United States General Accounting Office

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Report to the Chairman, Subcommittee on Oversight and Investigations, Committee on Energy and Commerce, House of Representatives

July 1993

DOE MANAGEMENT

Consistent Cleanup Indemnification Policy Is Needed

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General Accounting Office
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Resources, Community, and
Economic Development Division

B-232925

July 12, 1993

The Honorable John D. Dingell
Chairman, Subcommittee
on Oversight and Investigations
Committee on Energy and Commerce
House of Representatives

Dear Mr. Chairman:

You requested that we evaluate the approach of the Department of Energy (DOE) for indemnifying its contractors against liabilities that could arise from the cleanup of the nation's nuclear weapons complex. You expressed concern that DOE's approach for indemnifying cleanup contractors might expose the government to significant financial risk and might not create adequate incentive for contractors to conduct the cleanup as responsibly as possible. We agreed with your office to determine (1) what forms of indemnification DOE provides for its cleanup contractors, (2) how DOE selected its indemnification approaches, and (3) whether DOE is required to use section 119 of the Superfund Amendments and Reauthorization Act (SARA) for indemnifying cleanup contractors working at DOE's Superfund sites.[1]

Results in Brief

DOE uses five approaches for indemnifying its cleanup contractors: (1) cost reimbursement provisions requiring DOE to fully reimburse contractors for environmental cleanup liabilities; (2) provisions that make profit-making contractors potentially responsible for some costs, such as those resulting from negligence or willful misconduct by a contractor's employees; (3) protection from liability from nuclear accidents under the Price-Anderson Act; (4) protection from unusually hazardous risks under Public Law 85-804; and (5) special indemnification clauses written into individual contracts that specifically limit a contractor's liability for environmental cleanup. A DOE cleanup contractor may be indemnified through the use of one or more of these approaches.

DOE has not performed a comprehensive analysis to determine how to indemnify its cleanup contractors. Rather, DOE has selected indemnification approaches on an individual basis, often as part of

[1]To run its facilities and carry out its major missions, DOE has entered into agreements with 52 management and operations (M&O) contractors. Twenty-seven of these contractors are also involved in cleaning up the complex. Consequently, this report focuses on how these M&O contractors are indemnified to perform the cleanup function.

contract negotiations. DOE's lack of analysis has led to some contractors' receiving only one form of indemnification, while others that are also cleaning up DOE sites receive several potentially more favorable forms. DOE also has little information about how its indemnification approaches could affect the government's liability for problems that might arise during the cleanup of the weapons complex. Although the total amount of the government's liability is not known, it could be substantial, since more than $5 billion in environmental damage lawsuits and claims have been filed under existing contracts.

SARA section 119 gives the federal government discretionary authority to indemnify contractors cleaning up Superfund sites against liabilities created by cleanup activities. The Environmental Protection Agency (EPA) is responsible for preparing implementation guidelines. A major advantage of using section 119 is that it helps to limit the federal government's risk. For example, EPA's guidelines provide that the government shall first test to see whether indemnification is needed to attract contractors willing to perform cleanup work. In addition, section 119 provides that certain conditions be met before indemnification may be provided. For instance, contractors must demonstrate that they tried but were unable to obtain insurance at a reasonable price. Section 119 also requires limits on the amount of indemnification provided to the contractors. DOE has not used SARA section 119 for the 12 contractors at its 16 Superfund sites, nor has it included in its contracts indemnification limits similar to those required by section 119. In a September 1989 report, we concluded that federal agencies must use section 119 rather than general nonstatutory contracting authorities if they choose to indemnify contractors that are cleaning up Superfund sites.

Background

DOE uses contractors to clean up environmental contamination and to operate sites in the nuclear weapons complex. The cleanup of the weapons complex is expected to take at least 30 years and to cost more than $160 billion. Contractors and subcontractors performing these cleanup activities may be liable for certain costs arising from the cleanup. For example, if a contractor causes a release of hazardous substances, the contractor may be liable to individuals for personal injury and property damages. Since insurance is not readily available to cover these environmental cleanup risks, the government has indemnified contractors against these potential liabilities by agreeing to pay some or all of these costs should they be incurred.

