

Contract No. DE-AC07-97ID13481

SECTION B

SUPPLIES OR SERVICES AND PRICE/COSTS

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SECTION B

SUPPLIES OR SERVICES AND PRICE/COSTS

B.1 SERVICES BEING ACQUIRED (OCT 1992)

The Contractor shall, in accordance with the terms of this Contract, furnish all personnel, facilities, equipment, materials, supplies, and services (except as may be expressly set forth in this contract as furnished by the Government) and otherwise do all things necessary for, or incident to providing services under the Advanced Mixed Waste Treatment Project at the Idaho National Engineering Laboratory, located near Idaho Falls, Idaho.

B.2 OBLIGATION OF FUNDS (OCT 1992)

The amount obligated under this contract for completion of Phase I in clause B.3 below is:

Appropriation Symbol	B&R Number	Dollar Amount	Object Class	ADS/TTP
89X0242.91	EW3130090	\$ 1,258,941	253	ID-4315-02
89X0242.91	EW3701000	\$ 15,014,057	253	ID-4315-01
Total		\$ 16,272,998		

90 see 11-20-96

B.3 PRICE SCHEDULE

Phase I shall be on a firm-fixed-price basis. Phase III shall be on a fixed unit price with economic price adjustment basis through 25,000 m³. Phase III shall be on a fixed price with prospective price redetermination basis beyond 25,000 m³. Phase II costs will be recovered as part of Phase III pricing. A fixed-price with prospective price redetermination type of contract will be used for quantities of waste between 25,001 m³ - 65,000 m³. Prices will also be redetermined at 5-year intervals after 25,000 m³ of waste are processed. Economic price adjustment will not be given on fixed-price redeterminable quantities.

In consideration for performance under this contract, the Contractor shall be paid the consideration identified below. This consideration shall constitute complete payment for all services and materials furnished and accepted pursuant to the statement of work and reporting requirements checklist:

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Phase I - Licensing, Permitting, and Environmental Compliance

Public Involvement Plan	\$ <u>509,348</u>
Approved Preliminary RCRA Part B Permit including Design	\$ <u>6,003,461</u>
Approved Preliminary TSCA Permit	\$ <u>245,496</u>
Approved Air Permit to Construct and Approved Preliminary Permit to Operate	\$ <u>2,228,154</u>
Submission of Data to Support NEPA Analysis	\$ <u>610,024</u>
NRC License or DOE ES&H Program Operating Plan	\$ <u>5,994,355</u>
Any Other State or Federal Permit or License, or other items as identified	\$ <u>682,160</u>
Total Price of Phase I	\$ <u>16,272,998</u>

The Contractor shall be paid the prices shown above upon completion for each item under Phase I.

Technology development/demonstration costs incurred during Phase I to support the Contractor's permitting/licensing activities shall not be priced in Phase I. Such costs may be recovered in the Contractor's Phase III unit prices, but if Phase I is not successfully completed for any reason other than a termination for convenience of the Government, these costs will be borne by the Contractor.

Option 1 - Phases II and III

Phase I must be completed prior to proceeding to Phase II. DOE shall have the unilateral option to direct the Contractor to complete Phases II and III as described below. This option shall be exercised no later than 120 days prior to the completion of Phase I as scheduled in the approved Project Management Plan.

Phase II - Facilities and Process Demonstration

Start of Phase II is contingent upon successful completion of Phase I and Federal completion of the NEPA evaluation. The Contractor shall be paid for the Phase II facilities and process demonstration (systems operating testing and all testing as to support permitting and licensing) costs in the unit prices for processing the first 25,000 m³ of waste under Phase III. All prices shown for treating subsequent quantities of waste will be subject to the price redetermination in Clause I.3, FAR 52.216-5. After the price redetermination clause is invoked, the Economic Price Adjustment Clause set forth as Clause B.6, will no longer be applicable.

If the Contractor is unable to successfully complete the process demonstration, the contract may be terminated for default in accordance with the FAR Clause 52.249-8, entitled Default (Fixed-Price Supply and Service) under Section I of this contract.

Phase III - Treatment Operations

Unit price for processing the initial 25,000 m ³ of waste	\$4,468___/m ³
Unit price for amortization of Phase II costs over 25,000 m ³ of waste	\$22,776___/m ³
Unit price for processing the balance of 40,000 m ³ of waste	\$4,468___/m ³
Total price for processing 65,000 m ³ of waste	<u>\$859,820,000</u>

The Contractor is authorized to amortize the AMWTP facility costs from Phase II over the first 25,000 m³ of treated AMWTP waste. Therefore, amortization of facility costs shall be reflected in the unit pricing structure with price breaks after facility costs are recovered.

