Terms and Conditions for Site Transition – February 2005

This document outlines proposed terms and conditions for managing and funding site transition activities between the Office of Environmental Management (EM) and the Office of Legacy Management (LM).

Planning/Process

- EM and LM will conduct the site transition process in accordance with the applicable regulations and DOE Orders (mainly *DOE O. 430.1B Real Property Asset Management* and *DOE O. 413.3 Program and Project Management for Acquisition of Capital Assets*).

- EM-1 and LM-1 will meet quarterly to discuss the status of site transition.

- EM and LM will work together to develop planning documents and estimates for the management of post-closure activities at the sites. EM and LM will develop and implement a process for resolving differences in estimates.

- The EM Site Manager, in coordination with the LM Site Transition Coordinator and the EM Site Transition Coordinator, will submit a quarterly progress report on transition activities to EM-1 and LM-1 starting April 1, 2005.

- The EM Site Manager will submit a final comprehensive Transition Lessons Learned document for the site to EM and LM

- EM and LM will jointly develop the Site Transition Plan.

- EM will lead development of the Critical Decision-4 (CD-4) Package with support from LM for those portions of CD-4 Package that address LM activities.

- LM will lead development of the Long-Term Surveillance and Maintenance Plan (LTS&M Plan) with support (i.e., providing site maps, data, engineering drawings, etc.) from EM.

- LM will conduct Readiness Reviews and provide findings to EM for inclusion in the CD-4 Package. EM will provide appropriate level of staff support to the review teams.

Budget Responsibility

- The budget responsibility for a site remains with EM until the beginning of the fiscal year following site cleanup completion[1]. LM will assume budget responsibility for site activities and contractor pensions and benefits in the fiscal year following EM physical completion.

- Where appropriate and beneficial to both organizations, EM and LM will work together to provide EM funds to LM's contractors in advance of programmatic transfer. This would enable EM to shift some functions from the closure contractor to LM's surveillance and maintenance contractor prior to programmatic transfer.

- EM will develop and provide a validated baseline and supporting basis of cost estimates for the first five years of post-closure management, two years prior to the planned date of transfer. This baseline will be the basis for the 5 year funds transfer in the PBD.

[1] EM completion occurs when: short-term response activities are complete; long-term response measures are established and determined to be operational and functional; institutional controls are in place; and the necessary documentation is in place.

- EM will develop the DOE environmental liability estimate in accordance with Departmental policies and procedures. Responsibility for developing the environmental liability estimates will transfer to LM upon programmatic transfer.

- EM will prepare the formal transfer memo proposing the transfer of programmatic responsibility and budget for LM concurrence.

- EM will capture and include all post-closure work scope (e.g., expected surveillance and maintenance, public outreach, state funding, contractor benefits, etc.) in EM outyear planned estimates until the out year funding for the site is formally transferred.

- Funding for and management of the following activities will be the responsibility of EM until they are completed:

  - EM is responsible for NRDA settlements until two years after the programmatic transfer of the site. (Future NRDA claims based on failure to maintain the remedy are LM's responsibility);
  - Litigation regarding EM cleanup or other EM activity;
  - The closeout of all contracts associated with cleanup and closure of the site; and
  - Records of Decision and other regulatory drivers.

Work Force

- EM's existing Closure Contracts will be used as the mechanism to administer and pay pensions and post retirement benefits, until such time that a new contract vehicle can be put in place by LM.

- Until transfer occurs, EM will continue to fund contractor pension plans to satisfy all applicable requirements.

- EM will retain responsibility for open worker compensation claims under the state Workers Compensation System.

Records Management/IT

EM will:

- Plan, budget, and provide qualified resources to manage federal and contractor record inventories and information technology systems in accordance with all Federal, National Archives and Records Administration (NARA), and DOE Orders (Draft *DOE O. 243.X Records Management Program, DOE O 200.1 Information Management Program, 36 CFR, and 44 USC*) through programmatic transfer.

- Ensure, for both Federal and Closure Contractor staff, that standard practices and procedures for the transition of records and information systems are consistent with requirements established by the *Legacy Management Information and Records Management Transition Guidance* (March 2004), and *Site Transition Framework* (September 2004).

- Ensure that each STP includes an Information and Records Management Transition Plan (IRMTP). The IRMTP will assist both organizations in organizing records and information transfer tasks; establishing a timetable and milestones for their completion; and identifying manpower, funding and other resources that will be needed to complete the ownership transfer.

- Transfer all remaining records inventories, both federally- and contractor-held, to LM approved record storage facilities prior to site transfer. Prior to disposition in approved records storage facilities, all records inventories shall meet NARA storage requirements.

- Ensure that agreements are in place to disposition records, prior to actual site transfer, that do not transfer to LM (e.g., current contract close-out records, ongoing litigation and FOIA/Privacy Act requests, transuranic (TRU) waste-related records, and classified records).

- Disposition all classified records to authorized facilities and identify long-term custodian prior to programmatic transfer.

- Plan, budget, and execute the work necessary to digitize, in approved electronic format, the CERCLA Administrative Record for all EM Closure Sites under CERCLA requirements.

- Provide User and System Documentation for all IT systems/applications that are necessary to execute LM missions. Particular focus should be applied to IT applications currently used to support and manage, records and information management systems, employee compensation claims (i.e., EEOICPA), and environmental data necessary for long-term surveillance and maintenance activities.

- Transfer to LM all IT system/application licenses that are required to meet LM mission objectives.

- Provide electronic conversion of environmental and record data for post-closure management and support services in accordance with the specifications and conditions defined by LM.

- Provide consultation services by IT and data subject management experts to assist LM in understanding the operation, maintenance, data structures and contents, and systems configuration requirements for the applications necessary to conduct stewardship activities.

- Provide exports of databases and program source code for Information Systems being migrated to LM for stewardship operations and services.

LM will:

- Define the records, data, and format (electronic and hard copies) that are needed for post-closure management of the site.

- Provide, when requested by EM during site transition, records management services for frequently accessed, short-term records that are agreed to be transferred prior to physical site transfer. EM will reimburse LM for these services.

- Provide renewals of all IT system/application licenses that are required to meet LM mission objectives.

- Identify IT applications needed for post-closure management of and support services for the site. EM is responsible for disposition of all IT applications/systems not needed by LM.

- Specify the system and data content and format requirements for the IT applications needed for post-closure management and support. EM is responsible for minor formatting associated with IT applications/systems in order to transition data to LM.

Contracts and Grants

- For contracts and/or grants that are transferring to LM, EM will provide copies of procurement documents to LM and work with LM to identify points of contact in appropriate business centers.

Real Property

- For real property transferring to LM, EM will develop and provide: real property records, including access agreements for off-site wells or land parcels required for LTSM.

- The EM Site Manager will ensure that the FIMS is maintained and current prior to site transfer.

- EM will initiate the documentation to transfer real property from EM to LM and coordinate the finalization with LM and ME.

Contingency

- EM will provide funding to LM for any unfunded activities (e.g., an EM post-closure regulatory decision) that result from EM decisions. This includes, but is not limited to, funding for any remedy modification (e.g., installation of additional monitoring wells) for sites that do not have a final Record of Decision or equivalent. Funds transfer will be limited to the period covered by the PBD.

- Significant remedy failures which require modification of the remedies outside of the capabilities of the LM will be coordinated with EM. EM and LM will raise the issue to the Under Secretary for resolution.