

STATE OF TEXAS

County of Travis

**AGREEMENT IN PRINCIPLE**

**Between the United States Department of Energy**

**And the State of Texas**

This AGREEMENT IN PRINCIPLE (hereinafter called “Agreement” or “AIP”), effective upon the date of signature, is by and between the UNITED STATES OF AMERICA (hereinafter called the “Government”), acting through the DEPARTMENT OF ENERGY (hereinafter called “DOE”), and the STATE OF TEXAS (hereinafter called the “State”), acting through the State Energy Conservation Office (hereinafter called “SECO”).

The DOE entered into Grant Instrument No. DE-FG04-90AL65780 (“Grant”), for the purpose of implementing this Agreement; and

The DOE desires to provide technical and financial support to the State agencies responsible for data validation, monitoring, and emergency preparedness planning at the DOE Pantex facility near Amarillo, Texas, as set forth in this Agreement and the Grant; and

This Agreement and the Grant reflect the understanding and commitments between the parties regarding the DOE's provision to the State of additional technical and financial support for State activities in monitoring, access, and emergency preparedness planning, and to advise and assist in assuring that the DOE's activities at the Pantex facility do not adversely impact the public health, safety, and the environment; and

This Agreement is designed to ensure protection of public health, safety, and the environment through existing programs and through a program of emergency preparedness planning and independent environmental monitoring and oversight by Texas officials; and

The Agreement between the parties is described in Article III of this Grant, “Specific Project Objectives”; and

In order to achieve the objectives of the Agreement, the parties have agreed that:

1. The purpose of this AIP and the Grant is to advise and assist in assuring that DOE's activities at the Pantex facility do not adversely impact the public health, safety, and the environment by promoting cooperative efforts between the DOE, the State, and local governments. The parties to this Agreement further understand that the oversight activities authorized by this Agreement are intended to supplement activities conducted under applicable environmental laws and regulations, but not to support specific State regulatory, permitting, and legally-required environmental oversight activities, such as issuance of regulatory permits, the review of DOE regulatory submissions when such review serves primarily as the basis for State action under regulatory programs, required regulatory inspections, required monitoring, issuance of regulatory notices of violation and other citations, nor to support the activities of the Site Specific Advisory Board(s). Instead, the Agreement is intended to support the non-regulatory activities of the State in working with the DOE to evaluate the adequacy of DOE activities related to environmental monitoring and to support periodic State monitoring of discharges, emissions, or biological parameters as necessary to verify the effectiveness of the DOE programs. The Agreement recognizes the continued need for the State to have access to DOE facilities and to exchange relevant technical information with the DOE to support the environmental assessment and monitoring and emergency management efforts by the State and local governments. The parties to this Agreement understand that the Agreement does not represent an extension or enlargement of any regulatory authority that Texas has under applicable laws. Specific purposes include:
  - a. Conducting enhanced environmental monitoring and independent oversight at and around the Plant, including independent validation of environmental compliance data, and
  - b. Assisting the DOE, the State, and local governments in implementing an effective and coordinated emergency management program.
2. The DOE will promptly furnish to the State annual (and/or quarterly) reports on the Pantex Plant environmental monitoring data. The DOE data reports will be released to the State within ninety (90) days after receipt from the laboratory and completion of the appropriate level of review and quality assurance/quality control (QA/QC) validation. Upon request by the State, the DOE also will release a copy of the unvalidated data at the same time the validated data is released to the State. If the DOE is unable to release data within ninety (90) days, the DOE will promptly notify the State and explain the circumstances related to the timing of the release, and provide an estimated time frame for release of the data.
3. The parties recognize that the responsibilities and obligations provided in the Interagency Agreement (IAG) between themselves and Region 6 of the U.S. Environmental Protection Agency (EPA) pursuant to section 120 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986, are separate from the responsibilities and obligations contained in this Agreement. The State's IAG-related costs will be covered in the IAG.
4. The DOE will pursue the initiatives described in Article III of the Grant.

