



Department of Energy
Washington, DC 20585

September 20, 2007

The Honorable Bart Stupak
Chairman, Subcommittee on Oversight and Investigations
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Enclosed herewith is the Department's second production of documents responsive to the Committee's August 1, 2007 letter to Secretary Bodman relating to "a \$9.5 billion sole source contract proposal [submitted by Energy Solutions and the United States Enrichment Corporation (USEC)] to the Department of Energy (DOE) for the decontamination and decommissioning (D&D) of DOE's Portsmouth, Ohio, and Paducah, Kentucky, uranium enrichment plants" that Energy Solutions and USEC informed the Committee about. Also enclosed are answers to the questions contained in the August 1, 2007 letter as well as answers to three additional questions presented to the Department via e-mail from subcommittee staff on August 29.

As indicated in the enclosed prepared answers, the Department has determined that it is not interested in pursuing the proposed transaction and has informed Energy Solutions and USEC of this determination.

Many of the documents being provided to the Committee today contain information that is exempt from public disclosure because the information is subject to the attorney-client privilege, attorney work product privilege, is information that is considered business sensitive to the Department, or is subject to other legal privileges. Moreover, some of the documents generated by the Department contain information submitted by USEC or Energy Solutions that had been claimed as proprietary by those firms. By this production, the Department does not waive any applicable protections or privileges, and respectfully requests the Committee to maintain the confidentiality of the documents being provided to the Committee today and consult the Department before releasing or disclosing any of the documents, or the information contained therein.

Additionally, a few of the documents being provided to the Committee today contain information that has been marked as proprietary by USEC or Energy Solutions. Accordingly the Department respectfully suggests that the Committee may wish to consult USEC and Energy Solutions before releasing or disclosing any of those documents.



The Department is continuing to collect and review documents and will provide such additional documents to the Committee as promptly as possible.

If you have any questions, please contact me or Ms. Lisa Epifani, Assistant Secretary for Congressional and Intergovernmental Affairs, at (202) 586-5450.

Sincerely,

A handwritten signature in black ink, appearing to read 'Eric J. Fygi', with a long horizontal line extending to the right.

Eric J. Fygi
Deputy General Counsel

Enclosures

cc: The Honorable Joe Barton
Ranking Member
Committee on Energy and Commerce

The Honorable Ed Whitfield
Ranking Member
Subcommittee on Oversight and Investigations

September 20, 2007

Department of Energy Responses to questions contained in the letter, dated August 1, 2007, to the Secretary of Energy from the Honorable John D. Dingell, Chairman, House Energy and Commerce Committee, and the Honorable Bart Stupak, Chairman, Subcommittee on Oversight and Investigations, House Energy and Commerce Committee:

Question 1: “When did DOE receive the Energy Solutions-USEC proposal? Is DOE actively evaluating this unsolicited proposal? At what stage is DOE in the review process, and when does DOE anticipate it will complete this review?”

Response 1: Energy Solutions (ES) and USEC officials first presented to DOE officials in October 2006 the concept of an ES/USEC merger, commitment to build the American Centrifuge, and amending the DOE-USEC lease to transfer to the merged entities environmental liabilities, contracts, funds and uranium. Subsequently, in February 2007, USEC staff transmitted to DOE draft amended lease documents containing the proposed concept. DOE has evaluated the draft documents. We are informed that, on or about August 8, 2007, Assistant Secretary Dennis Spurgeon informed ES that the Department is not interested in pursuing the proposed transaction, and that subsequently he so informed USEC as well.

Question 2: “Who is reviewing this proposal? Please provide their names and titles.”

Response 2: No one is reviewing the proposal at the present time; see answer to #1. Prior to notifying ES and USEC that DOE was not interested in pursuing the proposed transaction, the below-identified representatives from the Office of the General Counsel, Office of Environmental Management and Office of Nuclear Energy reviewed the subject proposal.

For the Office of the General Counsel:

Mary H. Egger, Deputy General Counsel for Technology Transfer & Procurement
Mary B. Neumayr, Deputy General Counsel for Environment & Nuclear Programs
Janet Z. Barsy, Special Assistant to the General Counsel
Salo Zelermyer, Senior Counsel
Gena E. Cadieux, Assistant General Counsel for Procurement & Financial Assistance
Paul Gottlieb, Assistant General Counsel for Technology Transfer & Intellectual Property
Ben McRae, Assistant General Counsel for Civilian Nuclear Programs
Bruce Diamond, Assistant General Counsel for Environment
Susan Beard, Assistant General Counsel for General Law
Will Grant, staff attorney
Nisha Kumar, staff attorney

Bob Marchick, staff attorney

Additional staff attorneys prepared legal analyses of certain discrete legal questions identified by their supervisors but did not review the submitted documents themselves.

