RATING PLAN

GENERAL INFORMATION

Performance Incentive Number: CBFO-PBI #1 Performance Period:10/1/2005 through 9/30/2012
Performance Incentive Short Title: Risk Reduction of TRU Waste and Disposal at WIPP
Revision Number and Date: **Revision 7, 8/18/2010**

SECTION II – ACCOUNTING/PROJECT INFORMATION

Initial Budgeted Cost of Work Scheduled (BCWS) under this PM: Exemption 4

Maximum Available Incentive Fee Associated with this Measure: Exemption 4

CBFO Management Control Packages:

SECTION III – INCENTIVE INFORMATION

Incentive type:	Base ☒	Stretch ☐	Super Stretch ☐
Difficulty:	High ☒	Medium ☐	Low ☐
Duration:	Annual ☐	Multi-year ☒	
Fee Payment type:	Completion ☒	Progress ☐	Provisional ☐

SECTION IV - PERFORMANCE MEASURE

Description:

Recognizing that accelerating and managing the safe disposal of TRU waste is CBFO's primary mission, this PBI represents a fee model in which earnings are at risk and the Contractor is paid when specific cleanup results are achieved. The Contractor will earn fee for accelerated risk reduction based on cubic meters dispositioned from the TRU waste inventory at generator sites by removal and disposal, for clean up and disposal of TRU Waste from Small Quantity Sites (SQS), or the identification of a disposition path to dispose of waste currently managed as TRU waste as low-level or mixed low-level waste. This PBI has an added difficulty component due to the work necessary to be done by generator sites to achieve the desired results that is not under the control of the Contractor or funded by the Contractor. Risk reduction fees will be earned as follows:

1. For cubic meters of TRU waste removed from TRU waste sites and disposed of at WIPP where WTS provides characterization services or manages the clean up and disposal of TRU waste from Small Quantity Sites.
2. For cubic meters of TRU waste disposed of at WIPP from sites where WTS does not provide characterization services.
3. For cubic meters of waste dispositioned where a more cost effective disposal option exists.
4. For disposal of at least one Remote Handled (RH) shipment at WIPP.
5. For cubic meters of difficult CH TRU waste removed from TRU waste sites and disposed of at WIPP where WTS provides characterization services an incremental fee will be paid.
6. For partial characterization or transportation of waste to a consolidation site (non-WIPP site).
7. For cubic meters of waste from inefficient waste streams where WTS provides characterization services, an incremental fee will be paid for the waste removal from the TRU waste sites and disposal at WIPP.
8. For cubic meters of waste where WTS provides partial characterization or transportation of TRU waste for disposal of the waste at WIPP.

In accordance with accelerated risk reduction, the following metrics shall be used to measure performance and determine fees earned by the Contractor under this Rating Plan element.

Metric 1: The Contractor's performance will be measured quarterly for its success in the safe and compliant removal of cubic meters of waste from generator sites' inventory where WTS provides characterization services and shipping to WIPP.

For each cubic meter of CH waste removed from generator site inventory, transported, and disposed of at WIPP under Metric 1, a fee of Exemption 4 *will be earned.*

For each cubic meter of RH waste removed from generator site inventory, transported and disposed of at WIPP under Metric 1, a fee of $ Exemption 4 *will be earned.*

Fee for cleaning up TRU waste from SQSs will be earned based on two criteria: first for cleanup of the current TRU waste from the site and secondly for disposal of that waste at WIPP or another disposal option.

To earn fee for SQS clean up, WTS must perform meaningful work. This can include for example: provide documentation to DOE that demonstrates the waste has appropriate Acceptable Knowledge to be certified as TRU waste or for disposal, provide documentation to demonstrate that the waste was produced from defense related activities in accordance with DOE criteria, provide documentation demonstrating transportation of the waste from the SQS to a receiver site acceptable to DOE, and providing assistance in transportation of the waste from the SQS to the receiver site and from the receiver site to the final disposal site. WTS must submit a work plan and description for CBFO approval for each initiative under this metric.