The State will likewise pursue the initiatives described in the Grant. The general objective of these State Action Items is to conduct environmental monitoring, provide independent validation of environmental compliance data, and pursue joint emergency planning among the DOE, local governments (Local Political Subdivisions within the designated Pantex Emergency Planning Zone) and State emergency agencies. In accordance with the Texas Disaster Act of 1975, and consistent

with the Executive Order of the Governor Relating to Emergency Management, local governments, the Governor's Office, and cognizant State agencies have specific responsibilities for emergency planning and response. Joint emergency planning under this Agreement and the Grant should be consistent with the Texas Disaster Act and the Executive Order of the Governor and should meet the State of Texas Division Emergency Management (DEM) and Federal Emergency Management Agency (FEMA) planning standards and criteria. It is also the objective of these State Action Items to pursue programs under this Agreement that are effective, comprehensive, coordinated, and that achieve a greater level of public confidence in DOE activities at the DOE Pantex facility.

5. As requested by the State, the DOE will clarify and provide written explanation to the State of the “need-to-know” security information requirements specified in DOE and other federal security requirements governing classified and sensitive unclassified information (e.g., 10 CFR Parts 1016 and 1017, Executive Order 12356, and DOE Order 5635.1A) that apply to access to certain types of information or areas at the Pantex Plant. In carrying out the provisions of this Agreement, parties will comply with applicable security laws and regulations, Privacy Act, and Freedom of Information Act (FOIA) requirements, and trade secret, patent, and related confidentiality requirements. Information designated by the DOE as “classified” in accordance with applicable laws, regulations, or executive orders or which otherwise is entitled to confidentiality under applicable laws, regulations, or orders shall not be released by the State unless authorized by the DOE pursuant to applicable laws, regulations, or executive orders. Documents provided by either party under this Agreement shall be, unless otherwise agreed by the parties and consistent with applicable laws and regulations, agency documents representing the parties’ considered position on the issues addressed therein. Where the DOE has determined, pursuant to applicable laws and regulations, that information or documents are entitled to confidentiality, the State will be provided access to view only, but not copies of, such information or documents until it provides the DOE with written assurance that the State will maintain the confidentiality of such information or documents, at which time copies will be provided to the State. Nothing in the Agreement shall affect the rights either party may have under the FOIA or other applicable laws and regulations.
6. The State understands that the use of funds authorized by this Agreement is for services, personnel, and equipment that are directly related to AIP program activities. The State shall not use AIP program funds to support activities not related to the AIP program. Effective October 1, 2000, to the extent that personnel, equipment, or services are used for both AIP and non-AIP activities, the State shall allocate its costs and charge to the AIP Grant only that portion of the cost of the personnel, equipment, or services that is used to support AIP program activities. If DOE AIP funds are used to support emergency management services or equipment that will also be used to support other State and local community programs not solely related to DOE AIP activities, or programs supported by other entities, the State shall allocate its costs and charge to the AIP Grant only that portion of the cost of their services, equipment, or equipment maintenance used to support AIP program activities. Neither this Agreement, nor the Grant, circumvents or diminishes the authority of the State to fully carry out its statutory and regulatory responsibilities under state and federal law or the right of the DOE to raise any defenses available under law in the case of any enforcement action brought by the State or others, whether in an administrative or a judicial proceeding.
7. The DOE and the State will take all the necessary steps and use their best efforts to obtain timely funding to meet their commitments under this Agreement. The DOE and the State will jointly assess the level of funding on a year-to-year basis. The annual funding level assessment will be based on the DOE budget for that year, the State’s timely submittal of an annual proposed scope

of work, and consideration of actual expenditures from the previous program year. The parties' performance under this Agreement is subject to the availability of funds. No provision herein shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C.1341. (In addition, financial support will be provided in accordance with DOE Financial Assistance Rules, 10 CFR Subchapter H, Part 600. Any funds provided hereunder are federal funds to be transferred to, and administered exclusively by, the State through the SECO, in accordance with the terms of the Grant.) Subject to applicable security, classification, and other confidentiality laws and regulations, nothing in this Agreement shall be construed to this Agreement in furtherance of their statutory duties, rights, and obligations.

