

STATEMENT OF CONSIDERATIONS

REQUEST BY CHEVRONTEXACO WORLDWIDE POWER & GASIFICATION
FOR AN ADVANCE WAIVER OF DOMESTIC AND FOREIGN PATENT RIGHTS
UNDER SUBCONTRACT QZ001 UNDER DOE COOPERATIVE AGREEMENT
NO. DE-FC26-99FT40675; W(A)-03-001, CH-1127

The Petitioner, ChevronTexaco Worldwide Power & Gasification (ChevronTexaco) is a subcontractor to Research Triangle Institute (RTI) under the subject cost plus fixed fee agreement for the performance of work entitled, Novel Technologies for Gaseous Containment Control. The purpose of the agreement is to prove the feasibility of synthesis gas clean up techniques, including the warm synthesis gas process based on the RVS-1 sorbent developed by the Department of Energy and RTI and, for reverse selective membrane technology developed by Dupont and Air Liquide, Membrane Dupont Air Liquide (MEDAL) and RTI. Enabling technologies, including warm gas mercury removal, sulfur recovery (via the RTI Direct Sulfur Recovery Process-DSRP and warm gas ammonia removal, will also be demonstrated. The objective includes the demonstration of the technologies on a pilot plant scale and technical and economic evaluations of the technologies. Under its subcontract with RTI, ChevronTexaco will conduct technical and economic evaluations at its engineering facilities, and conduct pilot plant scale demonstrations of the technology at its Montebello Technology Center. The patent clause at 48 CFR 952.227-11 – Patent Rights-Retention by the Contractor, is applicable to RTI as the prime contractor under this agreement. As a large business subcontractor to RTI, ChevronTexaco has the right to petition for this waiver, which is for inventions of ChevronTexaco only.

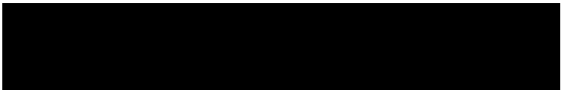
Although RTI's agreement with DOE is a cost plus fixed fee agreement, there is cost sharing being provided by ChevronTexaco as RTI's subcontractor. The total estimated cost of the project agreement is about \$10,176,063, with ChevronTexaco cost sharing 35 % or \$3,561,622. The DOE share is \$6,192,536 or 60%. RTI and two other subcontractors are providing nominal amounts totaling \$421,905 to cover the remaining project cost. It is anticipated that the length of this subcontract will be from October 1, 2002 until January 1, 2006.

In its response to questions 4 and 5 of the attached waiver petition, ChevronTexaco has described its technical competence in the technology field of synthesis gas clean up techniques. Through its wholly owned subsidiary Texaco Development Corporation, ChevronTexaco is recognized as being the worldwide leader in the gasification process and integration of technology into combined cycle power systems. Texaco Development Corporation's gasification process is a well established technology with over one hundred licensed facilities in operation throughout the world. A list of Texaco Development Corporation's U.S. Patents which relate to this gasification process is attached to the waiver petition as Schedule 1. ChevronTexaco is the only entity commercially operating synthesis gas clean up processes utilizing these techniques. This evidences ChevronTexaco's technical competence in the gaseous containment control field.

From its response to question 9, ChevronTexaco indicates that grant of the waiver should not affect the competitive positions since there are a wide range of cleanup technologies available. In addition, ChevronTexaco actively licenses its gasification technology and its integration into combined cycle power systems to third parties. Therefore, granting of the waiver should not affect competition.

The subject subcontract will be modified to add the Patent Rights--Waiver clause in conformance with 10 CFR 784.12 , wherein ChevronTexaco has agreed to the provisions of 35 U.S.C §§ 202, 203, and 204. This waiver clause will also include a paragraph entitled U.S. Competitiveness, in which ChevronTexaco agrees to substantial U. S. manufacture of subject inventions (attached hereto). Additionally, ChevronTexaco agrees not to transfer subject inventions to any other entity unless that other entity agrees to these same requirements. The petitioner has further agreed to modification of the data clause of the subject cooperative agreement (48 C.F.R. 952.227-14) by adding paragraph (k), Alternative VI, concerning contractor licensing of data.


Considering the foregoing, it is believed that granting the waiver will provide the Petitioner with the necessary incentive to invest resources in the commercialization of the results of the agreement in a fashion which will make the agreement's benefits available to the public in the shortest practicable time. In addition, it would appear that grant of the above requested waiver would not result in an adverse effect on competition nor result in excessive market concentration. Therefore, in view of the objectives and considerations set forth in 10 CFR 784, all of which have been considered, it is recommended that the requested waiver, as set forth above, be granted.


Mark P. Dvorscak
Assistant Chief Counsel
Office of Intellectual Property Law


Date Jan 27, 2003

Based on the foregoing Statement of Considerations and the representations in the attached waiver petition, it is determined that the United States and the general public will best be served by a waiver of rights and consent to assignment of the scope described above, and therefore the waiver is granted. This waiver shall not apply to any modification or extension of this agreement, where through such modification or extension, the purpose, scope, or cost of the agreement is substantially altered.

CONCURRENCE:


George Rudins
Deputy Assistant Secretary for Coal
and Power Systems
Office of Fossil Energy

APPROVAL:


Paul A. Gottlieb
Assistant General Counsel
for Technology Transfer and
Intellectual Property

Date March 03, 2003

Date 3-4-03

(t) U. S. COMPETITIVENESS The Contractor agrees that any products embodying any waived invention or produced through the use of any waived invention will be manufactured substantially in the United States unless the Contractor can show to the satisfaction of the DOE that it is not commercially feasible to do so. In the event the DOE agrees to foreign manufacture, there will be a requirement that the Government's support of the technology be recognized in some appropriate manner, e.g., recoupment of the Government's investment, etc. The Contractor agrees that it will not license, assign or otherwise transfer any waived invention to any entity unless that entity agrees to these same requirements. Should the Contractor or other such entity receiving rights in the invention undergo a change in ownership amounting to a controlling interest, then the waiver, assignment, license, or other transfer of rights in the waived invention is suspended until approved in writing by the DOE.