

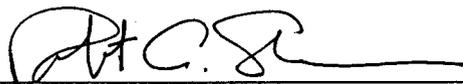


**U. S. Department of Energy
Oak Ridge Operations
Office of Environmental Management
Procedure**

PROVISIONAL PAYMENT OF FEE

**EM-1.8
Revision 0**

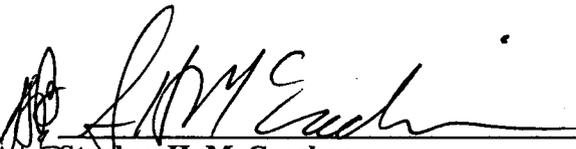
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1.0 PURPOSE

The purpose of this procedure is to describe the method by which the Assistant Manager for Environmental Management recommends a provisional fee payment to the Contracting Officer.

The Oak Ridge Environmental Management Accelerated Cleanup Contract provides for scheduled quarterly provisional fee payments. These provisional fee payments are based on a formula that includes target fee (currently \$149.5 million), quarters of performance (currently 20), and an invoice factor (currently 0.75). Contract Clause B.5.2 *Provisional Quarterly Fee Payment Adjustments and Reductions* allows for adjustments by the Contracting Officer based upon validated cost and schedule variances and status of the five major milestones. Contract Clause I.22 *52.216-10 Incentive Fee* allows the Government to pay on the basis of an appropriate lesser fee if the Contracting Officer considers that performance or cost indicates that the Contractor will not achieve target. Contract Clause I.22 also allows the Government, at the sole discretion of the Contracting Officer, to pay on the basis of an appropriate higher fee if performance or cost clearly indicates that the Contractor will earn a fee significantly above the target fee.

Contract Clause H.6 *Conditional Payment of Fee – Environment, Safety and Health and Safeguarding Restricted Data and Other Classified Information and Materials* allows the Contracting Officer to apply appropriate fee deductions within 6 months of the date of an event or incident occurrence or within 6 months of the determination of a significant adverse safety trend or pattern demonstrating breakdown in basic management systems for safety or security. Fee deductions are not addressed in this procedure.

2.0 SCOPE

This procedure applies to the Office of the Assistant Manager for Environmental Management, the Chief Operating Officer, the Federal Project Directors, the Technical and Safety Assessment Division Director, and Business Management.

3.0 REFERENCES

- 3.1 Oak Ridge Environmental Management Accelerated Cleanup Contract DE-AC05-98OR22700
- 3.2 Scheduled Provisional Fee Payments (Contract Clause B.5.1)
- 3.3 Provisional Quarterly Fee Payment Adjustments and Reductions (Contract Clause B.5.2)
- 3.4 Conditional Payment of Fee-Environment, Safety, and Health and Safeguarding Restricted Data and Other Classified Information and Materials (Contract Clause H.6)
- 3.5 Schedule Incentive (Contract Clause B.4.2)
- 3.6 Incentive Fee (Contract Clause I.22)

4.0 RESPONSIBILITIES

- 4.1 Assistant Manager for Environmental Management – the Assistant Manager for Environmental Management is responsible for ensuring that a timely provisional fee payment recommendation is made to support Contracting Officer authorization of the provisional fee payment.

