23 workgroup?
24 **DR. ZIEMER:** I think that question of
25 delegating authority to act on behalf of the Board

1 was answered last time. My recollection is it can
2 be delegated to a subcommittee, but the
3 subcommittee -- you can't delegate something till
4 the subcommittee is in place and exists. And the
5 appointment and approval of a subcommittee goes
6 through a process with the Agency.
7 **DR. MELIUS:** I'm aware of that answer, but
8 was that the answer on the workgroup?
9 **MS. HOMER:** No. Excuse me, I'll interrupt,
10 but --
11 **DR. ZIEMER:** No, I think the workgroup cannot
12 act on behalf of the -- is that correct, Cori?
13 **MS. HOMER:** That's correct, we -- we really
14 don't want to get into the habit of providing
15 written delegation for a workgroup or a
16 subcommittee to act on behalf. We can do so for a
17 subcommittee, but I really -- although there's no
18 specific guidance saying no, I really hesitate to
19 say that we should do that or can do that. It's a
20 practice we don't want to get into. It's not
21 something that the Board would have to spend a lot
22 of time on, you know, approving or reviewing
23 something provided -- you know, a product or
24 recommendations provided by a workgroup. Are we
25 talking about something lengthy or time-consuming?

1 **DR. MELIUS:** No, we're talking about -- I'm
2 just trying to work out the timetable for dealing
3 with this. We're going to have -- presumably have
4 a report from the contractor in -- beginning of
5 March sometime. We don't have another meeting
6 scheduled until April. That will -- what we
7 receive from the contractor, as I understand it,
8 is a -- their proposed procedure for doing site
9 profile reviews.
10 **MS. HOMER:** Uh-huh.
11 **DR. MELIUS:** I believe the way, and I don't
12 have the document in front of me, but I believe
13 that it presumes that once that is approved, then
14 -- then they would -- we would be able to assign
15 them site profiles to review, but they couldn't
16 really start that process until it's approved. So
17 if -- and we don't have time to set up a
18 subcommittee between -- and get a subcommittee
19 approved in the next 30 days, I don't believe, if
20 --
21 **MS. HOMER:** It's possible.
22 **DR. MELIUS:** Well, we'd have to have the
23 charter agreed to at this meeting, so that's one
24 option. And -- or we have to deal with the issue
25 of a workgroup or we either -- we either wait till

1 the next meeting.

2 **MS. HOMER:** Well, we're not -- we don't have

3 to charter -- specifically charter a subcommittee.

4 We just need to prepare an establishment memo,

5 which is a two-page document.

6 **DR. ZIEMER:** This -- a procedure of the type

7 we're talking -- that is, the procedure that comes

8 from the contractor -- I believe the Board could

9 address in a conference call situation because if

10 -- if a subcommittee's going to act on behalf of

11 the Board, don't they still have to go through

12 that same process, Cori?

13 **MS. HOMER:** Yes. Yes, they do.

14 **DR. ZIEMER:** In terms of being announced and

15 so on?

16 **MS. HOMER:** It does. Everything that happens

17 for a subcommittee must take place under the same

18 FACA guidelines as a full committee.

19 **DR. MELIUS:** And so -- that's fine, what I

20 was trying to get to was --

21 **DR. ZIEMER:** So they would have to announce

22 it, anyway, in the *Register* and so on.

23 **DR. MELIUS:** I think our option is to do it

24 as a conference call, you know, given time for

25 review and so forth, then we probably should think

1 about maybe our criteria for reviewing it, but
2 all's (inaudible) is then be ready to go with the
3 next step, which is going to be the selection of
4 the site profiles. Now that could also be done in
5 the conference call if we worked out a -- you
6 know, we may want to work out a procedure and we
7 may not be able to score that or, you know, do the
8 selection here with the information we have, but
9 then be able to do it by that time of that
10 conference call.
11 **DR. ZIEMER:** I would imagine that we could in
12 fact identify the sites yet today or tomorrow,
13 because we would know what the basis was going to
14 be. I don't think that would be dependent on the
15 review procedure, per se. That's my -- Roy, then
16 Mark.
17 **DR. DEHART:** To begin with, I don't want to
18 see a subcommittee taking the action on behalf of
19 the Board and -- with this being our initial
20 product under our contract. I think we all should
21 actively review that, and my recommendation would
22 be a panel or a workgroup to do the initial
23 review, prepare a summary -- point summary, and
24 that each of us be responsible for reviewing the
25 proposal -- the solution. And then conference

1 call to resolve any issues or questions.
2 **MR. GRIFFON:** That's actually very close to
3 -- I mean that's what I was going to say is maybe
4 we could set up a workgroup to deal with, you
5 know, reviewing drafts with the contractor and
6 come to the conference call with a proposal from
7 the contractor, and then have the full Board vote
8 on, you know, the method for reviewing the site
9 profiles, the final product. But have a
10 workgroup, and that gives -- the workgroup would
11 have the flexibility to have some conference
12 calls, if need be, with the contractor.
13 The only question I raise in that process is
14 if -- if the contractor, in working on this, has
15 questions or needs clarifications, I don't know
16 who can respond to those on behalf of the Board
17 or...
18 **DR. ZIEMER:** I want to make sure that the
19 Board is not expecting to develop the procedures.
20 That's the contractor's job. I don't think we
21 need a workgroup to take the contractor's proposal
22 and redo it. What we need is the Board to react
23 to the contractor's proposal, and if they have
24 comments, the contractor can -- if this is an open
25 call, the contractor can be there, can hear the

