

A FEDERAL BUDGETARY VIEW OF PRIORITIZING FEDERAL CLEANUP EFFORTS

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ABSTRACT

Although the budget for DOE's Environmental Restoration and Waste Management program has increased by nearly 300 percent over the last three years, such growth in funding will probably not continue beyond fiscal 1992. While the level of funding will remain high, competition for Federal dollars will mean that not all identified ERWM needs will be satisfied. The ERWM program must create a credible system of prioritization to defend the funding choices it makes. As in the medical approach to emergency situations known as triage, the ERWM program should propose to treat the sickest "patients" first, recognizing that limited resources are best spent where they can make the biggest difference.

Over the next five to ten years, the Federal government is likely to expend upwards of \$10 billion per year in an effort to address environmental restoration and waste management (ERWM) needs at Department of Energy facilities around the country. Only two years ago, in fiscal 1989, the budget for the same activities, which include cleanup of the weapons complex as well as old AEC sites, inactive uranium mill tailings piles, and research facilities at the national labs, amounted to only about \$1.4 billion. While this is hardly an insignificant figure, the FY 1992 request of \$4.2 billion represents an increase of nearly 300 percent in 3 years. With few exceptions, every identified need has been funded with these dollars.

Perhaps even more remarkable, however, is that the program is enjoying a period of comparatively little budgetary oversight. For fiscal year 1991, neither the White House Office of Management and Budget (OMB) nor the Congressional appropriations committees questioned the merit of funding the specific activities proposed in the ERWM budget. As though it were one enormous line item, the ERWM program received essentially bottom line numbers that it was allowed to spread any way it deemed fit (with some distinctions made between waste management, corrective activities, environmental restoration and technology development). The fiscal 1992 request was similarly treated by the White House and Congress is unlikely to be more thorough.

For the time being, commitment to the environment and resolve to change the 40-year pattern of inattention to the back-end of the weapons complex translates into enormous, unquestioned budgetary growth. If this were to continue, the system of prioritizing ERWM work described in the first Five Year Plan for Environmental Restoration and Waste Management would probably be as sophisticated an ordering method as is needed. The four categories defined in the Plan are broad enough to neatly capture all activities while differentiating the urgency to address them. Priority 1 and 2 activities are of the greatest immediacy, due to either health and safety, legal or economic considerations. Priority 3 activities are everything else that must be done according to DOE (but not State or Federal) regulations. Priority 4 rounds out the list with desirable but not required actions. In these early years of the ERWM program, this ordering

system has given budget decision-makers a clear set of choices for funding. Indeed, Presidential policy for the first year of the Plan, FY 1991, was to fund Priorities 1, 2, and 3, demonstrating the resolve to treat health, safety, and for the first time, regulatory needs as required, not discretionary, activities.

However, the budgetary future for the ERWM program is unlikely to hold many more billion-dollar-per-year increases. Though in its nascent years the program has seen funding levels explode, and though it is widely recognized that even these large numbers will not fully fund the entire program, the era of huge jumps in funding will probably end with the FY 1992 budget. The reasons for this assertion follow. But the fact of it means that more choices will have to be made as to what to fund among the nearly two thousand activities identified in the ERWM program. As the gap between funding needs and appropriations widens, the program must be able to show a logical method of decision-making comparable to the medical system of triage: given limited resources, a defensible means of deciding the order in which competing needs are addressed.

In the absence of such a defensible system of prioritization, much could be lost. The fragile credibility vis-a-vis the public, which DOE has spent so much effort developing over the last 2 years, is already in jeopardy because competing demands on the budget threaten the schedules set in several Federal Facility Agreements (FFA). States have yet to see how or why the requirements of an FFA in another State could be addressed ahead of their own. Moreover, as the Federal government is repeatedly sued over non-compliance with one or another environmental statute, the Department is finding that priorities are beginning to be set by the Courts, which tend to rule on an absolute basis irrespective of competing needs. This further constrains the use of funds and the ability to follow the program of work described in the Plan.

