

HANFORD ADVISORY BOARD

A Site Specific Advisory Board, Chartered under the Federal Advisory Committee Act

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Dave Brockman, Manager
U.S. Department of Energy, Richland Operations
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Re: Hanford Contract Request for Proposals

Dear Ms. Olinger and Mr. Brockman,

Discussion:

Three new contracts are proposed for much of the work the U.S. Department of Energy (DOE) proposes to accomplish for Hanford cleanup over the next five to ten years. DOE has issued Requests For Proposals (RFPs) for contracts whose work scope involves cleanup of Hanford's Central Plateau (Plateau Remediation Contract – PRC), High-Level Waste Tank operations and closure (Tank Operations Contract – TOC), and a Mission Support Contract (MSC).

The scope of work for cleanup contracts should primarily reflect the requirements of the Hanford Tri Party Agreement (TPA) and relevant hazardous waste management and cleanup laws. Contracted work scope should not pre-empt regulatory decisions nor presume which alternative will be selected prior to required National Environmental Policy Act (NEPA), Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or State Environmental Policy Act (SEPA) analyses of impacts and alternatives, with public review and comment. This is longstanding advice from the Hanford Advisory Board (Board).

The Board is concerned that the proposed scope of work as written into the RFPs does not reflect these fundamental principles. The Board is concerned that DOE could circumvent the TPA and the regulatory processes (e.g. NEPA) through the proposed contracts by unilaterally adopting plans without public review.

The Board is also concerned that the RFPs direct the contractor to address hundreds of contaminated soil sites through “Specified remediation method: Closure-Cover.” This contradicts the Board’s previous advice and the intent of cleanup laws, and presumes the outcome of NEPA and other environmental analysis. Contracts should provide incentives for contractors to meet the requirements of the TPA and environmental laws as decisions evolve.

The Board has previously advised that “remove-treat-and-dispose” should be the default action for most buried and other sub-surface waste at Hanford, including transuranic (TRU) wastes, other long-lived radioactive or toxic wastes and tank leaks. Waste left in place under an engineered barrier or “cap” should be the exception – not the rule. Cleanup laws specify that retrieval and treatment, as permanent remedies, are to be preferred and utilized to the extent practicable before capping without retrieval and treatment.

In addition, the Government Accountability Office (GAO) reported in recent months that DOE was not planning or budgeting to retrieve the great quantities of TRU buried before 1970. Thus, the Board is concerned that DOE’s proposed contract work scopes, reflected in the RFPs, presumes that most of these TRU and other long-lived buried radioactive and hazardous wastes will not be retrieved; tank leaks will not be remediated; and cribs, ditches and ponds will not have waste retrieved from them.

Major decisions regarding how high-level radioactive mixed wastes stored in Hanford’s tanks will be treated and disposed are to be made based upon analyses (with public comment) in upcoming environmental impact statements, pursuant to NEPA. Contracts should not pre-empt or prejudice such analyses. Contractors should be notified that they will be directed to propose specific engineering proposals as well as cost and schedule estimates for technologies selected.

Contract work scope should be defined to support the range of reasonable alternatives under consideration. However, the work scope for the TOC presupposes selection of specific alternatives for treating or not treating wastes.¹

¹ For example, the TOC work scope specifies that the contractor shall:

- Build and operate a 4 line Bulk Vitrification Facility in 200 East;
- Build and operate a Pre-Treatment Plant and Bulk Vitrification Plant in 200 West (J.11-16);
- Continue operation of the Demonstration Bulk Vitrification Plant (DBVP) beyond its permitted one year of operation as a research and development project;
- Grout residues and fill tanks without characterizing and remediating leaks and residues;
- Only need to “reduce the groundwater impacts of long-lived mobile radionuclide contaminants of concern from past tank leaks by 90 percent” (TOC J.11-6).

Issuing contracts with such specified work scope, and presuming that wastes may be reclassified, disregards the NEPA and regulatory processes.

