

**Department of Energy, Richland Operations Office (RL) Response to the
“Hanford Openness Workshops October 1997--May 1998
Final Report, Summer 1998”**

The Hanford Openness Workshops (HOW) conducted between October 1997 and May 1998 were part of a continuing collaboration among the U.S. Department of Energy (DOE), Richland Operations Office (RL), the Consortium for Risk Evaluation with Stakeholder Participation (CRESP), the Oregon Office of Energy, the Washington Department of Ecology (Ecology), and regional Tribal and citizen representatives to partially fulfill RL's commitment to institute DOE openness initiatives. The report on the results of these workshops, *Hanford Openness Workshop October 1997-May 1998 Final Report* (TRAC-0818), discusses these initiatives (see Section II, “A History of Openness at DOE”) and makes a number of recommendations concerning implementation of the initiatives. The recommendations are grouped according to the audience to whom they are directed (DOE Headquarters, RL, or both); hence, in the responses to these recommendations below, the numbers are not sequential, but reflect the numbers assigned in the original report.

1. Continue the HOW (Hanford Openness Workshops).

RL commits to fund the HOW in fiscal year (FY) 1999 in an amount not to exceed \$20K. Unexpected HOW funds from FY 98 will be the initial source. The HOW's ability to be cost effective is appreciated.

2. Include incentives of five to six percent for achieving openness goals and penalties for not achieving goals in contracts.

RL understands that fee incentives for openness is an important issue with the HOW. It arises in several of the report recommendations. RL's letter to the HOW of March 30, 1998, describes the method RL has determined to be most effective to ensure, and evaluate performance related to openness by the Management and Integration (M&I) contractor, Fluor Daniel Hanford (FDH). The Performance Expectation Plan (PEP) for the MEGA Incentive is the contractual vehicle in which RL articulates its expectations of FDH, including its management and performance of its total workscope as set forth in the official work plans. These are the expectations that are not otherwise covered by the critical few, project-specific performance expectations. RL has determined the PEP is an effective tool to obtain contractor performance in this area. In FY 99, RL has allocated 30% of the total available FDH fee pool to the MEGA Incentive.

RL does not agree with the HOW conclusion that substantial fee is the only way to incentivize a contractor. The PEP allows RL flexibility to evaluate performance in areas like openness that are often difficult to measure. Specific measures, even if they could be clearly defined, would be constrictive; they would provide no encouragement for the contractor to think "outside the box" to develop more creative solutions to openness issues.

For example, the HOW's proposal to Secretary Peña on November 14, 1997 suggests the following areas for performance measures: creating a certain work culture, declassifying relevant records, access to relevant records, and meeting public involvement commitments. These examples,

which paraphrase the HOW proposals, illustrate the difficulty in measuring behaviors that are open to interpretation. While these suggestions represent exemplary goals, they lack specificity and tangible, measurable outcomes. The PEP works toward accomplishing the same goals in a way that is manageable and encourages contractor resourcefulness.

Strengthening contractor openness expectations is a continuing goal, and those have been strengthened these in the FY99 PEP. In fact, some of the new or expanded elements in the FY99 PEP reflect the HOW's expressed interests. As indicated in its March 30, 1998, letter, RL will continue to seek improvement and asks that HOW continue to help refine the PEP with specific recommendations.

Following are examples of the expectations from the FY99 PEP that both RL and the HOW have identified with openness:

B9 Employee Concerns Office

"Assure an employee survey is conducted that includes questions on the Hanford site safety culture and the effectiveness of the employee concerns program."

B17 External Affairs

"Ensure that Hanford communications are aligned and consistent with Departmental Openness initiatives. The Contractor shall ensure that stakeholders (including employees) have access to timely and accurate information and are provided with opportunities to offer meaningful input into the DOE decision-making process."

"Manage Hanford communications efforts to ensure information products or services are aligned properly with Openness."

"Ensure that Hanford communications efforts result in both timely and accurate distribution of information to all stakeholders."

"The Contractor shall coordinate with the major subcontractors to identify and solicit information that can be placed on the Hanford Home page to facilitate public access."

"The Contractor shall ensure that project interactions with Tribal Nations are open, up-front, and often."

"The Contractor shall support Openness at Hanford by working to maintain and enhance the electronic resource center on the Hanford Home Page on the Internet."

In addition, there are several elements of the PEP that relate to health and safety -- too many to mention here. When processing is completed, the final FY99 PEP (Contract Modification M057) will be available on the Web at <http://www.hanford.gov/phmc/contract/mods/modlist.htm>. The first three sections also provide a better understanding of how the PEP works.

Although RL has no plans to eliminate the elements in the PEP related to openness in favor of the five to six percent incentives HOW suggests, it commits to considering all reasonable HOW recommendations for future iterations of the PEP. In addition, although RL cannot delegate its

evaluation authority, be aware that the PEP allows for consideration of evaluations from third parties. If the HOW chooses to comment during the assessment period, the program managers of affected RL programs can consider those comments in their evaluations.