- 4.2 Chief Operating Officer and Senior Technical Advisor – the Chief Operating Officer and Senior Technical Advisor are responsible for advising the Assistant Manager for Environmental Management on upward or downward adjustments to the quarterly provisional fee payment.
- 4.3 Federal Project Directors – the Federal Project Directors for Melton Valley, the East Tennessee Technology Park, and Legacy Waste/Balance of Reservation are responsible for verifying earned value reported by the Contractor, verifying progress reported by the Contractor against contractual milestones, and providing evidence of these verifications to Business Management. In addition, the Federal Project Directors are also responsible for communicating any noted Contractor strengths or weaknesses in the areas of environmental protection, safety and health, security, and project progress. These strengths and weaknesses must be communicated to the Assistant Manager for Environmental Management, the other Federal Project Directors, the Technical and Safety Assessment Division Director, and Business Management.
- 4.4 Technical and Safety Assessment Division Director – the Technical and Safety Assessment Division Director is responsible for communicating any noted Contractor strengths or weaknesses in the areas of environmental protection, safety and health. These strengths and weaknesses must be communicated to the Assistant Manager for Environmental Management, the Federal Project Directors, and Business Management.
- 4.5 Business Management – Business Management is responsible for maintaining this procedure; coordinating the actions of the other responsible parties; collecting supporting documentation from the Federal Project Directors, the Technical and Safety Assessment Division Director, and from within Business Management; and preparing required correspondence from the Assistant Manager for Environmental Management to the Contracting Officer.

5.0 PROCEDURE

5.1 Earned Value Verification

Business Management will notify the Federal Project Directors when the Contractor finalizes project reporting data in the month following the end of a quarter (e.g. in July for the period April through June). In addition Business Management will request the Federal Project Directors to verify the earned value reported by the Contractor. Generally, Business Management will request the verification be completed within 14 calendar days.

To verify earned value, Federal Project Directors and their staffs should spot check at least 25% of their assigned subprojects each quarter, and spot check each subproject at least once per year. The following criteria may be used by the Federal Project Directors to assist in the selection of the subprojects to be spot checked:

- Subproject has not been spot checked in the last nine months
- Subproject has a cost variance exceeding plus or minus 10%
- Subproject has a schedule variance exceeding plus or minus 10%
- Subproject has earned a significant amount of value in the previous quarter compared to the cost incurred
- Subproject has incurred a significant amount of cost in the last quarter compared to the value earned

- Subproject is on or near the critical path for a contractual milestone or contract completion
- Subproject remaining duration (on a percentage basis) is significantly different from the remaining value to be earned on a subproject (on a percentage basis)

Note: These criteria are intended to serve as a guide only. The Federal Project Director may be aware of other criteria that would be more appropriate to apply in the selection of subprojects.

Upon completing the earned value verification, Federal Project Directors should forward a synopsis of the verification to Business Management. The synopsis should include subprojects verified, the reason each subproject was verified, how the verification was completed, and the results of the verification, including any recommended increases or decreases to Contractor reported earned value. In addition, Federal Project Director should provide their assessment of projected project completion dates. Federal Project Directors must maintain files of all documents used and working papers generated during the earned value verification.

5.2 Project Metrics

While the Federal Project Directors are verifying earned value, Business Management will assemble various project metrics for use by the Assistant Manager for Environmental Management in recommending to the Contracting Officer a quarterly provisional fee payment. Metrics to be provided to the Assistant Manager for Environmental Management include:

- Cumulative cost and schedule variances for target and excluded scope
- Cost and schedule variances for the quarter for target and excluded scope
- Cost and schedule variances for Melton Valley, Legacy Waste, East Tennessee Technology Park and Balance of Reservation target scope
- Gold chart metrics
- Estimate at Completion using project manager estimates and projections using the Cost Performance Index and the Schedule Cost Index

In addition, as the project changes and matures, the Assistant Manager for Environmental Management may request Business Management to provide additional or different metrics.

5.3 Environment, Safety and Health Evaluation

The Technical and Safety Assessment Division Director will provide an evaluation of Contractor environmental protection, safety and health performance to assist the Chief Operating Officer, the Federal Project Directors, and the Assistant Manager for Environmental Management in determining if environmental protection, safety and health performance could affect the Contractor's ability to achieve the contract target.

