

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT		1. CONTRACT ID CODE	PAGE OF PAGES 1 2
2. AMENDMENT/MODIFICATION NO. 151	3. EFFECTIVE DATE See Block 16C	4. REQUISITION/PURCHASE REQ. NO. 11EM001870	5. PROJECT NO. (If applicable)
6. ISSUED BY Richland Operations Office U.S. Department of Energy Richland Operations Office P.O. Box 550, MSIN A7-80 Richland WA 99352	CODE 00601	7. ADMINISTERED BY (If other than Item 6) Richland Operations Office U.S. Department of Energy Richland Operations Office P.O. Box 550, MSIN A7-80 Richland WA 99352	CODE 00601
8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code) CH2M HILL PLATEAU REMEDIATION COMPANY Attn: Reese Bang 2420 Stevens Center Place Richland wa 99354-1659		(x)	9A. AMENDMENT OF SOLICITATION NO.
CODE 805603128			9B. DATED (SEE ITEM 11)
FACILITY CODE		x	10A. MODIFICATION OF CONTRACT/ORDER NO. DE-AC06-08RL14788
			10B. DATED (SEE ITEM 13) 06/19/2008

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers is extended, is not extended. Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods: (a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGEMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required) Net Increase: \$29,729,377.00
See Schedule

13. THIS ITEM ONLY APPLIES TO MODIFICATION OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

CHECK ONE	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
X	D. OTHER (Specify type of modification and authority) B.3, Obligation and Availability of Funds and I.24-A, Limitation of Government Liability

E. IMPORTANT: Contractor is not. is required to sign this document and return _____ 0 _____ copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

This modification makes the following changes:

1. Pursuant to contract clause B.3, Obligation and Availability of Funds, the amount of funds (non-Recovery Act) is hereby increased by \$29,729,377.00 from \$1,124,376,139.51 to \$1,154,105,516.51 as shown in Attachment 1. The detailed breakout of funding by accounting code is provided in the Financial Plan Report - Detail Report, included as Attachment 2 of this modification. Replacement Section B is provided in Attachment 3.

2. Pursuant to 13.D. above, the limits within Clause I.24-A, FAR 52.216-24 Limitation of Government Liability, are revised as detailed in Attachment 4. Replacement Section I is provided in Attachment 5.

Continued ...

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print)		16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) Jenise C. Connerly	
15B. CONTRACTOR/OFFEROR (Signature of person authorized to sign)	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA Signature on File (Signature of Contracting Officer)	16C. DATE SIGNED 03/17/2011

CONTINUATION SHEETREFERENCE NO. OF DOCUMENT BEING CONTINUED
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NAME OF OFFEROR OR CONTRACTOR

CH2M HILL PLATEAU REMEDIATION COMPANY

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	All other terms and conditions remain the same. End of modification. FOB: Destination Period of Performance: 06/19/2008 to 09/30/2013				

The following revisions are included with this modification:

Section B, Clause B.3, Obligation and Availability of Funds, is modified as follows:

FROM:

B.3 OBLIGATION AND AVAILABILITY OF FUNDS

- (a) Obligation of Funds. Pursuant to the Section I Clause entitled, *FAR 52.232-22*, Limitation of Funds, total funds in the amount of \$1,124,376,139.51 have been allotted for obligation and are available for payment of services provided from the effective date of this Contract through March 4, 2011.

Pursuant to the clause in Section I, entitled "Limitation of Funds," total funds in the amount of \$1,375,998,168.34 are obligated herein and made available for payment of allowable costs and fee earned related only to the Recovery Act work from the effective date of modification A037 through the period of performance for the Recovery Act work, contained in Section F.

- (b) Availability of Funds. Except as may be specifically provided in the Section I Clause entitled, *DEAR 952.250-70, Nuclear Hazards Indemnity Agreement*, the duties and obligations of DOE hereunder calling for the expenditure of appropriated funds shall be subject to the availability of funds appropriated by the U.S. Congress that DOE may legally spend for such purposes.

TO:

B.3 OBLIGATION AND AVAILABILITY OF FUNDS

- (a) Obligation of Funds. Pursuant to the Section I Clause entitled, *FAR 52.232-22*, Limitation of Funds, total funds in the amount of \$1,154,105,516.51 have been allotted for obligation and are available for payment of services provided from the effective date of this Contract through March 31, 2011.

Pursuant to the clause in Section I, entitled "Limitation of Funds," total funds in the amount of \$1,375,998,168.34 are obligated herein and made available for payment of allowable costs and fee earned related only to the Recovery Act work from the effective date of modification A037 through the period of performance for the Recovery Act work, contained in Section F.

- (b) Availability of Funds. Except as may be specifically provided in the Section I Clause entitled, *DEAR 952.250-70, Nuclear Hazards Indemnity Agreement*, the duties and obligations of DOE hereunder calling for the expenditure of appropriated funds shall be subject to the availability of funds appropriated by the U.S. Congress that DOE may legally spend for such purposes.

Financial Plan Report - Detail

RL14788 - PLATEAU REMEDIATION CONTRACT (PRC)

Report Generated on: March 17, 2011 at 01:49:19 PM

Rpt Entity	Fund Code	Leg FT	Program	Legacy B&R	Obj. Class	Local Use	Project	WFO	Legacy Order Number	Beginning Uncosted Obs	BA			Total Available
											Previous	Change	Revised	
421101	00910	3T	1720303	400403309	25400	0000000	0000000	0421384	AGRN0025103MIPR146	399.97	0.00	0.00	0.00	399.97
Total for Program Parent/Control Point: 400000000										399.97	0.00	0.00	0.00	399.97
Total for Fund Type: 3T										399.97	0.00	0.00	0.00	399.97
421101	04000	4A	1110549	EY084910B	25400	0000000	0000700	0000000		368,629.07	0.00	0.00	0.00	368,629.07
Total for Program Parent/Control Point: EY0800000										368,629.07	0.00	0.00	0.00	368,629.07
Total for Fund Type: 4A										368,629.07	0.00	0.00	0.00	368,629.07
Total for Recipient Code: RL										369,029.04	0.00	0.00	0.00	369,029.04
Total for Reporting Entity: 421101										369,029.04	0.00	0.00	0.00	369,029.04
421701	00911	YZ	1721310	YN1901000	25400	0000000	0000000	0420983	TSKFA9902	272,952.32	0.00	0.00	0.00	272,952.32
Total for Program Parent/Control Point: YN1901000										272,952.32	0.00	0.00	0.00	272,952.32
Total for Fund Type: YZ										272,952.32	0.00	0.00	0.00	272,952.32
Total for Recipient Code: RL										272,952.32	0.00	0.00	0.00	272,952.32
Total for Reporting Entity: 421701										272,952.32	0.00	0.00	0.00	272,952.32
422100	01055	3F	1720303	400403309	25400	0000000	0000000	0421591	AGRMIPR9CO8927511	487.02	0.00	0.00	0.00	487.02
Total for Program Parent/Control Point: 400000000										487.02	0.00	0.00	0.00	487.02
Total for Fund Type: 3F										487.02	0.00	0.00	0.00	487.02
422100	00910	3T	1720303	400403309	25400	0000000	0000000	0421625		37,838.87	0.00	0.00	0.00	37,838.87
422100	00910	3T	1720303	400403309	25400	0000000	0000000	0421643		0.00	0.00	97,000.00	97,000.00	97,000.00
<i>AY 2011 - RFS RF2033 Supp #0</i>														
422100	00910	3T	1720303	400403309	25400	0000000	0000000	0420661	AGRN0025103MIPR125	538.69	0.00	0.00	0.00	538.69
422100	00910	3T	1720303	400403309	25400	0000000	0000000	0421498	AGRN4523A06MP00051	97.96	0.00	0.00	0.00	97.96
422100	00910	3T	1720303	400403309	25400	0000000	0000000	0421569	AGRN4523A08MP00033	1,360.29	0.00	0.00	0.00	1,360.29
422100	00910	3T	1720303	400403309	25400	0000000	0000000	0421576	AGRN4523A08MP00046	990.36	0.00	0.00	0.00	990.36
422100	00910	3T	1720303	400403309	25400	0000000	0000000	0421577	AGRN4523A08MP00048	72,803.09	0.00	0.00	0.00	72,803.09
422100	00910	3T	1720303	400403309	25400	0000000	0000000	0421595	AGRN4523A09MP00031	5,819.56	0.00	0.00	0.00	5,819.56
422100	00910	3T	1720303	400403309	25400	0000000	0000000	0421597	AGRN4523A09MP00032	37,252.85	0.00	0.00	0.00	37,252.85
422100	00910	3T	1720303	400403309	25400	0000000	0000000	0421614	AGRN4523A09MP00043	22,599.10	0.00	0.00	0.00	22,599.10
422100	00910	3T	1720303	400403309	25400	0000000	0000000	0421623	AGRN4523A10MP00032	50,478.67	0.00	0.00	0.00	50,478.67
422100	00910	3T	1720303	400403309	25400	0000000	0000000	0421624	AGRN4523A10MP00033	669,856.94	0.00	0.00	0.00	669,856.94
Total for Program Parent/Control Point: 400000000										899,636.38	0.00	97,000.00	97,000.00	996,636.38
Total for Fund Type: 3T										899,636.38	0.00	97,000.00	97,000.00	996,636.38
422100	00900	TC	2220667	DP0902090	25400	0000000	0000000	0000000		29,645.26	31,564.00	42,377.00	73,941.00	103,586.26
<i>AY 2011 - incremental funding</i>														
Total for Program Parent/Control Point: DP0902000										29,645.26	31,564.00	42,377.00	73,941.00	103,586.26
Total for Fund Type: TC										29,645.26	31,564.00	42,377.00	73,941.00	103,586.26
422100	01050	TF	3184701	HQ1001000	25400	0000000	0000000	0000000		9,146.68	0.00	0.00	0.00	9,146.68

Financial Plan Number: 8
 Fiscal Year: 2011
 Contract Modification Number: 11EM001870
 Fiscal Month: 06
 Rpt Entity: RL Plateau Remediation Contract (PRC)

Financial Plan Report - Detail

Site: RL

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RL14788 - PLATEAU REMEDIATION CONTRACT (PRC)

Report Generated on: March 17, 2011 at 01:49:19 PM

Rpt Entity	Fund Code	Leg FT	Program	Legacy B&R	Obj. Class	Local Use	Project	WFO	Legacy Order Number	Beginning Uncosted Obs	BA			Total Available
											Previous	Change	Revised	
Total for Program Parent/Control Point: HQ1001000										9,146.68	0.00	0.00	0.00	9,146.68
Total for Fund Type: TF										9,146.68	0.00	0.00	0.00	9,146.68

Financial Plan Report - Detail

RL14788 - PLATEAU REMEDIATION CONTRACT (PRC)

Report Generated on: March 17, 2011 at 01:49:19 PM

Rpt Entity	Fund Code	Leg FT	Program	Legacy B&R	Obj. Class	Local Use	Project	WFO	Legacy Order Number	Beginning Uncosted Obs	BA			Total Available
											Previous	Change	Revised	
422100	01250	TP	1110465	EW1001209	25100	0000000	0001540	0000000		20,095.95	0.00	0.00	0.00	20,095.95
422100	01250	TP	1110465	EW1001209	25100	0421414	0001540	0000000		2,162.23	-2,092.59	0.00	-2,092.59	69.64
Total for Program Parent/Control Point: EW1000000										22,258.18	-2,092.59	0.00	-2,092.59	20,165.59
422100	01250	TP	1110820	EY5042111	25400	0000000	0001520	0000000		5,832,884.99	11,629,000.00	2,750,000.00	14,379,000.00	20,211,884.99
<i>AY 2011 - Incremental funding</i>														
422100	01250	TP	1110820	EY5042111	31003	0000000	0001520	0000000		5,117.49	0.00	0.00	0.00	5,117.49
422100	01250	TP	1110821	EY5042112	25400	0000000	0001520	0000000		255,707.43	0.00	0.00	0.00	255,707.43
Total for Program Parent/Control Point: EY5042111										6,093,709.91	11,629,000.00	2,750,000.00	14,379,000.00	20,472,709.91
422100	01250	TP	1110826	EY5042121	25400	0000000	0001521	0000000		8,520,507.44	23,971,000.00	10,000,000.00	33,971,000.00	42,491,507.44
<i>AY 2011 - Incremental funding</i>														
422100	01250	TP	1110826	EY5042121	31003	0000000	0001521	0000000		4,907.03	0.00	0.00	0.00	4,907.03
422100	01250	TP	1110830	EY5042125	25400	0000000	0001521	0000000		284,475.63	0.00	0.00	0.00	284,475.63
Total for Program Parent/Control Point: EY5042121										8,809,890.10	23,971,000.00	10,000,000.00	33,971,000.00	42,780,890.10
422100	01250	TP	1110832	EY5042411	25400	0000000	0001526	0000000		11,227,066.74	11,800,000.00	-3,500,000.00	8,300,000.00	19,527,066.74
<i>AY 2011 - Remove RL-41 funds held for commitments now covered by other PBS</i>														
Total for Program Parent/Control Point: EY5042411										11,227,066.74	11,800,000.00	-3,500,000.00	8,300,000.00	19,527,066.74
422100	01250	TP	1110842	EY5142130	25400	0000000	0001522	0000000		5,531,618.40	34,343,000.00	4,100,000.00	38,443,000.00	43,974,618.40
<i>AY 2011 - Incremental funding;</i>														
<i>AY 2010 - Incremental funding</i>														
422100	01250	TP	1110842	EY5142130	31003	0000000	0001522	0000000		669,955.85	150,000.00	0.00	150,000.00	819,955.85
422100	01250	TP	1110842	EY5142130	32002	0427026	0001522	0000000		55,683.41	0.00	0.00	0.00	55,683.41
422100	01250	TP	1110842	EY5142130	32002	0427086	0001522	0000000		4,099.50	0.00	0.00	0.00	4,099.50
422100	01250	TP	1110842	EY5142130	32002	0427087	0001522	0000000		813.34	0.00	0.00	0.00	813.34
422100	01250	TP	1110842	EY5142130	32002	0427088	0001522	0000000		4,545.88	0.00	0.00	0.00	4,545.88
422100	01250	TP	1110842	EY5142130	32002	0427093	0001522	0000000		450,453.28	-350,000.00	-50,000.00	-400,000.00	50,453.28
<i>AY 2010 - move funds to Operations</i>														
422100	01250	TP	1110842	EY5142130	32002	0427130	0001522	0000000		382,945.85	400,000.00	-120,000.00	280,000.00	662,945.85
<i>AY 2010 - Move funds to Operations</i>														
422100	01250	TP	1110842	EY5142130	32002	0427161	0001522	0000000		110,387.55	450,000.00	-200,000.00	250,000.00	360,387.55
<i>AY 2011 - Move funds to Operations</i>														
422100	01250	TP	1111299	EY5142135	25400	0000000	0001522	0000000		204,115.35	150,000.00	0.00	150,000.00	354,115.35
Total for Program Parent/Control Point: EY5142130										7,414,618.41	35,143,000.00	3,730,000.00	38,873,000.00	46,287,618.41

Financial Plan Report - Detail

RL14788 - PLATEAU REMEDIATION CONTRACT (PRC)