3. Provide award fees and penalties tied to contractor and subcontractor performance in providing timely public, regulator, state, and Tribal notification of and access to records.

If "timely public, regulator, state, and Tribal notification of and access to records" is an openness goal, then this recommendation appears to be a subset of recommendation 2. RL believes that timely access to records is a mutual goal and has addressed fees in detail in the response to recommendation 2.

4. Add contract performance measures to give incentives to contractors who identify records relevant to pending decisions/projects, provide for access in a timely manner, and meet meaningful public involvement goals. Include failure penalties as a percentage of project fee.

Again, this recommendation appears to be a subset of recommendation 2. Please see the discussion of contractor incentives in the response to recommendation 2 above.

5. Design early and comprehensive public comment processes, including meaningful early notice, use of advisory boards, and seeking input before internal decisions are made.

RL believes that it has implemented this recommendation by development of and adherence to its Public Involvement Policy, located on the Web at <http://www.hanford.gov/doe/pubinvolve/pip/pip.htm>. This HOW recommendation closely paraphrases the goals and core values of that policy. RL recognizes, however, that public involvement is not an exact science and is open to suggestions to improve the process described as follows:

- The Richland Operations Office, in conjunction with Ecology and the U.S. Environmental Protection Agency (EPA), goes beyond the legally mandated requirements for public involvement because it believes, as the HOW does, that public involvement is crucial to the cleanup of Hanford. It is RL's objective to provide complete, understandable, consistent and accessible information to the public. The Community Relations Plan of the Tri-Party Agreement outlines numerous activities and methods by which anyone can get involved with cleanup decisions. (See the Community Relations Plan on the Web at <http://www.hanford.gov/crp/toc.htm>.)
- On a quarterly basis, RL, EPA, and Ecology also meet with the Hanford Advisory Board (HAB), representatives of the State of Oregon and local governments, and others interested in public involvement to discuss current and future issues. Out of these meetings have come recommendations in several areas, such as outreach activities, coordination of multiple public involvement activities, enhancing communication, the amount of public involvement needed, as well as programmatic issues. Every three months, a "Six Month Look Ahead/Look Back" is published, which provides an overview of anticipated public involvement activities. Stakeholders are asked to provide recommendations for future public involvement activities and to evaluate past public involvement activities. Information on a myriad of Hanford issues (including Hanford

Advisory Board activities) is also accessible over the Internet on the Hanford Home Page at <http://www.hanford.gov>.

- The public involvement planning meetings, quarterly meetings, special meetings and workshops are open to the public, and announced through the media and mailings. RL strives to conduct public involvement planning activities so that stakeholders have the opportunity to participate in an issue in advance of a public comment period. As a result more stakeholders are involved, and involved earlier in the process. Be aware that when the associated DOE Headquarters program office establishes the level of public involvement, RL staff acts in an assisting capacity to the lead Headquarters office.

If there have been incidents wherein the HOW feels that RL could have done a better job, please make specific suggestions for improvements directly to the Public Involvement Program Manager, Gail McClure. Please identify successful public involvement efforts to Ms. McClure as well, so that RL can try to learn from them.

6. Meet requirements for records access and notification, early disclosure of problems, safety issues, past releases, conflicting professional opinions, and other relevant information.

This recommendation appears to request that RL comply with existing statutes, orders, and policies. RL feels that it has an excellent, although not perfect, record for such compliance. If the HOW could provide specific examples of requirements not met and circumstances under which they were not met, RL will address them.

7. Define adequate notice as “notice designed to inform someone reasonably desirous of notice of the impact to his or her interest(s), of the potential risks, or impact to values of stakeholders.”

Please see the response to 5 above. Although the RL Public Involvement Policy does not include a "definition of terms" section, RL believes that the HOW's definition is reasonable and represents the intent of the existing policy; RL has implemented the spirit of this recommendation. As indicated in the response to recommendation 5, there have been times when conditions were such that this goal could not be met, but that does not make it less valuable. Future revisions to the Public Involvement Policy provide an opportunity to formalize this definition of "adequate notice," and RL will consider this suggestion should the policy be revised.

8. Evaluate adequacy of public participation by project or decision through review conducted by a panel including states, Tribes, and stakeholders (review is advisory, so DOE does not delegate its contract fee-review authority). Evaluate based on specific measures and expectations outlined in HOW performance measures concept presentation.

The effectiveness of the public involvement process is evaluated annually. Surveys are sent to the Tri-Parties, the HAB, and DOE staff requesting suggestions for improvement, as well as feedback on how public involvement needs have been met. RL incorporates recommendations, when feasible, into future activities.

