

CBFO CONTRACTOR OVERSIGHT PLAN

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U. S. DEPARTMENT OF ENERGY
CARLSBAD FIELD OFFICE

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1.0 PURPOSE

This document defines the oversight model and the process the U.S. Department of Energy (DOE), Carlsbad Field Office (CBFO) staff use to oversee contractor activities in support of the Waste Isolation Pilot Plant (WIPP) to verify that work is performed in a safe, secure, and effective manner that protects human health and the environment and meets contractual requirements. Oversight includes those activities that CBFO conducts to verify contractor performance of technical and business functions including, but not limited to, monitoring, review, evaluation, and validation of contractor data and deliverables; overview of contractor internal assessment-related activities; CBFO assessment/surveillance-related activities; inspection/verification of contractor work; and evaluation of contractor performance. This document is consistent with the attributes of effective oversight outlined in DOE Policy 226.1, *Department of Energy Oversight Policy*. These attributes include meeting requirements and performance objectives, personnel competence, effectiveness of completed corrective actions, and continuous improvement.

2.0 RESPONSIBILITIES AND AUTHORITIES

CBFO supports the timely execution of the WIPP mission through planning, project management oversight, contract management, technical support, monitoring, operational surveillances and audits. Detailed information on CBFO federal staff responsibilities and authorities is included in DOE/WIPP 98-2287, *Functions, Responsibilities, and Authorities Manual* (FRAM).

CBFO Manager – Establishes the oversight and performance expectations for the CBFO and has ultimate responsibility for the timely execution of the program.

CBFO Deputy Manager – Supports and acts for the Manager in carrying out the Manager's responsibilities and authorities by serving as the CBFO Chief Operating Officer. Establishes goals, objectives, and metrics for oversight and performance expectations. Performs the duties of the Contracting Officer Representative (COR).

CBFO Quality Assurance Manager – The CBFO Quality Assurance (QA) Manager has the authority and overall responsibility to independently assess the effective implementation of the CBFO Quality Assurance Program Document, both within the CBFO organization and in those participant organizations supporting CBFO. For further details on the responsibilities of the QA Manager refer to DOE/CBFO-94-1012, *Quality Assurance Program Document*.

CBFO Contracting Officer Representative – Monitors activities of technical compliance, administration and funding, property management, assists in closeout of contracts, and provides written technical direction to the contractor. Technical direction does not include: (1) Any assignment of additional work outside the Statement of Work; (2) a change to the contract as defined in the contract clause entitled "Changes"; (3) any action which would increase or decrease in total price or the time required for contract

performance; (4) Any changes of any of the expressed terms, conditions or specifications in the contract; or (5) Any interference with the Contractor's right to perform the terms and conditions of the contract.

CBFO Contracting Officers (COs) – Responsible for administering and monitoring contracts to ensure the contractor conducts work in accordance with the contract terms and conditions. COs may issue a stop work order in accordance with Section F.5 of the contract.

CBFO Assistant Manager and Office Directors – Provide supervisory, administrative and program direction for the federal staff in their offices.

CBFO Federal Staff – When designated, perform the duties of technical monitors for contract performance in specific areas of the contract.

CBFO Facility Representative (FR) – Represents DOE senior management in providing routine oversight of site operations. Monitors operations to ensure the facility is operated safely; provides early identification of vulnerabilities; ensures that off-normal events are reported and the contractor is effectively controlling operations; maintains effective lines of communication between the CBFO Manager, Deputy Manager, Assistant Manager, Office Directors, CBFO staff and the contractor; and supports any emergency response.

3.0 GENERAL REASONS FOR DOE OVERSIGHT OF CONTRACTORS

DOE has fundamental roles and responsibilities that lead to several basic categories for DOE oversight of contractors, with some oversight being in multiple categories. This discussion includes DOE oversight for the full scope of contractor activities, including Integrated Safety Management (ISM), project, and functional areas. Often, not all of the elements of necessary DOE oversight are explicitly stated in a specific contract.