SQS fee earnings are as follows:

For each SQS with RH TRU Waste greater than 50 cubic meters in volume:
Completion of the cleanup will earn the Contractor Exemption 4 *fee.*
Completion of disposal will earn the Contractor Exemption 4 *fee.*

For each SQS with RH TRU Waste less than 50 cubic meters in volume:
Completion of the cleanup will earn the Contractor $ Exemption 4 *fee.*
Completion of disposal will earn the Contractor $ Exemption 4 *fee.*

For each SQS with no RH TRU waste and greater than 200 cubic meters of CH TRU waste:
Completion of the cleanup will earn the Contractor Exemption 4 *fee.*
Completion of disposal will earn the Contractor Exemption 4 *fee.*

For each SQS with no RH TRU waste and less than 200 cubic meters of CH TRU waste:
Completion of the cleanup will earn the Contractor Exemption 4 *fee.*
Completion of disposal will earn the Contractor Exemption 4 *fee*

After the TRU waste from a site has been cleaned up and the fee has been paid in the period of FY03 to FY10, if additional defense TRU waste is discovered during FY06 to FY10, the Contractor can earn 75% of the fee above based on the type and quantity of the new TRU waste discovered. If additional defense TRU waste is discovered more than once for a completed site during FY06 to FY10, the Contractor is obligated to remove it and dispose of it properly with the amount of fee to be paid to be the subject of additional discussion between CBFO and the Contractor after the submittal of the Contractor work plan for the effort. For sites where the Contractor was paid 50% of the CH fee amount for partial cleanup in FY05 (i.e. Argonne, Lawrence Livermore, MFC at Idaho National Laboratory, and the Nevada Test Site), the Contractor will be paid 50% of the fee amount above for completion of the cleanup and 50% of the fee amount above for proper waste disposal of the remaining waste at those sites.

The estimated amount of fee required to fund all elements under this metric during the term of the contract is Exemption 4

Metric 2: The Contractor's performance will be measured quarterly for its success in the safe and compliant disposal at WIPP of cubic meters of TRU waste from sites where WTS does not provide characterization services, as indicated in the WWIS database. (Note: This is based on compaction of approximately 25,000 cubic meters of inventory at Idaho AMWTP to 11,500 cubic meters of disposal of CH TRU waste at WIPP.)

For each cubic meter of CH disposed at WIPP under Metric 2, a fee of Exemption 4 *will be earned.*

The estimated amount of fee required to fund all elements under this metric during the term of the contract is Exemption 4

Metric 3: The Contractor's performance will be measured for its success in identifying cubic meters of waste

currently managed as TRU waste where a more cost effective disposal option exists.
WTS will submit a request for payment of $ [redacted] per cubic meter at the end of the applicable quarter to CBFO that documents its identification of the total cubic meters of waste managed as TRU waste where a more cost effective disposal option exists.

To earn fee under this metric, WTS must perform meaningful work, such as developing documentation to demonstrate that the waste being managed as TRU is actually low-level waste, mixed low-level waste, or other non-TRU waste forms with a demonstration that a more cost effective disposal option exists at the time of request for fee payment, and developing documentation to demonstrate that the waste has been removed from TRU waste management at the generator site or disposed of as non-TRU waste. WTS must submit a work plan and description for CBFO approval for each initiative under this metric.

The estimated amount of fee required to fund under this metric during the term of the contract is [redacted]
Metric 4: The contractor will dispose of a minimum of one RH waste shipment at WIPP.