At the request of the HAB's Dollars & Sense Committee, copies of the PHMC PEP and performance agreements were provided to Committee members. Briefings also outlined the goals and objectives of the programmatic performance expectations. Members of the HAB also have reviewed prior year performance. Though RL feels that it has implemented this recommendation, the Public Involvement Program Manager, Gail McClure, is open to considering specific recommendations for improvement.

9. To ensure a retaliation-free workplace and zero tolerance of retaliation, have standard contract clause for projects to lose all incentive fees and to receive a standard penalty for any adverse external adjudicatory finding of retaliation or discrimination.

RL mandates an environment of zero tolerance for retaliation for Hanford workers. The presidents of the major Hanford contractors and the RL Manager have signed a policy statement committing to an open environment where employees are free to raise any issues without fear of retaliation. RL is in the process of revising its implementing directive (RLID) that reinforces this policy in its requirements that contractors maintain a safety-conscious work environment. In addition, the protection of individuals raising concerns is an important aspect of the Integrated Safety Management System (ISMS) being implemented at Hanford (see the ISMS Web site at <http://www.hanford.gov/esh/programs/isms.htm>).

This recommendation expands on the recommendation relating to fee for performance (see the response to recommendation 2).

13. Require DOE management to promote a safety-conscious work environment.

Please see the response to recommendation 19, which addresses implementation of a safety-conscious work environment as well as other management tools and employee communications that RL uses to promote such an environment. RL has implemented this recommendation at all employee levels from staff to senior management. After the HOW has considered the response to recommendation 19, please make specific suggestions to enhance or improve this important program.

14. Suspend and/or revoke contracts if a contractor has engaged in whistleblower reprisals or maintained an environment hostile to employees reporting concerns.

Given RL's zero tolerance policy, as well as other administrative and legal remedies available to those who feel the policy and the process inherent in it are inadequate, suspension or revocation of a contract would likely affect clean-up requirements to an unacceptable degree. Given the thousands of employees who work at the Hanford Site, no policy can guarantee that an act of retaliation will never occur. However, RL is open to specific recommendations to improve either the policy or its implementation.

15. Emulate and incorporate NRC methodology relating to a "safety-conscious work environment" for protecting employee concerns at Hanford.

The RL Employee Concerns program is in agreement with this recommendation and is revising its employee concerns RLID to incorporate the Nuclear Regulatory Commission (NRC) philosophy on

"safety-conscious work environment." This philosophy will also be part of the ISMS referred to in the response to recommendation 9.

16. Address "hot spots" based upon the investigative reports of the Labor Department and the news media accounts of reprisal--and where there may be a strong perception among employees that there will be a reprisal.

The RL Employee Concerns program has implemented this recommendation. This program reviews all activity involving alleged reprisals for potential "hot spots," regardless of the source of the information.

17. Continue to provide training for supervisory employees and other workers by employee concerns experts.

This recommendation has been implemented. As indicated in the HOW report by the Employee Climate for Openness Working Group, Billie Garde, employee advocate and former whistleblower, provided training for contractor supervisory employees and others. In addition, FDH has developed a video-based training program entitled "Employee Involvement; the Path to Zero Accidents," which includes a section on employee participation in addressing safety concerns.

18. Continue to support the Hanford Joint Council for Resolving Significant Employee concerns as well as other mechanisms, such as the Differing Professional Opinion process.

This recommendation has been implemented. Although it is not a member, RL will continue to support the Hanford Joint Council. In addition, for federal employees at Hanford, RL has instituted a Differing Professional Opinion/Differing Professional View (DPO/DPV) procedure to resolve conscientious professional viewpoints that may differ from prevailing management positions. This procedure is modeled after a similar procedure used by the NRC. The procedure, described in RL Policy Directive (RLPD) 340.1, became effective on February 4, 1998. It is available on the Hanford Home Page at <http://www.hanford.gov/doe/direct/rldirect/rldp340-1.htm>. Also, DOE Headquarters has a draft Order that includes a section on Alternative Dispute Resolution and Concern Review Panels. It is available on the Web at <http://www.explorer.doe.gov:1776/htmls/draft.html>.

All RL staff were informed of the availability of the program by an employee announcement. Although this program currently is limited to federal employees, there is a draft order at DOE Headquarters that would establish a Department-wide employee concerns program that would incorporate elements of the DPO/DPV process.

19. Develop effective employee communication avenues to be used to inform employees of their rights, to dispel rumors, and to provide factual information about proposed actions or actions that have been taken.

RL feels strongly that it has implemented this important recommendation by using both traditional as well as innovative communications tools. The employee news weekly publication, the Hanford REACH, is disseminated to all employees and has just recently been placed on the Hanford Home Page (see <http://www.hanford.gov/reach/index.html>); individual contractors and RL have their

own internal news letters as well. The RL and contractor external affairs offices issue messages of immediate importance to their employees, and the RL Manager has the capability to issue e-mail messages to all Hanford employees. These messages in the past have addressed a variety of issues including rumors, incidents, worker safety, lay-offs, reorganizations, and the RL budget. Other communications methods include safety "tailgate" meetings, union meetings, and ongoing training.