The general reasons for DOE oversight of contractors can be expressed as:

- DOE assurance of federal responsibility and accountability for activities.
- DOE and contractor compliance with laws and regulations (e.g., environmental, Land Withdrawal Act, nuclear safety, quality assurance, Federal Managers' Financial Integrity Act, etc.)
- DOE policies, orders, manuals, and other requirements for DOE contractor oversight in specific areas
- DOE oversight of contractors as the “owner” of the mission, performance, outcomes, and facilities
- DOE oversight of contractors as the “steward” of the effective and efficient expenditure of taxpayers' money

- DOE oversight of contractors as the “regulator” for nuclear and radiological safety and industrial safety and health

External regulatory compliance oversight by regulatory agencies such as the US Environmental Protection Agency, and the New Mexico Environment Department is described in section 6.0.

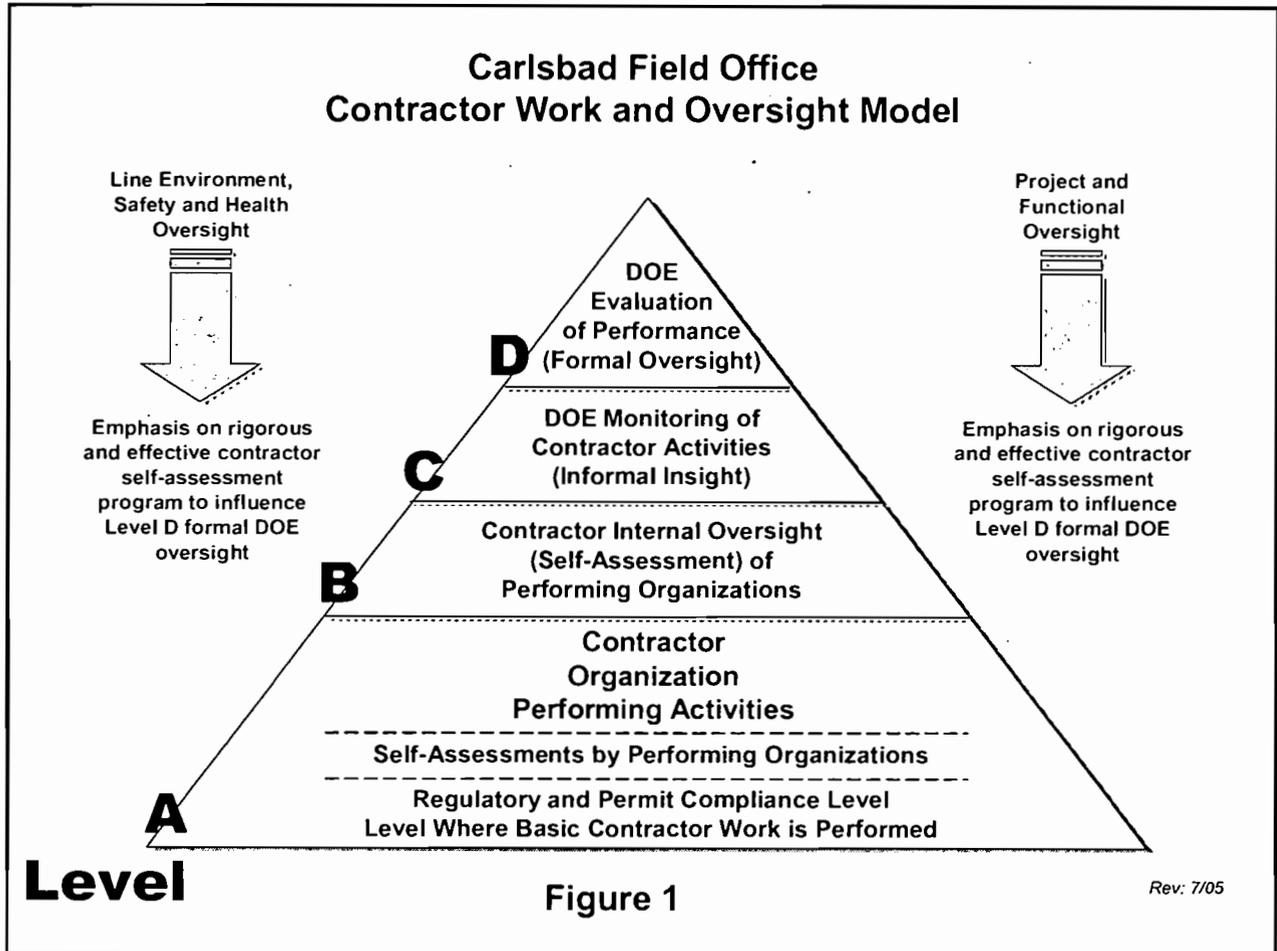
4.0 CBFO OVERSIGHT MODEL

The CBFO uses a systematic process of monitoring, assessment, analysis, documentation, and feedback to verify contractor performance. To ensure clear understanding of CBFO expectations for contractor performance to the contract requirements, CBFO uses an oversight model. Two key elements for this model are to establish clear roles and responsibilities and to clearly define the expectation for a rigorous and effective contractor self-assessment program. The effectiveness of the contractor oversight plan is rooted in four principles:

- (1) Ensure contracts are written with clear scopes of work, definitions, requirements, and performance expectations,
- (2) Ensure operational performance metrics to achieve key elements of the contract are mutually agreed upon by DOE and the contractor,
- (3) Clearly establish the expectation of a rigorous and effective contractor self-assessment and improvement program, and
- (4) Apply a graded DOE oversight program prioritized on the contractor’s performance and on risk/issues in the functional areas.

The oversight model implemented at CBFO is based on the principle that contractors are primarily responsible for performing work and verifying compliance with contractual requirements. Contractor verification is accomplished through procedure compliance and worker, management, technical, and independent assessments. When a contractor demonstrates excellent performance through self-assessment, independent assessment, and corrective action, CBFO may reduce the frequency of its formal oversight activities to a base level to maintain conformance with requirements, maintain operational awareness, and validate continued excellent self-assessment performance by the contractor.

As shown in Figure 1 and described in the following sections, the oversight model for CBFO is divided into four levels.



