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TITLE: Implementation of the Decentralized Contractor
Performance Evaluation and Award Fee Process
for Selected Remedial Program Contracts

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10. Name and Title of Approving Official Henry L. Longest II	Date 3/9/87

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE
OSWER DIRECTIVE 9242.3-07

MEMORANDUM

SUBJECT: Implementation of the Decentralized Contractor
Performance Evaluation and Award Fee Process for
Selected Remedial Program Contracts

FROM: Henry L. Longest, II, Director
Office of Emergency and Remedial Response (WH-548)

TO: Addressees

The Office of Emergency and Remedial Response is progressing to develop and implement alternative contracting approaches to support the Remedial Program. The primary objective of these efforts is to improve the pace, quality, and cost-effectiveness of the Remedial Program by improving the contracting structure and the management infrastructure that supports the Program. One major element of OERR's effort to improve the contract management infrastructure involves the decentralization of contractor performance evaluation and award fee activities that are required under cost-plus-award-fee (CPAF) contracts. This initiative is intended to: (1) further develop Regional infrastructures for managing contracts in advance of implementation of the Alternative Remedial Contracts Strategy (ARCS); (2) effect the Agency's policy of decentralizing Superfund activities to the Regions, consistent with other program delegations; (3) focus accountability for contractor performance monitoring on the individuals who are responsible for site specific Program operations; (4) allow those most familiar with a contractor's performance to evaluate that performance and determine the amount of fee to be awarded; and (5) increase communication between Agency and contractor personnel at all operational and management levels.

As we are all aware, the recently reauthorized CERCLA legislation places an enormous responsibility on EPA to accelerate the pace of hazardous waste site investigations and remedial actions. The legislation also provides the Agency with additional resources to get the job done. A major portion of these resources, however, are to be allocated for extramural contracts. Consequently, successful pursuit of the Agency's Superfund objectives will depend in large part upon the Program's ability to direct and manage contractor resources effectively. It is my intention to

assist EPA managers at all levels to meet this responsibility, as well as to promote decentralizing Superfund operations. As a result, I have initiated actions that will decentralize contractor performance evaluations and award fee decisions in order to give the Regions important new management tools with which to meet additional responsibilities for ensuring successful contractor performance of Program assignments. Representatives from my staff have briefed each of you on these procedures and we have included your comments into the standard operating procedure (SOP) which is attached.

A key initiative of the award fee process as it relates to the ARCS concept is to not only reward contractors routinely for superior performance, but to establish a performance record for each contractor which will be the basis for increasing contract ceilings from which the Agency can assign additional work. The responsibilities of the Regional Fee Decisionmaker will be critical to the ARCS concept and are detailed in the SOP. The SOP explicitly designates the Regional Division Director as the accountable Agency official for the award fee process and to function as the Regional Fee Decisionmaker. This responsibility may be delegated further to a Deputy Division Director; however, considering the major implications of the fee decisions, I strongly recommend that each of you serve as the Regional Fee Decisionmaker at least until the point in time you are convinced the award fee process within your respective Region is operating satisfactorily.

The SOP describes this initiative and defines the roles and responsibilities of key Regional, Headquarters, and Contractor personnel. The SOP also defines the basic structure and operation of the award fee process, and establishes minimum requirements for Regional and Headquarters contractor performance evaluations and award fee decisions. The decentralized award fee process initially will apply only to remedial contracts (REMs II, III, and IV), and the establishment of an appropriate infrastructure will enable the system to be expanded beyond the remedial program. In accordance with Section 3.1 and other requirements of this SOP, each Region and Headquarters will establish and have an approved internal SOP for operating its award fee process. It is requested that your Regional procedures be forward to the Hazardous Site Control Division (HSCD) for these contracts by March 27, 1987. These procedures will be approved by the Division Director, HSCD by April 10, 1987, in order to be used to evaluate contractor performance for the evaluation period beginning November 1, 1986, and ending February 28, 1987.

Any questions you may have on the general process or procedures should be directed to William Kaschak at (FTS) (382-2343), in HSCD. Any questions pertaining to the development of the Regional infrastructure and expansion of these procedures beyond the remedial program should be directed to Stan Kovell of my immediate office at (FTS) (382-7910).