Safety and employee rights communications deserve particular attention. RL and the major Hanford contractors have established a variety of policies and programs within the ISMS framework to create an environment in which safety issues are broadly institutionalized across the site (via both the Lessons Learned program and the sitewide safety councils). All organizations are expected to encourage specific issues to be raised without recrimination (i.e., a safety-conscious work environment). Many of these policies and programs are outlined in the May 11, 1998, letter to the HAB responding to the HAB's consensus advice #81, "Hanford Safety Concerns" (included in the attachments). In summary, the following policies and programs exist to maintain the free and open flow of important safety information and specific concerns:

Specific Policies on Worker Involvement and Stop Work Authority

In 1997, RL, in partnership with the HAB, conducted a "DOE Worker Involvement/Empowerment Survey." As indicated in this survey, the willingness of the individual to exercise stop work authority was not at a level acceptable either to the principal contractors or to RL. Therefore, Hanford Site management has established a clear expectation through the Hanford Site "Stop Work" Responsibility Policy (see May 11, 1998, letter attached).

In addition to this policy, the Presidents' Zero Accident Council (PZAC) sponsored the development of a rollout "kit" on worker involvement and empowerment. The development of this campaign was a joint effort between the PZAC and the union (Hanford Atomic Metal Trades Council-HAMTC) as a re-affirmation of the basic principles of stop work responsibility and worker involvement. Ingrained in these policies are the employee's fundamental rights to information.

Hanford Site Environment, Safety and Health (ES&H) Policies

As a top strategy for safety performance, management must set clear expectations of conduct via policies and goals. Both RL and the major contractors have established policies that incorporate the basic elements of the initiatives intended to drive this strategy (see attached ES&H policies; May 11, 1998, letter; and policy statements). As a key expectation, the following statement is incorporated in the RL ES&H policy:

"Fundamental to the attainment of this policy are personal commitment and accountability, mutual trust, open communications, continuous improvement, worker involvement, and full participation of all interested parties."

STAR Poster

Analysis of 1996 “near miss” trends made it apparent that the precursors for a serious electrical accident were in place. In response to this analysis, the “Stop, Think, Act, Review” (STAR) message was tailored and delivered via posters and follow-up training (see May 11, 1998, letter) to reinforce proper job planning and actions by individuals.

The intent of this type of message deployment is to approach safety communications proactively, unlike standard past practices of informing personnel by presentations of examples “after the fact.”

Voluntary Protection Program

Both contractor and RL site management continue to advocate the participation in the OSHA/DOE Voluntary Protection Program (VPP). This program emphasizes both contractor and workforce commitment to safety management and the sustaining of that commitment. The VPP sets a standard of safety performance that must be demonstrated through a formal review program established by OSHA. Workforce participation in the program, workforce knowledge, and effective communications are principal elements that are measured as part of this review before formal recognition of “STAR” status.

While formal recognition is a worthy goal, Hanford management and the workforce understand that the real value of the VPP program is the establishment of the principal elements of the program. Currently, three contractor applications for VPP “STAR” status have been submitted to DOE Headquarters, with the first formal review scheduled for January 1999.

Lessons Learned Program

Hanford uses a sitewide Lessons Learned Program that provides an information distribution tool available both to management and to the workforce. The capability to cross contractor and organizational lines with a free and open exchange of information has enhanced organizational planning and job analysis capabilities. Additionally, several contractors are developing direct relationships between the Lessons Learned tool and automated job hazard analysis tools, which will further increase the value of the information. Organization of information and information accessibility are key to effective communications.

Employee Concerns Program

When normal communication methods fail, the Employee Concerns Program is available as an alternative where difficult or sensitive issues may be resolved in a manner that is fair, equitable and confidential to all. Additionally, the Employee Concerns Program promotes awareness of existing communication avenues. It is the intent of this program not only to resolve an issue, but to re-establish the normal communication process.

Safety-Conscious Work Environment

As an integral component of integrated safety management, the Hanford Site is expected to establish and maintain a safety-conscious work environment in which employees feel free to raise concerns both to their own management and to RL without fear of retaliation. The most effective improvement to the environment for raising concerns will come from within each company, as communicated and demonstrated by the management team. Some attributes of a safety-conscious work environment include the following:

- Establishment of a work environment with effective processes for problem identification and resolution, where employees feel free to raise concerns to both their management and to RL without fear of retaliation
- Improvement of subcontractors' awareness of their responsibilities in this area
- Responsibility taken by senior management to ensure that cases of alleged retaliation are appropriately investigated and resolved
- Recognition by employees of their responsibilities to raise safety concerns to their management, along with their right to raise safety concerns to RL.