4.1 Level A: Contractor – Work Performance Level

1. Perform Contract Scope of Work

- Individual contractor organizations perform the basic work scope of the contract (project work, business management activities, environment, safety, and health, permitting, legal, etc.).
 - Regulatory and permit compliance occurs.
 - Systems, processes, and/or procedures as required are in place.
 - Performance objectives, measures, performance indicators, and expectations are in place.
 - Tracking and trending of performance indicators and other key metrics are in place.

2. Self-Assessment by Performing Organizations

- Individual contractor performing organizations conduct self-assessment of their basic work scope periodically to determine if requirements and expectations are being met and to identify opportunities for improvement.
- Can be worker or management assessments.
- Records are generated and maintained by the contractor.

4.2 Level B: Contractor – Internal Independent Self-Assessment

- Self-assessment on the contractors' basic work scope activities, business systems, processes, and procedures are performed by groups or individuals independent from the performing organization(s) being reviewed. This includes a review of Level A self-assessments.
 - Internal audit groups
 - Functional expert groups outside of performing organizations (e.g., Quality Assurance; Environment, Safety and Health; Engineering)
 - Special oversight organizations
 - Contractor readiness reviews
 - Contractor-hired consultants
 - Tracking and trending/analysis of results are in place
 - Reports are generated and records are maintained by the contractor

Activities performed by the contractor in Levels A or B are considered contractor self-assessments.

4.3 Level C: DOE Monitoring (Informal Oversight)

- Informal contractor monitoring/operational awareness level of oversight.
- Examples include:
 - Facility walkthroughs
 - Observing contractor work activities and self-assessments
 - Informal contractor discussions
 - Reviewing contractor work products, reports, work plans, and job hazard analyses
 - Approving contractor programmatic work products as necessary
 - Day-to-day interaction with contractors
- Performed by CBFO staff in their areas of cognizance (there will be overlaps).
- Examples include:
 - Operational oversight in the facilities and work areas

- Authorization basis and engineering areas
- Environmental and regulatory compliance, and quality assurance
- Accounting, finance, procurement, budget, human resources
- FR (except when doing Level D)

An identified deficiency/improvement recommendation may lead to a “stop/suspend work” instruction, a request for a formal Level D evaluation in an area of concern, or further formal communication with the contractor.

