

FINAL MEETING SUMMARY

HANFORD ADVISORY BOARD

BUDGETS AND CONTRACTS COMMITTEE MEETING

August 6, 2009

Richland, WA

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This is only a summary of issues and actions in this meeting. It may not represent the fullness of ideas discussed or opinions given, and should not be used as a substitute for actual public involvement or public comment on any particular topic unless specifically identified as such.

Welcome and Introductions

Gerry Pollet, Budgets and Contracts Committee (BCC) chair, welcomed everyone and introductions were made. Gerry reviewed the agenda items. Gerry said the committee needs to end the meeting with clear process for the budget advice because the advice is supposed to go to the River and Plateau (RAP) Committee next week.

Cathy McCague conducted the committee leadership selection process. Gerry was nominated for chair of the committee, and Harold Heacock was nominated for vice chair. No other nominations were made and both committee members were confirmed in their current positions for another year.

American Reinvestment and Recovery Act (ARRA) Contractor Work Scope

Matt McCormick, Department of Energy – Richland Operations Office (DOE-RL), provided an update on where DOE is at with completing the processes for allocating the American Reinvestment and Recovery Act (ARRA) dollars. Matt said there is a lot of work going on right now and encouraged committee members to go to Hanford’s web site to find information on the Recovery Act, pictures of work happening and the site, weekly reports and interviews. Matt said DOE is currently working on remediation of waste sites, demolition of 212, Plutonium Finishing Plant (PFP) decommissioning and decontamination (D&D), and K Area work. Matt said they are posting real time updates on work accomplishments and new hires on the web site.

Matt said they received the work proposals for Office of River Protection (ORP) and RL in the middle of June and federal staff is currently reviewing those. Matt said he would

like to share the detailed numbers with the committee in September. Matt said the information shared previously regarding the scope of work for PFP, Dash 5 demolition, and other projects is still accurate. Matt said the contractor for PFP has identified that they can do the work for \$20 million less than previously scoped. DOE is reviewing that proposal now and determining where to apply the additional funds.

Matt said a project like PFP is funded by two sources, ARRA and baseline. Matt suggested providing detailed information in September on the dollar amounts allocated per project for 2009, 2010 and 2011. Matt said they can also show the committee the scope items for each funding base (ARRA and baseline) per year. Matt said there is a lot of work planned for PFP to get the building ready for safe demolition. Matt said the base budgets include funding for surveillance and maintenance so it is more complicated, but it includes some D&D work as well and they will try to break that out so it is easy to understand.

Matt said he will provide budget information on K Basins, waste disposal, D&D on the Central Plateau, River Corridor work, and tanks. Matt said there will be some adjustments from the President's budget, mostly in groundwater program, because they received \$90 million less than the Recovery Act scope identified in the spring. Matt said they made adjustments based on priorities to accommodate the changes in funding. Matt explained to the committee that the numbers presented previously will change in the next presentation, but the field offices have to get Office of Management and Business (OMB) approval. Matt said the bottom line does not change they had to shift funding to reflect change in cost estimates and scope.

Regulator Perspectives

- Melinda Brown, Washington State Department of Ecology (Ecology), said Ecology would like to see the funding information before the meeting in September. Melinda said she would like to see more from ORP than just a line item for one project.

Committee Discussion

- Gerry asked what the schedule is for the governments cost estimates. Matt said for ARRA, the approval of the contractor proposal for Plateau Remediation Company (PRC) is \$1.3 billion. Matt said in parallel with the briefing in September, DOE is sending information to headquarters for approval. Matt said the objective is to get management and administration approval of the work scope proposals by the end of September. In October, they will go through the contract process of finalizing the scopes of work and contracts.
- Gerry asked if headquarters is responsible for the cost validation in their approval. Matt said the cost certification is done first by the contractor, then there is a DOE field office review of the parametric values, labor rates, inflation, etc., then the Defense Contract Audit Agency (DCAA) certification is required by the federal agency, and then goes to headquarters for review. Matt said the costs are reviewed four times through the approval process. Matt said headquarter review may be

lengthy since they have to do all of the sites at one time which may hold up the contract action.