Several safety programs have been mentioned briefly in this response. If the HOW would like additional information on many of these programs, please visit the Hanford Home Page under "Safety" or the RL Environment Safety and Health home page at <http://www.hanford.gov/esh/index.htm>.

If the HOW has specific recommendations for other employee communications that may enhance or be more effective than those which RL is using, please make them directly to the RL Manager; to Karen Randolph, Director of the Office of External Affairs; or to Paul Kruger, Director of the Office of Environment, Safety and Health.

20. Institute a "personal accountability" rule to hold individual managers accountable for reprisals.

Both RL and contractor managers undergo an annual performance evaluation. The ability to resolve issues and deal with employees is an important aspect of that appraisal. At this time, RL has no plans to institute a policy to make individual managers accountable for damages resulting from an act of reprisal but will give this recommendation further consideration.

25. Enhance sensitivity through policy and training to the importance of the allegation process as a valuable tool for accomplishing the cleanup mission.

RL believes that this recommendation has been implemented. Receiving comments and concerns is a valuable part of the review process to ensure that the cleanup mission is accomplished efficiently and economically. The "zero tolerance for reprisal" policy is a written commitment from the presidents of the major contractors and the RL Manager. Training programs exist and will continue to emphasize the importance of free and open discussion of issues. In addition, RL

participates in the semi-annual Employee Concerns Forum meeting on employee concerns issues within industry; DOE Headquarters conducts its own meeting of Employee Concerns managers to discuss issues and improve their respective programs, and staff avail themselves of training during those meetings.

26. Develop expert resources to help establish and monitor effective performance indicators for measuring employee trust and confidence in management's ability to resolve employee concerns without fear of discrimination.

RL has implemented this recommendation. RL has consulted and will continue to consult with expert resources to improve its Employee Concerns program. For example, RL has used employee concerns consultants from Nuclear Power Technology, Inc., and will use others to supplement its existing program.

RL will implement the HOW's recommendation to monitor performance and measure employee trust. The FDH PEP (see recommendation 2 above) includes a new expectation that the contractor will conduct such a survey.

27. Increase availability of health and environmental information by facilitating access to data for approved health and environmental studies.

This recommendation indicates that improvements could be made to the health and environmental information RL currently makes available. RL supports this recommendation and suggests that to be most effective, the HOW work through the HAB Health, Safety and Waste Management Committee or Paul Kruger, Director of the Office of ES&H at RL. Through his involvement with the HAB, Mr. Kruger shares information on significant areas of interest and considers how to best make the information publicly available.

Mr. Kruger is open to suggestions from the HOW as to the specific information it would like to have available, including the best format for presentation of that information.

In addition, RL has identified an individual in Mr. Kruger's ES&H organization to be the focal point for the release of data and to assist organizations that may experience difficulty obtaining health and environmental information for approved studies.

28. Issue a policy statement consistent with these recommendations regarding employee climate issues and concerns, and distribute to employees annually.

The policy statements are available and communicated in a number of ways, many of which are described in the response to recommendation 19 above. The policy on employee rights to raise concerns, for example, has been communicated via posters across the site. RL agrees to assess the need to update and redistribute such messages annually.

29. Develop and employ a system, with input from stakeholders, for prioritization that will identify the types of material typically found in classes or types of documents, such as the location of radioactive or hazardous materials; disposal of such materials; releases to the environment; exposure of site employees or records that contain information on site accidents or incidents involving hazardous materials.

RL has begun to implement this recommendation within the capabilities of the Hanford Declassification Project (HDP). A set of keywords will be used to search available bibliographic data on classified and declassified documents. All “hits “ will be listed under each keyword. Notations will be made for documents that are declassified and publicly available. Document storage boxes containing these documents along with documents that remain classified will be reviewed for declassification to ensure that any related material not identified in the keyword search also is reviewed for declassification.

The following key words have been selected: Radioactive; Hazardous; Disposal; Releases; Environment; Exposure; Accidents; Incidents; Animal; Human; Tests; Criticalities; Occurrences; Dangerous; Biological; Chemical; Health; and Abnormal. Documents identified via these key words will be made publicly available through the established system using the OpenNet database at <http://www.doe.gov/opennet>. RL solicits the HOW’s suggestions for additional key words. Please provide them to Rick Stutheit, RL Classification Officer and program manager for the HDP. Although this solution to the search for documents is not perfect, it is one that can be implemented within the current funding for declassification at Hanford.

