DRAFT MEETING SUMMARY (v.1)

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HANFORD ADVISORY BOARD
BUDGETS AND CONTRACTS COMMITTEE MEETING
December 7, 2004
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

Harold Heacock, committee vice-chair, welcomed committee members. Harold announced that several agenda items were tied to I-297; since a temporary restraining order on implementation of I-297 is in place until the legal issues are settled in court, the committee will go ahead with discussions, understanding that the agencies may not be able to comment fully.

EnviroIssues will check on comments for the August meeting summary and if no additional comments have been made, the summary will be finalized.

Status of Fiscal Year (FY) 2005 Budget

Greg Jones and Jeff Frye, Department of Energy-Richland Operations Office (DOE-RL), presented information on the status of the DOE-RL FY 2005 budget, including a summary of the FY 2004, FY 2005, and FY 2006 budgets. It was noted that Congressional conference reports are accessible online.

- DOE-RL has uncosted funding (carry-over) at the end of FY 2004 of $70 million. This is an increase from the end of FY 2003. The FY 2005 Energy and Water Appropriation is under continuing resolution until December 8. The President's FY 2006 budget is due to Congress in February 2005, and, barring a year-long

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continuing resolution in FY 2005, DOE-RL expects a decrease in the budget from FY 2005 to FY 2006.

- Greg provided the committee with a sense of the typical budget cycle: the 2006 budget is due in February and the 2007 budget is due to be submitted in April. DOE is expecting the typical amount of increases from the 2005 budget. The FY 2005 allocation is an estimate of what they think they will receive, which is a significant increase from FY 2004.

Howard Gnann, DOE-Office of River Protection (DOE-ORP), presented information on the DOE-ORP FY 2005 Congressional Budget Request. They are estimating a $40 million carry-over from FY 2004 to FY 2005.

Regulator Perspective

Melinda Brown, Washington State Department of Ecology (Ecology), stated that Ecology is waiting to comment on the FY 2005 budget until the actual allocations are released and the impacts of the allocations are understood. Ecology still needs to understand how much funding will be taken away, and how those reductions or reallocations will impact prioritized activities.

Discussion

- Gerry Pollet asked about the Waste Incidental to Reprocessing (WIR) allocations in the DOE-ORP FY 2005 Congressional Budget Request. Howard explained that half of the WIR funding holdback of $64M had been given back. There does not appear to be a limitation that restricts continuing to work on all these aspects of WIR funding (tank closure, Bulk Vitrification testing, and TRU waste retrieval). Currently, DOE-ORP's work is primarily focused on retrievals through the end of FY 2004.

- Committee members asked for clarification on when the actual allocations will be available. Greg explained that the President has to sign off on them and then they have to filter through the agencies. Actual allocations could be available a week or two after they are signed by the President.

- Jeff Luke asked about the breakdown in funding increases: is there a general reduction taken from all budget items, or are reductions taken from specific activities? Greg and Jeff Frye explained that a figure of 0.8% was used to estimate reductions, and that a general reduction is taken across the board, which ensures that reductions do not have a detrimental impact on any specific programs.

- When does DOE expects to brief the regulators on more detailed allocation information once final allocations have been received? Greg said that regulators

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will be briefed within a week of receiving final allocations, but DOE is still unsure when final allocations will be available.

Public Budget Process in 2005

Gerry presented information on the public involvement and disclosure provisions of Washington's Cleanup Priority Act (Act) that relate to budgets. He expressed the need for the committee to discuss planning for public review meetings for out-year budgets (FY 2006 and beyond). In addition, he suggested the committee needs to give feedback to the agencies about whether or not there should be a set of public budget priority meetings, and whether or not they should be part of or separate from the State of the Site meetings.

Gerry explained there are different public involvement requirements for private and public facilities. For sites under state or federal agency ownership, the annual disclosure must include the budget for cleanup for the current fiscal year and three upcoming fiscal years, as well as the projected total and annual cost of each project or action. As part of this, he asserted that detailed annual disclosure of costs and clean-up budgets has to be public record.