4.4 Level D: DOE Formal Oversight

- Formal review of contractor programs and activities separate from routine day-to-day monitoring of contractor work activities. The expectation is that formal reports will be transmitted to the contractor. For-cause reviews will be conducted at this level.
- Normally performed in accordance with the annual Integrated Evaluation Plan.
 - Requirements-based assessments and surveillances
 - Facility representative surveillances
 - CBFO evaluations of contractor readiness
 - Prioritized assessments and surveillances
 - CBFO formal evaluations of contractor fee performance
 - DOE Headquarters formal assessments

5.0 CBFO OVERSIGHT SYSTEM

The CBFO system provides a framework, flexibility, and processes/procedures to define how CBFO implements a DOE “requirements, performance, and risk-informed oversight system” for the CBFO prime contractor. While the system includes Integrated Safety Management (ISM), the scope of this system covers all contractor oversight activities. The CBFO system information described below is depicted in Attachment 1. In summary, the major core elements are:

1. Determine required oversight
 - Define all the “requirements” for CBFO contractor oversight contained in the relevant DOE policies, orders, and manuals, etc.
2. Evaluate the performance of the contractor’s self-assessment program
 - Evaluate annually with a performance-graded and contract-specific approach, the contractor’s self-assessment programs according to the CBFO Contractor Self-Assessment Program Criteria depicted in Attachment 2.

- Includes ISM, project, and functional self-assessments.
 - The results are used as an element in determining the level of CBFO contractor oversight (Level D – surveillances, assessments) to be done in the next fiscal year (FY). Evaluation showing an excellent contractor self-assessment performance will lead to minimum base level of DOE formal oversight in the next FY.
3. The annual Integrated Evaluation Plan (IEP) brings it all together
- Provides the approach to develop for CBFO Manager approval, an annual FY IEP for formal CBFO oversight (Level D) based on requirements and contractor performance from the previous FY with consideration of risk.
 - The IEP uses the “required contractor oversight” developed in Item 1 in the determination of what “requirements-based” formal Level D oversight will be done during the next FY.
 - The base-level FR formal Level D surveillances (developed using a requirements, performance, and risk-informed approach) are included.
 - a. FR surveillances are the least intrusive CBFO formal Level D oversight, usually consisting of one person in an area.
 - b. The FR and CBFO operations oversight personnel provide the base-level oversight for operational awareness and validation of a contractor performing work safely in accordance with applicable requirements, conduct of operations, and related items.
 - The IEP allows consideration of contractor-generated information, CBFO-generated information, and information generated by others (see Section 6) on contractor performance to determine a first draft IEP of “performance-based” formal CBFO Level D oversight activities for the coming FY. This is where the following things can be considered (not a complete list):
 - a. Contractor performance indicators and performance measures
 - b. Contractor self-assessment results
 - c. Contractor readiness results
 - d. Contractor corrective action management results
 - e. Occurrence reports
 - f. ISM evaluations