30. Limit the categories and numbers of newly classified records. Provide justification for all classification actions.

The DOE uses classification guides for making determinations that information in documents or other media is classified. In cooperation with the U.S. Department of Defense (DOD), DOE conducted a comprehensive review of all classification policies to determine what information no longer required classification. DOE is coordinating with DOD the revision of classification guidance to incorporate the results of this review. Limited categories and classification justification are current requirements. Executive Order 12958, Section 1.5, limits classification to specific categories of information. National Security Information (NSI) that falls outside these categories cannot be classified. The categories are

- (a) military plans, weapons systems, or operations
- (b) foreign government information
- (c) intelligence activities (including special activities), intelligence sources or methods, or cryptology
- (d) foreign relations or foreign activities of the United States, including confidential sources;
- (e) scientific, technological, or economic matters relating to the national security

- (f) United States Government programs for safeguarding nuclear materials or facilities
- (g) vulnerabilities or capabilities of systems, installations, projects or plans relating to the national security.

Executive Order 12958 also requires that a concise reason for NSI classification be provided on each document. For Restricted Data (RD), 10CFR1045, section 19(a) requires that the DOE Directors of Declassification be able to justify a classification or declassification determination.

31. Develop as a pilot project at DOE-RL a system to separate written materials and records into classes. Criteria should be based on the likelihood that materials contain sensitive information as described under the new classification guides.

Suggested classes are:

- **Certain to contain restricted data (such as atomic weapons data)**
- **May contain restricted data**
- **Unlikely to contain restricted data**
- **Probably does not contain restricted data**
- **Certain to not contain restricted data**

This recommendation would take considerable further study if the HOW is suggesting a review of records that is not based upon reading each document. Currently, DOE has established a classification system that has segregated classified material into specific classification categories. These categories are Restricted Data (RD), Formerly Restricted Data (FRD), and National Security Information (NSI). All documents that contain classified information in these categories are clearly marked to so indicate. Documents that are not marked do not contain information in these categories. There is no middle ground: if documents are classified, they will fall into one of these categories; if documents are not classified, then they cannot fall within these categories and will not be marked. Some documents may be improperly marked because they have not yet been reviewed under current classification standards; that review is the purpose of the HDP.

32. In addition to the above segregation, rank records, with stakeholder participation, for declassification and public release.

Available information on documents that are identified by keywords, as described in the response to recommendation 29, will be provided to the stakeholders to establish priorities for declassification.

33. Give priority to records containing information on radioactive, hazardous, or potentially dangerous materials involving: (RL)

- **Human tests**
- **Animal tests**

- **Releases to the environment from operations**
- **Criticalities, accidents, incidents, and abnormal occurrences**
- **Chemistry and radio-physics information involving the fate, transport, effects, or chemical reactions of radioisotopes in water, air, soils, or biological systems.**

See the responses to recommendations 29 and 32.

- 34. Blanket release all records classified “Restricted”, “Official Use Only”, or other low level or administrative classifications. DOE should release any records with a classification below “Confidential”, as well as documents available from other sources, without additional classification review.**

Blanket release is not possible under current DOE Orders: therefore RL is unable to implement this recommendation. Be aware that "Restricted" was an authorized classification level used by DOE predecessor agencies up to December 15, 1953. "Official Use Only" was an authorized classification level during the period from July 18, 1949, through October 22, 1951. As these were authorized classification markings during these time periods, the information had the potential to damage national security if released. Documents with these classification markings may remain classified under current classification guidance. To streamline the review process of these documents, only one review is required. In addition, either an authorized classifier or an authorized declassifier can conduct the review.

- 35. Continue to budget for declassification of records and documents and give this activity high priority.**

This recommendation is being implemented. Declassification of historical documents at Hanford has been fully funded for FY 1999. Declassification continues to be an RL priority. Appropriate levels of funding will be established annually for this effort based on the site Integrated Priority List. RL is committed to completing this declassification effort.

- 36. Preserve and release in a timely manner the records essential to protect worker health and safety during cleanup of contaminated sites, to protect the public health and safety, and to protect the environment.**

See the responses to recommendations 29, 32, and 33 regarding historical Hanford documents. In addition, the HOW is encouraged to work with Paul Kruger, RL Office of ES&H, or with Yvonne Sherman, RL representative to the HOW, who will work with appropriate program managers to identify the kinds of documents that the HOW considers "essential to protect worker health and safety" and that have not already been made publicly available.

Preservation of documents has been a byproduct of a moratorium that has been in place at the Hanford Site since December 1990. Because of pending litigation, a moratorium on destruction of records was imposed; that moratorium includes any record material stored in any office on the Hanford Site.

- 37. Base contract performance and award fees in part on contractor performance in assuring the appropriate maintenance of records, including indices, archiving, preservation, declassification and release of records, and maintenance of public and regulator access to these records (see above section on Using Performance Measures to Promote Openness).**

RL is implementing this recommendation. Declassification of Hanford historical documents is performed by the HDP, which is conducted by Pacific Northwest National Laboratory (PNNL). Performance objectives, measures and expectations have been established for FY 99 to evaluate the declassification performance. In addition, see the response to recommendation 2, particularly the examples for the FY 99 PEP (see B17 External Affairs).