The decentralized award fee process will require fundamental changes in the way Regions and Headquarters currently monitor and evaluate contractor performance. I also anticipate that modifications to this SOP and/or to some Agency regulations may be necessary as we gain actual experience in implementing the process. We will be assessing the Regional implementation of the award fee process and want to receive your comments and suggestions on these process improvements. Nevertheless, it is important that we begin to decentralize the award fee process now, and that this effort receive your direct attention.

In closing, I would like to acknowledge the support provided by the staff in Region V who assisted with the development of the delegation procedures.

Attachment

Addressees:

Director, Waste Management Division, Regions I, IV, V, VI,
VII and VIII

Director, Emergency and Remedial Response Division, Region II

Director, Hazardous Waste Management Division, Region III

Director, Toxics and Waste Management Division (T-1), Region IX

Director, Hazardous Waste Division, Region X

DECENTRALIZED CONTRACTOR PERFORMANCE
EVALUATION AND AWARD FEE PROCESS
STANDARD OPERATING PROCEDURE

1. PURPOSE AND SCOPE

The purpose of this standard operating procedure (SOP) is to define the process that the Office of Emergency and Remedial Response uses to evaluate contractor performance and to determine the appropriate fee to be awarded for that performance under selected cost-plus-award-fee (CPAF) contracts. The contractor evaluation and award fee process is a form of "qualified" acceptance of work and "prospective" technical direction of contractor activities. The award fee process is an integral part of monitoring contractor performance and provides an additional communication link between contractor and Agency managers.

The primary program objective of Superfund's CPAF system is to enhance the performance of program and contractor personnel by the intense communication that results from the systematic program evaluation that is required to award the contractor a fee commensurate with its performance. Having fee decisions made at the Regional level improves system effectiveness by placing decision-making responsibility closer to the source of performance information. Shortening communication loops will make the process more efficient, more effective, and facilitate "personal" accountability.

Exhibit 1 is a graphic depiction of the Superfund award fee process. This exhibit shows the process by which Regions and Headquarters evaluate contractor performance and determine appropriate fees, and identifies key personnel who are accountable for operating and managing the award fee process.