Finally, from a budgeting perspective, the lack of such a prioritization system could lead to one of two scenarios. Either Federal budgeteers will, out of ignorance or frustration, indiscriminately cut the same ERWM bottom line that they unquestioningly funded for 2 or 3 years. Or they will effectively force their own prioritization system on the program, funding first those programs that offer the biggest

potential political bang for the buck. It should not be forgotten that both Federal and Congressional budgeteers are directly responsive to political pressures. If the budgeteers drive the prioritization of ERWM activities, those DOE facilities located in the districts of vocal Congressmen and Senators and supporters of the President could be guaranteed first pick at the funding dollars.

In neither of these cases does the Department of Energy have a chance to meet its goals and objectives as stated in the Five Year Plan. Bottom-line cuts do not allow for subtleties. Constantly respreading the available funds to make up the cuts will require the stretch-out (and therefore increased cost) of on-going activities and endless juggling to meet unanticipated needs. Since political pressures change with the wind, continuity and long-term planning would be certain victims of allowing the loudest voices to determine priorities. So much for achieving a restored weapons complex in thirty years.

For these and other reasons, a logical prioritization system that can accommodate swings in funding, justify the distribution of available funds and withstand public debate is the most urgent need of the ERWM program. This paper suggests an approach to prioritization that a Federal budgeteer would likely find difficult to improve or dispute.

Why Budget Growth Will Level Off

Commonly ignored by many people concerned with the future of the ERWM program is that Federal dollars, even for obvious "winner" issues like the environment, are not limitless. Even if the United States were not facing a nightmare-size deficit, and even if politically-acceptable means to increase revenues could be found, there are always only a finite number of dollars available for Federal programs, regardless of their merit.

Some high-profile, politically popular, programs do enjoy an initial period of little scrutiny and full-funding from Congress and/or the President. The all-but-blank checks they receive are said to demonstrate "a commitment to national security", "an investment in our nation's future", or "the resolve to do what is needed" to fix some calamitous situation. But even for these projects the grace period typically lasts no more than a couple of years before other, equally worthy projects join the jostle for Federal dollars.

More usually, two to three years after the initial high-profile, large infusion of funds phase, what happens to big-ticket items like the DOE ERWM program, is that budget decision-makers are faced with new competition for the available funds, and new political pressures to show "commitment" in another area. At the same time, the real costs of the program, which either could not have been known in advance (as with ERWM) or which were deliberately underplayed at the outset (resulting in frequent cost

"re-estimates") but which are now becoming clearer, frighten off a lot of otherwise "committed" decision-makers. Finally, the political capital to be gained from such projects seems more remote as time passes and there are few, immediately demonstrable pay-offs.

At this point, the budget is likely to either drop to a "comfort level" or to be cut back substantially. In the former scenario, the program receives enough funding to maintain the current level of effort, with perhaps a modest increase in recognition of special needs and/or campaign promises. In the latter, projects are delayed, slowed, or even eliminated. Even if there are some clear pay-offs early on--and certainly the nature of most of the projects in the ERWM program does not allow for their guaranteed, quick accomplishment--the pressures faced by the Federal budget overall, and the political pressures faced by elected officials at both ends of Pennsylvania Avenue may force budget decision-makers to look for ways to limit the growth of funds for the program and move the savings to another needy area.

This is the stage toward which the ERWM program is moving. In its third budget cycle, the program is facing ever more demands on its resources, and cost estimates for the program as a whole continue to be revised upwards. While competition for Federal dollars is greater than ever due to deficit reduction requirements, the sensation is growing among budgeteers that spending on the ERWM program is out of control, or at least out of proportion to the amount of "successes" that can be attributed to it.