- 38. Develop policies and systems of marking that readily identify the sensitive information in documents that needs protecting and the laws which apply. These should be referenced in the master indices to allow for easier declassification of records and documents in the future.**

This recommendation is current practice for all documents that are generated in a potentially classified area -- they are required to be reviewed for classification. If, after review, the document is determined to contain either classified information or Unclassified Controlled Nuclear Information, the document is legibly marked with the specific type and level designation.

Although proper markings by the originator of unclassified documents would be ideal, implementation of such a marking system would be a major administrative task to include training of anyone who creates a record and establishing a quality control program to ensure proper markings. Because of the administrative obstacles associated with first making a determination, then marking all documents, it is more realistic and cost effective to make the determination on release. Fluor Daniel Hanford and its subcontractors, however, make a "public availability" determination on documents (e.g., reports, presentations) recorded in a document control database. This database was created in 1989 and contains information on approximately 25,000 documents. Unless there is a legal reason to withhold any part of these documents, they are noted in the database as "publicly available" and will be made available at cost through FDH's Public Requests Service. It is RL's understanding that when the HOW revises its fact sheet entitled "Access to Documents," it will include a description of the Public Requests Service.

- 39. Develop a standard index of trademarks, service marks, and copyrights. These should be referenced and incorporated for all existing records, thereby removing the need for a document-by-document review.**

This recommendation is the current practice of the contractors' document control organizations. Documents submitted to these organizations (there are procedures that identify the types of documents that must be submitted) are reviewed for trademarks and copyright information to ensure that they are properly marked. This system, however, excludes documents that are not archived by a document control organization, e.g., day-to-day correspondence, daily planner information, and working papers. Trademarks and copyrights are not normally reasons for withholding information. This information must simply be appropriately marked. There are, however, other legal justifications

for withholding certain information, including classified, personal, proprietary, and certain pre-decisional information.

40. Identify newly generated documents of records which require protection under the Privacy Act.

Few documents protected by the Privacy Act are so marked. Please refer to the responses to recommendations 38 and 39 for partial justification. One reason Privacy Act documents are not marked is that the Act itself describes what documents are protected, and case law has further defined those types of documents. The Act does not recognize the markings. Also, personal information contained in documents protected by the Privacy Act is not the only kind protected by law. The Freedom of Information Act also has an exemption for personal information. Often a document may contain personal information, which is deleted if requested, but the remainder of the document is available. Therefore, a single document may contain some information which can be released and some which cannot. On request, the RL Freedom of Information and Privacy Act Officer will provide the HOW with a briefing on these statutes and how they apply to a variety of documents.

41. Ensure declassification and openness policies apply to all Hanford-related records, including those held, administered, or controlled by contractors or sub-contractors.

The HDP declassifies information for Hanford contractors conducting work for the Hanford Site. Bibliographic information on declassified and publicly available documents is placed on the OpenNet Web site. These documents also are optically scanned and the images made available on the Internet through the Hanford Home Page (<http://www2.hanford.gov/declass/declass.htm>).

Protection for other Hanford information is subject to Freedom of Information Act (FOIA) exemptions and any other laws that require it to be withheld. Compliance with the FOIA is required by RL's contracts with the major contractors, including FDH and its subcontractors.

42. Increase the number of documents and finding aids electronically available. OpenNet is a good start in this direction, but more needs to be done.

The Declassified Document Retrieval System (DDRS), which is accessible from the Hanford Home Page on the Web, is another electronically available finding aid that can be useful in searching for specific declassified and publicly available documents. DDRS has been upgraded just recently to allow for scrolling and for printing multi-page documents.

See responses to recommendation 48e below for additional information related to recommendations for specific finding aids or databases.

43. Streamline declassification. All steps of declassification and review prior to the release of documents and records should be done by one reviewer and one agency.

All authorized reviewers performing declassification at the HDP also have been given the authority to review for privacy information, Unclassified Controlled Nuclear Information, Export Controlled Information, and all other necessary reviews to determine public availability. This

“one-stop-shop” authority eliminates numerous document clearance steps and streamlines the document declassification and release process.

The goal of DOE is to use one authorized reviewer, as recommended, along with a computer-aided artificial intelligence type of review. The use of the computer would significantly increase the review speed without increasing the potential for errors that could damage the national security if the errors were not discovered.

DOE strives to cooperate and coordinate with other agencies in classification and declassification. Some agreements are in place that help streamline the coordination process. Other agencies must concur before their information can be released to the public. At Hanford, public release equates to publication on the Internet, not just placement in a local reading room. Anyone in the world can get access on the Internet to documents that were declassified and released from the Hanford Site. It is RL’s responsibility to ensure that the information in released documents cannot damage the nation’s security, and in some cases, that means coordinating with another government agency.