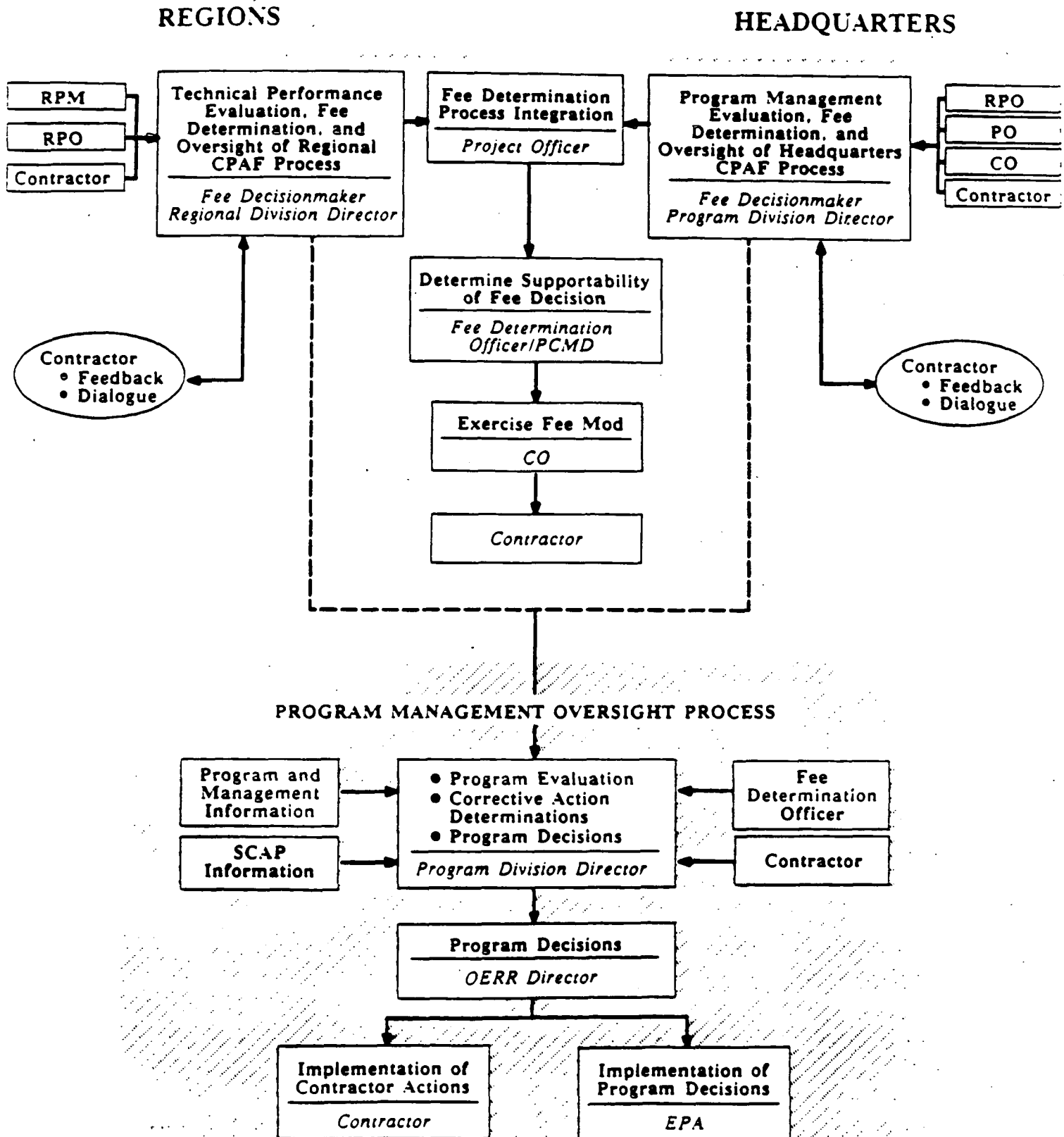
2. DEFINITIONS AND RESPONSIBILITIES

The following sections define the roles and responsibilities of key personnel. Contractor performance evaluations and fee determinations are made through two distinct but interconnected processes: (1) the Regions evaluate and make site-specific fee determinations based on the contractor's Regional performance, and (2) Headquarters evaluates and makes a fee determination based on the contractor's overall program management performance. The Headquarters Program Office also is responsible for establishing operational standards and procedural guidance, and integrating and evaluating the operation of these two processes to ensure that both contractor and Regional performance meet overall program objectives.

Section 2.1 below provides the definitions and responsibilities of key personnel (Regional, Headquarters, and

Exhibit 1

CONTRACTOR PERFORMANCE EVALUATION AND AWARD FEE PROCESS



contractor) who play major roles in monitoring, evaluating, and awarding fees for contractor performance. Definitions and responsibilities of Program Office and OERR management officials are provided in Section 2.2

2.1 Regional and Headquarters Contractor Performance Evaluation and Fee Determination

2.1.1 Performance Monitors

Contractor performance is evaluated and reported by EPA performance monitors. Performance monitors are defined as being any Government employee in a position to observe, assess, and report the performance of a contractor. This SOP designates certain individuals as routine performance monitors because their usual duties put them in a position to closely monitor contractor performance on a continuous basis.

2.1.2 Remedial Project Manager

The Remedial Project Manager (RPM) has site-specific responsibility for directing and monitoring the contractor's technical performance of Regional work assignments. The RPM is also a designated Regional performance monitor in the award fee process. At the close of each performance evaluation period, and in conformance with the Award Fee Plan and the Regional award fee process SOP, the RPM is responsible for reporting his/her evaluation of contractor performance in accordance with the Award Fee Plan and applicable procedures. The RPM submits site-specific evaluation documentation to the Regional Project Officer who integrates all performance evaluation submissions into a single package for Fee Decisionmaker consideration.

2.1.3 Regional Project Officer

The Regional Project Officer (RPO) is another designated Regional performance monitor in the award fee process because of his/her general responsibility for ensuring that contractor work assignment performance meets program and contract requirements. The RPO also performs delegated contract administration tasks such as accepting work and providing technical direction. The RPO is responsible for evaluating a contractor's performance of work assignments across sites that may have different RPMs. At the close of each performance evaluation period, the RPO assesses the contractor's Region-wide performance during that evaluation period and documents those assessments in evaluation reports in conformance with the Award Fee Plan and the Region's award fee procedures. The RPO also is responsible for integrating all contractor performance reports and supporting documentation into a single package for the consideration of the designated Fee Decisionmakers.