Over $5 billion in potential liability already exists. As of February 1993, 86 cases and claims had been filed against DOE and DOE contractors for environmental damage. This litigation calls for over $5 billion in damages, where specified. The liabilities range from claims by workers alleging exposure to hazardous materials in the 1940s to environmental damage suits brought by persons residing near DOE facilities.

DOE Uses Multiple Indemnification Approaches

DOE uses five approaches for indemnifying its cleanup contractors: (1) cost reimbursement provisions requiring DOE to fully reimburse contractors for environmental cleanup liabilities; (2) the "accountability rule" provision for profit-making contractors that makes the contractor potentially responsible for some costs, such as those resulting from negligence or willful misconduct by the contractor's employees; (3) protection from liability from nuclear accidents under the Price-Anderson Act; (4) protection from unusually hazardous risks under Public Law 85-804; and (5) special indemnification clauses written into individual contracts specifically limiting the contractor's liability for environmental cleanup.

DOE bases its use of cost reimbursement provisions on its general contracting authority. This authority is implemented through the Federal Acquisition Regulation (FAR) and the DOE Acquisition Regulation (DEAR) allowable cost provisions.[2] Under this cost reimbursement approach, DOE reimburses its contractors for all allowable costs, including environmental costs, incurred in the performance of the contract. For example, if hazardous substances were released off-site, the government would be responsible for reimbursing the contractor for payments to third parties and related litigation costs for personal injury and property damage, as well as for cleanup costs, provided these costs were determined to be allowable. The liabilities that the government can incur are limited only by (1) the Anti-Deficiency Act, which provides that federal agencies may not obligate funds in excess of available appropriations, and (2) a cap that may be placed in the contract limiting to a specified amount the total costs the government will reimburse the contractor. The government's liability can continue after the termination of the contract.

The cost reimbursement approach to indemnification can be traced back to the original relationship between DOE and its management and operations (M&O) contractors. Under this relationship, DOE and its predecessor agencies agreed to (1) fully reimburse all contractor costs and

[2]The FAR contains codified and uniform procurement policies and procedures for all executive agencies. Agencies may also develop their own regulations, like the DEAR, for implementing or supplementing the FAR.

(2) completely indemnify contractors against any liability incurred from their involvement in nuclear weapons production. Illustrative of a cost reimbursement approach is a provision in AT&T Technologies' nonprofit contract for operating Sandia Laboratories. The contract states, in part,

> . . . it is agreed that no cost or expense . . . shall be denied payment by the DOE as outside the scope of this Contract, unless the Contracting Officer shall establish that such cost or expense resulted from willful misconduct or bad faith on the part of some corporate officer having complete or substantially complete charge of the Sandia National Laboratories.

DOE is modifying its approach for indemnifying profit-making contractors through the implementation of the "accountability rule."[3] Under this rule, contractors are still reimbursed for all allowable costs; however, contractors are now liable for avoidable costs (i.e., costs resulting from negligence or willful misconduct by their employees). The contractor's liability for these avoidable costs is limited, per incident, to the amount that the contractor earns in award fees and other fees for 6 months. If the avoidable costs exceed this amount, then the government is responsible for the balance. As under DOE's cost reimbursement approach, indemnification under the accountability rule is limited by the availability of appropriated funds and by the contract's expenditure cap, if any. The government's liabilities can also continue after the termination of the contract.

As required by the Price-Anderson Act, as amended by the Price-Anderson Amendments Act of 1988,[4] the government provides indemnification protection from nuclear incidents or nuclear waste activities to all DOE contractors that have the risk of a nuclear incident without regard to who caused the incident. A nuclear incident is defined by the act as any occurrence causing bodily injury, death, or loss of or damage to property that arises out of or results from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material. Illustrative of Price-Anderson protection is the University of California's nonprofit contract with DOE for managing the Lawrence Livermore National Laboratory. This contract states that "DOE will indemnify the University . . . against (i) claims for public liability [arising from a] nuclear incident."

[3]56 Fed. Reg. 5064 (Feb. 7, 1991). Nonprofit M&O contractors, such as universities and others as defined by DOE, continue to operate under the traditional cost reimbursement approach.

[4]Public Law 100-408.

