



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
**BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS**  
P.O. Box 1715  
Baltimore, MD 21203-1715

CENAB-EN-H (200-1C)

16 March 1999

MEMORANDUM FOR U.S. Army Engineer District, Buffalo, ATTN: Programs and  
Project Management Division (Mr. George Brooks),  
1776 Niagara Street, Buffalo, NY 14207-3199

SUBJECT: DERP FUDS Project, Lake Ontario Ordnance Works Acquisition Strategy  
for Remedial Investigation/Feasibility Study (RI/FS)

1. Enclosed is our proposed acquisition strategy for the completion of the subject project. Request your expeditious review and concurrence with this strategy.
2. This letter is also our formal request for the reservation of \$2.2 M in the FY99 FUDS Work Plan for a new delivery order for the Phase II Interim Remedial Investigation.
3. We will submit copies of the scopes of work for the modification and new delivery order for your approval prior to the completion of negotiations.
4. If there are any questions or comments on the enclosed document, please have the Project Manager (Mr. Ray Pilon) contact the Design Team Leader (Mr. Chuck Basham) at (410) 962-0674.

Encl

  
SESH P. LAL  
Chief, Civil HTRW Section  
Engineering Division

**Acquisition Plan  
Lake Ontario Ordnance Works (LOOW)  
Remedial Investigation/Feasibility Study (RI/FS)**

**a. BACKGROUND:**

1. Delivery Order 0115, DACA31-94-D-0025, EA Engineering Science & Technology, Hunt Valley, MD. The Delivery Order was issued on 17 June 97 for \$2,372,779.14, and consisted of 9 tasks as follows:

**Task Order #0115**

|        |  | Negotiated Amount |
|--------|--|-------------------|
| Task 1 | Scoping  | \$30,720.00       |
| Task 2 | GIS Setup and Historical Data Input                            | \$88,947.00       |
| Task 3 | History Search   | \$115,093.00      |
| Task 4 | Project Planning Documents                                     | \$80,062.00       |
| Task 5 | Phase I Interim Remedial Investigation                         | \$772,717.00      |
| Task 6 | Phase II Interim Remedial Investigation                        | \$1,061,555.00    |
| Task 7 | Baseline Risk Assessment & Final Remedial Investigation Report | \$48,841.00       |
| Task 8 | Feasibility Study  | \$96,090.00       |
| Task 9 | Meetings/Conferences   | \$78,754.14       |
|        |  |                   |
| Total  |  | \$2,372,779.14    |

2. The Scope of Work, dated 7 March 1997 identified tasks 7 and 8 as options. The rationale for this was the scope (level of effort) required to complete tasks 7&8 was not thoroughly defined. It was anticipated that a modification to tasks 7&8 would be required after the field investigation was completed. The negotiated amount for tasks 7 and 8 was based on an assumed minimal level of effort. At the point of award, the Contracting Officer concluded there was no advantage to keeping tasks 7&8 as options, so awarded the contract for the full amount (basic and both options).

3. The A-E has completed tasks 1-4, 90% of task 5, and roughly 75% of task 9. Review comments on the Phase I Investigation Report were provided to the A-E on 5 March 1999. Response to review comments are due NLT 2 April 1999. The final report is due 10 working days following resolution of all comment responses.

4. There has been considerable cost growth on tasks 1-5 and a modification is required to compensate the A-E for work already accomplished at their own risk. Detailed explanation and justification for these changes are included in CENAB-EN-HN memorandums dated 12 November 1998 and 7 January 1999, Subject: DERP-FUDS Project, Lake Ontario Ordnance Works. A brief explanation follows:

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a. During the work on task 2, it was found that the number of data points assumed during negotiations was not enough. A modification is required to change the data points from 10,00 to 30,000.

b. During the History Search, 14 additional areas requiring archive search and field investigation were discovered. A modification is required to compensate the A-E for the additional effort required for the History Search (task 3), and for the investigation of 14 additional sites under task 5.

c. During preparation of the Project Planning Documents, the State Regulator requested additional testing be performed beyond what was called for in the scope of work. The COE agreed to the additional tests. A modification is required to compensate the A-E for the additional testing under task 5.

7. The Design Team Leader was reassigned from the project in September, and no action on the modification has been taken since that time.