The completion of disposal of at least one shipment of RH waste in the WIPP repository will earn the Contractor [redacted] *n fee.*

The maximum amount of fee available to WTS under this metric during the term of the contract is [redacted]

Metric 5: The Contractor's performance will be measured quarterly for its success in the safe and compliant removal of cubic meters of difficult CH waste from generator sites' inventory where WTS provides characterization services and shipping to WIPP for disposal. Difficult waste is defined as TRU waste meeting one or more of the following criteria: (a) containers with TRUCON codes which require a reduced shipping period of 5, 10, or 20 days; (b) containers requiring multiple Non-destructive Assays (NDAs) requiring different equipment configurations; (c) drums requiring Gas Generation Testing (GGT); (d) containers with greater than 79 plutonium-equivalent curies; (e) containers with greater than 99 Fissile Gram Equivalents (FGE; (f) containers which contain classified components and (g) containers which require visual examination either because the waste is newly generated or because the objectives of RTR cannot be met.

For each cubic meter of difficult CH waste removed from generator site inventory, WIPP certified by WTS, transported, and disposed of at WIPP under Metric 1, an incremental fee of $ [redacted] *will be earned in addition to the base fee earned under PBI #1, Metric 1.*

The estimated amount of fee required to fund this metric during the term of the contract is $ [redacted]

Metric 6: The Contractor's performance will be measured quarterly for its success in the safe and compliant removal of cubic meters of waste from generator sites' inventory where WTS provides partial characterization or transportation services to a consolidation site (non-WIPP site) approved by CBFO.

For each cubic meter where WTS provides partial characterization or transportation services to a consolidation site (non-WIPP site), a fee of [redacted] *will be earned.*

The estimated amount of fee required to fund this metric during the term of the contract is [redacted]

Metric 7: The Contractor's performance will be measured quarterly for its success in the safe and compliant removal of cubic meters of waste from inefficient waste streams where WTS provides characterization services and shipping to WIPP for disposal. Inefficient waste streams are defined as TRU waste meeting one or more of the following criteria: (a) originating from waste streams with fewer than 250 containers; (b) waste streams with initial rejection rates exceeding 20% through Real Time Radiography (RTR); (c) containers with shipments where the shipment payload is limited by transportation requirements; and (d) containers which require overpacking.
For each cubic meter of waste from inefficient CH waste streams removed from a generator site inventory, WIPP certified by WTS, transported, and disposed of at WIPP under Metric 1, an incremental fee of [redacted] *will be earned in addition to the base fee earned under PBI #1, Metric 1.*

The estimated amount of fee to fund this metric during the term of the contract is $ Exemption 4 [redacted]

Metric 8: The Contractor's performance will be measured quarterly for its success in the safe and compliant removal of cubic meters of waste where WTS provides partial characterization or transportation services for disposal of the waste at WIPP.

For each cubic meter of waste where WTS provides partial characterization or transportation services for disposal of the waste at WIPP, a fee of $ Exemption 4 [redacted] *will be earned.*

The estimated amount of fee required to fund this metric during the term of the contract is $ Exemption 4

SECTION V - PERFORMANCE REQUIREMENTS

PREVIOUS GATEWAY: *Describe previous gateway (if applicable) that must be completed before fee can be paid under this performance measure.*

None

DEFINE COMPLETION: ***Specify Performance Elements and describe indicators of success (quality/progress). Include baseline documents/data against which completion documentation should be compared.***

Payment Metric 1: For non-SQS elements, each month TRU waste that has been retrieved, characterized and approved for shipment will be transported and disposed of at WIPP. WTS will submit provisional requests for payment of 85% of the fee earned monthly, and the total fee earned will be finalized after the end of the applicable quarter, at which time the balance for the quarter will also be due. The request for payment shall document the total cubic meters of TRU waste removed from generator site inventory for those sites where WTS provides characterization services and disposal at WIPP. CBFO will verify the request submitted by the Contractor from information in the WWIS database or by verification documentation from the generator sites.