1 comments and we either approve it or we say go
2 back and take these comments into consideration.
3 I don't -- I don't see us having a working group
4 that sits down and says this is what it ought to
5 look like. That's the contractor's job.
6 **DR. MELIUS:** But I think we need to answer
7 Mark's other question there 'cause I think that's
8 more what -- at least what I was -- felt that he
9 was driving at was this issue of what if the
10 contractor seeks clarification this -- in dealing
11 with this contract before the meeting or in terms
12 of what is presented --
13 **DR. ZIEMER:** Oh, I'm sorry.
14 **DR. MELIUS:** -- to the Board. Yeah.
15 **DR. ZIEMER:** You mean before they submit --
16 **DR. MELIUS:** Before they -- the con-- before
17 they submit and the con-- and the question come --
18 and -- or -- and then we have to deal with the
19 issue of afterwards, you know, how do we -- what -
20 - what if we say well, the procedure needs to be
21 revised and submitted. I think we can -- could
22 delegate -- so that would be at our conference
23 call meeting. Do we -- we let the workgroup -- if
24 we delegate that to the workgroup, or more
25 appropriate we would -- may be more appropriate to

1 delegate that to the Chairman to review --
2 **DR. ZIEMER:** It appears that --
3 **DR. MELIUS:** -- (Inaudible) we have to
4 schedule another conference call, I guess.
5 **DR. ZIEMER:** It appears that a workgroup, if
6 it did make comments, could not officially do so
7 on behalf of the Board.
8 **MR. ELLIOTT:** That is correct.
9 **DR. ZIEMER:** They could make individual --
10 they could reflect individual views, but it would
11 not be the view of the Board, necessarily, and
12 therefore the contractor would have -- be in a
13 difficult place of having to make a change that
14 somebody recommended that maybe the Board didn't
15 like.
16 **DR. MELIUS:** Again, what about this
17 clarification issue? If not, I think we then need
18 to at least schedule a couple of conference calls
19 just on a contingency basis to make sure that, you
20 know, we're not delaying things because just --
21 you know -- again, suppose we get in the
22 conference call, there's a -- we say part A of
23 your procedure we don't like, we think it should
24 be changed and so forth. Then do we need another
25 conference call to approve what they resubmit? I

1 mean --

2 **DR. ZIEMER:** It's problematical, depending on

3 the nature of the changes. If they're minor and

4 everybody agrees that if they make a certain group

5 of changes, they can proceed, that would be one

6 thing. If we said no, we want to see it again --

7 I mean that would be the Board's call at that

8 time. The issue of clarification -- I don't know

9 how we address that from a legal point of view. I

10 can't speak on behalf of the Board. The staff

11 can't. But if there's a question on, you know,

12 what does -- what does something say, we can

13 probably provide that kind of clarification. You

14 have a solution there, Larry?

15 **MR. ELLIOTT:** I don't know if I have a

16 solution, but I do have to speak to some

17 procurement ground rules here so that everybody's

18 operating out of the same hymnal. One procurement

19 ground rule would be that for the Board to

20 interact with its contractor, there needs to be

21 some designated or delegated point of contact, and

22 maybe Martha can speak to this. Maybe there are

23 ways that that can be done in, you know, like a

24 change order fashion where it's written -- written

25 direction is given to the Board.

1 What we want to avoid and what is a distinct
2 procurement ground -- ground rule here is that
3 individual members of the Board can't be giving
4 direction to the contractor, because that's when
5 we get into an unauthorized procurement, the
6 contractor gets confused about what the desire of
7 the Board is, and you don't want to be providing
8 direct-- what could be interpreted as direction.
9 So even a point of clarification might fall under
10 that. So I don't know if Martha can help me out
11 here or if there are change order procedures we
12 could employ here or -- or what. But this is a
13 knotty issue here that you're wrestling with.
14 **MS. DIMUZIO:** I think there are probably a
15 couple of different options that you have. You
16 could look at sort of doing a two-tiered approach
17 to a conference call where the Board meets first,
18 discusses what changes they think need to be
19 completed, and then a half-hour, 45 minutes later
20 the contractor comes into the conversation on the
21 conference call and -- and you discuss it and --
22 and you resolve it that way, and sort of that
23 approach because I think it's very important that
24 the Board has to -- and I'm sure it would -- but
25 with the contractor it has to speak with one voice