8. The DOE will provide resources to the State to support the State's independent evaluation of programs for monitoring air, groundwater, surface water, soils, and biological parameters at and in the vicinity of the Pantex Plant. The State's evaluation of the DOE's environmental assessment and monitoring programs for the Pantex Plant may include, as appropriate, review of the following activities or systems relating to environmental monitoring: monitoring protocol, system design, construction, operation, and maintenance; sampling methodology, locations, frequency, procedures, and parameters; QA/QC methodology, plans, and implementation; data collection, verification, and management systems; chain-of-custody procedures and implementation; and reporting methods. The DOE will support periodic State monitoring of discharges, emissions, and biological parameters as necessary to verify the effectiveness of DOE's monitoring program.
9. This Agreement shall continue in effect through September 2005 and may be extended as mutually agreed. The parties agree that they will review the terms, activities, and funding levels of the Agreement on an annual basis to determine if any modifications are necessary. This Agreement shall only be amended or terminated by the written mutual agreement of both parties; provided, however, consistent with the laws and regulations applicable to the Grant, DOE's funding obligations under this Agreement may be suspended or terminated by the DOE, in whole or in part, if DOE determines that the State is not in compliance with the terms and conditions of the Grant Provisions and provides the State ninety (90) days prior written notice specifying such noncompliance and the State's right to appeal.
10. Each individual State Agency/Office/Research Organization receiving funding under this Agreement shall either provide to the DOE a health and safety plan for specific projects at the Pantex facility, or shall provide written verification that their employees performing work at the Pantex facility are covered under the auspices of an agency specific health and safety plan.
11. No funds provided by the DOE under the Grant in support of this Agreement shall be used to fund judicial or administrative actions against the DOE, including activities in contemplation of litigation. Additionally, no Grant funds shall be used to support State activities that are required by federal, state, and local laws or regulations, or activities that are routinely or normally funded by the State or by other federal entities.

- 12. The State shall submit an original and two copies of a written quarterly report that summarizes the results of its accomplishments relative to the objectives established for the program quarter. Quarterly performance reports shall be submitted within thirty (30) days after the end of the quarter. Performance reports shall contain brief information on the following:
  - a. A project narrative in sufficient detail to describe the program objectives addressed in the scope of work for that period.
  - b. A description of the accomplishments, significant changes from the intentions, and significant issues for each program objective established for the quarter.
  - c. A description of program area total expenditures for each major program activity and a comparison of actual expenditures to budgeted expenditures for the quarter. Discuss in detail significant variances.
  - d. A projection of key events, milestones, and open items from the existing quarter that will be completed during the next quarter.
  
- 13. The parties designated following official points of contact who are authorized to receive all official notification hereunder.

For the State:

For the DOE:

State Energy Conservation Office  
 LBJ State Office Building  
 111 E 17<sup>th</sup> Street, Room 1114  
 Austin, TX 78774

United States Department of Energy  
 Amarillo Area Office  
 P.O. Box 30030  
 Amarillo, TX 79120

This Agreement is voluntarily entered into between the United States Department of Energy, under the authority of 42 U.S.C 7101. et.seq., and the State of Texas under the authority of Texas Governor's Office. This Agreement supersedes the Agreement in Principle executed on March 1, 1996.

