

July 25, 2000

Mr. Robert P. Heck, II
[]
Fluor Federal Services
P.O. Box 1050
MSIN: B7-50
Richland, WA 99352

EA-2000-10

Subject: Consent Order Incorporating Agreement between U. S. Department of Energy
and Fluor Federal Services

Dear Mr. Heck:

This letter refers to the Department of Energy's (DOE) evaluation of two internal investigations conducted by Fluor Hanford, Inc. and CH2M Hanford Group, Inc. in which Fluor Federal Services (FFS) jointly participated. Collectively, the two investigations examined the facts and circumstances surrounding quality problems with the procurement of safety class piping for the W-314 Project at the Tank Farm Waste Remediation System and reviewed the adequacy and effectiveness of FFS's procurement quality assurance program.

FFS provides services for DOE prime contractors relating to DOE nuclear activities. The investigations identified multiple deficiencies with FFS procurement of safety class piping for the W-314 Project and programmatic weaknesses in its procurement program that affect or potentially affect its DOE prime contractors. DOE is concerned because the deficiencies are significant. In the case of the safety class piping, the quality deficiencies could have resulted in significant consequences to the public and the environment.

DOE has evaluated the results of the two investigations and determined that the findings and conclusions are comprehensive. DOE has determined that all relevant facts were disclosed and the safety significance of the deficiencies has been objectively assessed as being serious in nature. DOE's approval of the aggressive investigations into this matter leads DOE to conclude that further investigation by DOE is unnecessary and unwarranted. DOE has also evaluated and agrees with the adequacy of the corrective actions completed and scheduled for implementation to correct the deficiencies and prevent recurrence.

In order to encourage such full disclosure and responsiveness in the future, DOE has elected to issue the enclosed Consent Order in accordance with 10 CFR 820.23, in lieu of enforcement proceedings, including a possible Notice of Violation and/or civil penalties. With this Consent Order, FFS has agreed to remit a \$100,000 monetary remedy. This monetary remedy will serve to reinforce that adequate quality assurance to prevent recurrence is the responsibility of FFS.

No written response to this letter is required. As provided in the enclosed Consent Order, FFS will remit the \$100,000 monetary remedy payable to the Treasurer of the United States.

In accordance with the terms and conditions of the enclosed Consent Order, any required changes to completion dates established or content of corrective actions shall receive prior approval by the Manager, DOE Richland Operations Office. The original Consent Order signed by the parties has been filed with the Office of the Docket Clerk in the Office of Enforcement and Investigation.

Sincerely,



R. Keith Christopher
Director
Office of Enforcement and Investigation

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Enclosure: Consent Order

cc: B. Costner, S-1
D. Michaels, EH-1
S. Cary, EH-1
M. Zacchero, EH-1
S. Hurley, EH-10
D. Stadler, EH-2
F. Russo, EH-23
N. Goldenberg, EH-3
J. Fitzgerald, EH-5
C. Huntoon, EM-1
K. Morris, EM-5
B. Fiscus DOE-RL PAAA Coordinator

D. Busche, FHI Contractor PAAA Coordinator
L. England, FFS Contractor PAAA Coordinator
R. Azzaro, DNFSB
D. Thompson, DNFSB
Docket Clerk, EH-10



Department of Energy

Washington, DC 20585

In the matter of) Report No. NTS-RL-PHMC-GENERAL-2000-0003
)
Fluor Federal Services)
DOE Hanford Site)
) Enforcement Action 2000-10

CONSENT ORDER INCORPORATING AGREEMENT BETWEEN U.S. DEPARTMENT OF ENERGY AND FLUOR FEDERAL SERVICES

I

Fluor Federal Services (FFS) is a subsidiary of the Fluor Corporation. FFS was established as a separate company to provide architect/engineering and construction services to Department of Energy (DOE) prime contractors operating the DOE Hanford Site including Fluor Hanford, Inc., CH2M Hill Hanford Group, Inc., and government/private sector clients.

II

On December 9, 1999, FFS issued a Purchase Order to the Perma Pipe company to fabricate 127 linear feet of safety class piping for installation at the Tank Farm Facility to transfer nuclear waste for the W-314 Tank Farm Restoration and Safe Operations project.

Perma Pipe delivered the piping to FFS on December 28, 1999. FFS completed receipt inspection on January 21, 2000, and accepted the piping for use. As the piping was being inspected for cleanliness just prior to installation, FFS pipefitters discovered problems with the piping. The piping was further inspected and deficiencies were identified in 9 out of 10 spools of piping rendering the piping unfit for use in the W-314 project.

Subsequent investigation identified multiple deficiencies with the FFS procurement of the safety class material including (1) failure to identify inadequate welds on the piping (2) fabrication errors including incorrect piping alignment and missing pieces (3) failure to comply with procurement procedures and (4) inadequate and incomplete documentation associated with FFS receipt inspection and vendor qualification.

In March 2000, at the request of CHG, Fluor Hanford, Inc., another prime contractor at the Hanford site using the services of FFS, initiated an early supplier re-evaluation audit

of FFS activities after discovery of the quality deficiencies associated with the FFS procurement of safety class piping for CH2M Hill Hanford Group, Inc.

The supplier audit identified eleven findings related to quality assurance requirements potentially affecting the work performed by FFS. Fluor Hanford, Inc., concluded that quality assurance deficiencies existed in the quality program of FFS in the area of work processes, control of purchased items and services, and procurement.