- g. Voluntary Protection Program (VPP) status results
 - h. International Standards Organization (ISO) certification, if sought
 - i. Results of CBFO informal (Level C) contractor oversight by CBFO functional groups
 - j. Results of CBFO Level C operational awareness by the FR and CBFO operations oversight personnel
 - k. CBFO formal Level D contractor oversight results
 - l. CBFO readiness results, if any
 - m. CBFO evaluation of contractor self-assessment programs (from item 2 above)
 - n. Results of external reviews by DOE/HQ, Defense Nuclear Facilities Safety Board, DOE Office of the Inspector General, Environmental Protection Agency, New Mexico Environment Department
- Excellent ISM implementation is demonstrated by excellent performance with excellent self-assessment, corrective action management, and lessons learned. This leads to formal DOE ISM oversight reduced to a base level for requirements, operational awareness, and validation of continued excellent contractor performance.
 - Other evaluation criteria are considered, such as several “risk factors,” including complexity of facilities/operations, anticipated changes in facility operations, age of facilities, business/financial risk, adequacy of management controls, etc., in developing the draft set of formal CBFO Level D oversight activities shown in the IEP.
 - Available information is obtained on planned contractor Level B independent self-assessments and readiness activities, and planned HQ and external formal assessment for the coming FY. With this information, the draft IEP is reviewed for duplicate activities and schedule impact on facilities to find opportunities for CBFO to do joint assessments with the contractor, or observe contractor assessments, and then cancel draft planned CBFO contractor assessments.
 - The revised draft IEP is then resource-loaded and sent through internal CBFO review cycles leading to CBFO Manager approval prior to the start of the FY.
 - The IEP can be revised to respond to performance-related events and external changes during the year.

- The IEP is implemented during the FY and results are used as a factor in the development of the next IEP.

CBFO maintains a continuous improvement culture using the above elements. CBFO will continue to improve the implementation of the IEP as appropriate, based on lessons learned.

6.0 EXTERNAL OVERSIGHT AND REGULATION

The WIPP program is subject to many external oversight and regulatory reviews. Oversight performed by organizations outside of DOE will be conducted in coordination with the CBFO manager responsible for the functional area. The following table identifies the primary organizations and agencies that may conduct oversight or regulatory reviews of the CBFO WIPP Program.

OVERSIGHT AGENCY/ORGANIZATION	TYPE OF OVERSIGHT
Environmental Protection Agency	Periodically perform formal inspections to verify compliance with their regulations and certification decision. These reviews are conducted in accordance with their procedures.
New Mexico Environment Department	Periodically perform formal inspections to verify compliance with their regulations and permits. These reviews are conducted in accordance with their procedures.
Defense Nuclear Facilities Safety Board	Periodic review of facility safety and readiness. These reviews are conducted in accordance with their procedures.
Office of Inspector General	Periodic review of environmental liability and other areas as information is provided to the agency
Voluntary Protection Program reviews	Periodic review of safety systems to meet predefined criteria.
ISO certification reviews	Periodic recertifications
Mine Safety and Health Administration	Non-regulatory inspections under requirements of the Land Withdrawal Act

7.0 CONTRACTOR PERFORMANCE ASSESSMENT

CBFO Level C and D oversight activities will typically be in accordance with a pertinent contract section such as E.1 (Inspection of Services – Cost Reimbursement (FAR 52.246-5) (April 1984)) and Section J, Attachment D (Performance Evaluation and Measurement Plan) of the Washington TRU Solutions, LLC, Contract DE-AC29-01AL66444. The CBFO oversight of contractor performance will be tailored to the contracted scope and the level of importance to implementing the CBFO mission by the particular contractor.

Contractor responsibilities are included in the contract clause entitled “Laws, Regulations, and DOE Directives.” CBFO contractors are responsible for performing work in accordance with contract requirements. Contractor assessments are required in contracts and include independent assessments, management assessments and surveillances, safety self-assessments, readiness reviews, Environmental Compliance assessments, and Integrated Safety Management System (ISMS) implementation verification. Contractors are also required to use performance metrics to monitor critical areas, including the implementation and effectiveness of their approved ISMS.

7.1 Project Management Oversight

The CBFO will conduct program oversight according to the oversight model described in section 4.0 and in compliance with the contract sections and governing procedures. CBFO Program Managers (i.e., Office Directors, Work Coordinators and federal technical staff) will perform oversight according to the oversight model for activities which include, but are not limited to: 1) occupational safety and health; 2) radiological; 3) nuclear safety (authorization basis implementation and unreviewed safety question process); 4) employee concerns; 5) engineering programs; 6) conduct of operations; 7) quality assurance; 8) security and emergency preparedness; 9) implementation and maintenance of ISMS; 10) implementation of environmental laws, regulations, permits, and agreements; and 11) procurement. Only the CO has the authority to direct the contractor or take any action that will impact the scope, cost, or schedule of the contract. CBFO Program Managers will coordinate and provide recommendations to the COR as a part of their technical monitor responsibilities.