Rpt Entity	Fund Code	Leg FT	Program	Legacy B&R	Obj. Class	Local Use	Project	WFO	Legacy Order Number	Beginning Uncosted Obs	BA			Total Available
											Previous	Change	Revised	
422100	01250	TP	1110843	EY5142301	25400	0000000	0001524	0000000		23,351,991.81	39,502,000.00	15,600,000.00	55,102,000.00	78,453,991.81
<i>AY 2011 - Additional Funding</i>														
422100	01250	TP	1110843	EY5142301	31003	0000000	0001524	0000000		221,864.28	425,000.00	0.00	425,000.00	646,864.28
422100	01250	TP	1110843	EY5142301	32002	0000000	0001524	0000000		0.00	650,000.00	0.00	650,000.00	650,000.00
422100	01250	TP	1110843	EY5142301	32002	0427020	0001524	0000000		24,213.99	0.00	0.00	0.00	24,213.99
422100	01250	TP	1110843	EY5142301	32002	0427078	0001524	0000000		27,802.29	0.00	0.00	0.00	27,802.29
422100	01250	TP	1110843	EY5142301	32002	0427083	0001524	0000000		21,848.42	0.00	0.00	0.00	21,848.42
422100	01250	TP	1110843	EY5142301	32002	0427108	0001524	0000000		14,629.72	70,000.00	0.00	70,000.00	84,629.72
422100	01250	TP	1110843	EY5142301	32002	0427119	0001524	0000000		228,069.30	225,000.00	-320,000.00	-95,000.00	133,069.30
<i>AY 2011 - Move to Operations;</i>														
<i>AY 2010 - Move to Operations</i>														
422100	01250	TP	1110843	EY5142301	32002	0427120	0001524	0000000		5,219.53	0.00	0.00	0.00	5,219.53
422100	01250	TP	1110843	EY5142301	32002	0427125	0001524	0000000		538,616.24	650,000.00	-300,000.00	350,000.00	888,616.24
<i>AY 2011 - Move to Operations</i>														
422100	01250	TP	1110843	EY5142301	32002	0427131	0001524	0000000		2,110,756.44	2,850,000.00	1,050,000.00	3,900,000.00	6,010,756.44
<i>AY 2011 - Additional Funding;</i>														
<i>AY 2010 - Additional Funding</i>														
422100	01250	TP	1110843	EY5142301	32002	0427132	0001524	0000000		1,772,020.99	1,600,000.00	0.00	1,600,000.00	3,372,020.99
422100	01250	TP	1110843	EY5142301	32002	0427142	0001524	0000000		836,924.58	-50,000.00	150,000.00	100,000.00	936,924.58
<i>AY 2010 - Additional Funding</i>														
422100	01250	TP	1110843	EY5142301	32002	0427145	0001524	0000000		962,752.65	100,000.00	-250,000.00	-150,000.00	812,752.65
<i>AY 2011 - Move to Operations;</i>														
<i>AY 2010 - Move to G200</i>														
422100	01250	TP	1110843	EY5142301	32002	0427172	0001524	0000000		0.00	50,000.00	0.00	50,000.00	50,000.00
422100	01250	TP	1110847	EY5142305	25400	0000000	0001524	0000000		229,562.66	250,000.00	-100,000.00	150,000.00	379,562.66
<i>AY 2011 - Move to Operations</i>														
Total for Program Parent/Control Point: EY5142301										30,346,272.90	46,322,000.00	15,830,000.00	62,152,000.00	92,498,272.90
422100	01250	TP	1110849	EY5142401	25400	0000000	0001525	0000000		8,408,475.25	0.00	0.00	0.00	8,408,475.25
422100	01250	TP	1110849	EY5142401	25400	0000000	0004009	0000000		0.00	2,168,000.00	0.00	2,168,000.00	2,168,000.00
422100	01250	TP	1110849	EY5142401	31003	0000000	0001525	0000000		14,998.78	0.00	0.00	0.00	14,998.78
422100	01250	TP	1110849	EY5142401	32002	0427085	0001525	0000000		0.32	0.00	0.00	0.00	0.32
422100	01250	TP	1110853	EY5142405	25400	0000000	0001525	0000000		213,555.18	0.00	0.00	0.00	213,555.18
Total for Program Parent/Control Point: EY5142401										8,637,029.53	2,168,000.00	0.00	2,168,000.00	10,805,029.53
Total for Fund Type: TP										72,550,845.77	131,030,907.41	28,810,000.00	159,840,907.41	232,391,753.18
422100	01751	UX	1110958	EZ4042421	25400	0000000	0001527	0000000		436,015.22	0.00	780,000.00	780,000.00	1,216,015.22
<i>AY 2011 - Additional Funds</i>														
422100	01751	UX	1110959	EZ4042422	25400	0000000	0001527	0000000		95,003.31	0.00	0.00	0.00	95,003.31
Total for Program Parent/Control Point: EZ4042421										531,018.53	0.00	780,000.00	780,000.00	1,311,018.53
Total for Fund Type: UX										531,018.53	0.00	780,000.00	780,000.00	1,311,018.53

Financial Plan Report - Detail

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											Previous	Change	Revised	
422100	00911	YZ	1721310	YN1901000	25400	0000000	0000000	0425065	90.RL14788.IDA0.MPO00077894.272	37,295.06	-41,145.51	0.00	-41,145.51	-3,850.45
422100	00911	YZ	1721310	YN1901000	25400	0000000	0000000	0425087	90.RL14788.NS10.NA25396.2221069	411.37	0.00	0.00	0.00	411.37
422100	00911	YZ	1721310	YN1901000	25400	0000000	0000000	0425074	90.RL14788.OH90.M28CB0001.1110	76,553.89	0.00	0.00	0.00	76,553.89
422100	00911	YZ	1721310	YN1901000	25400	0000000	0000000	0425066	90.RL14788.OR20.RL9FH001.31647	529,929.67	0.00	0.00	0.00	529,929.67
422100	00911	YZ	1721310	YN1901000	25400	0000000	0000000	0425067	90.RL14788.OR20.RL9FH002.31647	68,507.77	0.00	0.00	0.00	68,507.77
422100	00911	YZ	1721310	YN1901000	25400	0000000	0000000	0425071	90.RL14788.OR20.RL9PRC01.31647	1,250,000.00	0.00	0.00	0.00	1,250,000.00
422100	00911	YZ	1721310	YN1901000	25400	0000000	0000000	0425072	90.RL14788.OR20.RL9PRC02.31647	1,000,000.00	0.00	0.00	0.00	1,000,000.00
422100	00911	YZ	1721310	YN1901000	25400	0000000	0000000	0425084	90.RL14788.SR90.M5Z0690.1110925	11,744.71	0.00	0.00	0.00	11,744.71
Total for Program Parent/Control Point: YN1901000										2,974,442.47	-41,145.51	0.00	-41,145.51	2,933,296.96
Total for Fund Type: YZ										2,974,442.47	-41,145.51	0.00	-41,145.51	2,933,296.96
Total for Recipient Code: RL										76,995,222.11	131,021,325.90	29,729,377.00	160,750,702.90	237,745,925.01
Total for Reporting Entity: 422100										76,995,222.11	131,021,325.90	29,729,377.00	160,750,702.90	237,745,925.01
Total for RL14788 - PLATEAU REMEDIATION CONTRACT (PRC)										77,637,203.47	131,021,325.90	29,729,377.00	160,750,702.90	238,387,906.37

Financial Plan Report - Detail

RL14788 - PLATEAU REMEDIATION CONTRACT (PRC)

<u>Agency</u>	<u>Obligation Change Amount</u>
Miscellaneous	97,000.00
Total Appropriated Funds (Program 40):	97,000.00
Total DOE and Non-Appropriated Funds:	29,632,377.00
Grand Total:	29,729,377.00
Total Non-Appropriated Funds:	0.00

TAS Sub-Report

DOE and Non-Appropriated Funding: 89X0251

Reimbursable Funding:

No Reimbursable Funding Exists

PART I – THE SCHEDULE

SECTION B

SUPPLIES OR SERVICES AND PRICES/COSTS

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B.1 TYPE OF CONTRACT

This is a performance-based Cost-Plus-Award Fee Contract to continue the environmental clean-up of select portions of the U.S. Department of Energy (DOE) Hanford Site. The Contractor has the responsibility for determining the specific methods and approaches for accomplishing the identified work. This Contract applies performance-based contracting approaches and expects the Contractor to implement techniques that emphasize safe, efficient, and measurable results.

B.2 ITEM(S) BEING ACQUIRED

- (a) The Contractor shall, in accordance with the terms of this Contract, provide the personnel, materials, supplies, and services and do all things necessary for, or incident to, providing its best efforts to perform all requirements of this Contract.
- (b) The Contract consists of six (6) Contract Line Items authorized in accordance with the Section B Clause entitled, *DOE Authorization of Work*:
 - (1) *Contract Line Item Number (CLIN) 1*:
 - (i) Waste Treatment and Disposal. Perform activities necessary for safe and secure underwater storage of cesium and strontium capsules, and storage of spent nuclear fuel (SNF); liquid waste storage and treatment; waste storage and disposal; and overall facility operations;
 - (ii) Groundwater/Vadose Zone Project. Perform groundwater and ecological sampling and monitoring, well installation, well maintenance, borehole logging;
 - (iii) Facility and Waste Site Minimum-safe/Surveillance and Maintenance (S&M). Perform activities necessary for Hanford Site structures and waste sites identified in the Section J Attachment entitled, *Supplemental Work Description Tables*; and
 - (iv) Fast Flux Test Facility (FFTF). Maintain FFTF in a safe and compliant manner and perform near-term shutdown activities.
 - (2) *CLIN 2*:

Plutonium Finishing Plant (PFP) Closure. Provide safe and compliant storage of special nuclear material (SNM) at PFP until it has been removed from the PFP complex; operate and maintain the PFP facilities and associated waste sites, structures, operating systems and equipment, and monitoring systems in a safe, compliant, and energy-efficient manner within the authorization envelope; maintain radiological control and access control to ensure personnel safety; remove SNM from PFP and transport to an assigned location; demolish PFP complex facilities to slab-on-grade condition; and prepare, package, and disposition waste streams, as required.

- (3) *CLIN 3:*
- (i) Waste Treatment and Disposal. Perform low level waste (LLW) and mixed low level waste (MLLW) treatment, transuranic (TRU) waste certification support, waste retrieval, and *Hanford Federal Facility Agreement and Consent Order* (also known as the Tri-Party Agreement (TPA)) Milestone M-91 upgrades to T Plant;
 - (ii) Groundwater, Soil, and Facility Regulatory/Other Decision Documents. Characterize assigned waste sites and facilities, complete analysis of remediation options, and prepare required regulatory and other decision documents necessary to implement remedial actions;
 - (iii) Groundwater/Vadose Zone Project. Perform on-going and new remedy operations, and well decommissioning;
 - (iv) Operate the Environmental Restoration Disposal Facility (ERDF);
 - (v) Geographical Zone Remediation. Remediate and close U Plant and Non-Radioactive Dangerous Waste Landfill (NRDWL)/BC Control geographical zones; and
 - (vi) 618-10 and 618-11 Burial Grounds. Initiate and complete field remediation and other waste disposition activities for the 618-10 and 618-11 burial grounds, in the event that these activities are not completed under the River Corridor Closure Contract.
- (4) *CLIN 4:*
- (i) Remediate and close other specified geographical zones;
 - (ii) Transfer cesium and strontium capsules from Waste Encapsulation and Storage Facility (WESF) to dry storage;
 - (iii) Design the Fuel Preparation Facility; and
 - (iv) Design and construct alternate transuranic package transporter (TRUPACT) loadout capability.
- (5) *CLIN 5:*
- 100 K Area. Maintain the 100K Area in a safe and compliant manner; dewater K East Basin; demolish K East Basin and superstructure; complete procurement, construction, and acceptance testing of the K Basin Sludge Treatment System; treat the balance of K Basin sludge, demolish K West basin and superstructure, place K East and K West reactors in an interim safe storage (ISS) configuration, and remediate and close the remainder of the 100K Area.
- (c) The Section J Attachment entitled, *Supplemental Work Description Tables*, provides additional definition of the workscope in each CLIN.

(d) CLIN 6:

The contractor shall, in accordance with the terms of this contract, provide the personnel, materials, supplies, and services and do all things necessary for, or incident to, providing its best efforts to perform the Recovery Act work. The work, as identified by activities to be performed under the following WBS elements, is assigned to CLIN 6, as shown in Table B.4-1, *Contract Cost and Contract Fee*:

(1) WBS 011, Nuclear Material Stabilization and Disposition PFP:

- (i) Disposition process equipment, glove boxes, and laboratory hoods from 234-5Z facility,
- (ii) Disposition low-level and TRU waste, and
- (iii) Prepare ancillary facilities for demolition.

(2) WBS 013, Solid Waste Stabilization and Disposition:

- (i) Continue retrieving and re-packaging contact handled Transuranic (TRU) waste,
- (ii) Initiate retrieval and disposition of remote-handled TRU waste (including large package waste),
- (iii) Continue building backlog of waste for shipments to the Waste Isolation Pilot Plant, and begin shipping in March 2010,
- (iv) Support installation and utilization by the Central Characterization Project of a High Energy Real Time Radiography unit at the Hanford site,
- (v) Continue treatment of current backlog of legacy mixed, low-level waste,
- (vi) Complete activities required to support disposition and deliver plutonium 238 drums to shipper,
- (vii) Prepare and submit analysis/recommendations for wastes with uncertain disposition path including strontium and cesium capsules; initiate disposition of these wastes as directed by DOE, and
- (viii) Support increased disposal capabilities at the Environmental Restoration Disposal Facility and Integrated Disposal Facility.

(3) WBS 030, Soil and Groundwater Remediation, Groundwater/Vadose Zone:

- (i) Accelerate construction of the pump and treat facility, expand current pump and treat operations, and install additional wells in the 100 D/H Areas,
- (ii) Accelerate construction of the pump and treat system for groundwater contaminants in both 200 West Area operable units,

- (iii) Accelerate completion of remedial investigations, treatability tests, cleanup decisions, and groundwater well decommissioning in the Central Plateau Area, and
 - (iv) Continue groundwater remediation and well drilling to support overall reduction of active clean-up of the Hanford Site
- (4) WBS 040, Nuclear Facility D&D - Remainder of Hanford:
- (i) 200 North Area:
 - (A) Demolish spent fuel transfer storage facilities,
 - (B) Remediate waste sites, and
 - (C) Dispose of locomotive and rail cars.
 - (ii) Complete cleanup of B/C Control Area,
 - (iii) Initiate remediation of other waste sites in the Central Plateau,
 - (iv) U Plant Zone:
 - (A) Demolish 5 remaining ancillary facilities,
 - (B) Disposition Cell 30 tank contents, and
 - (C) Clear canyon deck and grout-fill cells.
 - (v) Complete demolition of up to 15 facilities in the Central Plateau Inner Zone,
 - (vi) Prepare and submit an evaluation of utilization of a landfill for non-hazardous waste debris,
 - (vii) Complete demolition of DOE facilities and clean-up debris areas on the Arid Lands Ecology Reserve, and
 - (viii) Complete remediation activities for North Slope and prepare applicable closure documentation for ALE and North Slope.
 - (ix) Disposition near-term personnel hazards associated with asbestos.
- (5) WBS 041, Nuclear Facility D&D – River Corridor, 100 K Area:
- (i) Remediate waste sites along the river in the 100 K Area,
 - (ii) Accelerate D&D of 100 K ancillary facilities,

- (iii) Accelerate 100 K waste site remediation,
- (iv) Complete Reactor disposition study/engineering, and
- (v) Accelerate ISS of both reactors 105KE and 105KW and initiate preparations for 105KE disposition.

Performance parameters and metrics and the crosswalk of these work activities to the applicable subsection of Section C, Statement of Work, is provided in the Section J Attachment entitled, *Supplemental Work Description Tables*.

B.3 OBLIGATION AND AVAILABILITY OF FUNDS

- (a) Obligation of Funds. Pursuant to the Section I Clause entitled, *FAR 52.232-22*, Limitation of Funds, total funds in the amount of \$1,154,105,516.51 have been allotted for obligation and are available for payment of services provided from the effective date of this Contract through March 31, 2011.

Pursuant to the clause in Section I, entitled "Limitation of Funds," total funds in the amount of \$1,375,998,168.34 are obligated herein and made available for payment of allowable costs and fee earned related only to the Recovery Act work from the effective date of modification A037 through the period of performance for the Recovery Act work, contained in Section F.

- (b) Availability of Funds. Except as may be specifically provided in the Section I Clause entitled, *DEAR 952.250-70, Nuclear Hazards Indemnity Agreement*, the duties and obligations of DOE hereunder calling for the expenditure of appropriated funds shall be subject to the availability of funds appropriated by the U.S. Congress that DOE may legally spend for such purposes.

B.4 CONTRACT COST AND CONTRACT FEE

This Section establishes the estimated Total Contract Cost and Contract Fee. Within Table B.4-1:

- (a) *Contract Period* is defined as the *Transition Period*, *Base Period*, and *Option Period* (if exercised) described in the Section F Clause entitled, *Period of Performance*.
- (b) Estimated *Contract Cost* is defined as all costs initially proposed by the Contractor.
- (c) *Available Fee* is defined as the maximum amount of fee that may be earned under the Contract by Contract period.
- (d) *Contract Price* in Table B.4-1 is the sum of Estimated *Contract Cost* and *Available Fee*, in each year of Contract performance.
- (e) *Total Contract Cost* is defined as the cumulative Estimated *Contract Cost* for all Contract periods.

- (f) *Total Available Fee* is defined as the cumulative *Available Fee* for all Contract periods.
- (g) *Total Contract Price* is defined as the sum of *Total Contract Cost* and *Total Available Fee*.
- (h) *Contract Line Item Number (CLIN)* references a specific category of work as defined in the Section C, *Statement of Work*. Proposed costs shall be appropriately categorized into the individual CLINs in Table B.4-1.
- (i) Estimated *Contract Cost*, *Contract Price*, and *Available Fee* by Fiscal Year and by CLIN will be adjusted annually by the Contracting Officer upon approval of the *Performance Measurement Baseline*, and whenever changes affecting the table are made under the Section I Clause entitled, *Changes – Cost Reimbursement*.

