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Contract Reform: It's Working at Fernald

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CONTRACT REFORM: IT'S WORKING AT FERNALD

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ABSTRACT

DOE's contract reform initiatives at Fernald and the performance-based system DOE is now using to evaluate FERMCO are key elements to the current and future success of DOE and FERMCO at Fernald. Final cleanup of the Fernald site is planned for completion by 2005 per an accelerated 10-year remediation plan which has been approved by DOE and endorsed by the U.S. EPA, Ohio EPA, and the Fernald Citizens Task Force. Required funding of approximately \$276 million plus inflation annually for 10 years to accomplish final cleanup is now being considered by U.S. Congress. Contract reform initiatives and modified performance measurement systems, along with best business practices, are clearing the path for the expedited cleanup of Fernald.

MODIFIED CONTRACT BOOSTS "ON-THE-GROUND" REMEDIATION

When DOE and FERMCO signed a significant modification to the contract in July 1994, it represented the first significant action under DOE's contract reform initiatives nationwide. In effect, it was the beginning of what is now referred to as performance-based contracting.

The modified contract represented a significant departure from the management and operating (M&O) type contract that DOE has traditionally awarded at other sites. DOE wanted a contractor that was project-focused. The modified contract provides FERMCO a financial incentive to manage the environmental remediation process as efficiently as possible. Unlike M&O type contracts, this contract requires FERMCO to accept financial responsibility for its actions at Fernald, including any fines or civil penalties that might arise from FERMCO's own negligence. In return, FERMCO is granted more authority to make aggressive decisions about remediation methods.

Rapidly shifting political and business environments have brought about a number of changes in the post Cold War era. These changes are driven by dramatically reduced federal budgets that require work to be completed faster, better, and at less expense to taxpayers. DOE and FERMCO have formed an effective partnership that is resulting in streamlined environmental remediation efforts at Fernald. To be sure, contract reform is an integral part of DOE's response to President Clinton's mandate to "reinvent government."

PERFORMANCE-BASED FEE A POWERFUL MANAGEMENT TOOL FOR DOE

The goal of both DOE and FERMCO was to make the bonus fee performance-oriented, creating a system that would establish objective, quantifiable criteria as the basis for fee determination. The centerpiece of the contract modification was the replacement of the old Cost Plus Award Fee (CPAF) model -- widely used in the DOE system at the time -- with a fee plan based on quality and performance.

Under the new performance-based fee system, FERMCO and DOE agree upon a set of specific, measurable project goals for every six months. FERMCO earns bonus fee only when it exceeds those goals; satisfactory achievement of Performance Objective Criteria (POC) by itself is simply expected and no longer earns any fee.

NUMERICAL GRADING SYSTEM

Each of the three major performance areas are given ratings of excellent, satisfactory or unsatisfactory. Unsatisfactory performance results in a negative numerical rating; satisfactory performance results in a numerical rating of zero, and excellent performance receives a positive numerical rating. Each six-month evaluation period, FERMCO's performance-based fee depends on the sum of the numerical ratings. If FERMCO receives an overall rating of zero, no performance-based fee is earned. If a positive numerical rating is earned, FERMCO receives a performance-based fee. If a negative number results, FERMCO receives no performance-based fee and has to pay back some of the fee the company previously was paid.

The performance-based fee system provides an opportunity for DOE evaluators to align project objectives with FERMCO managers at the beginning of each six-month fee period. FERMCO is then rewarded on its ability to meet those objectives. This is a prime example of a win-win situation for both DOE and FERMCO.

For example, early last year DOE placed heavy emphasis on neutralizing more than 200,000 gallons of uranyl nitrate hexahydrate, or UNH, which basically is uranium dissolved in nitric acid. It was an intermediate compound in the former uranium recovery process at Fernald. UNH had been an ongoing concern for Fernald management, regulators and stakeholders, primarily due to the poor condition of the tanks in which the material was stored. In the first half of FY 95, FEMRCO missed a milestone for startup of the UNH processing. Successful completion of the UNH neutralization project became part of FERMCO's performance-based fee plan for the second half of FY95. FERMCO assigned a special team to the task, and the UNH project was successfully completed several weeks ahead of the regulatory deadline.

While the performance-based fee system is designed to reward FERMCO for achieving excellent performance, it can result in forfeiture of base fee if FERMCO fails to meet minimum performance requirements. Funds available under the performance-based fee structure are divided into two main categories: General Contract Performance Criteria and Milestone Completion.

GENERAL CONTRACT PERFORMANCE CRITERIA

General Contract Performance Criteria are elements of the Fernald work scope that directly affect our mission of a safe, least-cost, early cleanup of the site. These criteria are further subdivided into three main sections: Safety and Health, Environmental Management and Administrative Management. The three levels of performance are "excellent," "satisfactory" and "unsatisfactory." The objective measures which determine the performance level, and the amount of fee, are assigned to a particular criterion.

For example, the DOE Fernald Area Office may consider shipping one thousand drums of mixed waste to be excellent performance, for which FERMCO would receive two percent of the available fee. Shipping only 800 drums of mixed waste would reflect satisfactory performance, but FERMCO would receive no fee. Shipping any fewer than 800 would be considered unsatisfactory performance, and FERMCO would have to refund two percent of the performance-based fee back to DOE. FERMCO could be required to refund up to 25 percent of its base fee for unsatisfactory performance.