FOR THE STATE OF TEXAS:

FOR THE DEPARTMENT OF ENERGY:

  
 \_\_\_\_\_  
 Director, State Energy Conservation Office  
 Deputy Comptroller  
 Date: 11/16/00

  
 \_\_\_\_\_  
 Amarillo Area Office  
 Date: 10/30/00

  
 \_\_\_\_\_  
 George W. Bush, Governor  
 Executed for the State of Texas in accordance with  
 Article IV, Section 10, of the Texas Constitution.  
 Date: 11-21-00

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This amendment approves the Fiscal Year (FY) 2001 budget in the amount of \$1,285,000 and the five-year rewrite budget submitted by the State of Texas (State) on June 30, 2000, for the Agreement In Principle (AIP) Grant. The five-year rewrite is hereby made a part of this Grant and is attached as Appendix B. The following Articles are hereby revised:

This amendment is a rewrite and five-year renewal to Grant No. DE-FG04-90AL65780. The purpose of this Grant is to provide additional technical and financial support for the State to advise and assist in assuring that the Department of Energy's (DOE) activities at the Pantex facility (Plant) do not adversely impact the public health and safety and the environment, by promoting cooperative efforts between the DOE, the State, and local governments. This Grant is not intended to supplant usual state regulatory activities or usual DOE environmental, health, and safety programs. Specific purposes include:

- a. Assisting the State in conducting environmental monitoring and independent oversight at and around the Plant, including independent validation of environmental compliance data,
- b. Assisting the DOE, the State, and local governments in implementing an effective and coordinated emergency management program,
- c. Expediting State technical review of Environmental Restoration documents.

#### ARTICLE I - TERMS, CONDITIONS, AND APPLICABLE RULES

This Grant will be governed by the following:

1. 10 CFR Part 600, "DOE Financial Assistance Rules," applicable to this Grant are:

Subpart A	General
Subpart C	Audits of State and Local Governments
Subpart E	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
2. Payment shall be made in accordance with 31 CFR Part 205.
3. DOE Orders applicable to the Grant include the following:
  - 1332.2 "Uniform Reporting System for Federal Assistance" (Grants and Cooperative Agreements)
  - 1800.1A "Privacy Act" 8/31/84.
4. 10 CFR Part 601, "New Restrictions on Lobbying, and Office of Management and Budget (OMB) Common Rule," published at 55 FR 6737, February 26, 1990.
5. 10 CFR Part 1036, "Government-Wide Debarment and Suspension Nonprocurement and Drug-Free Workplace" (Grants) and OMB Notice for Government-wide requirements published at 55 FR 21677, May 25, 1990.

6. 10 CFR Part 1040, "Nondiscrimination in Federally Assisted Programs."
7. 10 CFR Part 600.29, "Suspension and Termination."
8. No funds provided by the DOE under this Grant in support of the AIP shall be used to fund judicial or administrative actions against the DOE, including activities in contemplation of litigation. Additionally, no DOE funds shall be used to support State activities that are required by federal, state, and local laws or regulations, or activities that are routinely or normally funded by the State or by other federal entities.
9. Office of Management and Budget (OMB) Circulars applicable:  
  
OMB Circular A-87 - Cost Principles applicable to Grants, Contracts, and other Agreements with State and Local Governments. These cost principles shall also apply to Indian Tribal Governments and to Foreign Governments to the extent appropriate.  
  
OMB Circular A-102 - Policies and requirements for Federal agencies involved in administering Grants and Cooperative Agreements with State, Local, and Indian Tribal Governments.  
  
OMB Circular A-128 - Audit requirements for State and Local Governments that receive Financial Assistance.