Under the Price-Anderson Act, the government's liability is limited to about $7 billion. The act also provides that this amount not be subject to the Anti-Deficiency Act's provisions. Moreover, claims must be made within 3 years of identifying the liability. If claims exceed the $7 billion limit, then the act allows for governmental action to provide additional funds to meet the claims.

The Secretary of Energy is also authorized to provide extraordinary contract relief under the National Defense Contracts Act, commonly referred to as Public Law 85-804, if a contractor's activities are necessary to facilitate the national defense. This authority, in conjunction with Executive Order 10789, as amended, allows DOE to enter into contracts containing provisions that indemnify contractors against unusually hazardous risks. Criteria for defining these conditions are not contained in the law or executive order. Therefore, the Secretary has broad discretion to decide whether to offer this form of indemnification. As under the Price-Anderson Act, the government's liability is not limited by the availability of funds under the Anti-Deficiency Act. However, unlike the Price-Anderson Act, Public Law 85-804 does not place a time limit on claims or an upper limit on the government's liability. In an August 1991 decision, DOE granted EG&G, the M&O contractor for the Rocky Flats plant, indemnity under Public Law 85-804 for potential liability from hazardous waste activities at the Department's Rocky Flats plant. Specifically, EG&G's contract provided for protection

> . . . against Final judgements or orders of a court or Final administrative orders of any federal, state, or local agency relating to the Unusually Hazardous Risk, the payment of or compliance with which judgement or order by the Contractor is either (1) an Avoidable Cost in excess of the Contractor's liability ceiling established in DEAR 970.5204-55 or (2) an allowable cost under this contract.

DOE can also include special provisions that modify standard DOE or federal contract clauses. These special provisions may be the result of previous agreements or other negotiations with the contractors and can define or expand the government's liability. For example, a provision in the General Electric Company's nonprofit contract at DOE's Knolls Laboratory states that

> All cost incurred by the Contractor . . . with respect to any and all liabilities, damages, claims, demands, fines, sanctions, or penalties arising out of environmental . . . activities [will be allowable costs]. . . .

Under this provision, the government would be responsible for all costs associated with environmental cleanup at the Laboratory unless the costs were the result of negligence on the part of contractor management.

DOE Selected Indemnification Approaches Without Any Overall Analysis

While the Congress has required DOE to provide Price-Anderson protection for contractors facing potential nuclear accidents, DOE has largely determined on an individual basis, often as part of contract negotiations, what approach to use for indemnifying its cleanup contractors. DOE has not performed a comprehensive analysis to determine how to indemnify these contractors. This lack of analysis has led to inconsistencies in DOE's indemnification approaches, which in turn have led to some contractors' receiving potentially more favorable indemnification provisions than others. (See app. I for a summary of the status of DOE's indemnification provisions and app. II for a complete list of the contracts and their provisions). Also, DOE has little information about how its use of indemnification approaches could affect the government's liability for problems that might arise during the cleanup of the weapons complex.

For example, while many cleanup contractors may face unusually hazardous risks at their sites, only one contractor has been granted protection under Public Law 85-804. This indemnification protection was provided not as the result of an overall analysis, but in response to the contractor's request during contract negotiations. Specifically, in July 1991, during contract negotiations, EG&G requested indemnification under Public Law 85-804 on the basis that EG&G faced unusually hazardous risks at the Rocky Flats site. The DOE site personnel responsible for reviewing and making a recommendation on the contractor's request told us they had not studied other DOE sites or attempted to specify what unusually hazardous risks existed at the Rocky Flats site. Furthermore, the DOE Contracting Officer could cite no specific and unusual risk that EG&G faced at Rocky Flats that other contractors did not face at other sites. Similarly, our review of the contracting files did not identify any studies or other evidence from EG&G supporting EG&G's claim that it faced unusually hazardous risks. However, DOE is not required to detail its justification for the decision to grant indemnification under Public Law 85-804; the Secretary is required only to determine that the contract facilitates the national defense and that the contractor faces unusually hazardous risks.

Although EG&G received Public Law 85-804 indemnification, the former Secretary decided that similar protection was not warranted for the University of California's management of the Lawrence Berkeley,

Lawrence Livermore, and Los Alamos laboratories, despite statements in the final contract that

> DOE deems the performance . . . by the University to be essential in the interest of the common defense and security of the United States. DOE and the University recognize that, in part, this work involves unusual, unpredictable and abnormal risks.