Under the Act, Ecology has several duties to undertake relating to cleanup budgets and public involvement. First, Ecology is required to hold annual public hearings on funding priorities and budgets. Second, Ecology must ask for and consider advice from the site advisory board on the site's cleanup costs, budget, budget request and funding priorities. The site advisory board is mandatory for any site that has experienced a release, and is to be composed of representatives chosen by constituent and stakeholder groups.

Discussion

- Dave Watrous asked that the committee again recognize that the Clean-up Priority Act is currently under a restraining order and that not every member of the committee supported I-297. Gerry acknowledged this, but suggested that budget hearings still have to go forward.

- Jeff Frye asked for clarification about what is different between the Act and the provisions for budget disclosure in the Tri-Party Agreement (TPA). Gerry stated the Act bans eliminating the Hanford Advisory Board (Board). The Act also provides Ecology with the authority to ask for more budget information and an enforceable fallback which ensures that oversight will occur. DOE and Ecology already consult with the Board on budget issues, so that is not new, but it just makes it clear that is an expectation.

- Jeff Luke summed up that the biggest change is that the committee should be looking for an increased level of detail relative to activities that are projected for

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funding. Gerry agreed and added that the hope is the dispute over what is the adequate level of detail will be reduced.

- Melinda Brown noted that in the past, the timing of the Board meetings and the budget cycles did not coincide. Nolan Curtis, Ecology, said the agencies had not yet discussed whether to join the budget meetings with the State of the Site meetings or whether to hold them separately. Howard Gnann stated that, as a matter of philosophy, the number of meetings should be kept to a minimum. Jeff Luke suggested it is important to make sure that any decision to join meetings is functional, and not just a means of saving money. Melinda reminded the committee it is important to think about which is the most effective for communicating to the public. The Public Involvement Committee should also weigh in on this decision.

- Gerry noted that the public can still influence the FY 2006 budget based on what they learn at the State of the Site meetings if the meetings are held in the early spring. Although the budget will have already been submitted to the President and it'll be too late for DOE to do anything, the public can still go to their Congressional representatives to try and impact the budget. Al Boldt suggested comments given in September could be useful for out-year budgets. Gerry disagreed; if public budget meetings were to be held, they would need to be scheduled before budgets are finalized, so September would not be an appropriate time

- Jeff Frye suggested a general process for the committee's budget evaluation: formulate advice, get it to DOE for the FY 2007 budget planning, have DOE present results, discuss and see how the advice is incorporated. There was consensus that this was the appropriate process; however, the issue is that the budget cycle does not dovetail with the Board meeting schedule.

- Discussion of budget workshop scheduling followed. By February 6, DOE-ORP and DOE-RL should have some information relating to the FY 2006 budget. The FY 2007 budget request is submitted in April. The proposal is for a day-long workshop in late February, followed by advice on FY2007 for the March 3-4 Board meeting. Then the committee will review the response to the advice and consider if further advice is warranted in April. All agreed that this will be an iterative process and will include the committee providing input when the decision is made about the public meetings.

DOE Procurement Processes

Peter Rasmussen, DOE-RL, presented an overview of the DOE-RL procurement process. He described the inclusion of safety and the role of the Source Evaluation Board (SEB) for major acquisitions or large procurements. Safety is factored into the SEB procurement process in three steps: 1) during the request for proposal (RFP)

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development; 2) at the time of offers and evaluations; and, 3) through contract administration and resulting contracts.

- First Step: A subject matter expert (SME) is part of the SEB, and is involved in all facets of setting up procurement and RFP development. The SME also works on RFP development, is involved in all documentation, and has signoff on board reports and evaluation plan guidelines.
- Second Step: The SME is responsible for evaluating the strengths and weaknesses of proposals based on environmental safety and health records, business approach, and key personnel. Aspects of proposal evaluations that deal with safety include an examination of statistics, evaluation of safety events, past performance, and key personnel.
- Third Step: Deals with contract administration, including contract terms and conditions, attachments in Section J referring to regulatory permits ("List A") and DOE directives ("List B").

Once a contract begins, the Conditional Payment of Fee (CPOF) clause is one of the "hammers" DOE has to ensure safety procedures are in place.

On the question of scope changes to contracts, Peter said significance is the key factor. If a particular change is determined to be significant, a decision is made about whether the contract should be re-bid. If a particular change is not determined to be significant, a cost proposal is submitted and implemented into the existing contract.