Table B.4-1, Contract Cost and Contract Fee							
Contract Period	Element	FY 2008					
Transition Period	Estimated Contract Cost	\$3,307,735					
Base Period		FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	Total Base Period
CLIN 1	Estimated Contract Cost	\$271,729,614	\$105,315,610	\$114,953,630	\$198,351,827	\$210,448,625	\$900,799,306
CLIN 2	Estimated Contract Cost	\$76,272,139	\$33,769,845	\$40,952,223	\$74,478,178	\$45,968,785	\$271,441,171
CLIN 3	Estimated Contract Cost	\$98,028,778	41,763,908	\$64,253,122	\$151,402,270	\$144,242,720	\$499,690,798
CLIN 4	Estimated Contract Cost	0	0	0	0	0	\$0
CLIN 5	Estimated Contract Cost	\$83,376,014	\$22,104,608	\$22,408,682	\$25,311,766	\$32,975,302	\$186,176,372
Total Base Period	Estimated Contract Cost	\$529,406,546	\$202,953,970	\$242,567,657	\$449,544,041	\$433,635,432	\$1,858,107,646
	Available Fee	TBD by DOE	TBD by DOE	TBD by DOE	TBD by DOE	TBD by DOE	89,119,733
	Contract Price	\$529,406,546	\$202,953,970	\$242,567,657	\$449,544,041	\$433,635,432	\$1,947,227,379
CLIN 6	Estimated Contract Cost	\$163,909,940	\$591,374,379	\$549,906,587	\$0	\$0	\$1,305,190,905
Total Recovery Act	Estimated Contract Cost	\$163,909,940	\$591,374,379	\$549,906,587	\$0	\$0	\$1,305,190,905
	Available Fee	TBD by DOE	TBD by DOE	TBD by DOE	TBD by DOE	TBD by DOE	70,807,263
	Contract Price	\$163,909,940	\$591,374,379	\$549,906,587	\$0	\$0	\$1,375,998,168
Total Base Period including Recovery Act	Estimated Contract Cost	\$693,316,486	\$794,328,349	\$792,474,244	\$449,544,041	\$433,635,432	\$3,163,298,551
	Available Fee	TBD by DOE	TBD by DOE	TBD by DOE	TBD by DOE	TBD by DOE	159,926,996
	Contract Price	\$693,316,486	\$794,328,349	\$792,474,244	\$449,544,041	\$433,635,432	\$3,323,225,548
Option Period		FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	Total Option Period
CLIN 1	Estimated Contract Cost	\$210,613,448	\$209,790,961	\$214,611,167	\$202,582,346	\$188,000,249	\$1,025,598,171
CLIN 2	Estimated Contract Cost	\$30,327,871	\$20,503,281	\$16,375,678	0	0	\$67,206,829
CLIN 3	Estimated Contract Cost	\$123,556,341	\$81,429,705	\$72,328,664	\$78,698,079	\$71,498,580	\$427,511,369
CLIN 4	Estimated Contract Cost	\$87,134,720	\$95,285,349	\$80,910,734	\$12,258,731	\$50,170,453	\$325,759,986
CLIN 5	Estimated Contract Cost	\$81,434,209	\$15,636,617	\$3,637,967	\$2,370,220	\$6,392	\$103,085,405
Total Option Period	Estimated Contract Cost	\$533,066,589	\$422,645,913	\$387,864,209	\$295,909,376	\$309,675,674	\$1,949,161,760
	Available Fee	TBD by DOE	TBD by DOE	TBD by DOE	TBD by DOE	TBD by DOE	\$87,416,697
	Contract Price	\$533,066,589	\$422,645,913	\$387,864,209	\$295,909,376	\$309,675,674	\$2,036,578,457
Total: Transition, Base & Option Periods	Total Contract Cost	\$5,115,768,047					
	Total Available Fee	\$247,343,693					
	Total Contract Price	\$5,363,111,740					

Amounts are rounded to whole dollars. Individual rows may not add precisely due to rounding.

B.5 CHANGES TO CONTRACT COST AND CONTRACT FEE

(a) Funding.

- (1) DOE intends to obligate funding to the Contract in accordance with the *Contract Price* shown by fiscal year in Table B.4-1, *Contract Cost and Contract Fee*. The Contractor shall not be entitled to an equitable adjustment to *Available Fee* if the obligated funding by fiscal year is within 10% of the amount shown in Table B.4-1.
- (2) If DOE does not obligate funding within the parameters detailed in paragraph (a)(1) above, the Contracting Officer may initiate a change or consider a request for an equitable adjustment to the *Contract Price*, and/or Schedule in accordance with the Section I Clause entitled, *FAR 52.243-2, Changes – Cost Reimbursement, Alternates II, III, and IV*.

(b) Performance Risk.

- (1) Changes to *Total Available Fee* will accurately reflect the corresponding changes to the Contract with respect to performance risk as determined by DEAR 915.404-4-70, *DOE Structured Profit and Fee System*, and implementation by the profit-analysis factors defined in FAR 15.404-4, *Profit*. Accordingly, changes to the Contract resulting in an increase or decrease to the Contractor's performance risk as defined in FAR 15.404-4(d)(1), shall cause a proportionate increase or decrease to the *Total Available Fee*.
- (2) If performance risk changes, the Contracting Officer may initiate a change or consider a request for equitable adjustment to *Contract Price* and/or Schedule in accordance with the Section I Clause entitled, *FAR 52.243-2, Changes – Cost Reimbursement, Alternates II, III, and IV*.

B.6 BASIS FOR TOTAL AVAILABLE FEE

The cost basis for *Total Available Fee* shall be the *Total Contract Cost*, excluding:

- (a) Pass-through funding provided to other contractors for Hanford Site services identified in the Section J Attachment entitled, *Hanford Site Services and Interface Requirements Matrix*;
- (b) Costs associated with Work-for-Others performed under the Section I Clause entitled, *DEAR 970.5217-1, Work-for-Others Program*; and
- (c) Costs associated with sponsorship, management, administration and/or contributions for any defined benefit pension plan.

Employee benefit plan costs shall be included in the *Contract Price* by fiscal year and by Contract period shown in Table B.4-1, *Contract Cost and Contract Fee*.

B.7 FEE STRUCTURE

- (a) The Contracting Officer reserves the unilateral discretion to determine the amount of the *Available Fee* for the *Base Period* and *Option Period* (if exercised), for each fiscal year as described in this Clause; and as adjusted in the Section B Clause entitled, *Changes to Contract Cost and Contract Fee*. The Contractor will have the opportunity to earn 100% of the *Available Fee* within a Contract period for work authorized in accordance with the Section B Clause entitled, *DOE Authorization of Work* and as adjusted in the Section B Clause entitled, *Changes to Contract Cost and Contract Fee*.
- (b) The *Available Fee* shown in Table B.4-1, *Contract Cost and Contract Fee*, can be earned through objective fee components and/or subjective fee components. The performance measures for these components and *Available Fee* for the period allocated to the fiscal year are provided in the Section J Attachment entitled, *Performance Evaluation and Measurement Plan* (PEMP). The PEMP may contain annual and multi-year performance measures.
- (1) *Available Fee* for the period allocated to annual performance measures may only be earned in that fiscal year. Allocated *Available Fee* for the fiscal year not earned in the fiscal year for an annual performance measure is unavailable and not payable to the Contractor. The Contractor forfeits any rights to unearned fee. The Contracting Officer reserves the unilateral discretion to determine how any unearned fee will be utilized.
 - (2) *Available Fee* for the period allocated to fiscal years for multi-year performance measures may be earned incrementally or upon final fee determination. Allocated *Available Fee* not earned for a multi-year performance measure is unavailable and not payable to the Contractor. The Contractor forfeits any rights to unearned fee. The Contracting Officer reserves the unilateral discretion to determine how any unearned fee will be utilized.
 - (3) *Provisional Fee* is defined as *Available Fee* that is paid contingently during an annual performance period. *Provisional Fee* may become earned fee upon the final fee determination.
 - (4) *Incremental Fee* is defined as *Available Fee* that the Contractor may earn by achieving a specific, fee-bearing, performance measure event.
 - (5) Individual performance measures may require the Contractor to exceed approved baseline performance to earn 100% of the fee allocated to that performance measure.
- (c) The Contracting Officer will prepare and issue performance measures prior to the start of each fiscal year. The Contracting Officer may provide draft performance measures for Contractor review and input; however, the Contracting Officer reserves the unilateral discretion to issue the performance measures without Contractor review.

B.8 FEE DETERMINATION AND PAYMENT

- (a) Fee earned under this Contract will be paid in accordance with the specific criteria defined in the PEMP and the Clauses in Section B. Monthly provisional payments of fee may be authorized by the Contracting Officer and will be made in accordance with paragraph (b) of this Clause.
- (b) For annual performance measures that do not have specific, incremental, fee-bearing performance measure events, the Contractor may request Contracting Officer approval to execute a monthly draw of *Provisional Fee* payments from the Special Financial Institution Account. The Contractor may request a monthly *Provisional Fee* payment of up to 7.5% of fee allocated to such performance measures, subject to a maximum payment of 80% of fee allocated to such performance measures, and also subject to withholding by DOE as described in paragraphs (e) and (f) of this Clause.
- (c) The Contractor shall request Contracting Officer acceptance of a specific, incremental, fee-bearing performance measure event. Following Contracting Officer acceptance of a specific, incremental, fee-bearing performance measure event, the Contractor may request Contracting Officer approval to execute a draw of *Incremental Fee* from the Special Financial Institution Account, subject to withholding by the Contracting Officer as described in paragraphs (e) and (f) of this Clause and the Section B Clause entitled, *Fee Reductions*.
- (d) At the end of each year of Contract performance, the Fee Determining Official will make a final *Fee Determination* using the PEMP described in the Section B Clause entitled, *Fee Structure*. In the event that fee overpayment results from the *Provisional Fee* payments provided for in this Clause, the Contractor shall reimburse the unearned fee overpayment within 30 days of notification, to the Contracting Officer payable with interest in accordance with the Section I Clause entitled, *FAR 52.232-17, Interest*.
- (e) Withholding of *Incremental* and *Provisional Fee* Payments for adverse Contract Performance.
 - (1) Withholding of *Incremental* and *Provisional Fee* Payments. If the Contractor demonstrates adverse performance, the Contracting Officer reserves the unilateral discretion to withhold *Incremental* and *Provisional Fee* Payments. Withheld Fee Payments are not subject to interest for the amount(s) of the withheld fee payment(s) under 5 CFR 1315, *Prompt Payment*.
 - (2) Release of Withheld *Incremental* and *Provisional Fee* Payments. The Contracting Officer may release withheld *Incremental* and *Provisional Fee* Payments and resume making *Incremental* and *Provisional Fee* Payments when the Contractor demonstrates sustained recovery in performance.

- (f) Withholding of *Incremental* and *Provisional Fee* Payments for bankruptcy or other issues with guarantor company(ies)¹.
- (1) Withholding of *Incremental* and *Provisional Fee*. In order to assure the Contractor's ability to repay any *Incremental* and *Provisional Fee* Payments that are determined to be in excess of the total fee earned, the Contracting Officer reserves the unilateral discretion to discontinue *Incremental* and *Provisional Fee* payments, in the event that a guarantor company files bankruptcy, is acquired by other owners, or impacted by other events that arise with the Contractor's guarantor company(ies) that can jeopardize DOE's ability to recover excess *Incremental Payment* and *Provisional Fee* Payments. Withheld Fee Payments are not subject to interest for the amount(s) of the withheld fee payment(s) under 5 CFR 1315, *Prompt Payment*.
 - (2) Release of Withheld *Incremental* and *Provisional Fee* Payments. Following receipt of evidence that bankruptcy or other issues do not affect the ability of the Contractor to continue to perform the obligations under the Contract, the Contracting Officer may release all *Incremental* and *Provisional Fee* Payments and resume making *Incremental* and *Provisional Fee* Payments.

B.9 FEE REDUCTIONS

- (a) All earned fee in each year of Contract performance is subject to reductions imposed by the terms and conditions of this Contract, including, but not limited to:
- (1) Section B Clause entitled, *Fee Determination and Payment*;
 - (2) Section B Clause entitled, *Small Business Subcontracting Fee Reduction*;
 - (3) Section B Clause entitled, *DEAR 970.5215-3, Conditional Payment of Fee, Profit, and Other Incentives – Facility Management Contracts (Alternate II) [DEVIATION]*;
 - (4) Section B Clause entitled, *Conditional Payment of Fee (CPOF) DOE Richland Operations Office Site-Specific Performance Criteria/Requirements*;
 - (5) Section E Clause entitled, *FAR 52.246-3, Inspection of Supplies – Cost Reimbursement*;
 - (6) Section E Clause entitled, *FAR 52.246-5, Inspection of Services – Cost Reimbursement*;
 - (7) Section H Clause entitled, *Key Personnel*;
 - (8) Section I Clause entitled, *FAR 52.203-10, Price or Fee Adjustment for Illegal or Improper Activity*;
 - (9) Section I Clause entitled, *FAR 52.215-11, Price Reduction for Defective Cost or Pricing Data – Modifications*;

¹ Guarantor Company(ies) is defined as the company(ies) executing the performance guarantee (s) in Section H Clause entitled, *Performance Guarantee Agreement*.

- (10) Section I Clause entitled, *FAR 52.215-13, Subcontractor Cost or Pricing Data – Modifications; and*
- (11) Section I Clause entitled, *FAR 52.243-2, Changes – Cost Reimbursement.*
- (b) The maximum fee reduction in any one (1) year of Contract performance is the allocated *Available Fee*, as defined in the Section J Attachment entitled, *Performance Evaluation and Measurement Plan*, that can be earned in the year the event occurred.

B.10 SMALL BUSINESS SUBCONTRACTING FEE REDUCTION

- (a) For the purpose of implementing this Clause, the percentage goals established in the Section J Attachment entitled, *Small Business Subcontracting Plan*, will remain in effect for the duration of the Contract, except as modified in accordance with the Section B Clause entitled, *Changes to Contract Cost and Contract Fee*. The Contractor shall submit annual updates to the narrative elements of the *Small Business Subcontracting Plan* by December 31 of each year.
- (b) The Contractor's performance in meeting small business performance percentage goals in accordance with the Section H Clause entitled, *Self-Performed Work*, providing meaningful involvement for small businesses, and entering into the required Mentor-Protégé Agreement(s), will be evaluated after the:
 - (1) Three year period concluding at the end of the 3rd year of Contract performance;
 - (2) Two year period concluding at the end of the 5th year of Contract performance; and, if the *Option Period* is exercised;
 - (3) If the *Option Period* is exercised – two year period concluding at the end of the 7th year of Contract performance; and
 - (4) At the end of the Contract period of performance.
- (c) The Contracting Officer will consider the Contractor's performance in meeting small business percentage goals and entering into the required Mentor-Protégé Agreement(s) when making a decision on the *Option Period* authorization.
- (d) If the Contractor has not met any or all of the subcontracting goals, has failed to provide meaningful involvement for small business, and/or has failed to enter into the required Mentor-Protégé Agreement(s) during the above specified periods, the Contracting Officer may reduce the earned fee by an amount up to 10% of total earned fee in each period of the four (4) multi-year periods described above.
- (e) At Contract completion, the total amount of fee reduction for failure to meet its subcontracting goals shall be offset by any amount of liquidated damages assessed in accordance with the Section I Clause entitled, *FAR 52.219-16, Liquidated Damages – Subcontracting Plan*. The fee reduction amount will be a unilateral determination by the Contracting Officer and a permanent reduction in the earned fee under this Contract.

- (f) Any reduction for failure to meet the requirements of the Section H Clause entitled, *Mentor-Protégé Program*, shall be in addition to any liquidated damages assessed in accordance with the Section I Clause entitled, *FAR 52.219-16, Liquidated Damages – Subcontracting Plan*. The fee reduction amount will be a unilateral determination by the Contracting Officer and a permanent reduction in the earned fee under this Contract.