Specific findings from the audit concerned FFS and included the following:

- The FFS Supplier Evaluation Program was not accomplished in accordance with the FFS Quality Management Plan (QMP) and supporting practices.
- Required records were not complete and the minimum qualifications were not met or documented in all cases.
- There was no evidence of implementation of ASME NQA-1, Supplemental Requirement 7S-1, Control of Purchased Items and Services, requirements.
- There is no provision in the Suppliers Evaluation Practice 134 042-0165 for issuing a "Notice to Proceed" without first ensuring the desk review or onsite evaluation was completed.
- Corrective Action Report CAR-99-01 identified numerous deficiencies where corrective actions were not completed in a timely manner.
- Quality assurance records for FFS field projects were not being stored in accordance with FFS procedure QMP, Documents and Records.

III

Fluor Hanford, Inc., voluntarily reported this matter to DOE in the Noncompliance Tracking System (NTS-RL-PHMC-General-2000-0003) on April 4, 2000. DOE evaluated the information developed by Fluor Hanford, Inc., and concluded that the relevant facts were fully and accurately disclosed, including the identification of potential violations of nuclear safety requirements by FFS in the area of quality assurance. FFS has reviewed the assessment performed by Fluor Hanford Inc., and concurs with the findings. Consequently, DOE concludes that a full independent investigation by DOE into the deficiencies in FFS's quality assurance program is unnecessary and unwarranted.

Fluor Hanford, Inc., as a prime contractor to DOE, is accountable for ensuring compliance to DOE's nuclear safety requirements for subcontractors performing work for Fluor Hanford, Inc., including FFS. This matter is the subject of separate deliberations.

FFS also recognizes its responsibilities for programmatic failures in its quality program that affect or potentially affect multiple DOE prime contractors for which FFS provides services relating to DOE nuclear activities.

IV

DOE has evaluated and agrees with the adequacy of the corrective actions as described in FFS's Corrective Action Request (CAR -2000-02).

DOE and FFS have reached agreement on this matter under which the FFS agreed to issuance of this Consent Order to avoid potentially protracted and otherwise unnecessary additional investigation by DOE and possible enforcement proceedings, including the issuance of Notices of Violation with the imposition of civil penalties. DOE and FFS agree that in recognition of the response by FFS, the payment included by the contractor has been significantly reduced from what could have been proposed through the formal enforcement process.

V

DOE acknowledges that the execution of, and payment by FFS in accordance with, this Consent Order does not constitute or imply admission by FFS of potential regulatory violations. DOE and FFS agree that the sum paid by FFS to resolve this matter shall not be considered a reimbursable cost.

VI

The Consent Order is issued under DOE's authority in Section 234A of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282a), and 10 CFR Part 820.23. FFS agrees to pay to the Treasurer of the United States (Account Number 891099), mailed to the Director, Office of Enforcement and Investigation, U.S. Department of Energy, an amount of \$100,000 reflecting an agreed amount in lieu of any subsequent investigation, Notice of Violation, and imposition of civil penalty.

This Consent Order does not preclude DOE from investigation or pursuing enforcement action against FFS for cases other than described in the above referenced NTS reports, or if a failure to proceed with the corrective actions as outlined in the above Corrective Action Plan.

DOE agrees that it will not pursue an enforcement action or civil penalty for any potential violations pertaining to the above referenced matters. DOE may subsequently consider enforcement action if it later becomes known that any of the facts or information provided regarding the described events were knowingly false or inaccurate in any material way.

VII

This Consent Order does not preclude DOE from considering future enforcement action against Fluor Hanford Inc., in the event information is developed that serious violations of DOE's nuclear safety rules by FFS or by other subcontractors at facilities operated by Fluor Hanford, Inc., occurred.

VIII

ACCORDINGLY, it is hereby Ordered as follows:

1. FFS will proceed with the corrective actions detailed in CAR-2000-02 and approved by DOE. Any required changes to completion dates established or content of the corrective action shall receive prior approval by the Manager, DOE Richland Operations Office. The subsequent failure to timely complete such corrective actions may, in the sole discretion of DOE, constitute a sufficient basis to reopen the investigation with respect to the subjective potential violations.
2. FFS agrees to pay \$100,000 to the Treasurer of the United States within 15 days of the issuance of this Order. It shall be mailed to the Director, Office of Enforcement and Investigation, Office of the Assistant Secretary for Environment, Safety and Health, P.O. Box 2225, Germantown, MD 20874-2225, Attention: Office of the Docketing Clerk.
3. Upon completion of all corrective actions to the satisfaction of DOE, the payment made to DOE under this Consent Order shall completely resolve and serve as a full and final settlement of any and all enforcement actions pertaining to FFS taken under 10 CFR 820 arising from the referenced NTS report.
4. This consent Order shall become a Final Order upon receipt of said amount referenced in Item 2.
5. FFS waives any and all rights to appeal or otherwise seek judicial review of this Consent Order. However, DOE or FSS retain the right to judicially enforce the provisions hereof by all legal means.

On behalf of my respective organization, I hereby agree to and accept the terms of the foregoing Consent Order.

FOR DOE-EH

FOR Richland Operations Office

R. Keith Christopher 7/25/2000

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R. Keith Christopher
Director
Office of Enforcement and
Investigation
U.S. Department of Energy

Keith Klein
Manager
Richland Operation Office
U.S. Department of Energy

FOR Fluor Federal Services

_____/ / 2000

Robert P. Heck II
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Fluor Federal Services