

December 7, 2001

Keith Klein, Manager
Department of Energy, Richland Operations Office
P.O. Box 550 (A7-50)
Richland, WA 99352

Re: River Corridor Cleanup Contract Draft Request for Proposals

Dear Mr. Klein,

The Hanford Advisory Board (HAB) previously adopted, in April and June 2001, advice with principles for Hanford's major new River Corridor Cleanup contract. Cleanup of the 50- mile Columbia River Corridor to unrestricted use standards by 2011 and protection of the Columbia River and the Corridor's ecological and cultural resources has been a long-standing core public value. DOE-Richland (DOE-RL) has now issued a draft Request for Proposals (RFP) with key contract terms that embody new concepts and reflect DOE-RL's proposed cleanup and management strategies. The HAB advises DOE-RL to make the changes reflected in this advice prior to issuing a final Request For Proposals and awarding a contract.

Two core principles were embodied in our April advice (HAB Advice #115). Those principles are shown below as (a) and (b) along with our assessment of the degree to which the draft RFP reflects those principles.

- a) "The contracts should not have target 'endpoints' for the contractor that differ from TPA milestones or regulatory requirements for clean-up." (HAB Advice #115, April 2001)
 1. The draft RFP properly allows for Tri-Party Agreement (TPA) milestones for schedule of cleanup along the River Corridor to be reflected in the contract scope and schedule for Phase I. However, the contract calls for a Phase II option based on a specific schedule that is not currently reflective of TPA milestones and publicly agreed to schedules and priorities. The milestones in the Tri-Party Agreement should drive cleanup. This contract should reflect TPA milestones and not assume that milestones will be changed. In no case should the public process required by the TPA regarding changes to TPA milestones be denied, including any proposal to defer TPA work to provide funding for non-TPA work.

2. The contract should not be referred to as a “closure” contract. Even at the end of the proposed Phase II, under the DOE-RL baselines and draft RFP, the full-scale cleanup of the contaminated groundwater for the covered areas will not have even begun. We advise DOE to:
 - Change the name of the contract to River Corridor soil and facility cleanup “scope-of-work” contract, and do not refer to it as achieving “closure”.
 - The contract will not prepare the 100 or 300 Areas for deletion off the National Priority List – it is misleading to refer to preparing petitions for deletion, and such references should be eliminated unless the scope is expanded to include final groundwater and soil remedies for areas.
 3. The HAB recommends that DOE-RL integrate the groundwater work in the areas covered by the River Corridor contractor, rather than having groundwater in the scope of work of a different contractor. Protection of groundwater is one of the prime drivers of soil remediation, and separating these functions may not be wise, and may increase costs. If groundwater were to be included this contract could be a genuine closure contract.
 4. Different priorities for major cleanup projects with high costs will cause competition between milestones if there is not enough money for all baseline work including essential infrastructure, and contractual obligations. The HAB is concerned that the way this contract is structured may create obligations to do this contract’s scope of work ahead of other projects, e.g., Plutonium Finishing Plant, K Basins, or groundwater actions.
 - The RFP should ensure that: i) the contract’s target budget is adequate for all prospective TPA work; ii) identify trade-offs/priority work if funding is not adequate; and iii) identify mitigation plan if major projects are not completed on schedule.
- b) “Successful implementation of the closure contract concept requires well-defined and characterized projects for which target costs and fee can reasonably be established. This concept is not appropriate for many projects along the River Corridor. ...Existing characterization information may not be adequate for a closure contract. These uncertainties will drive either high levels of contingency within contractor estimates (inflated costs) or cost overruns - both of which are unacceptable to the HAB.” (HAB Advice #115, April 2001)

1. Target costs, which the draft RFP uses for fee and profit determination, are proposed to be based on inadequately characterized facilities and burial grounds/ soil disposal sites, especially for the 300 Areas in Phase II.
2. Phase I is essentially a cost reimbursement contract for the scope of work. The scope and cost for Phase I work is better characterized than the Phase II scope. However, the target price to be submitted by bidders has to include a total target price that includes Phase II scope. This will unnecessarily increase contingency and the total price estimated. It would be more appropriate to limit this requirement to Phase I scope, and to base profit and fee calculations from costs saved or overrun on this better defined Phase I scope.

Based on the Board's review of the Draft RFP, we offer the following additional advice:

- c) Protecting the health and safety of the Hanford workforce is a top priority of the HAB. The Integrated Safety Management System (ISMS) provides this protective umbrella at our site through worker participation in job hazard analyses in the work planning process integrated with medical surveillance for all potentially exposed workers and a comprehensive feedback mechanism to facilitate preventive interventions when needed. To function, the ISMS must be compulsory for all site workers with a unified system across the site. This unity of function is particularly important for medical surveillance and subsequent triggers for injury and illness prevention. This contractor must be required to participate in the existing site ISMS utilizing the same medical protection examinations and feedback mechanisms for risk reduction as all other site contractors.
- d) As currently proposed, the contractor would keep 30% of savings from completing work at a cost lower than target costs, in which case the HAB advises that the contractor sacrifice an equal percentage for failing to meet the target costs. A maximum fee for the project must be included in the contract.
- e) Required times on the project for key personnel should be lengthened, in particular for the CEO. A two-year commitment is not adequate for continuity and achievement of goals after transition.
- f) DOE should be responsive to bidders' concerns through a critical review and adjust the RFP accordingly to encourage competition.

- g) The Draft RFP does not commit to the contractor having clearly stated fee amounts/percentages-at-risk if found by the Labor Department or a court to have retaliated against workers raising health, safety or environmental issues, nor does it commit the contractor to offer employees the ability to seek review of such concerns by the Hanford Joint Council for Resolution of Significant Employee Concerns. It is not adequate to only state that the contractor should follow DOE's Employees Concern Order. The Board and Openness Workshops have previously advised that contracts include such commitments.

Sincerely,

Todd Martin, 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.

cc: Jessie Roberson, Asst. Secretary of Energy, Department of Energy
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Harry Boston, Manager U.S. Department of Energy, Office of River Protection
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