B.11 ALLOWABILITY OF SUBCONTRACTOR FEE

- (a) If the Contractor is part of a teaming arrangement as described in FAR Subpart 9.6, *Contractor Team Arrangements*, the team shall share in the *Total Available Fee* as shown in Table B.4-1. Separate additional subcontractor fee is not an allowable cost under this Contract for individual team members, or for a subcontractor, supplier, or lower-tier subcontractor that is a wholly-owned, majority-owned, or affiliate of any team member.
- (b) The subcontractor fee restriction in paragraph (a) does not apply to members of the Contractor's team that are: (1) small business(es); (2) Protégé firms as part of an approved Mentor-Protégé relationship under the Section H Clause entitled, *Mentor-Protégé Program*; (3) subcontractors under a competitively awarded firm-fixed price or firm-fixed unit price subcontract; or (4) commercial items as defined in FAR Subpart 2.1, *Definitions of Words and Terms*.

B.12 DEAR 970.5215-3, CONDITIONAL PAYMENT OF FEE, PROFIT, AND OTHER INCENTIVES – FACILITY MANAGEMENT CONTRACTS (ALTERNATE II) (JAN 2004) [DEVIATION]

- (a) General.
 - (1) The payment of earned fee, fixed fee, profit, or share of cost savings under this Contract is dependent upon:
 - (i) The Contractor's or contractor employees' compliance with the terms and conditions of this Contract relating to environment, safety, health and quality (ESH&Q), which includes worker safety and health, including performance under an approved Integrated Safety Management System (ISMS); and
 - (ii) The Contractor's or contractor employees' compliance with the terms and conditions of this Contract relating to the safeguarding of Restricted Data and other classified information.
 - (2) The ESH&Q performance requirements of this Contract are set forth in its ESH&Q terms and conditions, including the DOE-approved Contractor ISMS or similar document. Financial incentives for timely mission accomplishment or cost effectiveness shall never compromise or impede full and effective implementation of the ISMS and full ESH&Q compliance.
 - (3) The performance requirements of this Contract relating to the safeguarding of Restricted Data and other classified information are set forth in the Section I

Clause entitled, FAR 52.239-1, Privacy or Security Safeguards (AUG 1996), and DEAR 970.5204-2, Laws, Regulations, and DOE Directives, as well as in other terms and conditions.

- (4) If the Contractor does not meet the performance requirements of this Contract relating to ESH&Q or to the safeguarding of Restricted Data and other classified information during any performance evaluation period established under the Contract, otherwise earned fee, fixed fee, profit or share of cost savings may be unilaterally reduced by DOE.
- (b) Reduction Amount.
- (1) The amount of earned fee, fixed fee, profit, or share of cost savings that may be unilaterally reduced will be determined by the severity of the performance failure pursuant to the degrees specified in paragraphs (c) and (d) of this Clause.
 - (2) If a reduction of earned fee, fixed fee, profit, or share of cost savings is warranted, unless mitigating factors apply, such reduction shall not be less than 26% nor greater than 100% of the amount of earned fee, fixed fee, profit, or the Contractor's share of cost savings for a first degree performance failure, not less than 11% nor greater than 25% for a second degree performance failure, and up to 10% for a third degree performance failure.
 - (3) In determining the amount of the reduction and the applicability of mitigating factors, DOE will consider the Contractor's overall performance in meeting the ESH&Q or security requirements of the Contract. Such consideration will include performance against any site specific performance criteria/requirements that provide additional definition, guidance for the amount of reduction, or guidance for the applicability of mitigating factors. In all cases, DOE will consider mitigating factors that may warrant a reduction below the applicable range (see 48 CFR 970.1504-1-2). The mitigating factors include, but are not limited to, the following ((v), (vi), (vii) and (viii) apply to ESH&Q only).
 - (i) Degree of control the Contractor had over the event or incident.
 - (ii) Efforts the Contractor had made to anticipate and mitigate the possibility of the event in advance.
 - (iii) Contractor self-identification and response to the event to mitigate impacts and recurrence.
 - (iv) General status (trend and absolute performance) of: ESH&Q and compliance in related areas; or of safeguarding Restricted Data and other classified information and compliance in related areas.
 - (v) Contractor demonstration to the Contracting Officer's satisfaction that the principles of industrial ESH&Q standards are routinely practiced (e.g., Voluntary Protection Program, ISO [International Organization for Standardization] 14000, *Environmental Management System Standards*).

- (vi) Event caused by "Good Samaritan" act by the Contractor (e.g., off-site emergency response).
 - (vii) Contractor demonstration that a performance measurement system is routinely used to improve and maintain ESH&Q performance (including effective resource allocation) and to support DOE corporate decision-making (e.g., policy, ESH&Q programs).
 - (viii) Contractor demonstration that an Operating Experience and Feedback Program is functioning that demonstrably affects continuous improvement in ESH&Q by use of lessons-learned and best practices inter- and intra-DOE sites.
- (4)
- (i) The amount of fee, fixed fee, profit, or share of cost savings that is otherwise earned by a Contractor during an evaluation period may be reduced in accordance with this Clause if it is determined that a performance failure warranting a reduction under this Clause occurs within the evaluation period.
 - (ii) The amount of reduction under this Clause, in combination with any reduction made under any other clause in the Contract, shall not exceed the amount of fee, fixed fee, profit, or the Contractor's share of cost savings that is otherwise earned during the evaluation period.
 - (iii) For the purposes of this clause, earned fee, fixed fee, profit, or share of cost savings for the evaluation period shall mean the amount determined by DOE or fee determination official as otherwise payable based on the Contractor's performance during the evaluation period. Where the Contract provides for financial incentives that extend beyond a single evaluation period, this amount shall also include: any provisional amounts determined otherwise payable in the evaluation period; and, if provisional payments are not provided for, the allocable amount of any incentive determined otherwise payable at the conclusion of a subsequent evaluation period. The allocable amount shall be the total amount of the earned incentive divided by the number of evaluation periods over which it was earned.
 - (iv) The Government will effect the reduction as soon as practicable after the end of the evaluation period in which the performance failure occurs. If the Government is not aware of the failure, it will effect the reduction as soon as practical after becoming aware. For any portion of the reduction requiring an allocation the Government will effect the reduction at the end of the evaluation period in which it determines the total amount earned under the incentive. If at any time a reduction causes the sum of the payments the Contractor has received for fee, fixed fee, profit, or share of cost savings to exceed the sum of fee, fixed fee, profit, or share of cost savings the Contractor has earned (provisionally or otherwise), the Contractor shall immediately return the excess to the Government. (What the Contractor "has earned" reflects any reduction made under this or any other Clause of the Contract.)

- (v) At the end of the Contract:
 - (A) The Government will pay the Contractor the amount by which the sum of fee, fixed fee, profit, or share of cost savings the Contractor has earned exceeds the sum of the payments the Contractor has received; or
 - (B) The Contractor shall return to the Government the amount by which the sum of the payments the Contractor has received exceeds the sum of fee, fixed fee, profit, or share of cost savings the Contractor has earned. (What the Contractor "has earned" reflects any reduction made under this or any other Clause of the Contract.)
- (c) Environment, Safety, Health and Quality (ESH&Q). Performance failures occur if the Contractor does not comply with the Contract ESH&Q terms and conditions, including the DOE-approved Contractor ISMS. The degrees of performance failure under which reductions of earned or fixed fee, profit, or share of cost savings will be determined are:
 - (1) First Degree: Performance failures that are most adverse to ESH&Q. Failure to develop and obtain required DOE approval of an ISMS is considered first degree. The Government will perform necessary review of the ISMS in a timely manner and will not unreasonably withhold approval of the Contractor's ISMS. The following performance failures or performance failures of similar import will be considered first degree.
 - (i) Type A accident (defined in DOE Order 225.1A, *Accident Investigations*); and
 - (ii) Two (2) Second Degree performance failures during an evaluation period.
 - (2) Second Degree: Performance failures that are significantly adverse to ESH&Q. They include failures to comply with an approved ISMS that result in an actual injury, exposure, or exceedence that occurred or nearly occurred but had minor practical long-term health consequences. They also include breakdowns of the Safety Management System. The following performance failures or performance failures of similar import will be considered second degree:
 - (i) Type B accident (defined in DOE Order 225.1A).
 - (ii) Non-compliance with an approved ISMS that results in a near miss of a Type A or B accident. A near miss is a situation in which an inappropriate action occurs, or a necessary action is omitted, but does not result in an adverse effect.
 - (iii) Failure to mitigate or notify DOE of an imminent danger situation after discovery, where such notification is a requirement of the Contract.
 - (3) Third Degree: Performance failures that reflect a lack of focus on improving ESH&Q. They include failures to comply with an approved ISMS that result in

potential breakdown of the System. The following performance failures or performance failures of similar import will be considered third degree:

- (i) Failure to implement effective corrective actions to address deficiencies/non-compliances documented through: external (e.g., Federal) oversight and/or reported per ~~DOE Order 232.1A~~ [DOE Manual 232.1A, *Occurrence Reporting and Processing of Operations Information*] requirements; or internal oversight of ~~DOE Order 440.1A~~ [10 CFR 830, 10 CFR 835, 10 CFR 850, and 10 CFR 851] requirements.
 - (ii) Multiple similar non-compliances identified by external (e.g., Federal) oversight that in aggregate indicate a significant programmatic breakdown.
 - (iii) Non-compliances that either have, or may have, significant negative impacts to the worker, the public, or the environment or that indicate a significant programmatic breakdown.
 - (iv) Failure to notify DOE upon discovery of events or conditions where notification is required by the terms and conditions of the Contract.
- (d) Safeguarding Restricted Data and Other Classified Information. Performance failures occur if the Contractor does not comply with the terms and conditions of this Contract relating to the safeguarding of Restricted Data and other classified information. The degrees of performance failure under which reductions of fee, profit, or share of cost savings will be determined are as follows:
- (1) First Degree: Performance failures that have been determined, in accordance with applicable law, DOE regulation, or directive, to have resulted in, or that can reasonably be expected to result in, exceptionally grave damage to the national security. The following are examples of performance failures or performance failures of similar import that will be considered first degree:
 - (i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating a risk of, loss, compromise, or unauthorized disclosure of Top Secret Restricted Data or other information classified as Top Secret, or any classification level of information in a Special Access Program (SAP), information identified as sensitive compartmented information (SCI), or high risk nuclear weapons-related data.
 - (ii) Contractor actions that result in a breakdown of the safeguards and security management system that can reasonably be expected to result in the loss, compromise, or unauthorized disclosure of Top Secret Restricted Data, or other information classified as Top Secret, any classification level of information in a SAP, information identified as SCI, or high risk nuclear weapons-related data.
 - (iii) Failure to promptly report the loss, compromise, or unauthorized disclosure of Top Secret Restricted Data, or other information classified

- as Top Secret, any classification level of information in a SAP, information identified as SCI, or high risk nuclear weapons-related data.
- (iv) Failure to timely implement corrective actions stemming from the loss, compromise, or unauthorized disclosure of Top Secret Restricted Data or other information classified as Top Secret, any classification level of information in a SAP, information identified as SCI, or high risk nuclear weapons-related data.
- (2) Second Degree: Performance failures that have been determined, in accordance with applicable law, DOE regulation, or directive, to have actually resulted in, or that can reasonably be expected to result in, serious damage to the national security. The following are examples of performance failures or performance failures of similar import that will be considered second degree:
- (i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating risk of, loss, compromise, or unauthorized disclosure of Secret Restricted Data or other information classified as Secret.
 - (ii) Contractor actions that result in a breakdown of the safeguards and security management system that can reasonably be expected to result in the loss, compromise, or unauthorized disclosure of Secret Restricted Data, or other information classified as Secret.
 - (iii) Failure to promptly report the loss, compromise, or unauthorized disclosure of Restricted Data or other classified information regardless of classification (except for information covered by paragraph (d)(1)(iii) of this Clause).
 - (iv) Failure to timely implement corrective actions stemming from the loss, compromise, or unauthorized disclosure of Secret Restricted Data or other classified information classified as Secret.
- (3) Third Degree: Performance failures that have been determined, in accordance with applicable law, regulation, or DOE directive, to have actually resulted in, or that can reasonably be expected to result in, undue risk to the common defense and security. In addition, this category includes performance failures that result from a lack of Contractor management and/or employee attention to the proper safeguarding of Restricted Data and other classified information. These performance failures may be indicators of future, more severe performance failures and/or conditions, and if identified and corrected early would prevent serious incidents. The following are examples of performance failures or performance failures of similar import that will be considered third degree:
- (i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating risk of, loss, compromise, or unauthorized disclosure of Restricted Data or other information classified as Confidential.

- (ii) Failure to promptly report alleged or suspected violations of laws, regulations, or directives pertaining to the safeguarding of Restricted Data or other classified information.
 - (iv) Failure to identify or timely execute corrective actions to mitigate or eliminate identified vulnerabilities and reduce residual risk relating to the protection of Restricted Data or other classified information in accordance with the Contractor's Safeguards and Security Plan or other security plan, as applicable.
 - (iv) Contractor actions that result in performance failures which unto themselves pose minor risk, but when viewed in the aggregate indicate degradation in the integrity of the Contractor's safeguards and security management system relating to the protection of Restricted Data and other classified information.
- (e) Minimum requirements for specified level of performance.
 - (1) At a minimum the Contractor must perform the following:
 - (i) The requirements with specific incentives which do not require the achievement of cost efficiencies in order to be performed at the level of performance set forth in Section C, *Statement of Work*, work authorization directive(s), or similar document unless an otherwise minimum level of performance has been established in the specific incentive;
 - (ii) All of the performance requirements directly related to requirements specifically incentivized which do not require the achievement of cost efficiencies in order to be performed at a level of performance such that the overall performance of these related requirements is at an acceptable level; and
 - (iii) All other requirements at a level of performance such that the total performance of the Contract is not jeopardized.
 - (2) The evaluation of the Contractor's achievement of the level of performance shall be unilaterally determined by the Government. To the extent that the Contractor fails to achieve the minimum performance levels specified in Section C, *Statement of Work*, work authorization directive(s), or similar document, during the performance evaluation period, the DOE Operations/Field Office Manager, or designee, may reduce any otherwise earned fee, fixed fee, profit, or shared net savings for the performance evaluation period. Such reduction shall not result in the total of earned fee, fixed fee, profit, or shared net savings being less than 25% of the total available fee amount. Such 25% shall include base fee, if any.
- (f) Minimum requirements for cost performance.
 - (1) Requirements incentivized by other than cost incentives must be performed within their specified cost constraint and must not adversely impact the costs of performing unrelated activities.

- (2) The performance of requirements with a specific cost incentive must not adversely impact the costs of performing unrelated requirements.
- (3) The Contractor's performance within the stipulated cost performance levels for the performance evaluation period shall be determined by the Government. To the extent the Contractor fails to achieve the stipulated cost performance levels, the DOE Operations/Field Office Manager, or designee, may reduce in whole or in part any otherwise earned fee, fixed fee, profit, or shared net savings for the performance evaluation period. Such reduction shall not result in the total of earned fee, fixed fee, profit or shared net savings being less than 25% of the total available fee amount. Such 25% shall include base fee, if any.

B.13 CONDITIONAL PAYMENT OF FEE (CPOF) DOE RICHLAND OPERATIONS OFFICE SITE-SPECIFIC PERFORMANCE CRITERIA/REQUIREMENTS

This Clause supplements Section B Clause entitled, *DEAR 970.5215-3, Conditional Payment of Fee, Profit, and Other Incentives – Facility Management Contracts (Alternate II) [Deviation]* by establishing Site specific Environment, Safety, Health, and Quality (ESH&Q), and security performance criteria/requirements. Performance failures relating to the performance criteria set forth in this Clause will be processed in accordance with DEAR 970.5215-3. Site-specific performance criteria/requirements for ESH&Q, and Safeguards and Security are as follows:

- (a) Environment, Safety, Health, and Quality
 - (1) First Degree: Performance failures relating to the criteria set forth in this Clause will be processed in accordance with DEAR 970.5215-3, Alternate II [Deviation].
 - (2) Second Degree: Performance failures relating to the criteria set forth in this Clause will be processed in accordance with DEAR 970.5215-3, Alternate II [Deviation].
 - (3) Third Degree: Performance failures that reflect a lack of focus on ESH&Q or failures to comply with an approved ISMS that may result in a negative impact to the public, worker, or environment. The following performance failures, or events of similar import, are examples of performance failures that are considered third degree:
 - (i) Multiple similar non-compliances identified by external oversight (e.g., Federal) that in the aggregate indicate a significant programmatic breakdown.
 - (ii) Non-compliances or adverse performance trends that either have or may have negative impact to the public, worker, or environment or that indicate a programmatic breakdown.
 - (iii) Failure to notify the Contracting Officer upon discovery of events or conditions where notification is required by the terms and conditions of the Contract.
 - (iv) Failure to report required data accurately and in a timely manner.