## ARTICLE II - STATEMENT OF JOINT OBJECTIVES

In order to achieve the objectives of this Grant, the parties have agreed that:

1. The State will pursue the State of Texas Action Items described in Article III. The general intent of these State of Texas Action Items is to conduct environmental monitoring, conduct independent validation of environmental compliance data, and pursue emergency management programs that are effective, comprehensive, and coordinated with the DOE's programs at the Plant.
2. State activities are not in lieu of, but supplemental to, regular monitoring, enforcement, and emergency preparedness functions required by state and federal law. Comments or recommendations made pursuant to the initiatives described in this Grant shall not constitute regulatory approval as may otherwise be required by state or federal laws.
3. The DOE and the State will work jointly to develop and implement procedures for the dissemination of information to the public.
4. The DOE will provide resources for environmental monitoring, review, and emergency preparedness planning as requested by the State to the extent it has such capability available. Financial support will be provided pursuant to DOE Financial Assistance Rules, 10 CFR Subchapter H, Part 600. Any funds provided under this Grant are intended to be used to assist the state and local governments in the development and implementation of an effective and coordinated emergency preparedness program, and to allow the State to advise and assist in assuring that the DOE activities at the Pantex facility do not adversely impact the public health and safety and the environment. Any funds provided hereunder are federal funds to be transferred to, and administered exclusively by, the State

through the State Energy Conservation Office (SECO) in accordance with the terms of this Grant.

5. This Grant and attachments hereto in no way circumvent or diminish the authority of the State to fully carry out its statutory and regulatory responsibilities under state and federal law, or the right of the DOE to raise any defenses available under law in the case of any enforcement action brought by the State or others, whether in an administrative or a judicial proceeding.
6. The DOE will take all necessary steps and use its best efforts to obtain timely funding to meet the DOE's commitments under this Grant. However, no provision herein shall be interpreted to require the obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. 1341, and the DOE's performance of the commitments under this Grant is subject to the availability of funds appropriated by Congress for such purposes.
7. Should issues related to conditions at the Plant that could affect public health, safety, or the environment arise, the DOE and the State through the Official Points-of-Contact (POC) will commence discussions to resolve such issues or to recommend modifications to this Grant, as appropriate.
8. The DOE will use its best efforts to accelerate the completion of required full-field background investigations for granting security clearances to designated State and local government employees. Such clearances are required to allow access to the site to conduct environmental monitoring and emergency preparedness. The DOE will establish and furnish an office at the Plant including necessary telecommunications for the exclusive use of the State.
9. As requested by the State, the DOE will clarify and provide written explanation to the State of the "need-to-know" security information requirements specified in DOE and other federal security requirements governing classified and sensitive unclassified information (e.g., 10 C.F.R. Parts 1016 and 1017, Executive Order 12356, and DOE Order 5635.1A) that apply to access to certain types of information or areas at the Pantex Plant.
10. The DOE will ensure that the State has access to all monitoring data relating to the Pantex Plant generated by or available to the DOE. In carrying out the provisions of this Agreement, the parties will comply with applicable security laws and regulations, Privacy Act, and Freedom of Information Act (FOIA) requirements, and trade secret, patent, and related confidentiality requirements. Information designated by the DOE as "classified" in accordance with applicable laws, regulations, or executive orders or which otherwise is entitled to confidentiality under applicable laws, regulations, or orders shall not be released by the State unless authorized by the DOE pursuant to applicable laws, regulations, or executive orders. Documents provided by either party under this Agreement shall be, unless otherwise agreed by the parties and consistent with applicable laws and regulations, agency documents representing the parties' considered position on the issues addressed therein. Where the DOE has determined, pursuant to applicable laws and regulations, that information or documents are entitled to confidentiality, the State will be provided access to view only, but not copies of, such information or documents until it provides the DOE with written assurance that the State will maintain the confidentiality of such information or documents, at which time copies will be provided to the State. Nothing in this Agreement shall affect the rights either party may have under FOIA or other applicable laws and regulations.

### ARTICLE III - SPECIFIC PROJECT OBJECTIVES

This Article sets out the specific tasks to be performed under this Grant. These tasks are grouped into three general categories:

Task One	Chemical and radiological contaminant inventory and assessment
Task Two	Environmental monitoring
Task Three	Emergency management

The SECO, all cognizant State agencies, and local political subdivisions within the designated Pantex Emergency Planning Zone will participate in quarterly status meetings with the DOE, prepare a scope of work and cost estimate for activities to be conducted in FYs 2001 through 2005, prepare quarterly reports, propose modifications to the AIP as appropriate, and participate in tours, meetings, and symposia.