For these reasons, although the budget itself will certainly remain high, especially relative to previous spending levels, growth in spending for ERWM activities is likely to slow considerably after the FY 1992 appropriation. The combination of diminished political will to do the right thing (predictable in any case, given the rather short life span of political will on practically any issue) and the realities imposed by competing Federal needs in an era of limited funds and deficit-reduction efforts probably guarantee this.

What Is Needed

If, as seems likely, growth in spending levels out in fiscal 1993 to somewhere in the range of 10 percent per year, clearly the determination of what to fund in the ERWM program will take on an even greater urgency than it has now.

It has been widely recognized, however, both within and outside of DOE, that the system laid out in the first Five Year Plan lacks the of sophistication necessary to make it useful over the long term. Not only do threats to human health and safety share top priority with regulatory requirements, so do any on-going projects whose interruption of funding would cause increased costs. This type of system make any choice among projects nearly indefensible.

However, the Department is currently working on a new prioritization system that it expects to unveil in the third Five Year Plan, to be published later in 1991. Without considering what may be proposed in the new system, the following is one suggested approach.

First, to continue the analogy with medical triage, the determination of which patient is treated ahead of the others should be made based upon demonstrable risks to human health and safety. The method of risk assessment can be either an existing system approved by the National Academy of Sciences or one that is developed specifically for the ERWM program by a third party and, again, approved by the NAS.

The system of risk assessment itself is less important here (assuming it is readily defensible) than the commitment to use the system as the first means of ordering priorities.

Second, by design of the first point, all other requirements, including legal requirements based on compliance agreements, should be of lower priority. This is surely the point that will bring cries of "foul" from those who in the past few years have seen compliance agreements as the only means of assuring that DOE would carry out its clean-up commitments.

But the problem with compliance agreements driving the priorities is clear. In the face of threatened legal action, the Department is forced to promise the moon to everyone. It is not only impossible with limited resources (both monetary and other) to deliver the moon to everyone, the mere effort to do so means that activities that have real health and safety implications may drop out of the program of work in order to keep the Federal government out of court. The Federal budget is nearly two years in preparation and during this time, new compliance agreements are signed that cannot have been anticipated, health and safety related problems develop that cannot have been anticipated by the time the appropriation is made, the juggling of funds must begin all over again.

The answer is not to do away with regulatory requirements. But fiscal and political reality argue strongly that the sickest patient, not the one with the loudest political repre-

sentation or the most compelling legal arguments, should be considered first. Of course, one of the most difficult aspects of such an approach is that State and local governments would have to accept the notion that the greatest needs may not all be at their sites. This seems obvious but the political costs of admitting this are not insignificant. The governor of South Carolina, after all, is not elected by the people of Colorado. However, if the Department of Energy continues in the game of trying to satisfy all of the people all of the time, pouring money into regulatory-driven "bleeders", it seems certain that in time less, rather than more, progress will have been made.

What would be preferable is that ERWM activities be addressed on a nation-wide basis, prioritized first according to the actual threat posed to human health and safety. Requirements imposed by Federal environmental statutes, State and internal DOE regulatory requirements, and Federal facility agreements should be factored into the rankings on a lower priority basis than health and safety. This system would make obvious and defensible which projects drop out of the ERWM program of work when resources are insufficient to fund every identified need. (Again, resources here must be seen not only in terms of budget but also available technology and personnel.) If it can be shown through this system that a project that is in line to drop out is of sufficiently high priority, the likelihood is increased that funding for that activity would be made available.

By the end of this century, when the Department is expected to be one-third of the way through the entire clean-up process, the Federal government must be able to say that the worst problems are no longer a threat. It must be able to show that real progress, not just the expenditure of large sums of money, has been accomplished. The political will needed to accomplish this task, not to speak of the technical and financial requirements, is probably more than can actually be marshalled over the long life of the ERWM program. But a sound foundation for this could be laid by establishing a prioritization method that is defensible if not always desirable. This is what is done in hospital emergency rooms every day. The clean-up of the DOE weapons complex should be viewed with the same urgency and clarity of vision.