- (v) Failure to implement continuous improvement in ESH&Q performance through effective utilization of ISMS processes, including timely submittal of meaningful performance objectives, measurements and commitments.
- (b) Safeguards and Security
- (1) First Degree: Performance failures that have been determined, in accordance with applicable law, regulation, or DOE directive, to have resulted in, or that can reasonably be expected to result in, exceptionally grave damage to the national security. The following are examples of performance failures or performance failures of similar import that will be considered first degree:
 - (i) Theft, loss or diversion of category I or II special nuclear material (SNM); adversarial attacks or acts of sabotage that result in significant consequences to the safety or security of personnel, facilities, or the public due to a failure or inadequacy of performance by the Contractor.
 - (ii) Receipt of an overall rating of Unsatisfactory on any DOE Safeguards and Security survey, audit, and/or inspection.
 - (iii) Failure to implement corrective action(s) in response to any first degree performance failure.
 - (2) Second Degree: Performance failures that have been determined, in accordance with applicable law, regulation, or DOE directive, to have actually resulted in, or that can reasonably be expected to result in, serious damage to the national security. The following are examples of performance failures or performance failures of similar import that will be considered second degree:
 - (i) Theft, loss or diversion of Category III SNM that is due to a failure or inadequacy of performance by the Contractor.
 - (ii) Inventory differences of Category I/II/III SNM beyond alarm limits where there is no evidence that the difference is created by loss, theft, or diversion.
 - (iii) Any amount of SNM found in a dangerous/hazardous or unapproved storage environment, or unapproved mode of transportation/transfer.
 - (iv) Failure to implement corrective action(s) in response occurrence of any second degree performance failure.
 - (3) Third Degree: Performance failures that have been determined, in accordance with applicable law, regulation, or DOE directive, to have actually resulted in, or that can reasonably be expected to result in, undue risk to the common defense and security, and/or jeopardizes protection of the facility or Site security interests. The following are examples of performance failures or performance failures of similar import that will be considered third degree:

- (i) Loss, theft, diversion, or unauthorized disclosure of information classified as Confidential.
- (ii) Negligent weapons and firearms-related incidents involving protective force operations/personnel (e.g., unauthorized weapons discharge, personal wounding).
- (iii) Evidence that SNM data has been manipulated or falsified.
- (iv) Inventory differences of Category IV SNM beyond alarm limits where there is no evidence that the difference is created by loss, theft, or diversion.
- (v) Loss, theft, or diversion of Category IV quantities of SNM that is due to a failure or inadequacy of performance by the contractor.
- (vi) Five (5) or more incidents that involve a potential compromise of classified information and/or unsecured classified repository, in any three (3) -month period, of any type.
- (vii) Receipt of any topical area rating of Unsatisfactory on any DOE Safeguards and Security survey, audit, and/or inspection.
- (viii) Failure to implement corrective action(s) in response to any third degree performance failure.
- (ix) Non-compliant or adverse cyber security performance that indicates serious cyber security program degradation (e.g., negative mission impacts or compromise of sensitive information [Sensitive Unclassified Information, Personally Identifiable Information, Unclassified Controlled Nuclear Information], etc.).

B.14 DOE AUTHORIZATION OF WORK

DOE will authorize work as follows:

- (a) The Contractor is authorized to conduct work in accordance with the approved *Performance Measurement Baseline*, and subject to the limitations of the Section B Clause entitled, *Obligation and Availability of Funds*.
- (b) Prior to the completion of the *Transition Period*, DOE will provide workscope direction that will be in effect from the initiation of the *Base Period* until DOE approval of the Contractor's initial *Performance Measurement Baseline* submittal.
- (c) DOE reserves the unilateral discretion to modify the PEMP to allocate fee to the associated work.
- (d) If the Contracting Officer does not authorize the Contractor to proceed with a work activity, the Contractor shall not be entitled to allowable costs, opportunity to earn fee,

partial termination costs, and any other similar items for that activity, and shall not be entitled to an equitable adjustment to fee for any other Contract requirement.

The following revisions are included with this modification:

Section I, Clause I.24, FAR 52.216-24 LIMITATION OF GOVERNMENT LIABILITY (APR 1984), is modified as follows:

FROM:

I.24-A 52.216-24 LIMITATION OF GOVERNMENT LIABILITY (APR 1984)

- (a) In performing this contract, the Contractor is not authorized to make expenditures or incur obligations exceeding \$1,225,893,626.26 subject to the following Recovery Act project apportionments:
- WBS 011, Nuclear Material Stabilization and Disposition PFP: \$230,628,750.26
 - WBS 013, Solid Waste Stabilization and Disposition: \$315,663,000.00
 - WBS 030, Soil and Groundwater Remediation, Groundwater/Vadose Zone: \$272,414,000.00
 - WBS 040, Nuclear Facility D&D - Remainder of Hanford: \$219,684,876.00
 - WBS 041, Nuclear Facility D&D – River Corridor: \$187,503,000.00
- (b) The maximum amount for which the Government shall be liable if this contract is terminated is \$1,225,893,626.26 subject to the project apportionment shown above.

TO:

I.24-A 52.216-24 LIMITATION OF GOVERNMENT LIABILITY (APR 1984)

- (a) In performing this contract, the Contractor is not authorized to make expenditures or incur obligations exceeding \$1,277,029,276.26 subject to the following Recovery Act project apportionments:
- WBS 011, Nuclear Material Stabilization and Disposition PFP: \$248,931,750.00
 - WBS 013, Solid Waste Stabilization and Disposition: \$315,663,000.00
 - WBS 030, Soil and Groundwater Remediation, Groundwater/Vadose Zone: \$272,414,000.00
 - WBS 040, Nuclear Facility D&D - Remainder of Hanford: \$252,517,526.00
 - WBS 041, Nuclear Facility D&D – River Corridor: \$187,503,000.00
- (b) The maximum amount for which the Government shall be liable if this contract is terminated is \$1,277,029,276.26 subject to the project apportionment shown above.

PART II – CONTRACT CLAUSES

SECTION I

CONTRACT CLAUSES

I.1 FAR 52.252-2, CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This Contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at these addresses:

<http://www.arnet.gov/far/>

<http://professionals.pr.doe.gov/>

Clause No.	FAR/DEAR Reference	Title	Fill-In Information (see FAR 52.104(d))
I.2	FAR 52.202-1	Definitions (Jul 2004) as modified by DEAR 952.202-1 (Mar 2002)	None
I.3	FAR 52.203-3	Gratuities (Apr 1984)	None
I.4	FAR 52.203-5	Covenant Against Contingent Fees (Apr 1984)	None
I.5	FAR 52.203-6	Restrictions on Subcontractor Sales to the Government (Sept 2006)	None
I.6	FAR 52.203-7	Anti-Kickback Procedures (Jul 1995)	None
I.7	FAR 52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (Jan 1997)	None
I.8	FAR 52.203-10	Price or Fee Adjustment for Illegal or Improper Activity (Jan 1997)	None
I.9	FAR 52.203-12	Limitations on Payments to Influence Certain Federal Transactions (Sept 2005)	None
I.9-A	FAR 52.203-15	Whistleblower Protections Under The American Recovery And Reinvestment Act Of 2009 (Mar 2009)	
I.10	FAR 52.204-4	Printed or Copied Double-Sided on Recycled Paper (Aug 2000)	None
I.11	FAR 52.204-7	Central Contractor Registration (Jul 2006)	None
I.12	FAR 52.204-9	Personal Identity Verification of Contractor Personnel (Nov 2006)	None
I.12-A	FAR 52.204-11	American Recovery And Reinvestment Act – Reporting Requirements (Mar 2009)	
I.13	FAR 52.208-9	Contractor Use of Mandatory Sources of Supply or Services (Jun 2006)	None
I.14	FAR 52.209-6	Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended or Proposed for Debarment (Sept 2006)	None

Clause No.	FAR/DEAR Reference	Title	Fill-In Information (see FAR 52.104(d))
I.15	FAR 52.215-2	52-215-2 Audit and Records – Negotiation (JUN 1999) Alt I (Mar 2009)	None
I.16	FAR 52.215-8	Order of Precedence – Uniform Contract Format (Oct 1997)	None
I.17	FAR 52.215-11	Price Reduction for Defective Cost or Pricing Data – Modifications (Oct 1997)	None
I.18	FAR 52.215-13	Subcontractor Cost or Pricing Data – Modifications (Oct 1997)	None
I.19	FAR 52.215-14	Integrity of Unit Prices (Oct 1997)	None
I.20	FAR 52.215-15	Pension Adjustments and Asset Reversions (Oct 2004)	None
I.21	FAR 52.215-17	Waiver of Facilities Capital Cost of Money (Oct 1997)	None
I.22	FAR 52.215-18	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions (Jul 2005)	None
I.23	FAR 52.215-19	Notification of Ownership Changes (Oct 1997) (<i>see full text version in Section I</i>)	None
I.24	FAR 52.215-21	Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data—Modifications (Oct 1997) Alternate III (Oct 1997)	None
I.24-A	FAR 52.216-24	Limitation of Government Liability (Apr 1984)	Fill-in information is underlined in full text
I.25	FAR 52.217-8	Option to Extend Services (Nov 1999)	180 to 30 days prior to the expiration date of this Contract
I.26	FAR 52.217-9	Option to Extend the Term of the Contract (Mar 2000)	(a) 180 days prior to the expiration date of this Contract 60 (c) 10 years excluding the Transition Period
I.27	FAR 52.219-4	Notice of Price Evaluation Preference for HUBZONE Small Business Concerns (Jul 2005)	(c) Offeror fill-in (N/A)
I.28	FAR 52.219-8	Utilization of Small Business Concerns (May 2004)	None
I.29	FAR 52.219-9	Small Business Subcontracting Plan (Sept 2006) – Alternate II (Oct 2001)	None
I.30	FAR 52.219-16	Liquidated Damages – Subcontracting Plan (Jan 1999)	None
I.31	FAR 52.219-25	Small Disadvantaged Business Participation Program – Disadvantaged Status and Reporting (Oct 1999)	None
I.32	FAR 52.222-1	Notice to the Government of Labor Disputes (Feb 1997)	None

Clause No.	FAR/DEAR Reference	Title	Fill-In Information (see FAR 52.104(d))
I.33	FAR 52.222-2	Payment for Overtime Premiums (Jul 1990)	(a) The percentage specified in the Section H Clause entitled, <i>Overtime Control Plan</i>
I.34	FAR 52.222-3	Convict Labor (Jun 2003)	None
I.35	FAR 52.222-4	Contract Work Hours and Safety Standards Act – Overtime Compensation (Jul 2005)	None
I.36	FAR 52.222-6	Davis-Bacon Act (Jul 2005)	None
I.37	FAR 52.222-7	Withholding of Funds (Feb 1988)	None
I.38	FAR 52.222-8	Payrolls and Basic Records (Feb 1988)	None
I.39	FAR 52.222-9	Apprentices and Trainees (Jul 2005)	None
I.40	FAR 52.222-10	Compliance with Copeland Act Requirements (Feb 1988)	None
I.41	FAR 52.222-11	Subcontracts (Labor Standards) (Jul 2005)	None
I.42	FAR 52.222-12	Contract Termination – Debarment (Feb 1988)	None
I.43	FAR 52.222-13	Compliance with Davis-Bacon and Related Act Regulations (Feb 1988)	None
I.44	FAR 52.222-14	Disputes Concerning Labor Standards (Feb 1988)	None
I.45	FAR 52.222-15	Certification of Eligibility (Feb 1988)	None
I.46	FAR 52.222-16	Approval of Wage Rates (Feb 1988)	None
I.47	FAR 52.222-17	Labor Standards for Construction Work—Facilities Contracts (Feb 1988)	None
I.48	FAR 52.222-20	Walsh-Healy Public Contracts Act (Dec 1996)	None
I.49	FAR 52.222-21	Prohibition of Segregated Facilities (Feb 1999)	None
I.50	FAR 52.222-26	Equal Opportunity (Apr 2002)	None
I.51	FAR 52.222-27	Affirmative Action Compliance Requirements for Construction (Feb 1999)	None
I.52	FAR 52.222-30	Davis-Bacon Act—Price Adjustment (None or Separately Specified Method) (Dec 2001)	None
I.53	FAR 52.222-35	Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sept 2006)	None
I.54	FAR 52.222-36	Affirmative Action for Workers with Disabilities (Jun 1998)	None
I.55	FAR 52.222-37	Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001)	None
I.56	FAR 52.222-39	Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004) (<i>see full text version in Section I</i>)	None
I.57	FAR 52.222-41	Service Contract Act of 1965, As Amended (Jul 2005)	None
I.58	FAR 52.222-42	Statement of Equivalent Rates for Federal Hires (May 1989) (<i>see full text version in Section I</i>)	Fill-in information is underlined in full text

Clause No.	FAR/DEAR Reference	Title	Fill-In Information (see FAR 52.104(d))
I.59	FAR 52.222-50	Combating Trafficking in Persons (Apr 2006)	None
I.59-A	FAR 52.222-54	Employment Eligibility Verification	None
I.60	FAR 52.223-3	Hazardous Material Identification and Material Safety Data (Jan 1997) – Alternate I (Jul 1995)	(b) Offeror fill-in
I.61	FAR 52.223-5	Pollution Prevention and Right-to-Know Information (Aug 2003)	None
I.62	FAR 52.223-10	Waste Reduction Program (Aug 2000)	None
I.63	FAR 52.223-11	Ozone-Depleting Substances (May 2001) (<i>see full text version in Section I</i>)	(b) Offeror fill-in
I.64	FAR 52.223-12	Refrigeration Equipment and Air Conditioners (May 1995)	None
I.65	FAR 52.223-14	Toxic Chemical Release Reporting (Aug 2003)	None
I.65-A	FAR 52.223-15	Energy Efficiency in Energy-Consuming Products (Dec 2007)	None
I.65-B	FAR 52.223-16	IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products (Dec 2007)	None
I.66	FAR 52.224-1	Privacy Act Notification (Apr 1984)	None
I.67	FAR 52.224-2	Privacy Act (Apr 1984)	None
I.68	FAR 52.225-1	Buy American Act – Supplies (Jun 2003)	None
I.69	FAR 52.225-11	Buy American Act – Construction Materials Under Trade Agreements (Nov 2006) (<i>see full text version in Section I</i>)	(b) (3) None (d) Offeror fill-in
I.70	FAR 52.225-13	Restrictions on Certain Foreign Purchases (Feb 2006)	None
I.70-A	FAR 52.225-21	Required Use of American Iron, Steel, and Other Manufacturing Goods – Buy American Act – Construction Materials (Mar 2009)	Fill-ins subject to definitization of Change Order #15
I.70-B	FAR 52.225-22	Notice of Required Use of American Iron, Steel, and Other Manufactured Goods – Buy American Act – Construction Materials (Mar 2009)	Fill-ins subject to definitization of Change Order #15
I.70-C	FAR 52.225-23	Required Use of American Iron, Steel, and Other Manufactured Goods – Buy American Act – Construction Materials Under Trade Agreements (Mar 2009)	Fill-ins subject to definitization of Change Order #15
I.70-D	FAR 52.225-24	Notice of Required Use of American Iron, Steel, and Other Manufactured Goods – Buy American Act – Construction Materials Under Trade Agreements (Mar 2009)	Fill-ins subject to definitization of Change Order #15
I.71	FAR 52.226-1	Utilization of Indian Organizations and Indian-Owned Economic Enterprises (Jun 2000)	None
I.72	FAR 52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (Aug 1996)	None
I.73	FAR 52.227-3	Patent Indemnity (Apr 1984)	None
I.74	FAR 52.227-9	Refunds of Royalties (Apr 1984)	None
I.75	FAR 52.230-2	Cost Accounting Standards (Apr 1998)	None
I.76	FAR 52.230-6	Administration of Cost Accounting Standards (Apr 2005)	None