The SECO will provide overall project integration for the State. Specific activities will include:

1. Management of sub-grants to state agencies and local governments
2. Preparation of all required reports
3. Coordination of meetings with the DOE and its contractors

The cognizant State agencies, acting through the SECO, will:

1. Participate in quarterly status meetings organized by the SECO and the DOE
2. Provide quarterly status reports
3. Participate in public meetings to discuss state activities at the Pantex Plant
4. Provide, as appropriate, reports and brochures for public education on Pantex
5. Provide technical assistance to the Pantex Plant Citizens' Advisory Board

In addition to the SECO and cognizant State agencies, other parties will conduct activities through sub-grants from the SECO. These entities include local political subdivisions within the designated Pantex Emergency Planning Zone.

Each specific work objective is discussed more thoroughly in the sections below, detailing Tasks One through Three of this Agreement.

#### TASK ONE: CHEMICAL AND RADIOLOGICAL ASSESSMENT

The cognizant State agencies, acting through the SECO, will:

1. Provide qualified personnel for Q-clearances to conduct independent verification of chemical and radiological inventory

2. Validate and review industrial contaminants and inventories

TASK TWO: ENVIRONMENTAL MONITORING

The cognizant State agencies, acting through the SECO, will:

1. Review the environmental monitoring data.
2. Review the current groundwater monitoring system plans, including the sampling of any public drinking water supplies for review and updates, as appropriate.
3. Review current radioactivity surveillance system plans and updates, as appropriate.
4. Review current air monitoring system plans and updates, as appropriate.
5. Review reports and/or plans on the biomonitoring of surface water discharges, if required.
6. Review quarterly compilations of environmental data and conduct independent verification of compliance data.
7. Sample any public drinking water systems in the vicinity of the Plant. For any systems that are determined to be potentially affected by Plant operations, the State, in cooperation with local governments, will develop a program for increased frequency of system sampling and analysis. Analyses will include chemicals and radionuclides.
8. Collect and analyze soil, water, vegetation, crops, and other appropriate environmental media from the Plant environs for selected radionuclides and/or chemicals. Samples will be analyzed on a priority basis and results provided in an annual report to the DOE. Any samples that exceed regulatory limits will be reported to the DOE within 24 hours of analysis.
9. Monitor the site boundary with dosimeters to determine ambient gamma radiation levels.
10. Maintain air monitoring systems for Volatile Organic Compounds, particulate matter and particulate radionuclides, and provide enhancements, as appropriate.
11. Perform chemical and radiological analyses of air samples.
12. Review and provide recommendations on updates of dispersion modeling of air emissions, as appropriate.
13. Review and provide recommendations on groundwater modeling results, and updates, as appropriate.

14. Review environmental monitoring and modeling results for potential public health impacts.
15. Provide the results of all air monitoring efforts to DOE on a quarterly/annual basis, as appropriate. Upon completion of the DOE review, results will be disseminated to the Pantex DOE Public Reading Rooms.
16. Prepare environmental monitoring and analysis plans and updates as appropriate, for the monitoring and analysis of chemical and radiological materials, which may be present in the environment in and around the Plant. Provide DOE with the opportunity to review and comment on such plans prior to publication.
17. Allow the DOE to take split samples, whenever possible, in all routine environmental monitoring activities.

### TASK THREE: EMERGENCY MANAGEMENT

In accordance with the Texas Disaster Act of 1975, and consistent with the Executive Order of the Governor Relating to Emergency Management, local governments, the SECO, and cognizant State agencies have specific responsibilities for emergency planning and response. Joint emergency planning under this Agreement and associated Grant should be consistent with the Texas Disaster Act and the Executive Order of the Governor and should meet State of Texas Division of Emergency Management (DEM) and Federal Emergency Management Agency (FEMA) planning standards and criteria.