- Gerry asked what the criteria are for incentive fees. Matt said they are using the existing framework in the contracts for incentive fees. Matt said the fee percentages and rules in the existing contracts will still apply. Matt said a lot of work PRC is doing is already priced and fee percentages were assigned in the original contract, the work is just being moved up from the ten year contract period. There is a cost impact from doing work early and DOE will be looking at what has changed in the contractors cost proposal since they originally cost out the work.
- Keith said he heard that Dr. Triay, Assistant Secretary of DOE, was upset to find out that the contractor was not using HAMMER for training. Keith said he heard that Dave Brockman, DOE-RL, has committed to making a contract change to address this. Keith asked if this would impact the budget approval process. Matt said he was not familiar with this issue and would have to follow up with Dave about it.
- Gerry said he heard a concern recently about using trained workers versus workers that need training. He said if a sub-contractor onsite wants to hire six people without training, the time to train the workers is viewed as delaying cleanup work which puts that contractor at a disadvantage compared to a contractor with trained employees. Gerry asked if DOE was considering including an incentive in the contracts to address this. Keith said in the past Fluor Hanford was maintaining a pool of trained workers for sub contractors. Matt said that during the summer job fairs the contractors hired people with previous Hanford experience but most of their training had expired thus requiring retraining. Matt said the workers get paid while they go through training and typically DOE focuses on providing incentives to the contractor for getting the work done. Gerry said he has had conversations with contractors who have said that their workforce has been raided because of this issue. Gerry felt the only way to equalize the situation is to add a contract adjustment that fulfills the spirit of ARRA and hires people who need training. Matt said the DOE-RL contractor and PRC is meeting the small business goals in their contracts which is good news.
- Pam asked if the contractors are able to find enough small businesses for the work. Matt said so far they have been doing okay. There are some short-term shortages with radiological technicians but they have worked out a system to temporarily use some other workers. Matt said they do not pay more than other sites to try to draw people to the site, and they pay the same rate under the union that has been paid for years. Matt said he would take the concern that Gerry raised to Dave for consideration.
- Gerry said he would like to know which priorities are being funded during the presentation in September. Matt said he can show the committee where the dollars are shifting, but the scope is pretty much the same.

Inspector General Audit Report on Contractor Oversight

Harold, issue manager for review of the report, said under federal policy the agencies can hire contractors to do a wide amount of support services. Contractors can write documents with review by federal employees. Both field offices have a substantial

amount of contract employees. In this case, the Inspector General audit found that contract employees for ORP were drafting statements of work and signing Congressional responses. The Inspector General determined that ORP had not established adequate controls with the contract. Harold said ORP has recognized the problem and has assigned correctional measures in the form of separating government employees from their contractor counterparts and improving the strength of controls. Additionally, Harold said ORP management recognizes the need to improve the goals. The Inspector General has accepted the corrective actions proposed by ORP.

Joe Poniatowski, DOE-ORP Procurement Director, said the Inspector General identified two issues. The first was a conflict of interest issue where the Inspector General perceived that contractors were writing their own statement of work and then bidding on them, and writing responses to GAO, Inspector General, and Congressional inquiries. Joe said it was ORP's position that the contractor was doing the administrative work only and that federal employees were responsible for the decision. He did however state that to ensure there is no future concern they have worked to federalize the point of contact for that work. Joe said ORP did an internal assessment last March before the audit and identified this issue and began taking steps to fix it. Joe said when the contracts ended there was a good opportunity to change the processes and procedures and fix some of these issues. Joe said the new procedure requires federal staff to develop statements of work for general support services contractor (GSSC). Joe also made the point that at the time of the audit ORP only had 90 employees and now there are 145 employees; therefore, less dependence on GSSC. Joe said as federal support has increased, general support has decreased. The second issue the Inspector General identified was that ORP needed to stop co-locating GSSC staff with the federal staff. As a result, ORP relocated GSSC support. However, the administrative staff could not be relocated, and the Inspector General understood that. In mid-July all non-administrative GSSC support staff were moved to a different offices to mitigate the perception that the Inspector General had regarding the conflict of interest.

Regulator Perspectives

- Melinda said Ecology has reviewed the report and the steps that ORP has taken to remedy the issues identified, but they view this as an internal management issue which they do no comment on. Melinda said they are aware of it, and Ecology's tank experts and management have been informed.

Committee Discussion

- Keith asked if moving the GSSC staff has created problems with communications. Joe said it involves a little extra walking, but everyone understood the reason for the change and overall it has been a minor inconvenience.
- Gerry asked if there are other instances where a contractor has developed a scope of work. Joe said there is the potential for that on any contract because it is hard to know who wrote it from the agency perspective. Joe said they rely on their technical staff to be honest about who wrote the scope. Joe said since this issue has been brought to

light, everyone is very cognizant of it and working hard to make sure there are no conflicts.

- Gerry asked how a statement of work from a contractor is different than the ARRA work scope for contractors. Joe said when the ARRA work was requested, DOE put out a J-15 which showed the scopes of work that DOE wanted accelerated. Joe said this work was done in collaboration with the contractor because it was not a competitive bid process. The contractor hired previously through the competitive bid process pulled work scope forward that they had already been contracted to do in out years. Joe said they worked with the contractor to identify “shovel ready” work. Joe reiterated that the process was different for ARRA from a regular scoping process because there was not a competitive contract.
- Keith clarified that the work under ARRA was work the contractor was already scoped to do, the aim was to complete it earlier. Joe confirmed Keith’s statement. Joe said in order to be above reproach, they had the contractor submit a proposal to include certified cost and price data for the additional items since that was not done during the initial contracting process six months ago, but there was no work added that was not already in their contract.

Fiscal Year (FY) 2011 Budget Draft Advice

Gerry asked the committee to review the draft budget advice again and determine if it was ready to be finalized for the Board meeting.