If the contract is terminated for convenience of the Government the termination shall be negotiated in accordance with the clause FAR 52.249-2 Termination for Convenience contained in Section I to this Contract. However, any termination costs will be based on prices proposed including information furnished for items 1 through 15 in Appendix L of Section J. In the event that the contract value changes during the performance of the contract, the elements of price identified in Section J, Appendix L shall be modified to reflect such adjustments, so as to reflect a valid basis for the settlement of a termination for convenience settlement.

Option 2 - Other INEL and Non-INEL DOE Waste

DOE shall have the option to unilaterally direct the Contractor to process up to 120,000 m³ of waste in addition to the base contract quantity of 65,000 m³. Such option shall be exercised at least 120 days prior to completion of the previous option. The optional quantities of INEL & NON-INEL DOE wastes shall be subject to the AMWTP WAC. The Contractor shall not be responsible for characterization of the optional quantities of waste except as necessary to verify the generator's characterization. If directed, the Contractor shall treat the optional quantities of waste for the prices shown below in accordance with the following schedule: 1) The first increment would be processed in parallel with the base contract quantity at a rate not to exceed 2,500 m³ per year, 2) The processing of the remaining quantities would follow the base contract quantity at a rate not to exceed the Contractor's installed capacity. The Contractor shall be responsible for the receipt, verification of characterization, treatment, storage and loading for transportation of the optional wastes. Non-INEL wastes accepted for treatment shall be treated within six months of receipt and made available for shipment within six months of treatment. Non-INEL wastes not accepted for treatment shall be returned to the generator as soon as possible but no later than six months after receipt. It is understood and agreed that the additional 1 to 20,000 m³ increment of Option 2 quantities may be exercised at any time after Option 1 is exercised. It is further agreed that if any of this 1 to 20,000 m³ increment is processed with the Option 1 quantities consisting of the 25,000 m³ and 40,000 m³ increments respectively, such waste shall be processed at the prices shown for those quantities. Option 2 additional quantities are as follows:

Processing

Unit price for processing increment of 1 to 20,000 m ³ of waste	\$ <u>2,596</u> /m ³
Unit price for processing increment of 20,001 to 40,000 m ³ of waste	\$ <u>2,596</u> /m ³
Unit price for processing increment of 40,001 to 60,000 m ³ of waste	\$ <u>2,596</u> /m ³
Unit price for processing increment of 60,001 to 80,000 m ³ of waste	\$ <u>2,596</u> /m ³
Unit price for processing increment of 80,001 to 100,000 m ³ of waste	\$ <u>2,596</u> /m ³
Unit price for processing increment of 100,001 to 120,000 m ³ of waste	\$ <u>2,596</u> /m ³

B.4 PAYMENTS FROM FUNDS AVAILABLE UNDER THE CONTRACT (SEPT 1992)

The payment for all services performed or for other payments which the Contracting Officer has specifically approved in writing, shall be made from funds obligated by the Government or otherwise available under the contract.

B.5 AVAILABILITY OF APPROPRIATED FUNDS (SEPT 1992)

Except as may be specifically provided to the contrary in this contract in the clause in Section I entitled "Nuclear Hazards Indemnity Agreement," the duties and obligations of the Government hereunder calling for the expenditure of appropriated funds shall be subject to the availability of funds appropriated by the Congress, which the Department of Energy may legally spend for such purposes.

In accordance with Office of Management and Budget scoring policy for capital leases, DOE will obligate funds at the time Phase II commences for the total estimated capital costs of the Contractor's treatment facility.

B.6 ECONOMIC PRICE ADJUSTMENT METHOD

1. Price Structure and Basis for Economic Price Adjustment.

- a. Economic price adjustment shall not apply to Phases I and II. Economic Price Adjustment will not be given on fixed-price redeterminable units.
- b. Phase III shall be on a fixed unit price with economic price adjustment basis for the first 25,000 m³ and on a fixed-price-redeterminable-prospective basis for all quantities above 25,000 m³. The Phase III unit price subject to adjustment shall be as follows:
 - (1) The Contractor's Phase III unit price for the first 25,000 m³ shall be divided into two components for purposes of economic price adjustment. That portion of the Phase III unit price for Phase II facility cost amortization shall not be subject to adjustment under this clause. The remainder of the Phase III unit price for the first 25,000 m³ shall be subject to adjustment under this clause.

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- (2) Any repricing for quantities beyond the first 25,000 m³ will be subject to FAR clause 52.216-5 Price Redetermination - Prospective under Section I of this contract.