The cognizant State agencies, and local political subdivisions, acting through the SECO, will:

1. Review and provide comments on updated hazard assessments conducted by the Pantex Plant, as appropriate. Proposed protective action recommendations will be reviewed and comments provided to the DOE.
2. Update appropriate state-level plans, annexes, and procedures pertaining to a radiological and/or hazardous material incident at the Pantex Plant. Prior to completion of the updating process, comments will be solicited from Pantex officials.
3. Review and comment, as appropriate, on Pantex emergency plans and procedures related to radiological or hazardous materials incidents; maintain current copies of such plans and procedures.
4. In coordination with Pantex officials, design, schedule, conduct, and evaluate periodic joint emergency exercises and drills. Participate in such exercises and drills to the extent possible.
5. Meet periodically with DOE and Pantex Plant emergency management staff to review and resolve emergency management issues and coordinate emergency management activities.

6. Review current information to assess the effect of the maximum credible accident.
7. Participate in periodic notification exercises and communications drills.
8. In the event of an incident at Pantex potentially affecting the offsite population, assist the local authorities to the extent and in the manner identified in respective state and local emergency management plans.
9. In conjunction with DOE, coordinate radiological training for potentially affected state and local response organizations.
10. Assist local government in updating plans and procedures, and provide multi-jurisdictional integration of such plans and procedures related to Pantex operational emergencies.
11. Review and provide comments regarding local emergency plans developed to prepare for a radiological and/or hazardous material incident at the Pantex Plant.
12. Assist local governments in developing public information materials and programs.
13. Provide guidance relating to radiological aspects of public information materials and programs. Review and comment as requested.
14. Develop procedures and maintain the Reception Center located at the Tri-State Fair Grounds.

#### ARTICLE IV - FINANCIAL SUPPORT

1. Estimated Cost and Cost Sharing: The total estimated cost for the performance of work under this Grant during the period October 1, 2000, through September 30, 2005, is \$6.8M. The DOE shall contribute 100 percent of the allowable cost for the performance of work during this Grant term.
2. Fee: No fee shall be paid to the State under this Grant.
3. Obligation of Funds: Pursuant to 10 CFR SS600.24, "Maximum DOE Obligation," the amount of funds hereby obligated by the Government for this Grant for the period October 1, 2000, through September 30, 2001, is \$1,285,000.00. The total obligated for performance of work during this Grant term is \$6.8M. Unobligated balances, if any, may be carried forward to subsequent funding periods during the term of this Grant.
4. The DOE shall, subject to the availability of appropriated funds allocated to this Grant, continue to provide funding to the State to perform the work and services under this Grant during the term of this Grant. On an annual basis, not later than June 1 of each year, the State shall submit to the DOE a proposed work scope and cost estimates for work and services to be performed by the State under this Grant during the upcoming budget period. Subsequent to review by the DOE, the DOE shall provide such funds to the State in accordance with the payment provision of this Grant and subject to the availability of current funds allocated to this Grant.

5. The State's performance of its obligations under Article III, "Specific Project Objectives," shall be excused if funds are not available for this Grant.
6. If this Grant is terminated prior to completion, the Government's financial support shall be limited to 100 percent of the allowable costs incurred at the time of termination, not to exceed the total funds obligated by the Government for this Grant.

ARTICLE V - PAYMENTS

1. Advance payments by the Government under this Grant shall be made in accordance with 31 CFR 205. The State shall use the Standard Form (SF) 270, "Request for Advance or Reimbursement," to request advance payments.

A letter of credit may be established, and a copy of the U. S. Department of Treasury "Instructions to Recipient Organizations for Receiving Federal Funds Under the Letter of Credit - Treasury Financial Communications System (LOC-TFCS)" will be provided to the State at such time.