While most of the General Contract Performance Criteria contain these objective performance measures (excellent, satisfactory or unsatisfactory), a few of them have been reserved for DOE's subjective evaluation of FERMCO's performance. In these cases, DOE provides a description of the criterion without any specific performance measures attached to them.

MILESTONE COMPLETION

The Milestone Completion section includes activities that are considered high-risk, and most of them are included in the Amended Consent Agreement between the DOE and U.S. EPA. Milestones have performance measures for "achieved excellence" and "did not achieve excellence" because nearly all of the milestones are based on deliverable dates. That is, FERMCO either met the due date or it did not. FERMCO is not required to refund fee to the DOE for failing to achieve excellence under the Milestone Completion section, but FERMCO is still potentially liable for fines levied by EPA for missed deadlines.

PERFORMANCE AREAS, CRITERIA AND MILESTONES USED FOR EVALUATION

It is important to keep the Fernald mission statement in mind when reviewing the major performance areas negotiated between DOE and FERMCO to assess FERMCO's performance against established criteria:

Together, DOE and FERMCO are committed to protecting human health and the environment through the safe, least-cost, earliest, final cleanup of the Fernald site, within applicable DOE order, regulations and commitments, and in a manner which addresses stakeholder concerns.

FERMCO's performance is assessed every six months of the fiscal year, covering periods from October 1 through March 30 and April 1 through September 30. FERMCO is evaluated on three elements of the mission statement: 1) Safe Cleanup, 2) Least-Cost, Earliest and Final Cleanup, and 3) Addressing Stakeholder Concerns.

Under the Safe Cleanup performance measure, FERMCO is expected to significantly reduce the probability of accidents, exposures or releases from occurring. While DOE recognizes that an effective Safety and Health program cannot prevent all accidents, exposures or releases, FERMCO's Safety and Health programs are expected to identify, categorize and control deficiencies in a timely manner to prevent them from happening again.

In addition, FERMCO's Radiological Protection Program is evaluated on how well it keeps exposure and contamination incidents to workers and the public at a minimum. Therefore, employees must be aware of workplace hazards and safety precautions that can prevent accidents from happening. That is why Safety First initiatives and the Voluntary Protection Program are heavily weighted in evaluating FERMCO's performance.

The Least-Cost, Earliest, Final Cleanup performance measure address the Project Management Control System, which is used to integrate technical, cost and schedule performance data. Success of removal actions and waste packaging and shipping also are considered under this heading. This category also considers FERMCO's ability to improve procurement processes and develop technology programs.

FERMCO also is evaluated on its ability to address stakeholder concerns. FERMCO is expected to comply with requests from the public in a timely manner, and to provide information about project plans at the site to employees and the public. Programs evaluated under this heading include the envoy program, media relations, employee communications, support of the citizens task force, and the success of the Community Relations Plan which is designed to inform stakeholders about public involvement opportunities.

CRITICAL FEW PERFORMANCE MEASURES

DOE and FERMCO recently agreed on a list of "critical few" additional performance areas to be measured. FERMCO will be evaluated under the Program Progress heading for its ability to conduct legacy waste characterization and low-level waste shipping; minimize effluent discharges to the Great Miami River from wastewater treatment systems; achieve design milestones and implement field work in support of EPA-approved Records of Decision, and remove holdup material from equipment and lines under the Safe Shutdown program. FERMCO also is expected to demonstrate a Return on Investment by reducing maintenance and electric utility costs and transferring or disposing of excess government property; measure stakeholder opinions and views about Trust and Confidence in a process to be conducted by independent third parties with results reported to DOE; and meet scheduled commitments for rebaselining the 10-year remediation plan, upgrading the Progress Tracking System list and successfully completing Project Tracking System milestones.

WHERE WE ARE TODAY

The nature and extent of contamination has been defined, and the selected remedies have been well researched and they're supported by DOE and its stakeholders.

We have a plan and now we are baselining our schedule milestones and developing detailed cost estimates for each of the five areas targeted for remediation at Fernald. It is an aggressive plan designed to expedite cleanup and significantly reduce or eliminate costs associated with overhead, landlord activities, and building maintenance. A concerted effort is being made to spend as little money as possible supplying heat, electricity and maintenance support to buildings targeted for demolition.

We have realized significant cost savings, cost avoidances, and greater efficiency by aligning technical project needs with regulator and stakeholder interests, thereby reducing the obstacles that drive costs up. The modified contract incentivizes FERMCO to produce "on-the-ground" remediation progress. FERMCO also has strategically aligned project organizations which are completely focused on planning and executing final remedial activities. The project concept works well at Fernald, because start-and-finish timelines exist and the work scopes are easily measured.

DOE and FERMCO developed this accelerated cleanup plan in conjunction with federal and state regulatory agencies and Fernald stakeholders to achieve the most cost-efficient, aggressive approach to cleanup without compromising safety principles or regulatory guidelines. This can be accomplished within 10 years. The focus has been to create a dedicated project team that will be disbanded in a programmed manner as each phase of the job is finished.

Under the accelerated cleanup plan, as work progresses we will continually collapse and consolidate radiologically contaminated zones. They will get smaller and smaller and fewer in number until there are no more.

The U.S. EPA, Ohio EPA and Fernald stakeholders agree with DOE and FERMCO that an accelerated cleanup approach is well-timed, doable, and fiscally responsible. It will save taxpayers an estimated \$2.7 billion in escalated funds. We are moving forward in an aggressive manner.

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