



September 12, 1997

Mr. Howard Canter  
Acting Director  
Office of Fissile Materials Disposition  
U.S. Department of Energy  
1000 Independence Ave. SW  
Washington, DC 20585

NCI Supplemental Comments on  
MOX Program Acquisition Strategy (PAS)

Dear Mr. Canter:

We are writing to supplement [our August 12 comments](#) on the *Program Acquisition Strategy for Obtaining Mixed Oxide (MOX) Fuel Fabrication and Reactor Irradiation Services (PAS)*. The August 28 PAS workshop at ANL was informative, but raised a number of questions---in particular, how the MOX disposition program costs will be allocated between the federal government and the MOX consortium.

Despite [objections raised by NCI and several other public-interest organizations](#),<sup>1</sup> the *Technical Summary Report (TSR)* failed to incorporate several major sets of expenses into its estimate of the total cost of the MOX disposition program. For example, fees that would be charged by a consortium for MOX irradiation services (estimated in the TSR at up to \$500 million but likely to run much higher) were treated as "cost uncertainties" and not incorporated into the total cost estimate.

We are therefore concerned about the structure of the contracting process. Because the various expenses associated with MOX disposition will be substantial---possibly amounting to billions over the life of the program if the utilities' costs beyond the normal costs of doing business are to be compensated by the Federal Government-- these cost categories must be identified before the contracting process begins and not be left to arrangements made in confidential negotiations with a MOX consortium. The necessity of clearly specifying cost categories in advance is made evident by an historical record showing that DOE projects end up costing about five times more than initial estimates.<sup>2</sup> The importance of this point was driven home recently by Lockheed Martin's request for a \$158 million "equitable adjustment" (i.e., additional payment) in its fixed-price contract with DOE to clean up Pit 9 at the Idaho National Engineering and Environmental Laboratory.<sup>3</sup>

It is essential that DOE release a full and specific accounting of all anticipated expenses associated with a MOX disposition program. DOE should indicate which of these costs would be borne by the consortium, and which would be compensated by the federal government. Without such information, there is no way to project an accurate cost estimate for the MOX option, and no way to compare it with the immobilization alternative, which DOE confirmed at the PAS workshop remains an option for the entire plutonium disposition mission.<sup>4</sup>

In the contracting process, DOE plans to grant a "Source Evaluation Board" the power to develop evaluation criteria for selection of the MOX consortium, including safety criteria.<sup>5</sup> It is imperative that the public and the Nuclear Regulatory Commission have an active role in developing these criteria. As we emphasized in our earlier comments:

The PAS requests that reactor safety and performance information be included in bids, but provides no specification of minimum acceptable safety or performance records for utilities interested in using MOX fuel [PAS, Attachment D]. Thus, a utility with as poor a safety record as Commonwealth Edison, with half of its 12 reactors on NRC's "Watch List," is free to bid for MOX work. DOE and NRC should be prepared to posit minimum safety and performance criteria for utilities, and the PAS (and subsequent request for Expressions of Interest) should establish a clear framework for the design and implementation of those criteria. The PAS process should in no way encourage bids from utilities with poor safety records and weak management histories. They should be weeded out so as not to burden the selection and licensing process in the years ahead. Perhaps the best way to start is to develop a questionnaire that fully vets a utility's safety and management record---beginning with a list of reactors placed on NRC's Watch List, for how long, and why. [6](#)

Mechanisms for meaningful and ongoing public participation must be built into the contracting process. Decisions about the expenditure of billions of taxpayer dollars, and about reactor-related activities that could pose additional risks to public health and safety, should not be placed entirely off-limits as the subject of "proprietary" contract negotiations.

Finally, we would like DOE to clarify the relationship of the U.S. plutonium disposition program to Russian disposition efforts. DOE has stated that U.S. plutonium disposition will not proceed unless Russian disposition moves forward at a comparable pace.[7](#) However, the draft environmental assessment of the Parallax program to develop CANDU MOX fuel for Canadian reactors stated that the Canadian option would give the President a means "to begin disposition unilaterally as an example to Russia, or multilaterally or bilaterally with other nations."[8](#) Is U.S. policy that plutonium disposition can only proceed bilaterally with Russia, or is unilateral disposition of U.S. plutonium a possibility?

We would welcome the opportunity to discuss these comments with you.

Sincerely,

Paul Leventhal  
President

Steven Dolley  
Research Director

cc: Marlene Martinez

## End Notes

1. Letter from NCI and 10 other public-interest organizations to Secretary of Energy Hazel O'Leary, September 25, 1996. [Back to document](#)
2. Lane Evans, "Watkins and Weapons: Don't Take That \$90 Billion Path," *Washington Post*, July 31, 1990, op-ed page. [Back to document](#)
3. "Contractor Reduces Work Activities at INEEL's Pit 9," *Nuclear News*, August 1997, p. 96. [Back to document](#)
4. U.S. Department of Energy, Office of Fissile Materials Disposition & Chicago Operations Office, *Program Acquisition Strategy for Obtaining Mixed-Oxide (MOX) Fuel Fabrication and Reactor Irradiation Services (PAS) Workshop: Summary Question/Comment Response Document ["PAS Q&A"]*, August 28, 1997, p. 6: "The ROD [Record of Decision] did commit to immobilizing at least 8 MT and reserved the right to immobilize all surplus plutonium." [Back to document](#)
5. PAS Q&A, "Evaluation Criteria," pp. 9-10. [Back to document](#)

6. Paul Leventhal and Steven Dolley, "Comments of the Nuclear Control Institute on DOE's Program Acquisition Strategy, " August 12, 1997, p. 5. [Back to document](#)

7. "If we can't get a deal negotiated with the Russian in eight or nine years, then I don't think we are going to do anything with our plutonium but store it. And I am very serious about that.... Because we will never be able to sell up on the Hill spending a lot of money to do something with ours unilaterally." Howard Canter, "Briefing by DOE on Plutonium Disposition," Presentation to the Nuclear Regulatory Commission, January 27, 1997, transcript, p. 56. [Back to document](#)

8. U.S. Department of Energy, Los Alamos National Laboratory, *Environmental Assessment for the Parallax Project Fuel Manufacture and Shipment*, Predecision draft, DOE/EA-1216, August 18, 1997, p. 2. [Back to document](#)



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