8. After award of the delivery order, Project Management for the project was transferred from New York to Buffalo District. There has understandably been concern from the Project Manager in regards to the cost growth on the delivery order. The changes described above have roughly doubled the cost of the effort completed to date. The results of the Phase I Investigation (Task 5) further indicate that significant changes (and additional funds) will be required in the scope of work for tasks 6-8. An additional problem is that the basic contract has a \$2.5M limit per delivery order. HQ, USACE must approve a modification that exceeds the limit. The current expected cost to complete the RI/FS is an additional \$2.2M, for a total RI/FS cost of over \$4M.

9. A meeting was held at Buffalo District on February 18, 1999 between Baltimore and Buffalo staffs to assess the total LOOW Program Status. One result of the meeting was a consensus that resolving the RI/FS contract status was the highest priority. The following schedule was agreed to:

|  |                  |
|--|------------------|
| Detailed SOW for Phase II RI             | 9 April 1999     |
| Receive all Review Comments              | 15 May 1999      |
| Final Approval Phase II SOW              | 1 June 1999      |
| Solicitation for Phase II Modification   | 1 June 1999      |
| Receive Draft Work Plans for Phase II RI | 1 August 1999    |
| Complete Review of Work Plans            | 1 September 1999 |
| Final Work Plans Available               | 1 October 1999   |
|  |                  |

10. The A-E is currently reviewing comments on the Draft Phase I RI. It was expected that any comments on the Phase I report that required additional testing would be incorporated into the Phase II RI. However, several comments from NYDEC will need to be resolved before the final Phase I report is published. Briefly, the regulatory/

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guidance criteria (RGC) proposed by NYDEC will influence the data analysis required in the Phase I report, and thus the conclusions necessary for further analysis and investigation in Phase II.

## **b. DISCUSSION**

1. It was anticipated from the beginning that a modification to tasks 7 and 8 would be needed as described in paragraph 1 above. Cost growth was also expected. However, it is now apparent the strategy to include all tasks in a single delivery order was the wrong approach for this site. Cost growth led to the expected completion cost greatly exceeding the Delivery Order limit. From a Project Management perspective, the Project Manager saw a project out of control, and did not understand where the cost growth was coming from or what the final cost was expected to be. Despite this, work has continued and has progressed in accordance with the delivery order schedule. However, the additional funds to complete the RI/FS are not currently in the FUDS Work Plan, and it will be necessary to suspend work on the contract if funds are not received soon.
2. Exceeding the \$2.5M contract limit will require approval by HQ, USACE. The review time for that could delay the project. The preferred method is to award a new delivery order for the remaining work (tasks 6-8).
3. Experience further indicates it would be best to defer revising the scope of work for tasks 7 & 8 until the Phase II Investigation (task 6) is at least significantly complete, and then award a third delivery order for the remainder of the work. However, the risk in preparing a revised scope of work now must be weighed against the realities of our limitations in contracting for the work. If an award were not made in the 3<sup>rd</sup> quarter of FY99, we would likely not be able to award another delivery order for tasks 7 & 8 until the 2<sup>nd</sup> quarter of FY00. However, the ordering period for the basic contract with the A-E will expire on 6 August 1999. In this situation we would again be faced with the possibility of contracting with a new A-E. The Design Team Leader feels enough information has been obtained in the Phase I Investigation to justify the risk in awarding a new delivery order now for tasks 6-8. However, the expected cost of the second delivery order (\$2.2M) is again ominously close to the \$2.5M delivery order limit. In view of the unresolved comments from NYDEC on the Phase I RI Report, it would be prudent to instead simultaneously award two delivery orders. One for the Phase II Investigation (task 6), and one for the remaining work (tasks 7&8).
4. The Contracting Officer questioned our ability to split the RI/FS into multiple delivery orders to avoid the \$2.5M contract limit. Office of Counsel has reviewed this proposal and concluded that awarding multiple delivery orders is allowable, provided each delivery order is a stand-alone task (deliverable). The task names (Phase I Investigation and Phase II Investigation) imply that this is a continuation of the same task. To a certain extent this is true, however, the deliverables on these tasks are stand alone and independent of each other. The Phase I Investigation is completed and the

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draft submittal is being reviewed. The Phase II Investigation is a completely independent field investigation and report, as are the Baseline Risk Assessment and Feasibility Study. In fact, the remaining work could be completed by another A-E as no specialized skills are involved. However that would significantly increase the cost due to the loss of institutional knowledge obtained by EA Engineering over the last two years.

### c. ACQUISITION PLAN

1. We will modify the existing delivery order to provide additional effort on tasks 2, 3, and 5; and delete tasks 6-8. The additions and deletions will roughly balance each other. There should be enough funds remaining to include preparation of the Phase II Field Investigation Work Plan in the existing delivery order.