Clause No.	FAR/DEAR Reference	Title	Fill-In Information (see FAR 52.104(d))
I.77	FAR 52.232-9	Limitation on Withholding of Payments (Apr 1984)	None
I.78	FAR 52.232-12	Advance Payments (May 2001) Alternate II (May 2001) (see full text version in Section I)	(a), (b), (c) (e), (p) (8), (13), (14). Fill-in information is underlined in full text
I.79	FAR 52.232-17	Interest (Jun 1996)	None
I.80	FAR 52.232-18	Availability of Funds (Apr 1984)	None
I.81	FAR 52.232-22	Limitation of Funds (Apr 1984)	None
I.82	FAR 52.232-24	Prohibition of Assignment of Claims (Jan 1986)	None
I.83	FAR 52.232-25	Prompt Payment (Oct 2003) – Alternate I (Feb 2002)	None
I.84	FAR 52.232-33	Payment of Electronic Funds Transfer – Central Contractor Registration (Oct 2003)	None
I.85	FAR 52.233-1	Disputes (Jul 2002) – Alternate I (Dec 1991)	None
I.86	FAR 52.233-3	Protest After Award (Aug 1996) – Alternate I (Jun 1985)	None
I.87	FAR 52.233-4	Applicable Law for Breach of Contract Claim (Oct 2004)	None
I.88	FAR 52.234-4	Earned Value Management System (Jul 2006)	(g) AREVA Federal Services, LLC; East Tennessee Materials and Energy Corporation, Inc.; Fluor Federal Services, Inc.; and future subcontractors that meet the definition of teaming subcontractors as defined in FAR 9.6.
I.89	FAR 52.236-2	Differing Site Conditions (Apr 1984)	None
I.90	FAR 52.236-3	Site Investigation and Conditions Affecting the Work (Apr 1984)	None
I.91	FAR 52.236-5	Material and Workmanship (Apr 1984)	None
I.92	FAR 52.236-7	Permits and Responsibilities (Nov 1991)	None
I.93	FAR 52.236-18	Work Oversight in Cost Reimbursement Construction Contracts (Apr 1984)	None
I.94	FAR 52.236-19	Organization and Direction of the Work (Apr 1984)	None
I.95	FAR 52.237-2	Protection of Government Buildings, Equipment, and Vegetation (Apr 1984)	None

Clause No.	FAR/DEAR Reference	Title	Fill-In Information (see FAR 52.104(d))
I.96	FAR 52.237-3	Continuity of Services (Jan 1991)	None
I.97	FAR 52.239-1	Privacy or Security Safeguards (Aug 1996)	None
I.98	FAR 52.242-1	Notice of Intent to Disallow Costs (Apr 1984)	None
I.99	FAR 52.242-3	Penalties for Unallowable Costs (May 2001)	None
I.100	FAR 52.242-4	Certification of Final Indirect Costs (Jan 1997)	None
I.101	FAR 52.242-13	Bankruptcy (Jul 1995)	None
I.102	FAR 52.243-2	Changes – Cost Reimbursement (Aug 1987) – Alternate II (Apr 1984), Alternate III (Apr 1984), and Alternate IV (Apr 1984)	None
I.102-A	FAR 52.243-6	Change Order Accounting	None
I.103	FAR 52.243-7	Notification of Changes (Apr 1984)	(b) 10 (d) 30
I.104	FAR 52.244-2	Subcontracts (Aug 1998) – Alternate I (Jan 2006)	(e) N/A (k) N/A
I.105	FAR 52.244-5	Competition in Subcontracting (Dec 1996)	None
I.106	FAR 52.244-6	Subcontracts for Commercial Items (Sept 2006)	None
I.107	FAR 52.245-5	Government Property (Cost Reimbursement, Time-and-Material, or Labor-Hour Contracts) (May 2004)	None
I.108	FAR 52.246-25	Limitation of Liability – Services (Feb 1997)	None
I.109	FAR 52.247-1	Commercial Bill of Lading Notations (Feb 2006)	(a) Department of Energy (b) Department of Energy Contract No. DE-AC06-08RL14788, the Contract Administration Office specified in the Section G Clause entitled, <i>Contract Administration</i>
I.110	FAR 52.247-63	Preference for U.S.-Flag Air Carriers (Jun 2003)	None
I.111	FAR 52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006)	None
I.112	FAR 52.247-67	Submission of Commercial Transportation Bills to the General Services Administration for Audit (Feb 2006) (<i>see full text version in Section I</i>)	(c) Fill-in information is underlined in full text
I.113	FAR 52.247-68	Report of Shipment (REPSHIP) (Feb 2006)	None
I.114	FAR 52.249-6	Termination (Cost Reimbursement) (May 2004)	None
I.115	FAR 52.249-14	Excusable Delays (Apr 1984)	None
I.116	FAR 52.251-1	Government Supply Sources (Apr 1984) Alternate I (Apr 1984)	None

Clause No.	FAR/DEAR Reference	Title	Fill-In Information (see FAR 52.104(d))
I.117	FAR 52.251-2	Interagency Fleet Management System Vehicles and Related Services (Jan 1991)	None
I.118	FAR 52.252-6	Authorized Deviations in Clauses (Apr 1984) (<i>see full text version in Section I</i>)	(b) Fill-in information is underlined in full text
I.119	FAR 52.253-1	Computer Generated Forms (Jan 1991)	None
I.120	DEAR 952.203-70	Whistleblower Protection for Contractor Employees (Dec 2000)	None
I.121	DEAR 952.204-2	Security Requirements (May 2002)	None
I.122	DEAR 952.204-70	Classification/Declassification (Sep 1997)	None
I.123	DEAR 952.204-75	Public Affairs (Dec 2000)	None
I.124	DEAR 952.208-7	Tagging of Leased Vehicles (Apr 1984)	None
I.125	DEAR 952.208-70	Printing (Apr 1984)	None
I.126	DEAR 952.209-72	Organizational Conflicts of Interest Alternate I (Jun 1997)	None
I.127	DEAR 952.215-70	Key Personnel (Dec 2000)	None
I.128	FAR 52.216-7/ DEAR 952.216-7	Allowable Cost and Payment (Dec 2002); Alternate II	(a) (3) 30 th
I.129	DEAR 952.217-70	Acquisition of Real Property (Apr 1984)	None
I.130	DEAR 952.223-75	Preservation of Individual Occupational Radiation Exposure Records (Apr 1984)	None
I.131	DEAR 952.224-70	Paperwork Reduction Act (Apr 1994)	None
I.132	DEAR 952.226-74	Displaced Employee Hiring Preference (Jun 1997)	None
I.133	DEAR 952.227-82	Rights to Proposal Data (Apr 1994)	Offeror fill-in
I.134	DEAR 952.231-71	Insurance -- Litigation and Claims (Apr 2002)	None
I.135	DEAR 952.242-70	Technical Direction (Dec 2000)	None
I.136	DEAR 952.247-70	Foreign Travel (Dec 2000)	None
I.137	DEAR 952.250-70	Nuclear Hazards Indemnity Agreement (Jun 1996)	None
I.138	DEAR 952.251-70	Contractor Employee Travel Discounts (Dec 2000)	None
I.139	DEAR 970.5203-1	Management Controls (Dec 2000)	None
I.140	DEAR 970.5204-2	Laws, Regulations, and DOE Directives (Dec 2000)	None
I.141	DEAR 970.5204-3	Access to and Ownership of Records (Jul 2005)	(b)(1) through (b)(5) are Contractor-owned records.
I.142	DEAR 970.5217-1	Work for Others Program (Jan 2005)	None
I.143	DEAR 970.5223-1	Integration of Environment, Safety, and Health Into Work Planning and Execution (Dec 2000)	None
I.144	DEAR 970.5223-4	Workplace Substance Abuse Programs at DOE Sites (Dec 2000)	None
I.145	DEAR 970.5223-5	DOE Motor Vehicle Fleet Fuel Efficiency (Oct 2003)	None
I.146	DEAR 970.5226-2	Workforce Restructuring Under Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Dec 2000)	None
I.147	DEAR 970.5226-3	Community Commitment (Dec 2000)	None

Clause No.	FAR/DEAR Reference	Title	Fill-In Information (see FAR 52.104(d))
I.148	DEAR 970.5227-1	Rights in Data – Facilities (Dec 2000)	None
I.149	DEAR 970.5227-4	Authorization and Consent (Aug 2002)	None
I.150	DEAR 970.5227-6	Patent Indemnity-Subcontracts (Dec 2000)	None
I.151	DEAR 970.5227-9	Notice of Right to Request Patent Waiver (Dec 2000)	None
I.152	DEAR 970.5227-10	Patent Rights – Management and Operating Contracts, Non-Profit Organization or Small Business Firm Contractor (Aug 2002)	None
I.153	DEAR 970.5227-11	Patent Rights – Management and Operating Contracts, For-Profit Contractor, Non-Technology Transfer (Dec 2000)	None
I.154	DEAR 970.5229-1	State and Local Taxes (Dec 2000)	None
I.155	DEAR 970.5231-4	Preexisting Conditions (Dec 2000) Alternate II (Dec 2000)	the first day of the base period as defined in Clause F.1 (b)
I.156	DEAR 970.5232-3	Accounts, Records, and Inspection (Dec 2000), Alternate II (Dec 2000)	None
I.157	DEAR 970.5232-5	Liability with Respect to Cost Accounting Standards (Dec 2000)	None
I.158	DEAR 970.5232-6	Work for Others Funding Authorization (Dec 2000)	None

I.9-A FAR 52.203-15 WHISTLEBLOWER PROTECTIONS UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (MAR 2009)

- (a) The Contractor shall post notice of employees rights and remedies for whistleblower protections provided under section 1553 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5).
- (b) The Contractor shall include the substance of this clause including this paragraph (b) in all subcontracts.

I.12-A FAR 52.204-11 AMERICAN RECOVERY AND REINVESTMENT ACT—REPORTING REQUIREMENTS (JUL 2010)

- (a) Definitions. For definitions related to this clause (e.g., contract, first-tier subcontract, total compensation, etc.) see the Frequently Asked Questions (FAQs) available at http://www.whitehouse.gov/omb/recovery_faqs_contractors . These FAQs are also linked under <http://www.FederalReporting.gov> .
- (b) This contract requires the contractor to provide products and/or services that are funded under the American Recovery and Reinvestment Act of 2009 (Recovery Act). Section 1512(c) of the Recovery Act requires each contractor to report on its use of Recovery Act funds under this contract. These reports will be made available to the public.

- (c) Reports from Contractor for all work funded, in whole or in part, by the Recovery Act, are due no later than the 10th day following the end of each calendar quarter. The Contractor shall review the Frequently Asked Questions (FAQs) for Federal Contractors before each reporting cycle and prior to submitting each quarterly report as the FAQs may be update from time-to-time. The first report is due not later than the 10th day after the end of the calendar quarter in which the Contractor received the award. Thereafter, reports shall be submitted no later than the 10th day after the end of each calendar quarter. For information on when the Contractor shall submit its final report, see http://www.whitehouse.gov/omb/recovery_faqs_contractors .
- (d) The Contractor shall report the following information, using the online reporting tool available at <http://www.FederalReporting.gov> .
- (1) The Government contract and order number, as applicable.
 - (2) The amount of Recovery Act funds invoiced by the contractor for the reporting period. A cumulative amount from all the reports submitted for this action will be maintained by the government's on-line reporting tool.
 - (3) A list of all significant services performed or supplies delivered, including construction, for which the contractor invoiced in this calendar quarter.
 - (4) Program or project title, if any.
 - (5) A description of the overall purpose and expected outcomes or results of the contract, including significant deliverables and, if appropriate, associated units of measure.
 - (6) An assessment of the contractor's progress towards the completion of the overall purpose and expected outcomes or results of the contract (i.e., not started, less than 50 percent completed, completed 50 percent or more, or fully completed). This covers the contract (or portion thereof) funded by the Recovery Act.
 - (7) A narrative description of the employment impact of work funded by the Recovery Act. This narrative should be cumulative for each calendar quarter and address the impact on the Contractor's and first-tier subcontractors' workforce for all first-tier subcontracts valued at \$25,000 or more. At a minimum, the contractor shall provide—
 - (i) A brief description of the types of jobs created and jobs retained in the United States and outlying areas (see definition in FAR 2.101). This description may rely on job titles, broader labor categories, or the Contractor's existing practice for describing jobs as long as the terms used are widely understood and describe the general nature of the work; and
 - (ii) An estimate of the number of jobs created and jobs retained by the prime Contractor and all first-tier subcontracts valued at \$25,000 or more, in the United States and outlying areas. A job cannot be reported as both created and retained. See an example of how to calculate the number of jobs at http://www.whitehouse.gov/omb/recovery_faqs_contractors .

- (8) Names and total compensation of each of the five most highly compensated officers of the Contractor for the calendar year in which the contract is awarded if—
 - (i) In the Contractor's preceding fiscal year, the Contractor received—
 - (A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and
 - (B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and
 - (ii) The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.
- (9) For subcontracts valued at less than \$25,000 or any subcontracts awarded to an individual, or subcontracts awarded to a subcontractor that in the previous tax year had gross income under \$300,000, the Contractor shall only report the aggregate number of such first tier subcontracts awarded in the quarter and their aggregate total dollar amount.
- (10) For any first-tier subcontract funded in whole or in part under the Recovery Act, that is valued at \$25,000 or more and not subject to reporting under paragraph 9, the Contractor shall require the subcontractor to provide the information described in paragraphs (d)(10)(i), (ix), (x), (xi)m and (xii) of this section to the Contractor for the purposes of the quarterly report. The Contractor shall advise the subcontractor that the information will be made available to the public as required by section 1512 of the Recovery Act. The Contractor shall provide detailed information on these first-tier subcontracts as follows:
 - (i) Unique identifier (DUNS Number) for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company.
 - (ii) Name of the subcontractor.
 - (iii) Amount of the subcontract award.
 - (iv) Date of the subcontract award.
 - (v) The applicable North American Industry Classification System (NAICS) code.
 - (vi) Funding agency.

- (vii) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract.
- (viii) Subcontract number (the contract number assigned by the prime contractor).
- (ix) Subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable.
- (x) Subcontract primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable.
- (xi) Names and total compensation of each of the subcontractor's five most highly compensated officers, for the calendar year in which the subcontract is awarded if—
 - (A) In the subcontractor's preceding fiscal year, the subcontractor received—
 - (1) 80 percent or more of its annual gross revenues in Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and
 - (2) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and
 - (B) The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.
- (xii) A narrative description of the employment impact of work funded by the Recovery Act. This narrative should be cumulative for each calendar quarter and address the impact on the subcontractor's workforce. At a minimum, the subcontractor shall provide—
 - (A) A brief description of the types of jobs created and jobs retained in the United States and outlying areas (see definition in FAR 2.101). This description may rely on job titles, broader labor categories, or the subcontractor's existing practice for describing jobs as long as the terms used are widely understood and describe the general nature of the work; and
 - (B) An estimate of the number of jobs created and jobs retained by the subcontractor in the United States and outlying areas. A job cannot be reported as both created and retained. See an example

of how to calculate the number of jobs at
http://www.whitehouse.gov/omb/recovery_faqs_contractors .

I.15 FAR 52-215-2 AUDIT AND RECORDS – NEGOTIATION (JUN 1999) ALT I (MAR 2009)

- (a) As used in this clause, “records” includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.
- (b) *Examination of costs.* If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price redeterminable contract, or any combination of these, the Contractor shall maintain and the Contracting Officer, or an authorized representative of the Contracting Officer, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract. This right of examination shall include inspection at all reasonable times of the Contractor’s plants, or parts of them, engaged in performing the contract.
- (c) *Cost or pricing data.* If the Contractor has been required to submit cost or pricing data in connection with any pricing action relating to this contract, the Contracting Officer, or an authorized representative of the Contracting Officer, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor’s records, including computations and projections, related to --
 - (1) The proposal for the contract, subcontract, or modification;
 - (2) The discussions conducted on the proposal(s), including those related to negotiating;
 - (3) Pricing of the contract, subcontract, or modification; or
 - (4) Performance of the contract, subcontract or modification.
- (d) *Comptroller General or Inspector General.*
 - (1) The Comptroller General of the United States, an appropriate Inspector General appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), or an authorized representative of either of the foregoing officials, shall have access to and the right to—
 - (i) Examine any of the Contractor’s or any subcontractor’s records that pertain to and involve transactions relating to this contract or a subcontract hereunder; and
 - (ii) Interview any officer or employee regarding such transactions.

- (2) This paragraph may not be construed to require the Contractor or subcontractor to create or maintain any record that the Contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.
- (e) *Reports.* If the Contractor is required to furnish cost, funding, or performance reports, the Contracting Officer or an authorized representative of the Contracting Officer shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating --
 - (1) The effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports; and
 - (2) The data reported.
- (f) *Availability.* The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in paragraphs (a), (b), (c), (d), and (e) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulation (FAR), or for any longer period required by statute or by other clauses of this contract. In addition --
 - (1) If this contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until 3 years after any resulting final termination settlement; and
 - (2) The Contractor shall make available records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.
- (g)
 - (1) Except as provided in paragraph (g)(2) of this clause, the Contractor shall insert a clause containing all the terms of this clause, including this paragraph (g), in all subcontracts under this contract. The clause may be altered only as necessary to identify properly the contracting parties and the Contracting Officer under the Government prime contract.
 - (2) The authority of the Inspector General under paragraph (d)(1)(ii) of this clause does not flow down to subcontracts.