7.2 Financial Management Oversight

As specified in a particular contract (For example for WTS: Section I, number 139, “Integrated Accounting,” and Section J, Attachment H) and Department of Energy Acquisition Regulations (DEAR) Parts 942-951 and 970, CBFO will review budgetary data submitted by the management and operating contractor to be entered into the Integrated Planning, Accountability and Budget System (IPABS). Budget formulation and execution is an integral part of CBFO project management and contract oversight.

7.3 Contract Management Oversight

Contract oversight will be conducted in accordance with the contract terms and conditions which include, but are not limited to, the oversight required under Federal

Acquisition Regulation (FAR) Parts 42-51, and DEAR Parts 942-951 and 970. Interactions with the CO may occur on a daily basis. The CO will maintain a list of contract modifications and will manage the process for any Requests for Equitable Adjustments (REA) that may be required during the life of the contract.

7.4 Contractor Oversight Performance and Evaluation

The CBFO is responsible for reviewing contractors performance in accordance with contract requirements. The CBFO uses the oversight model to ensure the contractor complies with the contract requirements. Key sections in DOE contracts provide the mechanisms for conducting effective contract oversight.

For example (and specific to WTS in this case), contract clause Section I, clause 112 entitled, DEAR 970.5215-3, *Conditional Payment of Fee, Profit, or Incentives* (CPOF clause), has been incorporated into the contract to clearly define the expectations for providing payment of fee, profit, or incentive. Clause 112 of Section I of the contract describes the minimum requirements the contractor must meet in order to receive all otherwise earned fee, fixed fee, profit, or share of cost savings under the contract in an evaluation period. Section I, part 112(a)(3) states,

‘If the contractor does not meet the performance requirements of this contract relating to ES&H during any performance evaluation period established under the contract pursuant to the clause of this contract entitled, “Total Available Fee: Base Fee Amount and Performance Fee Amount,” otherwise earned fee, fixed fee, profit or share of cost savings may be unilaterally reduced by the contracting officer.’

CBFO expects contractors to safely, efficiently, and effectively accomplish the mission as defined in the contract’s scope of work. CBFO expects contractors will achieve this while providing adequate and acceptable protection of the public, the worker, and the environment. The CBFO emphasizes and expects contractors to do work safely and includes a specific section in the contract under Section C.3(c), entitled WIPP ENVIRONMENTAL, SAFETY AND HEALTH (ES&H) and QUALITY ASSURANCE. The first sentence of the section pertinent to WTS states:

“The Contractor shall make ES&H excellence, including the Integrated Safety Management System (ISMS), a cornerstone of all operations.”

7.5 Contractor Performance-Based Incentives

The CBFO is committed to safe disposal of TRU waste and has implemented performance-based incentives (PBI) with the contractor(s) to achieve specific results for risk reduction (by reducing the TRU waste footprint) and accelerating clean up of small-quantity sites. The PBIs developed for WTS, for example, in accordance with Section J, Attachment D of the contract represent a fee model where earnings are at risk and the contractor is paid when specific results are achieved. The CBFO monitors, reviews, and provides regular feedback to the contractor.

8.0 COMMITMENT TO UTILIZE OVERSIGHT AND CONTRACT MANAGEMENT TO ACHIEVE THE WIPP MISSION

The CBFO will use the contractor oversight model contained in Section 4 commensurate with sound contractor management principles to achieve the WIPP mission. The CBFO is committed to work with contractors and the regulatory agencies to streamline and expedite certifications, permits, and authorizations to ensure the WIPP mission is implemented safely and in compliance with laws, regulations, and orders.