The former Secretary made this decision during contract renegotiations, which began in August 1991. However, the contract did specify that DOE would consider seeking Public Law 85-804 indemnification for the laboratories if it became necessary. If DOE does not pursue Public Law 85-804 indemnification for the University of California when it becomes necessary, EG&G, which has Public Law 85-804 protection from Anti-Deficiency Act limits, will have derived more benefit than the University from its contract negotiations with DOE.

In a similar vein, some contractors receive only one form of indemnification, while others, who are also cleaning up DOE's sites, receive potentially more favorable forms. For example, our review showed that 18 of the 27 contracts had special provisions related to environmental cleanup liabilities. All of these special provisions deviated from standard DOE or FAR clauses.[5] However, according to legal counsel in DOE's Office of General Counsel, it is DOE's policy that M&O contracts include standard cost reimbursement and indemnification clauses. To ensure the use of standard clauses where possible, the Office of Procurement, Assistance, and Program Management and the Office of General Counsel are responsible for reviewing and concurring with the proposed contract language before DOE proceeds with the contracting process. However, we found generally that DOE accepted nonstandard clauses without first analyzing their potential financial risks.

DOE is aware of the problems with the use of nonstandard clauses and has an objective to negotiate contracts that include as many standard clauses as possible. In the case of the contract for Sandia Laboratories, presently held by AT&T, DOE has prepared a Request for Proposal for a new contract, which, if implemented, will do away with many of the special indemnifications provided to the contractor.

[5]We have expressed concern over DOE's use of nonstandard contract clauses. See, for example, Department of Energy Contract Management (GAO/HR-93-9, Dec. 1992) and Energy Management: DOE Has an Opportunity to Improve Its University of California Contracts (GAO/RCED-92-75, Dec. 26, 1991).

Finally, during deliberations in 1990 on adopting the accountability rule, DOE did not follow through on an opportunity to develop an overall analysis that would estimate how much the indemnification approach it was developing could cost or assess the potential financial risk of the changes. DOE procurement personnel said that early in the process of designing the accountability rule, they had started to formally evaluate the various indemnification approaches, but because of the press of other business, they did not complete their analysis. They also commented that they do not have any future plans for evaluating the costs or liabilities associated with the various indemnification approaches. Furthermore, they concluded that they had no way of estimating the potential federal liability that might come from adopting one indemnification approach over another. They reasoned that since they do not know how much the overall cleanup will cost, they could not know what the potential federal liability could be. However, DOE currently estimates the potential cost of the cleanup in its Environmental Restoration and Waste Management Five-Year Plan. Presented by DOE sites, these estimates are broken out by task and consider the engineering and scientific uncertainties associated with the estimates.

The Secretary of Energy has recently announced a plan for DOE to reform its contract management practices. In particular, on May 26, 1993, before the Subcommittee on Oversight and Investigations, House Committee on Energy and Commerce, the Secretary identified several initiatives to improve DOE's contract management that included addressing the issue of contractor indemnification. However, these initiatives are only in their early stages of development.

DOE Can Use SARA Section 119 to Indemnify Some Cleanup Contractors

Contractors who clean up the nation's worst hazardous waste sites—those identified on the National Priorities List (NPL) as needing priority cleanup action [6] —under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, also risk being sued for injury and damage caused by cleanup activities. When the Congress passed SARA, liability insurance for these activities was virtually nonexistent. To ensure that the lack of insurance would not discourage contractors from performing Superfund cleanups, SARA authorized the President to indemnify contractors cleaning up Superfund sites against liabilities caused by negligence. Executive Order 12580 delegated this authority to EPA and other federal agencies and made EPA responsible for developing indemnification guidelines.

[6]These sites are referred to in this report as Superfund sites.

Under section 119, a federal agency may agree to indemnify a contractor, provided that the liability covered by the agreement exceeds or is not covered by commercially available insurance at a fair and reasonable price and that the contractor has made diligent efforts to obtain insurance. Also, the indemnification agreement must include deductibles and limits on the amount of indemnification.