2. Economic Price Adjustment Process.

- a. The contract base year for Phase III unit prices shall be the calendar year 1996.
- b. The Phase III unit price subject to adjustment shall be adjusted upward or downward once annually (with a new, adjusted price effective date of January 1 of each performance year) based on changes in the nationally published index entitled "Employment Cost Index, Wages and Salaries, All Private Industry Workers (Labor)," hereinafter called "the Index."
- c. The effective date of each annual adjustment shall be January 1 of each year.
- d. The annual adjustment shall be based on the percentage increase or decrease in the Index for the next calendar year as forecast by Data Resources, Inc. on December 1 of the year preceding the year to be adjusted. An example calculation is shown:

Phase III Unit Price for Calendar Year 19X1	\$5,000/m ³
Data Resources, Inc. Forecast of Increase in the Index for 19X2 as of December 1, 19X1	3.2%
Adjusted Phase III Unit Price for Calendar Year 19X2	\$5,160/m ³

- e. The adjusted Phase III unit price for the next calendar year shall be made by a contract modification to be executed bilaterally by the Contractor and the Contracting Officer. However, if bilateral agreement cannot be reached, the Government retains the right to unilaterally make this determination in unit price adjustment and such determination shall be subject to the "Disputes" clause of this contract. During this process, the Contractor shall continue performance pending agreement on, or determination of, any adjustment.
- f. In the event the Index is discontinued, materially changed, or is no longer a reliable indicator of changes in the cost of contract performance, the parties shall endeavor to bilaterally agree to utilize another independent, nationally-published index which will achieve substantially the same result. In the event the parties cannot agree on such an index, the Government retains the right to

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unilaterally make the determination of an appropriate index and such determination shall be subject to the "Disputes" clause of this contract.

- g. No upward adjustment shall apply to services that are required to be delivered or performed before the effective date of the adjustment, unless the Contractor's failure to deliver or perform according to the delivery schedule results from causes beyond the Contractor's control and without its fault or negligence, within the meaning of the Default clause.
- h. There is no pre-established percentage limitation on the amount of decreases or increases that may be made under this clause.
- i. For purposes of insuring compliance with this clause, the Contracting Officer may examine the Contractor's books, records, and other supporting data relevant to the Phase III unit price to which the Index is applied during all reasonable times until the end of 3 years after the date of final payment under this contract or the time periods specified in subpart 4.7 of the FAR, whichever is earlier.
- j. The operation of this clause does not preclude an adjustment to the Phase III unit price as a result of remedies available to the Contractor through the operation of other contract terms and conditions.

B.7 FUNDING OBLIGATIONS

- (a) Clause B.2 of this contract identifies the amount of appropriated funds presently obligated and available for payment by the Government under this contract. The parties contemplate that the Department of Energy will obligate additional funds incrementally to the contract as necessary to secure timely contract performance in accordance with the contract schedule and to meet the Government's termination liability requirements in the event of a termination for convenience. The Contractor shall provide an annual update of the cost/payment schedule by March 1 of each year included in Section J, Appendix F of the contract, which will be used as the basis for the Department of Energy's budget and appropriation requests to Congress. The Department of Energy shall endeavor to give this contract a high priority within its appropriated funds for each year of contract performance; provided, however, that nothing in this contract shall be considered to bind or otherwise obligate the Congress to appropriate funds sufficient to cover contract requirements.
- (b) The Contractor shall notify the Contracting Officer in writing whenever it has reason to believe that the payments due from the Department of Energy under this contract

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within the next 60 days, when added to all payments previously made and the amount that would be due in the event of a termination for convenience, will in the event of a termination for convenience exceed the amount obligated on this contract. The Contractor's written notice shall specifically identify the payments made to date, and the nature and amount of expected or anticipated payments which would result in payments which exceed the amount obligated. The Contractor is not required to continue contract performance which would result in payment obligations on the part of the Government which exceed the amount obligated, and in the event it does continue contract performance it does so at its own risk. If the Contractor continues work and the Department of Energy subsequently obligates additional funds to the contract, the Contractor may recover such funds to the extent permitted by Clause B.5 of this contract.

- (c) If the performance of all or any part of the work of this contract is delayed, or the cost of performance increased, caused solely by the failure of the Government to obligate additional funds sufficient for timely performance of the contract, an adjustment shall be made for any increase in the cost of performance of this contract caused by the delay, and the contract shall be modified in writing accordingly. Adjustment shall also be made in the delivery or performance dates, and any other contractual term or condition affected by the delay. A delay in obligating additional funds for performance of more than 90 days (or such other period as may be mutually agreed upon) will result in the contract being terminated for convenience.