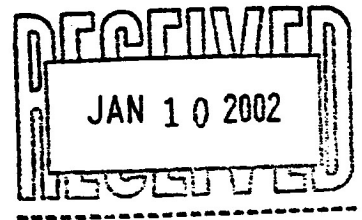




Department of Energy
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

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Agenda Item #3



02-SEB-RCC-0013

JAN 7 2002

Mr. Todd Martin, Chair
Hanford Advisory Board
1933 Jadwin, Suite 135: G1-04
Richland, Washington 99352

Dear Mr. Martin:

RIVER CORRIDOR CLEANUP CONTRACT DRAFT REQUEST FOR PROPOSALS

Thank you for your letter of December 7, 2001, to me regarding the River Corridor (RC) draft Request for Proposals (RFP). The U.S. Department of Energy, Richland Operations Office (RL) values comments from the Hanford Advisory Board (HAB) on the RC RFP. The enclosure to this letter recaps each point made by the HAB and is followed by the RL response, which should convey some insight into the reasoning for the approach taken in the RFP. If you have questions, please contact me, or your staff may contact Beth Bilson, Assistant Manager for the River Corridor, on (509) 376-6628.

Sincerely,

Keith A. Klein
Manager

(for)

Enclosure

HAB

- 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.

RL

1. The DOE-Richland Operations Office and the regulators are in discussions regarding milestones that affect the RC RFP, and the results of these discussions will be available for public comment early in 2002. The final RFP will be consistent with the DOE's best knowledge of the milestones as of the RFP date. As an aside, there is no specific schedule for the start of Phase II. Phase II may begin once the prerequisites have been satisfied and there is sufficient funding available. The Phase II prerequisites could be completed early in Phase I.

HAB

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.

RL

2. We believe that the word "closure" best captures our intent for this contract. The scope of work has been selected so as to ensure that all items will be completed, or "closed." Therefore, we are seeking a contractor who will get the work done effectively and then expeditiously depart the site, having no incentive to remain. All aspects of the contract, particularly the Cost Plus Incentive Fee (CPIF) contract type, have been structured with this in mind.

HAB

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.

RL

3. The DOE had several reasons for not including groundwater in the scope of this contract. First, the current groundwater remediation approach is being reviewed and may be replaced with more effective and efficient processes. Although the DOE is not specifying processes for remediating the RC, we are attempting to ensure that the processes are settled and adequately understood to support CPIF contracting. Second, a significant advantage the Hanford Site enjoys over other DOE closure sites is the continuing presence of a Site Management Contractor (SMC). This enables us to assign work in a fashion that optimizes the use of the available contracted resources. This particular assignment is an example of the use we have made of that flexibility. Finally, our experience to date with the overall groundwater/vadose zone project has convinced us that it would be best handled in an integrated fashion rather than piecemeal across two or more projects. Groundwater remediation will continue under the SMC per existing groundwater clean-up interim Records of Decision.

HAB

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 1) 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.

RL

4. The competing priorities at the Hanford Site have heavily influenced the content and structure of the draft RFP. The approach of using base and increment funding cases was chosen in part to provide DOE the flexibility to address and balance competing priorities. Additional flexibility is afforded by phasing the project.

HAB

- 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 on 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 based or overrun on this better defined Phase I Scope.

RL

- 1.-2. The RFP is being revised to remove the requirement for a target cost for the Phase II work scope.

HAB

- 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 the 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.

RL

- c) If the work is not performed safely, it will not be performed at all. The so-called ISMS clause, DEAR 970.5223-1, Integration of Environment, Safety, and Health into Work Planning Execution, has been invoked in the draft RFP as Contract Clause I.86. The draft RFP Clause B.11 on Conditional Payment of Fee also addresses the emphasis placed on ES&H performance. ES&H requirements are further defined in Subsection C.5.

HAB

- 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.

RL

- d) The result of using a different sharing proportion for the overrun case is to cause the incentive to be operable over a broader range of possible overrun conditions. DOE believes this is a worthy objective, suitable for use in the administration of this contract.

HAB

- 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.

RL

- e) The DOE desires to have the most talented personnel available assigned to the project. Requiring the commitment period to be extended beyond two years will have the effect of decreasing the pool of personnel willing to take these assignments.

HAB

- f) DOE should be response to bidders' concerns through a critical review and adjust the RFP accordingly to encourage competition.

RL

- f) DOE has made a concerted effort to ensure that prospective offerors have had an opportunity to discuss their concerns with the approach taken with the acquisition. One-on-one sessions with industry were conducted in March 2001, and again in November 2001. Ample time was provided for prospective offerors to study the draft RFP and provide their comments to DOE. Questions and answers have been placed on the RC website as are interim decisions that have been made concerning this RFP. Although the DOE does not necessarily agree with all the issues that have been raised through this process, it has been attentive and given them all careful consideration.

HAB

- 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.

RL

- g) DOE Order 440.1A, Worker Protection Management for DOE Federal and Contractor Employees, and the Contractor Requirements Document for DOE Order 442.1A, Department of Energy Employee Concerns Program, have been invoked in Section J, Appendix 2, List B. These Orders, together with the rights to inspection in Section E, Clause B.11, "Conditional Payment of Fee," and the enforcement provisions in 10 CFR 820 are the substantive mechanisms for addressing employee concerns.