EPA's final guidelines for implementing section 119 requirements were issued in January 1993. Under these guidelines, EPA intends to offer indemnification only if it does not receive a sufficient number of qualified bids or proposals and the lack of response can be linked to the absence of indemnification. In such a situation, EPA states that it will issue a new or amended solicitation and offer indemnification. The guidelines also provide a sliding scale of limits and deductibles and set a time limit of 10 years for claims.

Other federal agencies besides EPA are authorized to use section 119 authority to indemnify contractors at their Superfund sites. In a September 1989 report,[7] we concluded that federal agencies must use section 119 rather than general nonstatutory contracting authorities if they choose to indemnify contractors that are cleaning up Superfund sites.[8]

DOE has 16 sites on NPL, and 12 of the contractors in our study have cleanup responsibility at these 16 sites. (See app. II.) However, DOE has not used section 119 to provide indemnification to these contractors; instead, it has employed its own approaches. In 1991, DOE considered providing section 119 indemnification for the Fernald environmental restoration contract but ultimately decided to adopt a modification of its accountability rule provisions. DOE's indemnification approaches do not specify indemnification limits similar to those required by section 119.

While DOE has taken no final legal position on whether it is required to use section 119 provisions, in interviews with us and in correspondence to the Congress, the DOE Office of General Counsel has stated preliminarily that section 119 does not preclude DOE from undertaking its own indemnification approaches, either by an indemnification provision or by treating environmental liabilities as allowable costs. Furthermore, DOE's

[7]Contractors Are Being Too Liberally Indemnified by the Government (GAO/RCED-89-160, Sept. 26, 1989).

[8]This referred to FAR 52.228-7 and similar agency clauses, such as DEAR 950.71. We understand that other specific legislation, such as Price-Anderson or Public Law 85-804, might be applicable in certain situations.

former Deputy General Counsel for Energy Resources and Legislation told us that DOE was concerned that (1) the scale of the cleanup was larger at its sites than at EPA's sites, (2) EPA's limit on contractor liability would be too low, and (3) DOE could not estimate the potential liability and therefore could not set a limit. However, EPA, in its January 1993 guidelines for implementing section 119, specifically dealt with the concerns that liability limits could be too low by allowing the agencies to set whatever limit they thought was appropriate. Furthermore, as noted earlier, DOE does develop cost data on the cleanup, which could be used in estimating DOE's potential liability.

Conclusions

In indemnifying its cleanup contractors, DOE has adopted an inconsistent approach that is characterized by the government's acceptance of liabilities and contractors' assumption of little financial responsibility. Individual cleanup contractors are indemnified not through the exercise of a well-analyzed indemnification policy, but as the result of negotiations, during which DOE does not first test to see whether indemnification is needed or set limits to its potential cost. Because DOE has followed this approach, some contractors have received potentially more favorable indemnification provisions than others. More importantly, this approach has exposed the government to unknown but potentially significant financial risk.

A consistent policy for indemnification that takes into account the use of section 119, as well as of other specific statutes such as the Price-Anderson Act, can ensure that cleanup contractors are indemnified in a way that protects both the contractors' and the government's interests. EPA's guidelines for implementing section 119 contain several useful principles that DOE could use in developing an overall policy for indemnifying its cleanup contractors. Specifically, EPA's guidelines include offering indemnification for contractors only if it is needed, limiting the government's liability, and requiring contractors to be responsible for part of any claims that arise as a result of their negligence.

Finally, section 119 establishes specific authority for indemnifying cleanup contractors at Superfund sites. We continue to believe, as we did in 1989, that specific authorizing legislation must take precedence over general nonstatutory procurement authorities in indemnifying cleanup contractors at Superfund sites. Consequently, section 119 must be used in place of general nonstatutory contracting authorities to indemnify contractors involved in the environmental cleanup of DOE's 16 Superfund sites. We

recognize that other specific legislation—for example, the Price-Anderson Act—might be applicable in certain situations, such as in working with nuclear waste.

Recommendation

To ensure that DOE consistently indemnifies its cleanup contractors, the Secretary of Energy should develop a consistent environmental indemnification policy to be applied to the DOE cleanup sites. This policy should reflect existing statutory requirements, including section 119, and apply the principles contained in EPA's guidelines, including (1) restricting indemnification to those contracts where it is proven to be needed, (2) setting time and payment limits on the government's liabilities if DOE's analysis indicates that EPA's limits for SARA section 119 are not appropriate, and (3) requiring contractors to be responsible for some portion of the costs that arise from lawsuits for injury or damage caused by their negligence during cleanup activities.