Regulator Perspectives

- Melinda said Ecology sent a letter on July 14 outlining their desires for prioritization of the funding. Melinda said Ecology would like to see funding equal to 2012 and beyond. They would like contractors to request funding that is compliant.
- Ron Skinnarland, Ecology, said the Board looks like they have a slightly different emphasis on budget priorities, but have included most of the same elements that Ecology did. Ron said he supported the point about the integrated priority list (IPL) in the advice. Ron said he is hoping to see a breakdown of base operating costs that was committed to at the budget workshop. Ron said he is looking forward to seeing which activities are funded by stimulus funds, and which are funded by the baseline funds.

Committee Discussion

- Gerry said the State of Oregon submitted comments on the draft budget. He asked if anyone else did. Paula Call, DOE-RL, said Shelley Cimon submitted comments and DOE submitted previous HAB budget advice as well.
- Keith said he thought that in general ARRA funds have to be spent on the actual activity. However, if there is an infrastructure problem that has impacted a project the ARRA funds could be used to correct that. Melinda said DOE pulled ARRA funds into the tank operator’s contractor which moved the surveillance and maintenance budgets.

- Harold suggested he work on revising the draft advice to shorten it without losing anything specifically germane to the budget process.
- Melinda said she thought advice item number six was not necessarily a budget issue. Harold agreed. He said he may agree or disagree with the issue, but it was not a budget issue and therefore did not belong in the advice. Jeff thought that whoever put forth advice item six may have meant it as a budget issue but it is not phrased right. Gerry said he thought this may have come from Oregon's advice. Cathy said she would check with Ken Niles about this item. Melinda said it was included as part of the new technology money in the letter from Oregon. Harold said he was not sure how the Tank Waste Committee (TWC) would feel about this issue. Gerry suggested changing the language to make it budget specific: "the Board encourages DOE to use a portion of the \$50 million for technology development to explore fractional crystallization..."
- Harold thought advice item two was another controversial one. Jeff said the TWC did not raise an issue with it when they reviewed it earlier in the day. Jeff thought it was important to stick with the process and the committee had already given their approval. Cathy said the second item originated from the workshop and was included in the last budget advice the Board issued.
- Gerry said the item under RL on page three regarding K Basins could be worded better. Harold said he would work on the wording to make it clear that the issue is developing a process to identify safe storage.
- Harold said the wording on advice item five under RL should be reworded to say "increase its request above target". Gerry agreed, he said the point is that the Board does not think it is a compliant budget and it is a debate about if the TPA changes or characterization is not required. Jeff added that the Board has consistently said that a compliant budget should meet current TPA compliance items.
- Jeff said advice item seven under RL may not be an advice issue either. Jeff asked Harold to vet this item with RAP next week. Jeff said item six may need to be clarified as well. Harold asked everyone to send him comments by Tuesday morning so he could work on the revisions.
- Gerry said after the input is received from RAP, he and Harold could work on updating the advice in time for the September Board meeting. Jeff reminded Gerry and Harold that Pam would get them input on advice item seven from Ken Gasper. Gerry said the committee will have to get consensus on the advice via email prior to the Board meeting.

Action Items / Commitments

The committee approved the May meeting summary.

Gerry said the committee has talked about having a meeting in September to discuss the ARRA work scope aligned with baseline work scope. Gerry thought a half day meeting

would be adequate. Cathy suggested that the committee do some work planning during the September meeting as well.

Cathy asked if DOE would be ready to provide an update on the contracts in September. Paula said DOE is having a meeting at end of August to talk about the Mission Support Contract so an update might be appropriate in October.

Keith said the committee should add a new issue to their list regarding pensions. Keith said he was informed recently about an issue with workers not being allowed to bridge their pensions and DOE should talk with the committee about this soon. Gerry asked Keith to work with Cathy to develop the framing questions for this issue. Jeff suggested inviting members of the worker group to attend the next meeting to talk about the issue from their perspective. Jeff said the Board could follow up on Advice #194 as part of Board process to address this issue. Jeff said DOE responded to the Board’s previous advice and said the matter had been taken to headquarters. The committee can follow up on the advice and find out what headquarters did. Jeff clarified that the issue was involving whether workers were considered inside or outside of the fence.

Handouts

NOTE: Copies of meeting handouts can be obtained through the Hanford Advisory Board Administrator at (509) 942-1906, or tholm@enviroissues.com

- Draft HAB Advice: Fiscal Year 2011 Hanford Clean-Up Budgets and Priorities, August 2009.
- Memo: Draft Report on “Management Controls Over the Use of Service Contracts at the Office of River Protection”, DOE, April 3, 2009.

Attendees

HAB Members and Alternates

Harold Heacock	Gene Van Liew	
Pam Larsen		
Jeff Luke		
Gerry Pollet		
Keith Smith		

Others

Deb Brunley, DOE-ORP	Melinda Brown, Ecology	Cathy McCague, EnviroIssues
Stacey Charboneau, DOE-ORP	Dib Goswami, Ecology	Emily Neff, EnviroIssues
Joe Poniatoski, DOE-ORP	Ron Skinnarland, Ecology	Peter Bengston, WCH
Paula Call, DOE-RL	Nancy Uziemblo, Ecology	Jenny Draper, WCH
Matt McCormick, DOE-RL		Mike Berriochoa, WRPS