For SQS elements, WTS will submit a request for payment to CBFO after cleanup or disposal of all defense TRU waste at an SQS listed below is completed, based on the minimum quantities of waste contained in the waste inventory table on the next page. The table shall be updated by CBFO at the start of each fiscal year beginning with FY06 during the term of the contract for sites where work has not yet begun. CBFO will verify the request submitted by the Contractor from information in the WWIS database and/or verification and documentation from the generator sites. A site must have defense TRU waste for fee to be earned under this provision. TRU waste inventories for SQS as of 9/1/06 are as indicated below*:

Small Quantity Site	CH Volume (m^3)	RH Volume (m^3)
Argonne National Lab – IL	0	25
MFC at INL	0	305.6
Bettis Atomic Power Lab - NY	25	2.7
Framatome (AREVA) – WA	7.3	0
GE-VNC – CA		12.5
Knolls Atomic Power Laboratories - NY	Future D&D - TBD	3.1
Knolls Atomic Power Lab – NFS - TN	0	0
Lawrence Livermore National Lab - CA	162	0
NRD, LLC – NY		14.21
Nevada Test Site - NV	309	.42
Paducah Gaseous Diffusion Plant - OH	TBD	TBD
Sandia National Laboratories - NM	26.3	4.4
Separations Process Research Unit NY	50.1	0
USAMC	.21	

*Additional sites and their volumes of defense TRU waste may be added by mutual agreement.

Payment Metric 2: Each month TRU waste that has been retrieved, characterized and approved for shipment by generator sites will be transported and disposed of at WIPP. WTS will submit provisional requests for payment of 85% of the fee earned monthly, and the total fee earned will be finalized after the end of the applicable quarter, at which time the balance for the quarter will also be due. The request for payment shall document the total cubic meters of TRU waste disposed of in the WIPP underground repository. CBFO will verify the request submitted by the Contractor from information in the WWIS database.

Payment Metric 3: WTS will submit an invoice for payment at the end of the applicable quarter to CBFO that documents its identification of the total cubic meters of waste managed as TRU waste where a more cost effective disposal option exists in accordance with Metric 3.

Payment Metric 4: WTS will request payment after the completion of disposal of at least one shipment of RH TRU waste by submitting a letter report to the CBFO that documents the volume of RH TRU waste disposed in the WIPP underground repository as indicated in the WWIS database.

Payment Metric 5: Each month difficult CH TRU waste has been characterized and approved for shipment by WTS and is transported and disposed of at WIPP; WTS will submit requests for progress payment of 85% of the incremental fee earned monthly under this metric. The total incremental fee earned will be finalized after the end of the applicable quarter, at which time the withheld fee for the quarter will also be due. The request for payment shall document the total cubic meters of difficult CH TRU waste removed from generator site inventories for those sites where WTS provides characterization services and disposal at WIPP in the WIPP Waste Information System (WWIS). Documentation of difficult waste status can be by container number from the WWIS, Non-Conformance Reports (NCRs), characterization data sheets, or CCP Project Tracking System reports. CBFO will verify the request submitted by the Contractor from information in the WWIS database and supplied documentation, or by verification documentation from the generator sites.

Payment Metric 6: Each month waste has been partially characterized or transported by WTS and removed from a generator site to a DOE-approved site other than WIPP, WTS will submit requests for progress payment of 85% of the fee earned monthly under this metric. The withheld fee for the previous two months will be due at the end of the quarter. The request for payment shall document the total cubic meters of partially characterized or transported waste in the WIPP Waste Information System (WWIS), non-conformance reports, characterization data sheets, or the WTS Project Tracking System. CBFO will verify the request submitted by the Contractor from information in the WWIS database and supplied documentation, or by verification documentation from the generator sites.

Payment Metric 7: Each month inefficient CH TRU waste has been characterized and approved for shipment by WTS and is transported and disposed of at WIPP; WTS will submit requests for progress payment of 85% of the incremental fee earned monthly under this metric. The total incremental fee earned will be finalized after the end of the applicable quarter, at which time the withheld fee for the quarter will also be due. The request for payment shall document the total cubic meters of inefficient CH TRU waste removed from generator site inventories for those sites where WTS provides characterization services and disposal at WIPP in the WIPP Waste Information System (WWIS). Documentation of inefficeint waste status can be by container number from the WWIS, Non-Conformance Reports (NCRs), characterization data sheets, or CCP Project Tracking System reports. CBFO will verify the request submitted by the Contractor from information in the WWIS database and supplied documentation, or by verification documentation from the generator sites.