Agency Comments

We discussed the facts in this report with the Chief Counsel at DOE's Rocky Flats Office, Procurement Counsel in the Office of General Counsel at DOE headquarters, and an Environmental Risk Specialist in the Office of Environmental Restoration and Waste Management at DOE headquarters. These officials generally agreed that the report was accurate. They agreed that DOE has not done any general analysis on indemnifying its cleanup contractors; however, they noted that DOE has begun an initiative to improve DOE's contract management, including contractor indemnification. As you requested, we did not obtain written agency comments on a draft of this report.

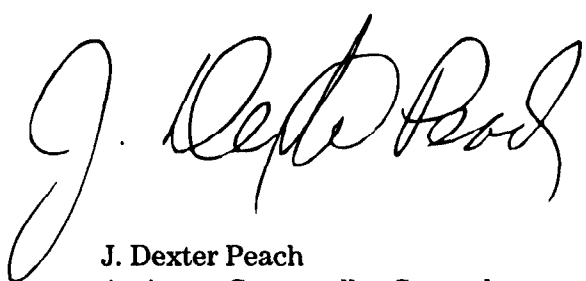
Scope and Methodology

We performed our work between September 1992 and April 1993 in accordance with generally accepted government auditing standards. To determine what indemnification approaches DOE was using, we reviewed relevant government acquisition regulations and internal memorandums describing DOE's indemnification approaches and how they were developed. To determine how these approaches were being applied, we reviewed the contracts for the 27 M&O cleanup contractors. To determine how DOE selected the indemnification approaches it is using, we discussed DOE's indemnification policies and practices with responsible DOE headquarters and field personnel.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after the date of this letter. At that time, we will send copies to the Secretary of Energy. Copies will be made available to others upon request.

This work was performed under the direction of Victor S. Rezendes, Director, Energy and Science Issues, who may be reached at (202) 512-3841 if you have any questions about this report. Major contributors to this report are listed in appendix III.

Sincerely yours,



J. Dexter Peach
Assistant Comptroller General

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Abbreviations

AT&T	American Telephone and Telegraph
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
DEAR	DOE Acquisition Regulation
DOE	Department of Energy
EPA	Environmental Protection Agency
ERMC	Environmental Restoration Management Contractor
FAR	Federal Acquisition Regulation
GAO	General Accounting Office
M&O	management and operations
NPL	National Priorities List
SARA	Superfund Amendments and Reauthorization Act

DOE's Application of Indemnification Approaches

The contracts that the Department of Energy (DOE) has with its 27 management and operations (M&O) cleanup contractors vary significantly in their application of the available indemnification approaches (see table 1). Presently, 19 of the 27 M&O contractors with environmental restoration responsibilities have contracts that provide for full reimbursement of allowable costs associated with the cleanup of the nuclear weapons complex. Eight profit-making M&Os[1] have shifted to the accountability rule and are potentially liable for some costs if problems occur during the cleanup. In addition, 23 of the 27 contracts include Price-Anderson indemnification from nuclear incidents. One of the 27 contracts also offers the contractor protection under Public Law 85-804, and another three provide that DOE will seek Public Law 85-804 indemnification should it become necessary. Finally, 18 of the 27 contracts have additional special clauses specifically limiting the contractor's liability for environmental cleanup or providing another special consideration.

Table I.1: Status of Indemnification Provisions

	Number of contracts offering indemnification				
Type of contractor	**Under cost reimbursement provisions**	**Under accountability rule**	**Under Price-Anderson**	**Under Public Law 85-804**	**Under other special provisions**
Profit-making (14 contractors)[a]	6	8	14	1	7
Nonprofit (13 contractors)	13	[b]	9	3[c]	11
Total (27 contractors)	19	8	23	4	18

[a]Includes Fernald Environmental Restoration Management Contractor.

[b]Not applicable.

[c]These contracts provide that DOE will seek Public Law 85-804 protection if it becomes necessary.