5.4 Provisional Fee Recommendation

5.4.1 Business Management will prepare a draft provisional fee payment recommendation to the Contracting Officer based on cost/schedule performance, safety considerations, and an evaluation of anticipated fee that will be earned at the end of the contract. The evaluation of anticipated fee will be based on Business Management's assessment of when the three major projects will be completed versus schedule incentive and an evaluation of anticipated final cost of the contract. The provisional fee recommendation will be reviewed by the Federal Project Directors, COO, and Senior Technical Advisor and transmitted to the Contracting Officer by the AMEM. The recommended provisional fee will be based on the following calculation:

Target Fee Adjusted for Anticipated Schedule and Cost Incentive Fee/Quarters of Performance X 0.75

An example of how recommended fee will be calculated follows:

MODEL PROVISIONAL FEE CALCULATION	
Target Fee (9%)	\$149,209,000
Melton Valley Completed Three Months Early	\$3,000,000
ETTP Completed Three Months Late	(\$36,000,000)
Legacy Waste Not Completed in Contract Period	(\$18,000,000)
Cost Incentive Based on Target Cost	0
Estimated Fee at Project Completion (5.9%)	\$98,209,000
Estimated Provisional Fee (\$98,209,000/20x75%)	\$3,682,838

This calculation serves as guidance and can be modified by the AMEM based on other considerations of cost/schedule and safety performance.

5.4.2 Overpayment or Underpayment to the Contractor

If a situation arises where DOE has made upward adjustments resulting in overpayment to the Contractor, the Contracting Officer may withhold provisional payments until the overpayment situation is corrected. Business Management will provide an analysis of the draft recommended provisional fee payment compared to previous provisional fee payments for the purpose of determining if an overpayment situation exists.

If project performance shows an improving trend, it is possible that an underpayment situation exists. Business Management will provide an analysis of the draft recommended provisional fee payment compared to previous provisional fee payments for the purpose of determining if an underpayment situation exists.

5.4.3 Additional Upward or Downward Adjustments

Business Management will distribute the draft recommended provisional fee payment, the assembled project metrics, and the environment, safety and health evaluation to the Assistant Manager for Environmental Management, the Chief Operating Officer, the Federal Project Directors, and the Technical and Safety Assessment Division Director for review. A copy of this documentation will also be provided to the Contracting Officer. After distributing this documentation, Business Management will schedule a discussion among the personnel listed above in order to provide these personnel with the opportunity to advise the Assistant Manager for Environmental Management on any additional upward or downward adjustments believed necessary.

Business Management will incorporate the results of this discussion into the recommended quarterly provisional fee payment. This recommendation will be provided formally to the Contracting Officer by the Assistant Manager for Environmental Management. The recommendation will include the project metrics, the environment, safety and health trend discussion, and the overpayment/underpayment analysis (if required).

5.4.4 Schedule

Authorization of the scheduled quarterly provisional fee payment is contractually required within 30 days of an acceptable invoice. In order for the Contracting Officer to authorize the scheduled quarterly provisional fee payment within 30 days of an acceptable invoice, the Contracting Officer must receive the formal provisional fee payment recommendation within 28 days of an acceptable invoice.

The following timetable provides a guideline for meeting these requirements.

Day 1 – an acceptable invoice for the scheduled quarterly provisional fee payment is received from the contractor.

Day 14 – earned value verification completed by Federal Project Directors and provided to Business Management.

Day 14 – environment, safety and health trend report provided by the Technical and Safety Assessment Division Director to Business Management.

Day 14 – assembly of project metrics completed by Business Management.

Day 15 – draft recommendation and associated documentation provided to the Chief Operating Officer, the Federal Project Directors, the Technical and Safety Assessment Division Director, and the Contracting Officer by Business Management.

Day 21 – meeting conducted so that the Chief Operating Officer, the Federal Project Directors, and the Technical and Safety Assessment Division Director provide recommended adjustments upward or downward to the Assistant Manager for Environmental Management.

Day 28 – a recommended provisional fee payment is formally provided by the Assistant Manager for Environmental Management to the Contracting Officer.

6.0 DOCUMENTS

All documentation, except for detailed earned value verification documentation, generated as a result of this procedure shall be collected and maintained by Business Management. Detailed earned value verification documentation will be maintained by the appropriate Federal Project Director.

7.0 ATTACHMENTS

None.