2.1.4 Contracting Officer

The Contracting Officer (CO) has three distinct functions in the Award Fee Process. These are as follows:

- 1) The CO is generally responsible for maintaining the integrity of the Contract Administration Process. The CO is, therefore, responsible for assuring that both the contractor and the EPA project personnel who operate the contract perform in accordance with its terms and conditions;
- 2) The CO also serves as a designated performance monitor because of his/her unique perspective in observing contractor performance. In this role, the CO functions exactly as any other performance monitor; and
- 3) The CO implements the fee decisions made by the Fee Decisionmakers by implementing the appropriate contract modifications. The CO is also responsible for receiving, evaluating, and acting upon requests from authorized program officials for appropriate contract action.

2.1.5 Fee Determination Officer

The Fee Determination Officer (FDO) is responsible for the ultimate fee decision developed by the Fee Decisionmakers. The FDO will determine the supportability of the initial fee decisions by review of the Fee Decision and Rationale Reports. The FDO may overrule decisions for reasons such as: bias, arbitrariness, inconsistencies, procedural irregularities, false data, incomplete data, or which are contrary to the terms and conditions of the contract.

2.1.6 Project Officer

The Project Officer (PO) is a designated performance monitor because of his/her responsibility for monitoring and evaluating contractor performance of Program Office work assignments and management activities. As a performance monitor, he/she is responsible for evaluating and reporting contractor Program Office performance in accordance with the Award Fee Plan and the Headquarters award fee procedures. The PO also is responsible for providing Regional contractor performance documentation and evaluation reports to assist the Headquarters Fee Decisionmaker evaluate the contractor's overall program performance.

Following fee determinations by Fee Decisionmakers, the PO is responsible for coordinating, receiving, and integrating all of a

contractor's Fee Decision and Rationale Reports into a single package for transmittal to the Fee Determination Officer.

2.1.7 Contractor

The contractor participates in the award fee process by providing assessments of its performance. These self-evaluations may include descriptions of superior performance as well as explanations in mitigation of any performance problems, deficiencies, or delays. Contractor self-evaluations are submitted to the appropriate Regional RPO/RPM or Headquarters CO and PO at the close of each performance evaluation period, in accordance with the contract specific Award Fee Plan and the appropriate Regional or Headquarters SOP. The contractor also may be asked to meet with the Regional or Headquarters Fee Decisionmaker, RPM, RPO, PO, CO, and other Agency officials to review the results of the evaluation process, and to discuss, develop, and implement improvements to program procedures and performance.

2.1.8 Performance Evaluation Boards

Each Fee Decisionmaker is assisted by a Performance Evaluation Board (PEB) consisting of managers (who are not involved in the day-to-day direction of contractor performance) appointed by the appropriate Regional or Headquarters Division Director. Fee Decisionmakers are personally accountable for determining the appropriate amount of fee to be awarded. The purpose of the PEB is to advise and assist the Fee Decisionmaker in evaluating contractor performance. The PEBs provide the necessary discussion and interaction among Agency managers to ensure that all matters relevant to a contractor's performance evaluation are brought to the Fee Decisionmaker's attention for his decision.

2.1.9 Fee Decisionmakers

Division Directors are responsible and accountable for functioning as Fee Decisionmakers in accordance with the contract specific Award Fee Plan. Division Directors may delegate their Fee Decisionmaker role to a Deputy Division Director; however, the Division Director will retain full responsibility and accountability for both the fee determination process and all fee decisions.

Fee Decisionmakers are accountable for the following major fee determination activities:

- Evaluating Contractor Performance --
Assisted by the PO, CO, RPM, RPO, PEB, and contractor, Fee Decisionmakers evaluate contractor performance in accordance with

procedures contained in the contract specific Award Fee Plan.

- Determining Appropriate Award Fee -- Fee decisions must be made as the direct and clear result of the contractor evaluation process, and in conformance with the procedures and requirements of the contract specific Award Fee Plan.
- Documenting the Fee Decision and Producing the Fee Decision and Rationale Report -- This report provides a concise rationale supporting the fee decision, and is submitted to the FDO via the PO. The Headquarters Program Division Director receives a copy of the report for his program management and overview responsibility. In addition, Fee Decisionmakers maintain an "audit trail" of all contractor performance documentation, evaluation reports, and other materials that support the Award Fee decision. The Fee Decision and Rationale Report is produced in accordance with all procedures and content requirements of this SOP, the contract specific Award Fee Plan, the appropriate Regional or Headquarters SOP, and the minimum criteria provided by the FDO.