Joe Voice, DOE-RL, stated that he cannot talk about any contracts under protest at this time.

Regulator Perspective

Workers are generally residents of the state of Washington, so Ecology places a great deal of importance on their safety and health. Nolan said Ecology agrees there needs to be a dialogue to fix what is not working in the current system. However, Ecology wants to be sure to stay out of the business of managing business, and just wants to ensure that work is being done in a safe manner.

Discussion

- Keith Smith asked whether DOE compares the safety and environmental track record of submittals against each other. Peter confirmed that past performance of submittals is compared, and a submittal is also evaluated and compared in terms of the competitive nature of the number of submittals.

- Gerry asked if reviewing past performance includes regulatory compliance and regulations, a review of discrimination (health and labor) findings, and any conflict between lost work days and safety determinations. Peter said that

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regulatory and discrimination information is factored in; he was not sure about the lost work day issue.

- Are those DOE evaluations available to the public? Peter said the actual details are not made available, but the report that provides the broader evaluation comparison is available. The report discusses strengths and weaknesses of each submittal.

- Gerry asked if Ecology would ever comment on the hazardous waste record of a contractor. Nolan responded that Ecology would only comment through the actual permitting process since that is what Ecology can regulate. Nolan mentioned that Ecology has never participated in a DOE procurement process. Peter said that DOE would not officially involve regulators' opinions of a particular contractor, but regulator advice is certainly relied upon informally.

- Keith expressed concern that the procurement process has not produced the confidence that chosen employers will be safe employers for workers. He suggested that since state and federal laws are part of the labor agreement, they also need to be part of the procurement process.

- Gerry asked whether labor organizations have had a chance to express concern about the contractor selected for the Fast Flux Test Facility (FFTF) work. Keith said he was unsure whether they had the opportunity; it was not until the selection was made that issues were raised. Keith suggested that DOE might experience an exodus of experienced workers if a contractor with a questionable track record was selected.

- Gerry suggested the committee could track this issue by looking at SEB reports or looking more broadly at how safety and environmental standards are accounted for in the procurement process. Keith added the committee should discuss concerns about whether the safety expert is a voting member of the SEB.

- Howard said DOE has had a lot of discussion about safety, and it might be good to take a look at the Board's advice on stop work to determine if there is more work to do on that issue, especially in ensuring information is filtering down to all worker levels. In addition, upcoming procurement selections could use some advice. Howard suggested that RFPs have a lot of information on how proposals will be evaluated, and might be more useful documents to review. Peter agreed, directing potential reviewers to pay special attention to sections L and M in the RFPs. Gerry suggested that there might be an opportunity to look at how the HAB can share information with other boards around the country.

Committee Business

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Howard said a DOE response to the HAB stop work advice is a high priority and it would likely be finished before the end of December. Nolan noted that Ecology has already submitted a response to the advice.

The committee will have a call in January or piggy-back another scheduled meeting to continue planning for a February workshop.

Handouts

- *FY 2005 Budget Briefing*, Greg Jones and Jeff Frye, DOE-RL
- *Office of River Protection FY 2005 Budget Briefing*, Howard Gnann, DOE-ORP
- *Washington's Cleanup Priority Act (I-297) Public Involvement and Public Disclosure Provisions Relating to Clean-up Budgets*, Gerry Pollet

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Attendees

HAB Members and Alternates

Al Boldt	Rick Jansons	Keith Smith
Harold Heacock	Jeff Luke	Dave Watrous
Lynda Horst	Gerry Pollet	

Others

Lisa Copeland, DOE-ORP	Melinda Brown, Ecology	Bryan Kidder, CH2M Hill
Peggy Fiscus, DOE-ORP	Nolan Curtis, Ecology	Lynn Lefkoff, EnviroIssues
Jeff Frye, DOE-RL		Jason Mulvihill-Kuntz, EnviroIssues
Howard Gnann, DOE-ORP		Sharon Braswell, Nuvotec/ORP
Greg Jones, DOE-RL		Kim Ballinger, Nuvotec/ORP
Peter Rasmussen, DOE-RL		Annette Cary, Tri City Herald
Joe Voice, DOE-RL		

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