For the Office of Environmental Management:

James M. Owendoff, Director, Office of Project Recovery
Ines Triay, Chief Operating Officer
Mark Frei, Deputy Assistant Secretary, Program Planning and Budget
Anita Iacaruso, Program Analyst

For the Office of Nuclear Energy:

Dennis Miotla, Deputy Assistant Secretary for Nuclear Power Deployment

Question 3: “Has DOE been reviewing legal issues associated with modifying the DOE-USEC lease for purposes of using the lease vehicle as a vehicle for contracting D&D services? Has DOE been evaluating whether the Government can contract away its liabilities? If so, please provide a list of the legal issues DOE has been evaluating.”

Response 3: Yes. See the copies of draft legal analyses that have been provided to the Committee in response to the document request made in the Committee’s August 1, 2007 letter to DOE.

Question 4: “Has DOE prepared a defined scope of work for D&D at Portsmouth or Paducah?”

Response 4: No. However, DOE has prepared an Integrated Site-Wide Life-Cycle Baseline for the D&D of Portsmouth and Paducah.

Question 5: “Has DOE reviewed the economics and technical merits of this proposal? If so, what specific criteria is DOE using to evaluate this proposal?”

Response 5: DOE has prepared a rough order of magnitude cost estimate for the D&D of Portsmouth and Paducah for use as a comparison to the preliminary stated cost of the proposed transaction. A review of the technical merits of the proposal has not been conducted.

Question 6: “Does DOE believe it will receive a better value through this unsolicited proposal than through solicited bids obtained via a full and open competition?”

Response 6: DOE has not formulated any final opinion on this question. There is no need for DOE to do so because it has decided that it is not interested in pursuing this particular transaction.

Question 7: “Does DOE intend to solicit bids through full and open competition for the D&D of the Portsmouth or Paducah plants?”

Response 7: DOE is in the process of formulating an acquisition strategy for the D&D of the Portsmouth and Paducah plant sites.

Question 8: “In evaluating this proposal, is DOE considering the potential acquisition of USEC and the deployment of new centrifuge technology as added value to the Government?”

Response 8: DOE considers the deployment of new centrifuge technology in the United States to be of value because it will contribute to a thriving domestic enrichment industry supported by the private sector.

Question 9: “Which DOE officials have been briefed by Energy Solutions or USEC on this proposal?”

Response 9: Clay Sell, Deputy Secretary of Energy; Dennis Spurgeon, Assistant Secretary of Nuclear Energy; David Hill, General Counsel; James Rispoli, Assistant Secretary for Environmental Management; Ines Triay, Chief Operating Officer, Environmental Management; James Owendoff, Director of Project Recovery, Office of Environmental Management; Dennis Miotla, Deputy Assistant Secretary for Nuclear Power Development, Office of Nuclear Energy; Dennis Hosaflook, Program Planning Specialist, Office of Environmental Management; and Mary Egger, Deputy General Counsel for Technology Transfer & Procurement, Office of the General Counsel.

Question 10: “What are the names of all individuals working for or representing Energy Solutions, its subsidiaries, or financial backers who have met with or sought to meet with any DOE employees concerning the Energy Solutions-USEC proposal?”

Response 10: For Energy Solutions: R. Steve Creamer, President and Chief Executive Officer; Val John Christensen, Executive Vice President, General Counsel & Corporate Secretary; and Joseph G. Henry, Executive Vice President. USEC representatives that met with DOE employees on the proposal were: John Welch, President & Chief Executive Officer; Philip Sewell, Senior Vice President; Timothy Hansen, Senior Vice President, General Counsel & Secretary.

Department of Energy Responses to additional questions submitted to the Office of Congressional & Intergovernmental Affairs, Department of Energy, by e-mail dated August 29, 2007, from Richard Miller, Investigator, Subcommittee on Oversight & Investigations, House Energy and Commerce Committee:

Additional Question 1: “Is the USEC-Energy Solutions D&D proposal going to continue to be evaluated in parallel with the CD-1 decision to proceed with the development of a competitive procurement for D&D?”

Additional Response 1: The USEC-Energy Solutions proposal is no longer under consideration (see Response 1, above).

Additional Question 2: “Does the CD-1 decision to develop a competitive procurement at Portsmouth render the USEC-Energy Solutions proposal moot?”

Additional Response 2: See answers above.

Additional Response 3: “Please explain the significance of the decision to seek a competitive procurement and the DOE’s active consideration of the USEC-Energy Solutions proposal.”

Additional Response 3: The USEC-Energy Solutions proposal is not under active consideration by DOE.