1 so that in a meeting where the -- in conference
2 call or a meeting where the Board and the
3 contractor's there, we don't want to be giving
4 them mixed messages, even with, you know, just
5 comments that happen through -- through the
6 conference call or whatever. So I think it would
7 be important that -- that the Board, you know,
8 consider sort of some type of a two-tiered
9 approach. But you have to -- you know, Larry's
10 right, you do have to be cognizant that we can't
11 provide specific direction to the -- to -- to the
12 contractor. Excuse me, one individual cannot
13 provide specific direction to the contractor
14 'cause we could just be getting into a phase where
15 they might be thinking that, you know, John Smith
16 of the Board said to do it this way and Jane Doe
17 of the Board said to do it this way and, you know
18 -- and how do we resolve this issue. So I think
19 it -- it is important that you guys resolve how
20 you're going to resolve issues. I mean there's
21 not a whole lot, from a procurement standpoint,
22 that I can tell you other than it has to be with
23 one voice, and clear direction and understanding
24 has to be given to the contractor on what they're
25 supposed to do. And they have to clearly

1 understand to whom they are receiving direction
2 from, you know, and -- and that, you know -- and
3 when there are questions and, you know, that kind
4 of stuff, how do we handle that, you know, I'm not
5 -- I'm not 100 percent positive, I'll tell you
6 that right now. I mean I think it's an issue.
7 **DR. ZIEMER:** Well, I'd like to ask this
8 question, and it may have ramifications beyond
9 this particular issue, but on something like this
10 where procedures are being developed -- the task
11 order's been awarded -- are the procedures not
12 okay for development in the open forum, or does
13 that require a closed session such as we had with
14 the cost proposal?
15 **MR. ELLIOTT:** No, that --
16 **DR. ZIEMER:** There's no proprietary
17 information at that point, is there?
18 **MR. ELLIOTT:** I think perhaps the way Martha
19 introduced that, with the Board talking and
20 discussing it and then bringing the contractor in,
21 might have led you to believe that you have a
22 closed session issue here. You don't have a
23 closed session issue. The tasks have been
24 awarded. You know, the money's set aside for
25 those tasks, you know, based upon the award, so

1 we're not talking a closed session. We're talking
2 in open session.
3 Another ground rule. A working group cannot
4 be delegated authority to take action on the
5 Board, so keep that in mind. An individual, the
6 Chair of the Board -- I think -- could be
7 delegated that authority. You could tell your
8 Chair, handle these kinds of situations on behalf
9 of the Board. A subcommittee can have that
10 delegated authority, as well.
11 **DR. ZIEMER:** Well, as far -- as far as the
12 open discussion thing is -- for example, it seems
13 to me that we could have that open discussion,
14 whether it be face-to-face or on the phone, and
15 the contractor could hear what disagreements there
16 are. It's only what -- the final decision that we
17 agree to that becomes binding. I mean it's like
18 any open meeting here. We may disagree on what to
19 do or how to proceed, and that's all in the public
20 forum, it's -- but if we finally agree to a
21 procedure and say okay, this -- and we vote on it,
22 if necessary, then the -- then the contractor
23 knows what's been approved. So I -- I would --
24 when I was hearing you say meet and talk first and
25 then have the contractor, it sounded like -- more

1 like a closed meeting.
2 **MS. DIMUZIO:** No, I'm sorry. No, I just
3 meant that, for clarification, when you were
4 speaking with the -- with the contractor that you
5 would -- you would know what procedures you wanted
6 or you would know what changes that you wanted to
7 -- to give to the contractor and therefore you
8 could --
9 **DR. ZIEMER:** No, but what I'm --
10 **MS. DIMUZIO:** -- provide that to them.
11 **DR. ZIEMER:** -- saying is we may not know
12 that till we talk and the contractor --
13 **MS. DIMUZIO:** That's true, too.
14 **DR. ZIEMER:** -- then will be there to hear
15 those debates, as will members of the public.
16 **MS. DIMUZIO:** Uh-huh.
17 **DR. ZIEMER:** Thank you.
18 **MR. ELLIOTT:** That is correct. Can I -- this
19 procedure for processing individual dose
20 reconstruction reviews that's been handed out, has
21 that been approved? I mean has the Board taken
22 action on this? Is this still a draft or is this
23 --
24 **DR. ZIEMER:** No --
25 **MR. ELLIOTT:** You have -- I thought you had

1 approved this.
2 **DR. ZIEMER:** We approved -- we approved all
3 the procedures two or three meetings ago. I
4 believe we did.
5 **DR. MELIUS:** Can I make a recommendation
6 before we get more confused?
7 **DR. ZIEMER:** To make what a recommendation?
8 **DR. MELIUS:** For processing this first part
9 of task order two. I think what we need to do is
10 to schedule a conference call of the committee
11 roughly a month from now that would do the -- do
12 our review. We need to discuss our comments on
13 what the contractor submits to us, either resolve
14 at that meeting -- I think we need, as a
15 contingency, to have a follow-up conference call,
16 say two weeks later or a week later, that -- that
17 would allow us to -- in case it's needed if they
18 need to resubmit something to the Board that is of
19 such a scope that we feel it cannot be delegated
20 to the -- you know, the Chair to review. And I
21 think that would take care of -- of this issue as
22 to -- I don't think we need a separate workgroup
23 to deal with it, though. I think we should ask
24 that the members of the original workgroup who are
25 the ones I think we may end up relying on -- on