Payment Metric 8: Each month waste has been partially characterized or transported by WTS and removed from a generator site to WIPP, WTS will submit requests for progress payment of 85% of the fee earned monthly under this metric. The withheld fee for the previous two months will be due at the end of the quarter. The request for payment shall document the total cubic meters of partially characterized or transported waste in the WIPP Waste Information System (WWIS), non-conformance reports, characterization data sheets, or the

WTS Project Tracking System. CBFO will verify the request submitted by the Contractor from information in the WWIS database and supplied documentation, or by verification documentation from the generator sites.

DEFINITIONS:

CH – Contact-Handled: Packaged TRU waste with an external surface dose rate that does not exceed 200 mrem per hour.

Clean up or Cleanup: A site is cleaned up when no defense TRU waste remains on the site. Wastes that fit this definition include: CH TRU, RH TRU, CH TRU mixed, RH TRU mixed, and other waste managed as TRU waste.

Cubic Meters: As used herein cubic meters refer to the TRU waste container volume. TRU waste container volume means the volume in cubic meters of the container. For example, the volume of one 55-gallon drum is 0.21 m^3, and the volume of one standard waste box is 1.88 m^3, etc.

RH – Remote-Handled: Packaged TRU waste with an external surface dose rate that exceeds 200 mrem per hour but is less than 1,000 rem per hour.

Small Quantity Sites (SQS): The generator or storage sites in addition to Idaho National Laboratory, Hanford, Savannah River, Oak Ridge, and Los Alamos National Laboratory.

TRU: Transuranic Waste. Radioactive waste containing isotopes with an atomic number greater than 92, concentrations greater than 100 nanocuries per gram, and a half-life of greater than 20 years.

Waste Managed as TRU: Waste, suspected of being defense TRU waste, being actively managed by the generator as TRU waste.

WIPP: Waste Isolation Pilot Plant

WTS: Washington TRU Solutions, the Contractor

WWIS: WIPP Waste Information System

TECHNICAL BOUNDARY CONDITIONS: (Fundamental technical assumptions that must be maintained in order to accomplish the work scope associated with this Performance Measure.)

DOE will provide large box NDA/NDE instrumentation.

GENERAL REQUIREMENTS:

To earn incentive fee under this Performance Incentive, the Contractor shall meet the specific completion criteria and expectations set forth in this Performance Incentive. The Contractor cannot earn fee for routine operations, the cleanup objectives defined in the metrics above must be accomplished. The Contractor shall support obtaining necessary regulatory approvals to accomplish the metrics by preparing appropriate submittals with good quality, promptly responding to regulator requests for added information and coordinating the preparation of response material, coordinating hearing preparation as needed, and coordinating implementation of approved regulatory changes.

Acceptable environmental, safety, and health performance for the entire Scope of Work for the contract is a pre-condition to earning 100% of the fee available under the contract. Unacceptable performance in these areas is defined as that which results in the Head of Contracting Activity (HCA) for the contract invoking provisions of the Conditional Payment of Fee (CPOF) clause of the contract to reduce the fee paid under the

contract.

Acceptable cost and schedule performance for the entire Scope of Work for the contract is a pre-condition to earning 100% of the fee available under the contract. The threshold for unacceptable overall cost and schedule performance is when in any fiscal year the Contractor has a negative variance exceeding 7.5% percent in earned value for the baseline for the fiscal year in cost or schedule. If such a situation occurs, the HCA may invoke provisions of the CPOF of the contract to reduce the fee paid under the contract.

