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Re: Principles for New and Existing Hanford Cleanup Contracts

The Hanford Advisory Board (HAB) has provided many pieces of advice in the past regarding contracts. The following not only reiterates some of that previous advice, but also provides additional guidance.

1. When entering into new contracts and performance measures, the U.S. Department of Energy (DOE) must manage its contract terms and baselines to ensure compliance with the schedule contained in the Tri-Party Agreement (TPA). Contracts should authorize and direct the contractor to perform the full scope of work included in the TPA. DOE must not make unilateral changes in work scope or schedule, which are inconsistent with the TPA.
 - a) Contract decisions should never pre-empt regulatory and TPA processes, which include public review and comment of proposed changes to the TPA.
 - b) If DOE is actively seeking a change in its legal obligations under a consent order, decree or agreement, this can be noted in the contract, and be within the allowable scope of work if the change to the agreement is approved.
 - c) The scope of work for a contract should not direct the contractor to perform work that is not required to comply with either the TPA, or any other legal requirement, *as a higher priority than work to meet the milestones of the TPA*, with the exception of work needed for safety and continuity of operations.
2. Work to comply with all TPA and other legal requirements should always be prioritized ahead of other contractually authorized work, including stretch and

superstretch incentive fee work. Contractors should not unilaterally determine, without DOE approval, which work authorized by the contract they will pursue. DOE must consult with the regulators, HAB, and the public before approving such work.

3. Objective performance measures should be relied on for fee determination and use of subjective evaluation should be reduced.
4. All contracts should require independent validation of all baseline costs to insure they are necessary and reasonable, including indirect overhead costs (see advice #77, 85 and 87).
5. Selection criteria for new contractors should ensure that institutional knowledge is retained and efforts are integrated with other related work.

It is the Board's recommendation that DOE representatives meet with the HAB's Budgets and Contracts Committee to discuss disagreements in understanding of existing contract requirements. The HAB requests that DOE-RL and DOE-ORP prepare a complete matrix of all TPA milestones and other compliance schedules, and the schedule of each contractor to achieve these milestones and requirements to facilitate the discussion with the Budgets and Contracts Committee and hopefully resolve this issue.

Very truly yours,

Todd Martin, Chair
Hanford Advisory Board

cc: Carolyn Huntoon, Department of Energy Headquarters
Keith Klein, U.S. Department of Energy
Chuck Clarke, U.S. Environmental Protection Agency, Region 10
Tom Fitzsimmons, Washington Department of Ecology
Wade Ballard, Deputy Designated Federal Official
The Oregon and Washington Congressional Delegations
Michael Gearheard, Environmental Protection Agency

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.