#### Task Order 0115 (Proposed)

|            |  | Estimated Amount |
|------------|--|------------------|
| Task 1     | Scoping                                | \$30,720.00      |
| Task 2     | GIS Setup and Historical Data Input    | \$250,000.00     |
| Task 3     | History Search                         | \$250,000.00     |
| Task 4     | Project Planning Documents             | \$80,062.00      |
| Task 5     | Phase 1 Interim Remedial Investigation | \$1,500,000.00   |
| New Task 6 | Phase II Work Plans                    | \$200,000.00     |
| Task 9     | Meetings/Conferences                   | \$78,754.14      |
|            |  |                  |
|            |  |                  |
| Total      |  | \$2,389,536      |

2. In order to resolve the issues on the Phase I RI Report, an on-board review will be held on 6-7 April 1999 at the offices of EA Engineering in Baltimore. The Project Manager and technical staff from Buffalo District are invited to attend. The purpose of the on-board review is for the Government to agree to a position in regards to comments by NYDEC. A second on-board review will then be held on 13-14 April 1999, again at EA Engineering with participation from NYDEC. The purpose of this on-board review is to present the Government's position and seek resolution of conflicts with NYDEC.

3. The current SOW calls for submission of the draft Phase II Work Plans 30 calendar days following approval of the Final Phase I Investigation Report. This should be completed on the current delivery order and distributed for review. We will utilize the Technical Project Planning (TPP) Process (EM 200-1-2) to resolve conflicts on the work plan.

4. We will award two new delivery orders for the remaining work. It will not be possible to wait until after approval of the Final Phase II Work Plans are approved to award the

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delivery order for the investigation, because there is a program requirement that no awards be scheduled for the 4<sup>th</sup> quarter. However, the draft work plans should be more than adequate to prepare a detailed scope of work for the Phase II investigation and feasibility study.

New Delivery Order 1

|        |   | Estimated Amount |
|--------|---|------------------|
| Task 1 | Phase II Interim Remedial Investigation | \$1,500,000.00   |

New Delivery Order 2

|           |  |              |
|-----------|--|--------------|
| Task 2    | Baseline Risk Assessment & Final Remedial Investigation Report | \$350,000.00 |
| Task 3    | Feasibility Study  | \$250,000.00 |
| Task 4    | Meetings/Conferences   | \$100,000.00 |
|           |  |              |
| Sub-Total |  | \$700,000.00 |

|       |  |                |
|-------|--|----------------|
| Total |  | \$2,200,000.00 |
|-------|--|----------------|

5. Receiving the work plans now will have several benefits. It will allow for a longer review period of the work plans; it will fully define the SOW (thus cost) for the Phase II Investigation; and it will cut several months of the original schedule. However, regardless of the status of the work plan approval, we must schedule a 3<sup>rd</sup> quarter award for the new delivery orders.

**d. SCHEDULE:**

|                                       |  |
|---------------------------------------|--|
| EA Response to comments sent to us    | 2 April 1999                                 |
| Government On-Board Review            | 6-7 April 1999                               |
| Government/NYDEC On-Board Review      | 13-14 April 1999                             |
| Phase I Final Report                  | 3 May 1999                                   |
| Draft Phase II Work Plans from EA     | 17 May 1999                                  |
| TPP Meeting                           | 24-28 May 1999                               |
| Award 2 new D.O. for RI/FS Completion | 15 June 1999 (3 <sup>rd</sup> quarter award) |
| Final Phase II Work Plans Due         | 21 June 1999                                 |
| Final Work Plans Approved             | TBD  |
| Phase II Field Work                   | 4 <sup>th</sup> QTR FY 99                    |

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e. PLAN APPROVAL:

Baltimore District:

Design Manager: Charles E. Basham 15 MAR 99  
Charles E. Basham, P.E. date

Chief, Civil HTRW Section: Sesh P. Lal 15 MAR 99  
Sesh P. Lal date

Chief, Military HTRW Section: Clinton L. Anuszewski 15 Mar 99  
Clinton L. Anuszewski, P.E. date

Office of Counsel: William M. Brown 3/15/99  
William M. Brown date

Contracting Officer: William C. Ryals 15 Mar 99  
William C. Ryals date

Buffalo District:

Project Manager: \_\_\_\_\_  
Raymond L. Pilon date

**FAX HEADER**

TO: BUFFALO DISTRICT  
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FAX: (716) 879-4195

FROM: BALTIMORE DISTRICT  
ATTN: CHUCK BASHAM  
(410)962-0674

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