A minimum level of performance for this PBI in any fiscal year is the disposal of 4,000 cubic meters of TRU waste at WIPP. Performance below that level may result in the HCA invoking provisions of the CPOF clause of the contract.

COMPLETION DOCUMENTS LIST: ***(In addition to the Completion Report, the document(s) that should be submitted/ data that should be available/ actions to be taken by evaluator, to determine actual performance to the requirements stated above.***

Note: WTS will provide documentation to the Contracting Officer as follows:

Metric 1: (Completion Payment) For non-SQS elements, fee shall be payable per cubic meter of TRU waste removed from inventory from those sites where WTS provides characterization services times the applicable fee per cubic meter upon submittal quarterly of appropriate documentation from the WWIS database. Fee shall be provisionally payable monthly, based on 85% of the total fee earned for cubic meters of TRU waste inventory disposed at WIPP. The balance of the total fee earned will be due at the end of each quarter.

For SQS elements, fee shall be payable upon submittal of appropriate documentation supporting the cleanup of each SQS and/or the disposal of each SQS' waste at the applicable fee for sites completed. Documentation to support completion will be based on volumes contained herein or other data acceptable to the Contracting Officer. WTS must document the extent and scope of the work done by WTS to achieve the result.

Metric 2: (Completion Payment) Fee shall be payable per cubic meter of TRU waste disposed of at WIPP for those sites where WTS does not provide characterization services times the applicable fee per cubic meter upon submittal quarterly of appropriate documentation from the WWIS database. Fee shall be provisionally payable monthly, based on 85% of the total fee earned for cubic meters of TRU waste disposed at WIPP. The balance of the total fee earned will be due at the end of each quarter.

Metric 3: (Completion Payment) The Contractor will submit quarterly, a letter report documenting the successful identification of cubic meters of waste currently managed as TRU waste where a more cost-effective disposal option exists. The documentation must also demonstrate that the waste had been actively managed as TRU and has been removed from management as TRU waste, a disposal option does exist that is more cost-effective than the current year's disposal cost at WIPP when fee payment is requested (i.e., unit cost of disposal at WIPP if the full nominal capability to dispose of waste at WIPP were utilized), and the extent and scope of the work done by WTS to achieve the result. CBFO will verify the documentation submitted by the Contractor and/or verification and documentation from the generator site.

Metric 4: (Completion Payment) Fee shall be payable upon submittal of documentation that conclusively proves the disposal of at least one shipment of RH waste at WIPP. This documentation will be based on the WWIS database and may include pictures of the actual disposal of the first shipment.

Metric 5: (Completion Payment) Incremental fee shall be payable per cubic meter of difficult TRU waste removed from inventory from those sites where WTS provides characterization services times the applicable fee per cubic meter upon submittal of appropriate documentation from the WWIS database, non-conformance reports, characterization data sheets, or the WTS Project Tracking

System. Progress payments of fee shall be payable monthly, based on 85% of the total fee earned for cubic meters of TRU waste inventory disposed at WIPP. The balance of the total fee earned will be due at the end of each quarter.

Metric 6: (Completion Payment) Fee shall be payable per cubic meter of partially characterized or transported TRU waste from inventory, to a non-WIPP DOE-approved site, times the applicable fee per cubic meter upon submittal of appropriate documentation from the WWIS database, non-conformance reports, characterization data sheets, or the WTS Project Tracking System. Progress payments of fee shall be payable monthly, based on 85% of the total fee earned for cubic meters of TRU waste inventory disposed at WIPP. The balance of the total fee earned will be due at the end of each quarter.

Metric 7: (Completion Payment) Incremental fee shall be payable per cubic meter of inefficient TRU waste removed from inventory times the applicable fee per cubic meter upon submittal of appropriate documentation from the WWIS database, non-conformance reports, characterization data sheets, or the WTS Project Tracking System. Progress payments of fee shall be payable monthly, based on 85% of the total fee earned for cubic meters of TRU waste inventory disposed at WIPP. The balance of the total fee earned will be due at the end of each quarter.