Among the marked improvements in the current RFPs over the initial published drafts is the change from specifying that up to ten percent of the total contract cost will be available as award fee payments to the TOC and PRC contractors. The current RFPs revise this to have the offerors propose fee in the five to ten percent range, which we hope will encourage competition and be an element of evaluation. Ten percent fees are not appropriate for cost-reimbursement contracts where the contractor places no capital at risk and does not invest in potential technologies.

Other improvements from the draft RFP which reflect prior Board advice include an increased emphasis on health and safety, including fee loss for specific serious safety violations, and failure to use Integrated Safety Management Systems (ISMS). The Board remains concerned that fee loss must be adequate to truly deter serious safety and environmental violations or injury, or for failure to adopt and implement ISMS.

Advice:

The RFPs should be amended and/or contract negotiations should reflect the following Board advice:²

1. The contracts should not set expectations different from or pre-empt the TPA and regulatory processes. This is especially true for the decision on how to cleanup soil or groundwater sites; e.g., the contract RFP should not presume or call for use of caps without retrieval and treatment of waste.
2. The scope of work for both the TOC and PRC should include retrieval of contaminants and wastes in the soil to the extent practicable, with submission of costs and plans to reflect this expectation and be consistent with state and federal laws. For waste sites including tank leaks where regulators have not determined that capping without retrieval is protective and a legally adequate remedy, the RFPs should be amended to replace the scope of work and basis for costs from capping without retrieval of wastes with language reflecting the probability that retrieval to the extent practicable will be required.

² Proposals have been submitted for the MSC RFP, therefore this advice would apply to MSC contract negotiations as well as to the outstanding TOC and PRC RFPs.

3. The RFPs should be amended to:
 - Scale award fees to contractor financial risk and innovation.
 - Provide incentives for contractors to invest their own funds in technology (with independent decision on use).
 - Not presuppose retrieved wastes will be disposed only at Hanford to decrease the total contaminant risk and burden to the Hanford site.
 - Subject cost and schedule overruns or legal violations due to contractor performance to clearly defined losses of fee.

4. The RFPs should be amended to reflect further emphasis on Worker Health and Safety.
 - RFPs should mandate that all contractors will utilize one uniform sitewide set of compliant Beryllium surveillance, access and medical removal policies.
 - Violations of worker health and safety or environmental rules / laws should have a clear fee loss expectation. This loss of fee must be high enough to deter a contractor from violating rules; e.g., more than ten percent of fee for serious or multiple violations.
 - Evaluation factors for Health, Safety and Environment in RFPs are inadequate and should not be limited to egregious and self defined events.

5. TOC work scope should be amended to accommodate support of design and eventual waste transfer to facilities using whichever technologies are chosen for supplementing Low Activity Waste (LAW) vitrification, which may be additional LAW capacity, following full NEPA and regulatory processes.
 - The RFP should provide for an independent evaluation of bulk vitrification.
 - The RFP should be amended to ensure competition for the design and construction of supplemental treatment facilities following the NEPA process.
 - The RFP should reflect all alternatives for retrieval and treatment/disposal of tank waste, rather than specifying, for example, retrieval of waste for disposal as TRU wastes.
 - The RFP should not include the construction of a HLW shipping facility for shipments to Yucca Mountain, since Yucca will not open prior to 2020 (and the TOC, with maximum extensions, ends before 2019).
 - The RFP should not presume that DBVP (permitted as a one year operational research and development permit) can be re-permitted

for long term operation without significant modifications and brand new processes, including NEPA.

The Board looks forward to the establishment of contracts that contribute to the cleanup of Hanford and to learning how the Board's advice was used.

Sincerely,



Susan Leckband, Chair
Hanford Advisory Board

This advice represents HAB consensus for this specific topic. It should not be taken out of context to extrapolate Board agreement on other subject matters.

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