I.23 FAR 52.215-19, NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997)

- (a) The Contractor shall make the following notifications in writing:
 - (1) When the Contractor becomes aware that a change in its ownership has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records, the Contractor shall notify the Administrative Contracting Officer (ACO) within 30 days.

- (2) The Contractor shall also notify the ACO within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership.
- (b) The Contractor shall—
 - (1) Maintain current, accurate, and complete inventory records of assets and their costs;
 - (2) Provide the ACO or designated representative ready access to the records upon request;
 - (3) Ensure that all individual and grouped assets, their capitalized values, accumulated depreciation or amortization, and remaining useful lives are identified accurately before and after each of the Contractor's ownership changes; and
 - (4) Retain and continue to maintain depreciation and amortization schedules based on the asset records maintained before each Contractor ownership change.
- (c) The Contractor shall include the substance of this clause in all subcontracts under this Contract that meet the applicability requirement of FAR 15.408(k).

I.24-A 52.216-24 LIMITATION OF GOVERNMENT LIABILITY (APR 1984)

- (a) In performing this contract, the Contractor is not authorized to make expenditures or incur obligations exceeding \$1,277,029,276.26 subject to the following Recovery Act project apportionments:
 - WBS 011, Nuclear Material Stabilization and Disposition PFP: \$248,931,750.00
 - WBS 013, Solid Waste Stabilization and Disposition: \$315,663,000.00
 - WBS 030, Soil and Groundwater Remediation, Groundwater/Vadose Zone: \$272,414,000.00
 - WBS 040, Nuclear Facility D&D - Remainder of Hanford: \$252,517,526.00
 - WBS 041, Nuclear Facility D&D – River Corridor: \$187,503,000.00
- (b) The maximum amount for which the Government shall be liable if this contract is terminated is \$1,277,029,276.26 subject to the project apportionment shown above.

I.56 FAR 52.222-39, NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES (DEC 2004)

- (a) *Definition.* As used in this clause—"United States" means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.
- (b) Except as provided in paragraph (e) of this clause, during the term of this contract, the Contractor shall post a notice, in the form of a poster, informing employees of their rights

concerning union membership and payment of union dues and fees, in conspicuous places in and about all its plants and offices, including all places where notices to employees are customarily posted. The notice shall include the following information (except that the information pertaining to National Labor Relations Board shall not be included in notices posted in the plants or offices of carriers subject to the Railway Labor Act, as amended (45 U.S.C. 151-188)).

Notice to Employees

Under Federal law, employees cannot be required to join a union or maintain membership in a union in order to retain their jobs. Under certain conditions, the law permits a union and an employer to enter into a union-security agreement requiring employees to pay uniform periodic dues and initiation fees. However, employees who are not union members can object to the use of their payments for certain purposes and can only be required to pay their share of union costs relating to collective bargaining, contract administration, and grievance adjustment.

If you do not want to pay that portion of dues or fees used to support activities not related to collective bargaining, contract administration, or grievance adjustment, you are entitled to an appropriate reduction in your payment. If you believe that you have been required to pay dues or fees used in part to support activities not related to collective bargaining, contract administration, or grievance adjustment, you may be entitled to a refund and to an appropriate reduction in future payments.

For further information concerning your rights, you may wish to contact the National Labor Relations Board (NLRB) either at one of its Regional offices or at the following address or toll free number:

National Labor Relations Board
Division of Information
1099 14th Street, N.W.
Washington, DC 20570
1-866-667-6572
1-866-316-6572 (TTY)

To locate the nearest NLRB office, see NLRB's website at <http://www.nlr.gov>.

- (c) The Contractor shall comply with all provisions of Executive Order 13201 of February 17, 2001, and related implementing regulations at 29 CFR Part 470, and orders of the Secretary of Labor.
- (d) In the event that the Contractor does not comply with any of the requirements set forth in paragraphs (b), (c), or (g), the Secretary may direct that this contract be cancelled, terminated, or suspended in whole or in part, and declare the Contractor ineligible for further Government contracts in accordance with procedures at 29 CFR Part 470, Subpart B—Compliance Evaluations, Complaint Investigations and Enforcement Procedures. Such other sanctions or remedies may be imposed as are provided by 29 CFR Part 470, which implements Executive Order 13201, or as are otherwise provided by law.

- (e) The requirement to post the employee notice in paragraph (b) does not apply to—
- (1) Contractors and subcontractors that employ fewer than 15 persons;
 - (2) Contractor establishments or construction work sites where no union has been formally recognized by the Contractor or certified as the exclusive bargaining representative of the Contractor's employees;
 - (3) Contractor establishments or construction work sites located in a jurisdiction named in the definition of the United States in which the law of that jurisdiction forbids enforcement of union-security agreements;
 - (4) Contractor facilities where upon the written request of the Contractor, the Department of Labor Deputy Assistant Secretary for Labor-Management Programs has waived the posting requirements with respect to any of the Contractor's facilities if the Deputy Assistant Secretary finds that the Contractor has demonstrated that—
 - (i) The facility is in all respects separate and distinct from activities of the Contractor related to the performance of a contract; and
 - (ii) Such a waiver will not interfere with or impede the effectuation of the Executive order; or
 - (5) Work outside the United States that does not involve the recruitment or employment of workers within the United States.
- (f) The Department of Labor publishes the official employee notice in two variations; one for contractors covered by the Railway Labor Act and a second for all other contractors. The Contractor shall—
- (1) Obtain the required employee notice poster from the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-5605, Washington, DC 20210, or from any field office of the Department's Office of Labor-Management Standards or Office of Federal Contract Compliance Programs;
 - (2) Download a copy of the poster from the Office of Labor-Management Standards website at <http://www.olms.dol.gov>; or
 - (3) Reproduce and use exact duplicate copies of the Department of Labor's official poster.

- (g) The Contractor shall include the substance of this clause in every subcontract or purchase order that exceeds the simplified acquisition threshold, entered into in connection with this contract, unless exempted by the Department of Labor Deputy Assistant Secretary for Labor-Management Programs on account of special circumstances in the national interest under authority of 29 CFR 470.3(c). For indefinite quantity subcontracts, the Contractor shall include the substance of this clause if the value of orders in any calendar year of the subcontract is expected to exceed the simplified acquisition threshold. Pursuant to 29 CFR Part 470, Subpart B—Compliance Evaluations, Complaint Investigations and Enforcement Procedures, the Secretary of Labor may direct the Contractor to take such action in the enforcement of these regulations, including the imposition of sanctions for noncompliance with respect to any such subcontract or purchase order. If the Contractor becomes involved in litigation with a subcontractor or vendor, or is threatened with such involvement, as a result of such direction, the Contractor may request the United States, through the Secretary of Labor, to enter into such litigation to protect the interests of the United States.

I.58 FAR 52.222-42, STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 1989)

In compliance with the Service Contract Act of 1965, as amended, and the regulations of the Secretary of Labor (29 CFR Part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

This Statement is for Information Only: *It is not a Wage Determination*

Employee Class	Monetary Wage—Fringe Benefits
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Equivalent Federal Hire Classifications, Wages, and Benefit programs are described on the Office of Personnel Management web site at www.opm.gov.

I.59-A FAR 52.222-54 EMPLOYMENT ELIGIBILITY VERIFICATION (JAN 2009)

- (a) *Definitions.* As used in this clause—

“Commercially available off-the-shelf (COTS) item”—

- (1) Means any item of supply that is—
- (i) A commercial item (as defined in paragraph (1) of the definition at [2.101](#));
 - (ii) Sold in substantial quantities in the commercial marketplace; and
 - (iii) Offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace; and

- (2) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 ([46 U.S.C. App. 1702](#)), such as agricultural products and petroleum products. Per 46 CFR 525.1 (c)(2), "bulk cargo" means cargo that is loaded and carried in bulk onboard ship without mark or count, in a loose unpackaged form, having homogenous characteristics. Bulk cargo loaded into intermodal equipment, except LASH or Seabee barges, is subject to mark and count and, therefore, ceases to be bulk cargo.

"Employee assigned to the contract" means an employee who was hired after November 6, 1986, who is directly performing work, in the United States, under a contract that is required to include the clause prescribed at [22.1803](#). An employee is not considered to be directly performing work under a contract if the employee—

- (1) Normally performs support work, such as indirect or overhead functions; and
- (2) Does not perform any substantial duties applicable to the contract.

"Subcontract" means any contract, as defined in [2.101](#), entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. It includes but is not limited to purchase orders, and changes and modifications to purchase orders.

"Subcontractor" means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime Contractor or another subcontractor.

"United States", as defined in [8 U.S.C. 1101\(a\)\(38\)](#), means the 50 States, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands.

(b) *Enrollment and verification requirements.*

- (1) If the Contractor is not enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall—
 - (i) *Enroll.* Enroll as a Federal Contractor in the E-Verify program within 30 calendar days of contract award;
 - (ii) *Verify all new employees.* Within 90 calendar days of enrollment in the E-Verify program, begin to use E-Verify to initiate verification of employment eligibility of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); and
 - (iii) *Verify employees assigned to the contract.* For each employee assigned to the contract, initiate verification within 90 calendar days after date of enrollment or within 30 calendar days of the employee's assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section).
- (2) If the Contractor is enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall use E-Verify to initiate verification of employment eligibility of—

- (i) *All new employees.*
 - (A) *Enrolled 90 calendar days or more.* The Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or
 - (B) *Enrolled less than 90 calendar days.* Within 90 calendar days after enrollment as a Federal Contractor in E-Verify, the Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or
 - (ii) *Employees assigned to the contract.* For each employee assigned to the contract, the Contractor shall initiate verification within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section).
- (3) If the Contractor is an institution of higher education (as defined at [20 U.S.C. 1001\(a\)](#)); a State or local government or the government of a Federally recognized Indian tribe; or a surety performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond, the Contractor may choose to verify only employees assigned to the contract, whether existing employees or new hires. The Contractor shall follow the applicable verification requirements at (b)(1) or (b)(2) respectively, except that any requirement for verification of new employees applies only to new employees assigned to the contract.
- (4) *Option to verify employment eligibility of all employees.* The Contractor may elect to verify all existing employees hired after November 6, 1986, rather than just those employees assigned to the contract. The Contractor shall initiate verification for each existing employee working in the United States who was hired after November 6, 1986, within 180 calendar days of—
- (i) Enrollment in the E-Verify program; or
 - (ii) Notification to E-Verify Operations of the Contractor's decision to exercise this option, using the contact information provided in the E-Verify program Memorandum of Understanding (MOU).
- (5) The Contractor shall comply, for the period of performance of this contract, with the requirements of the E-Verify program MOU.
- (i) The Department of Homeland Security (DHS) or the Social Security Administration (SSA) may terminate the Contractor's MOU and deny access to the E-Verify system in accordance with the terms of the MOU. In such case, the Contractor will be referred to a suspension or debarment official.

- (ii) During the period between termination of the MOU and a decision by the suspension or debarment official whether to suspend or debar, the Contractor is excused from its obligations under paragraph (b) of this clause. If the suspension or debarment official determines not to suspend or debar the Contractor, then the Contractor must reenroll in E-Verify.
- (c) *Web site.* Information on registration for and use of the E-Verify program can be obtained via the Internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.
- (d) *Individuals previously verified.* The Contractor is not required by this clause to perform additional employment verification using E-Verify for any employee—
 - (1) Whose employment eligibility was previously verified by the Contractor through the E-Verify program;
 - (2) Who has been granted and holds an active U.S. Government security clearance for access to confidential, secret, or top secret information in accordance with the National Industrial Security Program Operating Manual; or
 - (3) Who has undergone a completed background investigation and been issued credentials pursuant to Homeland Security Presidential Directive (HSPD)-12, Policy for a Common Identification Standard for Federal Employees and Contractors.
- (e) *Subcontracts.* The Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for identification of the parties), in each subcontract that—
 - (1) Is for—
 - (i) Commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item); or
 - (ii) Construction;
 - (2) Has a value of more than \$3,000; and
 - (3) Includes work performed in the United States.

I.63 FAR 52.223-11, OZONE-DEPLETING SUBSTANCES (MAY 2001)

- (a) *Definition.* “Ozone-depleting substance,” as used in this clause, means any substance the Environmental Protection Agency designates in 40 CFR Part 82 as—
 - (1) Class I, including, but not limited to, chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or

- (2) Class II, including, but not limited to, hydrochlorofluorocarbons.
- (b) The Contractor shall label products which contain or are manufactured with ozone-depleting substances in the manner and to the extent required by 42 U.S.C. 7671j (b), (c), and (d) and 40 CFR Part 82, Subpart E, as follows:

WARNING: Contains (or manufactured with, if applicable) *
_____, a substance(s) which harm(s) public health and
environment by destroying ozone in the upper atmosphere.

* The Contractor shall insert the name of the substance(s).

I.69 FAR 52.225-11, BUY AMERICAN ACT—CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (NOV 2006)

- (a) *Definitions.* As used in this clause—

“Caribbean Basin country construction material” means a construction material that—

- (1) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different construction material distinct from the materials from which it was transformed.

“Component” means an article, material, or supply incorporated directly into a construction material.

“Construction material” means an article, material, or supply brought to the construction site by the Contractor or subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

“Cost of components” means—

- (1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the construction material (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

- (2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

“Designated country” means any of the following countries:

- (1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, or United Kingdom);
- (2) A Free Trade Agreement country (Australia, Bahrain, Canada, Chile, El Salvador, Guatemala, Honduras, Mexico, Morocco, Nicaragua, or Singapore);
- (3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Cape Verde, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, East Timor, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, Tanzania, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or
- (4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Costa Rica, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Montserrat, Netherlands Antilles, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, or Trinidad and Tobago).

“Designated country construction material” means a construction material that is a WTO GPA country construction material, an FTA country construction material, a least developed country construction material, or a Caribbean Basin country construction material.

“Domestic construction material” means—

- (1) An unmanufactured construction material mined or produced in the United States; or
- (2) A construction material manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic.

“Foreign construction material” means a construction material other than a domestic construction material.

“Free Trade Agreement country construction material” means a construction material that—

- (1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a FTA country into a new and different construction material distinct from the materials from which it was transformed.

“Least developed country construction material” means a construction material that—

- (1) Is wholly the growth, product, or manufacture of a least developed country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.

“United States” means the 50 States, the District of Columbia, and outlying areas.

“WTO GPA country construction material” means a construction material that—

- (1) Is wholly the growth, product, or manufacture of a WTO GPA country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different construction material distinct from the materials from which it was transformed.

(b) Construction materials.

- (1) This clause implements the Buy American Act (41 U.S.C. 10a-10d) by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the WTO GPA and Free Trade Agreements (FTAs) apply to this acquisition. Therefore, the Buy American Act restrictions are waived for designated country construction materials.
- (2) The Contractor shall use only domestic or designated country construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.
- (3) The requirement in paragraph (b)(2) of this clause does not apply to the construction materials or components listed by the Government as follows:

None

- (4) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(3) of this clause if the Government determines that—

- (i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the restrictions of the Buy American Act is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;
 - (ii) The application of the restriction of the Buy American Act to a particular construction material would be impracticable or inconsistent with the public interest; or
 - (iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.
- (c) Request for determination of inapplicability of the Buy American Act.
- (1) (i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) of this clause shall include adequate information for Government evaluation of the request, including—
 - (A) A description of the foreign and domestic construction materials;
 - (B) Unit of measure;
 - (C) Quantity;
 - (D) Price;
 - (E) Time of delivery or availability;
 - (F) Location of the construction project;
 - (G) Name and address of the proposed supplier; and
 - (H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(3) of this clause.
 - (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause.
 - (iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).
 - (iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.

- (2) If the Government determines after contract award that an exception to the Buy American Act applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(4)(i) of this clause.
- (3) Unless the Government determines that an exception to the Buy American Act applies, use of foreign construction material is noncompliant with the Buy American Act.
- (d) *Data.* To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Construction Materials Price Comparison

Construction Material Description	Unit of Measure	Quantity	Price (Dollars) ¹
Item 1:			
Foreign construction material
Domestic construction material
Item 2:			
Foreign construction material
Domestic construction material

¹ Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).

List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.

Include other applicable supporting information.

I.70-A FAR 52.225-21 REQUIRED USE OF AMERICAN IRON, STEEL, AND OTHER MANUFACTURING GOODS – BUY AMERICAN ACT – CONSTRUCTION MATERIALS (MAR 2009)

- (a) Definitions. As used in this clause—

“*Construction material*” means an article, material, or supply brought to the construction site by the Contractor or subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

“Domestic construction material” means—

- (1) An unmanufactured construction material mined or produced in the United States; or
- (2) A construction material manufactured in the United States.