Metric 8: (Completion Payment) Fee shall be payable per cubic meter of partially characterized or transported TRU waste from inventory to WIPP times the applicable fee per cubic meter upon submittal of appropriate documentation from the WWIS database, non-conformance reports, characterization data sheets, or the WTS Project Tracking System. Progress payments of fee shall be payable monthly, based on 85% of the total fee earned for cubic meters of TRU waste inventory disposed at WIPP. The balance of the total fee earned will be due at the end of each quarter.

SECTION VI - EARNINGS SCHEDULE

List percent of PM fee available for completion of each Element, and the schedule by which the fee may be earned. (Schedule identifies point(s) at which fee may be earned - does not define completion.)

PBIs will be reviewed and approved by DOE-CBFO annually beginning in FY06 to update the SQS table as necessary and determine applicability for continuation.

Failure to comply with PBI 8 requires that limitation on fee for waste disposal under PBI 1 occurs if the following three specific milestones are not met by the following dates to assure completion by September 30, 2012. Fee will be limited under PBI #1 if delays in PBI #8 milestone achievements are found to be within the Contractor's control. The WTS milestones cited below must be acceptable and the Contractor performance shall not delay negotiations with NMED and not cause any fines, penalties or work stoppages due to submitting inadequate documentation that is submitted by the Contractor. All delays will be reviewed by the Contracting Officer for such a determination. Fee limitations are as follows:

PBI 1, WASTE DISPOSAL

For FY11 and FY12, the maximum available fee to be earned for PBI 1, Waste Disposal is cited under clause B.2. (b) (3) for each fiscal year.

During the fiscal year when Event 3—cited below—is scheduled, the limited maximum available fee to be earned will be 50% of the maximum available fee cited in clause B.2. (b)(3). The limited maximum available fee to be earned is available only if PBI 1 work scopes are completed and the milestones specified below have been accomplished within the required timeframe with increases to the limited maximum available fee as cited below:

1. Event: Draft Permit Issued (Completion of WTS Milestone: 1/2/2012)
   WTS Milestone: Submit comments within 60-day comment period – If this is met then [redacted] will be released as fee available to be earned for PBI 1, Waste Disposal (for example, if 50% of the maximum available fee is $[redacted] the revised limited maximum available fee is [redacted] or the maximum available fee cited under clause B.2. (b)(3), whichever is less).

2. Event: NMED issues notice for public comment and hearing (Completion of WTS Milestone: 2/16/2012)
   WTS Milestone: Submit written testimony to hearing officer – 15 days prior to public hearing – If this is met then [redacted] will be released as fee available to be earned for PBI 1, Waste Disposal (for example, if the limited maximum available fee is [redacted] [50% limit] plus [redacted] Event 1] totaling [redacted] this release of fee will make the limited maximum available fee equal [redacted] or the maximum available fee cited under clause B.2. (b)(3), whichever is less)

3. Event: Hearing Officer's Report issued (Completion of WTS Milestone: 6/26/2012)
   WTS Milestone: Provide comments to hearing officer's report – 30 days after issuance – If this is met then [redacted] will be released as fee available to be earned for PBI 1, Waste Disposal (for example, if the limited maximum available fee is $[redacted] [50% limit] plus [redacted] Event 1] plus [redacted] Event 2] totaling [redacted] M, this release of fee will make the limited maximum available fee equal $[redacted] M or the maximum available fee under clause B.2. (b)(3), whichever is less).

Fee that is not available to be earned and reduced from the award fee pool, if any, due to PBI #8 milestone performance and specifically this clause, is not recoverable, by the Contractor, including that specified for individual milestones. If the milestone dates for the required activities cannot be met by the Contractor, the dates by which the activities must be completed may be revised at the sole discretion of the Contracting Officer. Upon receiving the new permit, no restrictions on fee under PBI 1 will exist.