



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

July 31, 2013

CERTIFIED MAIL

Mr. Dan O'Keefe  
O'Keefe Drilling Company  
P.O. Box 3810  
Butte, Montana 59702

Dear Mr. O'Keefe:

FREEDOM OF INFORMATION ACT REQUEST (FOI 2013-01308)

This is a final response to the request for information that you sent to the U.S. Department of Energy (DOE) Headquarters Freedom of Information Act (FOIA) Office. In your request, you asked for a copy of the bid sheet that was submitted to CHPRC for RFP 248902 pertaining to a project consisting of eight wells in the 100-ZP-1 operable unit. Your request is being processed under the provisions of the FOIA.

In response to your request, we have conducted a search of DOE's Richland Operations Office (RL) records and did not locate responsive documents. We also requested that CH2M Hill Plateau Remediation Company (CHPRC) conduct a search for responsive documents. CHPRC responded by stating that pursuant to Clause I.141 "Access To And Ownership of Records" of its prime contract with DOE, DE-AC06-08RL14788, records related to any procurement action by the contractor are contractor-owned, not agency-owned records.

A copy of the Ownership of Records Clause is available at:

[http://www.hanford.gov/files.cfm/Contracts\\_CPRC\\_Contract\\_Original\\_Contract\\_RL14788-Section\\_I.pdf](http://www.hanford.gov/files.cfm/Contracts_CPRC_Contract_Original_Contract_RL14788-Section_I.pdf)

"Agency records" have been defined as documents which are either generated or acquired by an agency, and are under agency control at the time of FOIA request submission. *See Department of Justice v. Tax Analysts*, 492 U.S. 136, 144-45 (1989). Records that are in CHPRC's possession and not in the possession and control of DOE, and which have been maintained by the contractor as part of its subcontractor procurement system, are specifically contractor-owned records not subject to the FOIA. *See H & J Tool & Die Co.*, 27 DOE ¶ 80,255 (2000); DEAR 970.5204-3. Accordingly, we agree with CHPRC's reliance upon Clause I.141 of the CHPRC contract that the responsive requested procurement-related records are contractor-owned records not subject to the FOIA. Accordingly, DOE does not have records responsive to your request.

Mr. Dan O'Keefe

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The undersigned individual is responsible for this determination. You have the right to appeal to the Office of Hearings and Appeals, as provided in 10 CFR 1004.8, for any information denied to you in this letter. Any such appeal shall be made in writing to the following address: Director, Office of Hearings and Appeals (HG-1), U.S. Department of Energy, L'Enfant Plaza Building, 1000 Independence Avenue SW, Washington, D.C. 20585-1615, and shall be filed within 30 days after receipt of this letter. Should you choose to appeal, please provide this office with a copy of your letter.

If you have any questions regarding your request, please contact me at our address above or on (509) 376-6288.

Sincerely,

-Original Signed By

Dorothy Riehle  
Freedom of Information Act Officer  
Office of Communications  
and External Affairs

OCE:DCR