2.1.10 Regional Division Director/Headquarters Program Division Director

The primary CPAF "activities" common to both Regional and Headquarters Program Division Directors is to ensure the validity of fee decisions by maintaining process integrity. These officials accomplish this (1) by establishing and enforcing the contractor performance evaluation and award fee process procedures, (2) by appointing the PEB and other key personnel, and monitoring each appointee's performance of assigned responsibilities, (3) by taking corrective action when accountable personnel or the written procedures fail to perform as expected, and (4) by making recommendations to a higher authority to improve contractor or program performance.

2.2 Headquarters Program Management

2.2.1 Headquarters Program Division Director

The Headquarters Program Division Director is responsible for assuring that the performance of contractors and Regional personnel interacting with these contractors meets program objectives. The Program Division Director also reviews the performance of accountable Agency managers in operating the award fee process and takes necessary and appropriate contractor or program actions to improve program operations.

The Headquarters Program Division Director is responsible for the following specific activities:

- Coordinating the development of Award Fee Plans in accordance with contract terms and conditions;
- Providing necessary award fee process standardization and guidance, including required report formats and reporting schedules to be used in preparing Regional or Headquarters award fee process SOPs;
- Reviewing and approving Regional and Headquarters contractor performance evaluation and award fee process SOPs to ensure conformance with this SOP;
- Analyzing performance reports, rationales, and issues to validate information and identify contractor or program deficiencies requiring corrective action;
- Reviewing Regional and Headquarters contractor evaluation and award fee process operations to ensure process integrity; and
- Allocating Regional and Headquarter's award fee funds, in accordance with Program needs. The allocation of the available fee pool is one way by which the Program articulates its program performance needs to the contractor and, hence is a form of technical direction.

2.2.2 Director OERR

The Director OERR, or his designee, is responsible for policy level program assessment and action, and for resolving broad program issues beyond the authority of the Program Division Director. The Director OERR reviews and evaluates corrective contract or program actions recommended by the Program Division Director, and makes OERR-wide decisions on necessary corrective actions. Contractor actions and program decisions made by the Director OERR are implemented by the contractor and EPA, respectively.

In addition, the Director OERR, or his designee, is responsible for reviewing Fee Decision and Rationale Reports. The Director has the authority to overrule fee decisions if there are clear indications of bias, arbitrariness, inconsistency, procedural irregularities, false data, or incomplete information. Whenever a fee decision is overruled the Director OERR must provide a written rationale supporting his decision, and must take appropriate action in conjunction with the cognizant Fee Decisionmaker.

3. AWARD FEE PROCESS

The purpose of this section is to establish standards for Regional/Headquarters Standard Operating Procedures and for the determination of the award fee pool. The establishment of these standards is discussed below.

3.1 Regional/Headquarters Standard Operating Procedures

Regional and Headquarters Program Division Directors are responsible for developing internal procedures for operating the award fee process. SOPs will be submitted for review and approval by the Headquarters Program Division Director. Once approved, these SOPs must be followed in evaluating contractor performance and awarding fee.

Major elements to be addressed in the SOPs include:

- Identification of Fee Decisionmakers;
- Definition of the role and responsibilities of the Fee Decisionmakers, consistent with Section 2 of this SOP;
- Definition of the role and responsibilities of (as appropriate) the

RPM, RPO, contractor, PO, CO, and other Agency personnel and performance monitors who will have a substantive role in the award fee process, consistent with Section 2 of this SOP;

- Definition, reporting schedule, and information requirements of all contractor performance documentation and evaluation reports, consistent with requirements contained in the Award Fee Plan, including requirements for the timely Agency review and feedback on milestone deliverables (suggested Regional schedules will be provided prior to Regional development of SOPs);
- Definition of the process that Fee Decisionmakers will employ to evaluate contractor performance and determine the award fee, consistent with the contract specific Award Fee Plan;
- Definition of the role of the PEB and identification of its members; and
- Definition of the role and responsibilities of Division Directors in managing the award fee process, consistent with Section 2 of this SOP.

3.2 Determination of the Award Fee Pool

In accordance with the contract specific Award Fee Plan, the Headquarters Program Division Director will determine the amount of the award fee pool available to the Regions and to Headquarters based upon project-specific funding and levels of activity. The award fee pool is that portion of the contract set forth in the contract as the amount of fee available to be awarded for contractor performance in accordance with the criteria contained in the Award Fee Plan. Fee Decisionmakers will base the dollar amount of fee decisions on the amount of fee available for each project and for program management.