48. Provide Internet access, in a manner that is user-friendly yet cost effective, to a number of existing databases, including the following:

a) Records Transfer Forms – Records Transfer Forms accompany each box of material retired from all DOE sites and, therefore, this initiative may have application across the DOE complex. Newer, retired records are entered into a database which has potential for full-text searches of descriptive fields.

Before responding to each item in this recommendation, it is important to understand that those requiring an additional expenditure of resources are not currently funded. However, this fact should not diminish the HOW’s interest, as RL will look for creative ways to accomplish these individual projects. It would be helpful for RL to know the HOW’s priorities among these projects, as some will require more resources than others. With that said, recommendation 48a is an extremely labor intensive project because of the number of transfer forms that exist at RL and the time it would require to review them before release. Thousands of boxes of records have been retired at the Hanford Site since the 1940’s, and each of them contains a transfer form. The contents of many of these boxes have been destroyed according to the government Records Inventory and Disposition Schedule (RIDS). RIDS is mandated and approved by the Archivist of the United States. The transfer forms indicate the date of destruction. RL will attempt to implement this recommendation but has no resources identified at this time to do so.

b) Hanford Information Systems Index – This index of existing Hanford databases could be made available to the public through the Hanford Home Page, with potential for complex-wide application.

The Hanford Information Systems Index is a part of RL’s Year 2000 compliance upgrades. Posting it on the Hanford Home Page is expected to be completed in FY 99.

c) Hanford Environmental Dose Reconstruction Project Indices – Different databases were created by organizations involved in the Dose Reconstruction Project. Making them available in a searchable format on the Hanford Home Page would provide additional research tools for information related to environmental releases at Hanford. Most, if not all, of these documents are already publicly available.

As with the response to recommendation 48a, RL will attempt to implement this recommendation, but has no resources identified to do so. Since this information is already publicly available, the HOW should consider having an interested member collect the information, then provide it to RL for hosting on its Web site.

d) Hanford Downwinder Litigation Databases – Databases have been created during the course of the Downwinder litigation that hold promise as finding aides.

RL will attempt to implement this recommendation. Consideration for priorities need to include record transfer forms (48[a]), Hanford Environmental Dose Reconstruction Project indices (48[c]), and downwinder litigation databases (48[d]).

e) Declassified Document Retrieval System – This system contains scanned images of documents newly declassified at Hanford. It is linked to a DOE Headquarters system called OpenNet, and both are available electronically on the Internet. This system would be easier to use by installing a viewer that is easier to use than the current viewer; providing a list of keywords; offering additional keyword search options; providing the capability to scroll and print an entire document rather than page-by-page; and improving the interface with OpenNet.

This recommendation is being implemented; RL is working on upgrades to DDRS (at <http://www2.hanford.gov/declass.declass.htm>). The viewer is the first enhancement that users of the enhanced system will notice. The new viewer will allow for the viewing of multiple images instead of the previous single page. In addition, a document can be printed in its entirety, instead of page by page. Other enhancements are in process, including the ability to search the text of certain frequently requested documents, e.g., the “Green Run” and the “Mathias Diaries.” Rick Stutheit, Program Manager and the RL Classification Officer, welcomes specific recommendations for DDRS enhancement.

49. Include incentives in performance measures for openness to address compliance with treaties and other federal obligations to the Tribes.

RL provides incentives for openness in the contractor PEP (see response to recommendation 2 above), but it is important to understand that the U.S. Government, i.e., DOE, is responsible for compliance with treaties and other federal obligations to Tribes (trust relationship) and cannot delegate this compliance responsibility to its contractors.

50. Conduct a special workshop devoted to Tribal-specific Hanford openness concerns.

RL will implement this recommendation. It is RL's understanding that a workshop has been tentatively scheduled, and the Indian Nations Program Manager, Kevin Clarke, will work with the HOW to develop an agenda.

51. Recognize and implement the government-to-government relationship between the United States and American Indian Tribes reflected in the DOE American Indian Policy.

The DOE recognizes the government-to-government relationship between the United States and American Indian Tribes as reflected in the DOE American Indian Policy. RL continues to work to improve and implement efforts to strengthen this relationship. The proposed Tribal-specific Hanford openness workshop noted in response to recommendation 50 is one example.

* * *

In addition to the areas of interest addressed by the preceding HOW recommendations, RL has undertaken three specific initiatives to enhance openness. First, the RL Office of Human Resources Management team that develops performance elements will consider the addition of a specific element for all RL managers' appraisals that addresses their support of openness initiatives. Second, the RL FOIA office soon will post a Web site on the Hanford Home Page to facilitate electronic submittals of FOIA requests. Third, the Hanford Home Page is in the process of redevelopment. The new page will include an electronic "resource center," mentioned in the response to recommendation 2, that will provide easier access to information existing electronically in a number of separate locations. When available, the databases identified in recommendations 48a through 48d can be added to this page.