2. In addition to the initial supply of forms made available with this Award, appropriate payment forms and instructions will be provided, upon request, by the Contracting Officer or the finance office at the following address:

U. S. Department of Energy  
Albuquerque Operations Office  
Financial Management Division  
P. O. Box 5400  
Albuquerque, NM 87115

ARTICLE VI - OFFICIAL POINTS OF CONTACT

The parties designate the following Official POCs who are authorized to receive all official notification hereunder.

For the State:

State Energy Conservation Office  
LBJ State Office Building  
111 E. 17<sup>th</sup> Street, Room 1114  
Austin, TX 78774

Attn: Director of Pantex Program

For the DOE:

U. S. Department of Energy  
Amarillo Area Office  
P. O. Box 30030  
Amarillo, TX 79120

Attn: AIP Project Officer (For Technical Matters)  
Attn: Contracting Officer (For Business Matters)

Each party shall, by separate correspondence, designate technical representatives who shall serve as coordinators for listed activities undertaken at the Plant and as the point of transfer for technical documents, reports, and other information to be furnished hereunder. Such technical representatives may be changed by the parties upon written notification from the Official POC designating the person to so serve.

ARTICLE VII - ACCESS TO DATA - APPROPRIATE TREATMENT OF INFORMATION

The parties acknowledge that proprietary information subject to the Privacy Act and the Texas Open Records Act may be disclosed hereunder.

Each party shall take care to identify proprietary or personal information before it is released, and the party receiving such information shall observe all nondisclosure limitations requested by the releasing party, consistent with state and federal law, so as to ensure that it is appropriately safeguarded.

Except as may be required by State law, in the event the State shall determine that information is covered by the Privacy Act (including, but not limited to, individual dose information and medical information), it shall not release such information and shall refer all requests for such information to the DOE for determination.

ARTICLE VIII - NATIONAL SECURITY

It is not expected that activities under this Grant will generate or otherwise involve classified information (that is, Restricted Data, Formerly Restricted Data, National Security Information). However, if in the opinion of the State or the DOE such involvement becomes expected prior to the closeout of the award, the State or the DOE shall notify the other in writing immediately. If the State believes any information developed or acquired may be classified, the State shall not provide the potentially classified information to anyone, including the DOE officials with whom the State normally communicates, except the Director of Classification, DP-32, Washington, D.C. 20545. If the information is determined to be classified, the DOE shall terminate the Grant by mutual agreement. If the Grant is to be terminated, all material deemed by DOE to be classified shall be forwarded to the DOE, in a manner specified by the DOE, for proper disposition. If the State and the DOE wish to continue the Grant, even though classified information is involved, the State shall be required to obtain both personnel and facility security clearances through the Office of Safeguards and Security. Costs associated with handling and protecting any such classified information shall be negotiated at the time the determination to proceed is made. (Note: This clause refers to classification of information under federal laws and regulations not under state laws.)

ARTICLE IX - LIABILITIES AND LOSSES

The DOE and the State by this Grant assume no liability with respect to any damages or loss arising out of any activities undertaken with the financial support of this Grant.

Section 511 of Public Law 101-166 (Labor and Health Appropriations) provides:

When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with federal money, all grantees receiving federal funds, including but not limited to state and local governments, shall clearly state:

- (1) The percentage of the total cost of the program or project which will be financed with federal money;
- (2) The dollar amount of federal funds for the project or program; and

- (3) The percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

ARTICLE X - APPENDICES

The original Appendices A, B, and C are hereby deleted and replaced with new Appendices A and B.

The following appendices are attached to and made a part of this Grant:

Appendix A - Estimated Costs

Appendix B - Five-Year Rewrite

ARTICLE XI - TERM OF GRANT

The period of performance of this Grant shall be from October 1, 2000, through September 30, 2005, unless extended by mutual agreement of the parties. The parties agree to review the terms of this Grant annually to determine if any modifications are necessary.