9.0 REFERENCES

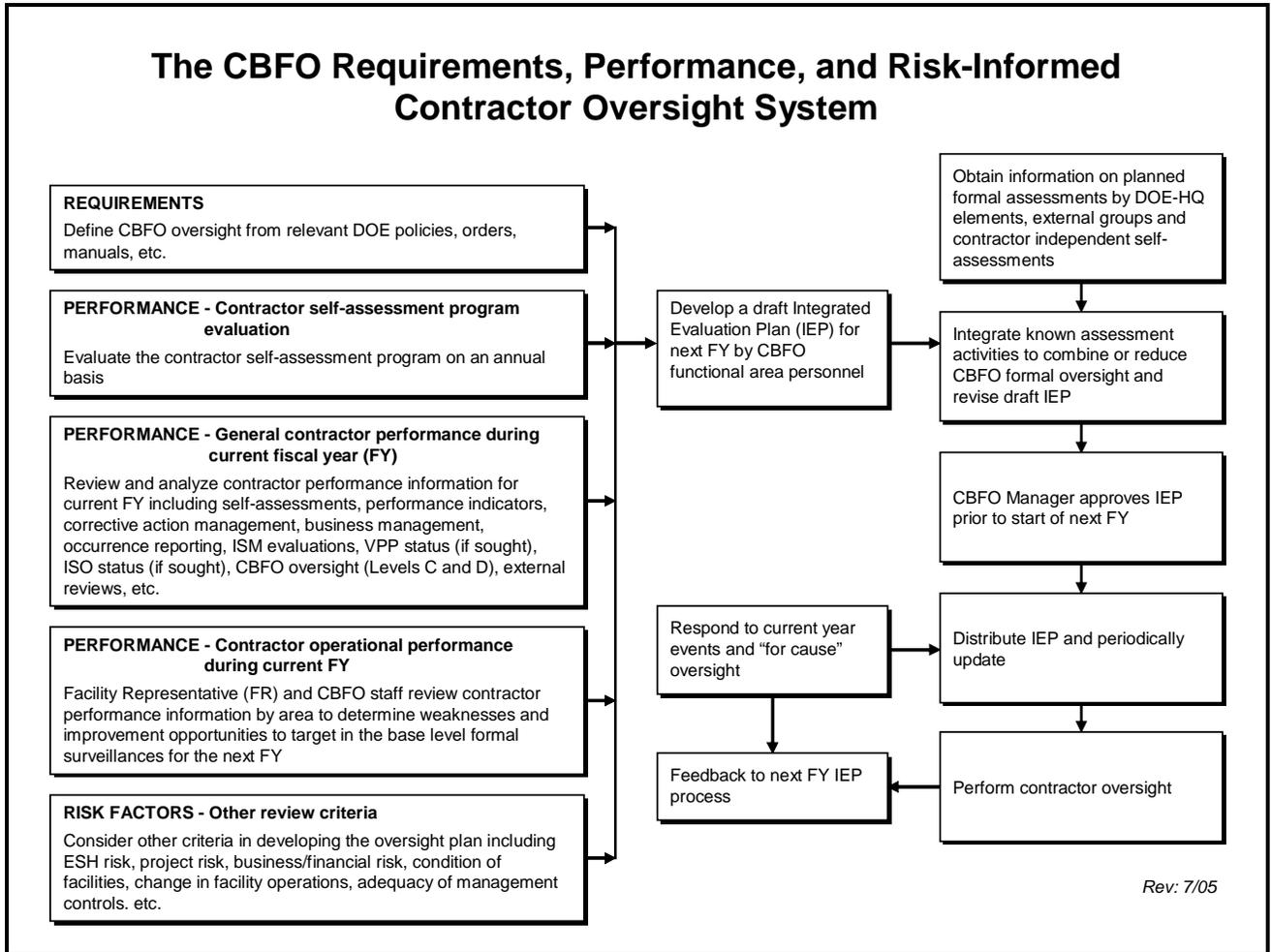
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Contract No. DE-AC29-01AL66444, Washington TRU Solutions, LLC

Attachment 1. CBFO Requirements, Performance, and Risk-Informed Contractor Oversight System



Attachment 2. CBFO Contractor Self-Assessment Program Criteria