[1]The accountability rule is also the model for indemnifying DOE's new Environmental Restoration Management Contractors, which are being put in place at DOE's Fernald, Ohio, and Hanford, Washington, sites. For more information, see DOE Management: Impediments to Environmental Restoration Management Contracting (GAO/RCED-92-244, Aug. 14, 1992).

Contractor Indemnification Provisions

Contract name	Price-Anderson	P.L. 85-804 have or seek	Cost reimbursement	Accountability rule	Other special provisions	NPL sites
AT&T Sandia (AC04-76DP00789)	Yes	No	Yes	[a]	Exempt from Anti-Deficiency Act	No
ASI-Brookhaven (AC02-76CH00016)	Yes	No	Yes	[a]	General indemnity	Yes
U of Cal-Los Alamos (W-7405-ENG-36)	Yes	Seek	Yes	[a]	General indemnity	No
U of Cal-Berkeley (AC03-76SF00098)	Yes	Seek	Yes	[a]	General indemnity	No
U of Cal-Livermore (W-7405-ENG-48)	Yes	Seek	Yes	[a]	General indemnity	Yes
U of Chicago-Argonne (W-31109-ENG-38)	Yes	No	Yes	[a]	General indemnity	No
Iowa State U-Ames (W-7405-ENG-82)	No	No	Yes	[a]	No	No
ITRI-Lovelace (AC04-76EV01013)	No	No	Yes	[a]	Environmental cleanup cost clause	No
Oak Ridge Universities-Oak Ridge (AC05-76OR00033)	No	No	Yes	[a]	No	No
Stanford-Stanford (AC03-76SF00515)	No	No	Yes	[a]	Environmental cleanup cost clause	No
URA-Fermi (AC02-76CH03000)	Yes	No	Yes	[a]	General indemnity	No
GE-Knolls (AC12-76SN00052)	Yes	No	Yes	[a]	Environmental cleanup cost clause & $5 million Govt. property damage limit	No
Westinghouse-Bettis (AC11-89PN38014)	Yes	No	Yes	[a]	Environmental cleanup cost clause	No
EG&G Mound-Mound (AC04-88DP43495)	Yes	No	Yes	No	Environmental cleanup cost clause	Yes
EG&G-Rocky Flats (AC34-90RF62349)	Yes	Yes	[b]	Yes	No	Yes
Kaiser-Hanford (AC06-87RL10900)	Yes	No	Yes	No	No	Yes
Martin Marietta-Oak Ridge (AC05-84OR21400)	Yes	No	[b]	Yes	Environmental cleanup cost clause	Yes

(continued)

Contract name	Price-Anderson	P.L. 85-804 have or seek	Cost reimbursement	Accountability rule	Other special provisions	NPL sites
Martin Marietta-Pinellas (AC04-92AL7300)	Yes	No	[b]	Yes	No	No
Mason Singer-PANTEX (AC04-91AL65030)	Yes	No	[b]	Yes	No	No
MK-Ferguson-Idaho Falls (AC07-89ID12721)	Yes	No	Yes	No	No	Yes
MK-Ferguson-Oak Ridge (AC05-91OR21900)	Yes	No	Yes	No	No	Yes
West Valley Nuclear-West Valley (AC07-81NE44139)	Yes	No	[b]	Yes	Environmental cleanup cost clause	No
Westinghouse-WIPP (AC04-86AL31950)	Yes	No	[b]	Yes	Pre-existing conditions clause & environmental cleanup cost clause	No
Westinghouse-Savannah River (AC09-89SR18035)	Yes	No	Yes	No	Environmental cleanup cost clause	Yes
Westinghouse-Hanford (AC06-87RL10930)	Yes	No	[b]	Yes	No	Yes
Westinghouse-Idaho Falls (ICPP) (AC07-84ID12435)	Yes	No	Yes	No	Environmental cleanup cost clause	Yes
Fluor Daniel-Fernald (AC05-92OR21972)	Yes	No	[b]	Yes	Pre-existing conditions clause	Yes
Totals	No-4 Yes-23	No-23 Yes-4	19 Yes-	No or [a] -19 Yes-8	With-18 Without-9	Contracts with NPL sites, 12 Without-15

[a]Rule is not applicable to this contract.

[b]Contract has switched to the accountability rule requirements.

Major Contributors to This Report

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