“Foreign construction material” means a construction material other than a domestic construction material.

“Free trade agreement (FTA) country construction material” means a construction material that—

- (1) Is wholly the growth, product, or manufacture of an FTA country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in an FTA country into a new and different construction material distinct from the materials from which it was transformed.

“Least developed country construction material” means a construction material that—

- (1) Is wholly the growth, product, or manufacture of a least developed country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.

“Manufactured construction material” means any construction material that is not unmanufactured construction material.

“Recovery Act designated country” means any of the following countries:

- (1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, or United Kingdom);
- (2) A Free Trade Agreement country (FTA)(Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Mexico, Morocco, Nicaragua, Oman, Peru, or Singapore); or
- (3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, East Timor, Equatorial Guinea, Eritrea,

Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, Tanzania, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia).

“Recovery Act designated country construction material” means a construction material that is a WTO GPA country construction material, an FTA country construction material, or a least developed country construction material.

“Steel” means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

“United States” means the 50 States, the District of Columbia, and outlying areas.

“Unmanufactured construction material” means raw material brought to the construction site for incorporation into the building or work that has not been—

- (1) Processed into a specific form and shape; or
- (2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

“WTO GPA country construction material” means a construction material that—

- (1) Is wholly the growth, product, or manufacture of a WTO GPA country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different construction material distinct from the materials from which it was transformed.

(b) Construction materials.

- (1) The restrictions of section 1605 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (Recovery Act) and the Buy American Act (41 U.S.C. 10a-10d) do not apply to Recovery Act designated country construction material. Consistent with U.S. obligations under international agreements, this clause implements—
 - (i) Section 1605 of the Recovery Act by requiring, unless an exception applies, that all iron, steel, and other manufactured goods used as construction material in the project are produced in the United States; and
 - (ii) The Buy American Act by providing a preference for unmanufactured domestic construction material.

- (2) The Contractor shall use only domestic or Recovery Act designated country construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.
- (3) The requirement in paragraph (b)(2) of this clause does not apply to the construction materials or components listed by the Government as follows:

[Contracting Officer to list applicable excepted materials or indicate "none".]

- (4) The Contracting Officer may add other construction material to the list in paragraph (b)(3) of this clause if the Government determines that—
 - (i) The cost of domestic construction material would be unreasonable.
 - (A) The cost of domestic iron, steel, or other manufactured goods used as construction material is unreasonable when the cumulative cost of such material will increase the overall cost of the contract by more than 25 percent;
 - (B) The cost of unmanufactured construction material is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;
 - (ii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality; or
 - (iii) The application of the restriction of section 1605 of the Recovery Act or the Buy American Act to a particular construction material would be inconsistent with the public interest.
- (c) Request for determination of inapplicability of section 1605 of the Recovery Act or the Buy American Act.
 - (1)
 - (i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) of this clause shall include adequate information for Government evaluation of the request, including—
 - (A) A description of the foreign and domestic construction materials;
 - (B) Unit of measure;
 - (C) Quantity;
 - (D) Cost;

- (E) Time of delivery or availability;
 - (F) Location of the construction project;
 - (G) Name and address of the proposed supplier; and
 - (H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(4) of this clause.
- (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this clause.
 - (iii) The cost of construction material shall include all delivery costs to the construction site and any applicable duty.
 - (iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.
- (2) If the Government determines after contract award that an exception to section 1605 of the Recovery Act or the Buy American Act applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable cost of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(4)(i) of this clause.
- (3) Unless the Government determines that an exception to the section 1605 of the Recovery Act or the Buy American Act applies, use of foreign construction material other than that covered by trade agreements is noncompliant with the applicable Act.
- (d) Data. To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Construction Materials Cost Comparison

Construction material description	Unit of measure	Quantity	Cost (dollars) *
Item 1:			
Foreign construction material			
Domestic construction material			

Item 2			
Foreign construction material			
Domestic construction material			

[List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.][Include other applicable supporting information.]

[* Include all delivery costs to the construction site.]

I.70-B 52.225-22 NOTICE OF REQUIRED USE OF AMERICAN IRON, STEEL, AND OTHER MANUFACTURED GOODS – BUY AMERICAN ACT – CONSTRUCTION MATERIALS (Mar 2009)

- (a) Definitions. “Construction material,” “domestic construction material,” “foreign construction material,” “manufactured construction material,” “Recovery Act designated country construction material,” “steel,” and “unmanufactured construction material,” as used in this provision, are defined in the clause of this solicitation entitled “Required Use of Iron, Steel, and Other Manufactured Goods--Buy American Act--Construction Materials Under Trade Agreements” (Federal Acquisition Regulation (FAR) clause 52.225-23).
- (b) Requests for determination of inapplicability. An offeror requesting a determination regarding the inapplicability of section 1605 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (Recovery Act) or the Buy American Act should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include the information and applicable supporting data required by paragraphs (c) and (d) of FAR clause 52.225-23 in the request. If an offeror has not requested a determination regarding the inapplicability of section 1605 of the Recovery Act or the Buy American Act before submitting its offer, or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.
- (c) Evaluation of offers.
 - (1) If the Government determines that an exception based on unreasonable cost of domestic construction material applies, the Government will evaluate an offer requesting exception to the requirements of section 1605 of the Recovery Act or the Buy American Act by adding to the offered price of the contract—
 - (i) 25 percent of the offered price of the contract, if foreign iron, steel, or other manufactured goods are used as construction material based on unreasonable cost of comparable manufactured domestic construction material; and
 - (ii) 6 percent of the cost of foreign unmanufactured construction material included in the offer based on unreasonable cost of comparable domestic unmanufactured construction material.

- (2) If two or more offers are equal in price, the Contracting Officer will give preference to an offer that does not include foreign construction material excepted at the request of the offeror on the basis of unreasonable cost.
- (d) Alternate offers.
- (1) When an offer includes foreign construction material, other than Recovery Act designated country construction material, that is not listed by the Government in this solicitation in paragraph (b)(3) of FAR clause 52.225-23, the offeror also may submit an alternate offer based on use of equivalent domestic or Recovery Act designated country construction material.
 - (2) If an alternate offer is submitted, the offeror shall submit a separate Standard Form 1442 for the alternate offer and a separate cost comparison table prepared in accordance with paragraphs (c) and (d) of FAR clause 52.225-23 for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.
 - (3) If the Government determines that a particular exception requested in accordance with paragraph (c) of FAR clause 52.225-23 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic or Recovery Act designated country construction material, and the offeror shall be required to furnish such domestic or Recovery Act designated country construction material. An offer based on use of the foreign construction material for which an exception was requested—
 - (i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or
 - (ii) May be accepted if revised during negotiations.

I.70-C 52.225-23 REQUIRED USE OF AMERICAN IRON, STEEL, AND OTHER MANUFACTURED GOODS – BUY AMERICAN ACT – CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS

- (a) Definitions. As used in this clause—

“Construction material” means an article, material, or supply brought to the construction site by the Contractor or subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

“Domestic construction material” means—

- (1) An unmanufactured construction material mined or produced in the United States; or
- (2) A construction material manufactured in the United States.

“Foreign construction material” means a construction material other than a domestic construction material.

“Free trade agreement (FTA) country construction material” means a construction material that—

- (1) Is wholly the growth, product, or manufacture of an FTA country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in an FTA country into a new and different construction material distinct from the materials from which it was transformed.

“Least developed country construction material” means a construction material that—

- (1) Is wholly the growth, product, or manufacture of a least developed country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.

“Manufactured construction material” means any construction material that is not unmanufactured construction material.

“Recovery Act designated country” means any of the following countries:

- (1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, or United Kingdom);
- (2) A Free Trade Agreement country (FTA)(Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Mexico, Morocco, Nicaragua, Oman, Peru, or Singapore); or
- (3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, East Timor, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon

Islands, Somalia, Tanzania, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia).

“Recovery Act designated country construction material” means a construction material that is a WTO GPA country construction material, an FTA country construction material, or a least developed country construction material.

“Steel” means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

“United States” means the 50 States, the District of Columbia, and outlying areas.

“Unmanufactured construction material” means raw material brought to the construction site for incorporation into the building or work that has not been—

- (1) Processed into a specific form and shape; or
- (2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

“WTO GPA country construction material” means a construction material that—

- (1) Is wholly the growth, product, or manufacture of a WTO GPA country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different construction material distinct from the materials from which it was transformed.

(b) Construction materials.

- (1) The restrictions of section 1605 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (Recovery Act) and the Buy American Act (41 U.S.C. 10a-10d) do not apply to Recovery Act designated country construction material. Consistent with U.S. obligations under international agreements, this clause implements—
 - (i) Section 1605 of the Recovery Act by requiring, unless an exception applies, that all iron, steel, and other manufactured goods used as construction material in the project are produced in the United States; and
 - (ii) The Buy American Act by providing a preference for unmanufactured domestic construction material.
- (2) The Contractor shall use only domestic or Recovery Act designated country construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.
- (3) The requirement in paragraph (b)(2) of this clause does not apply to the construction materials or components listed by the Government as follows:

[Contracting Officer to list applicable excepted materials or indicate "none".]

- (4) The Contracting Officer may add other construction material to the list in paragraph (b)(3) of this clause if the Government determines that—
 - (i) The cost of domestic construction material would be unreasonable.
 - (A) The cost of domestic iron, steel, or other manufactured goods used as construction material is unreasonable when the cumulative cost of such material will increase the overall cost of the contract by more than 25 percent;
 - (B) The cost of unmanufactured construction material is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;
 - (ii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality; or
 - (iii) The application of the restriction of section 1605 of the Recovery Act or the Buy American Act to a particular construction material would be inconsistent with the public interest.
- (c) Request for determination of inapplicability of section 1605 of the Recovery Act or the Buy American Act.
 - (1)
 - (i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) of this clause shall include adequate information for Government evaluation of the request, including—
 - (A) A description of the foreign and domestic construction materials;
 - (B) Unit of measure;
 - (C) Quantity;
 - (D) Cost;
 - (E) Time of delivery or availability;
 - (F) Location of the construction project;
 - (G) Name and address of the proposed supplier; and
 - (H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(4) of this clause.

- (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this clause.
 - (iii) The cost of construction material shall include all delivery costs to the construction site and any applicable duty.
 - (iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.
- (2) If the Government determines after contract award that an exception to section 1605 of the Recovery Act or the Buy American Act applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable cost of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(4)(i) of this clause.
- (3) Unless the Government determines that an exception to the section 1605 of the Recovery Act or the Buy American Act applies, use of foreign construction material other than that covered by trade agreements is noncompliant with the applicable Act.
- (d) Data. To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Construction Materials Cost Comparison

Construction material description	Unit of measure	Quantity	Cost (dollars) *
Item 1:			
Foreign construction material			
Domestic construction material			
Item 2			
Foreign construction material			
Domestic construction material			

[List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.][Include other applicable supporting information.]

[* Include all delivery costs to the construction site.]

I.70-D 52.225-24 NOTICE OF REQUIRED USE OF AMERICAN IRON, STEEL, AND OTHER MANUFACTURED GOODS – BUY AMERICAN ACT – CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS

- (a) Definitions. “Construction material,” “domestic construction material,” “foreign construction material,” “manufactured construction material,” “Recovery Act designated country construction material,” “steel,” and “unmanufactured construction material,” as used in this provision, are defined in the clause of this solicitation entitled “Required Use of Iron, Steel, and Other Manufactured Goods--Buy American Act--Construction Materials Under Trade Agreements” (Federal Acquisition Regulation (FAR) clause 52.225-23).
- (b) Requests for determination of inapplicability. An offeror requesting a determination regarding the inapplicability of section 1605 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (Recovery Act) or the Buy American Act should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include the information and applicable supporting data required by paragraphs (c) and (d) of FAR clause 52.225-23 in the request. If an offeror has not requested a determination regarding the inapplicability of section 1605 of the Recovery Act or the Buy American Act before submitting its offer, or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.
- (c) Evaluation of offers.
 - (1) If the Government determines that an exception based on unreasonable cost of domestic construction material applies, the Government will evaluate an offer requesting exception to the requirements of section 1605 of the Recovery Act or the Buy American Act by adding to the offered price of the contract—
 - (i) 25 percent of the offered price of the contract, if foreign iron, steel, or other manufactured goods are used as construction material based on unreasonable cost of comparable manufactured domestic construction material; and
 - (ii) 6 percent of the cost of foreign unmanufactured construction material included in the offer based on unreasonable cost of comparable domestic unmanufactured construction material.
 - (2) If two or more offers are equal in price, the Contracting Officer will give preference to an offer that does not include foreign construction material excepted at the request of the offeror on the basis of unreasonable cost.
- (d) Alternate offers.
 - (1) When an offer includes foreign construction material, other than Recovery Act designated country construction material, that is not listed by the Government in this solicitation in paragraph (b)(3) of FAR clause 52.225-23, the offeror also may submit an alternate offer based on use of equivalent domestic or Recovery Act designated country construction material.

- (2) If an alternate offer is submitted, the offeror shall submit a separate Standard Form 1442 for the alternate offer and a separate cost comparison table prepared in accordance with paragraphs (c) and (d) of FAR clause 52.225-23 for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.
- (3) If the Government determines that a particular exception requested in accordance with paragraph (c) of FAR clause 52.225-23 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic or Recovery Act designated country construction material, and the offeror shall be required to furnish such domestic or Recovery Act designated country construction material. An offer based on use of the foreign construction material for which an exception was requested—
 - (i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or
 - (ii) May be accepted if revised during negotiations.

I.78 FAR 52.232-12, ADVANCE PAYMENTS (MAY 2001) ALT II (MAY 2001)

- (a) *Requirements for payment.* Advance payments will be made under this contract (1) upon submission of properly certified invoices or vouchers by the Contractor, and approval by the administering office, identified in the Section G Clause, entitled *Contract Administration*, or (2) under a letter of credit. The amount of the invoice or voucher submitted plus all advance payments previously approved shall not exceed the amount specified in the Section B Clause entitled, *Obligation and Availability of Funds*. If a letter of credit is used, the Contractor shall withdraw cash only when needed for disbursements acceptable under this contract and report cash disbursements and balances as required by the administering office. The Contractor shall apply terms similar to this clause to any advance payments to subcontractors.
- (b) *Special account.* Until (1) the Contractor has liquidated all advance payments made under the contract and related interest charges and (2) the administering office has approved in writing the release of any funds due and payable to the Contractor, all advance payments and other payments under this contract shall be made by check payable to the Contractor marked for deposit only in the Contractor's special account with the institution identified in the Section J Attachment, entitled *Special Financial Institution Account Agreement*. None of the funds in the special account shall be mingled with other funds of the Contractor. Withdrawals from the special account may be made only by check of the Contractor countersigned by the Contracting Officer or a Government countersigning agent designated in writing by the Contracting Officer.
- (c) *Use of funds.* The Contractor shall withdraw funds from the special account only to pay for allowable costs as prescribed by the Section I Clause entitled, *Allowable Cost and Payment* of this contract. Payment for any other types of expenses shall be approved in writing by the administering office.

- (d) *Repayment to the Government.* At any time, the Contractor may repay all or any part of the funds advanced by the Government. Whenever requested in writing to do so by the administering office, the Contractor shall repay to the Government any part of unliquidated advance payments considered by the administering office to exceed the Contractor's current requirements or the amount specified in paragraph (a) of this clause. If the Contractor fails to repay the amount requested by the administering office, all or any part of the unliquidated advance payments may be withdrawn from the special account by check signed by only the countersigning agent and applied to reduction of the unliquidated advance payments under this contract.
- (e) *Maximum payment.* When the sum of all unliquidated advance payments, unpaid interest charges, and other payments equal the total estimated cost as identified in Section B Clause entitled, *Contract Cost and Contract Fee* (not including fixed-fee, if any) for the work under this contract, the Government shall withhold further payments to the Contractor. Upon completion or termination of the contract, the Government shall deduct from the amount due to the Contractor all unliquidated advance payments and interest charges payable. The Contractor shall pay any deficiency to the Government upon demand. For purposes of this paragraph, the estimated cost shall be considered to be the stated estimated cost, less any subsequent reductions of the estimated cost, plus any increases in the estimated costs that do not, in the aggregate, exceed 10% of the total amount identified in Section B Clause entitled, *Contract Cost and Contract Fee*. The estimated cost shall include, without limitation, any reimbursable cost (as estimated by the Contracting Officer) incident to a termination for the convenience of the Government. Any payments withheld under this paragraph shall be applied to reduce the unliquidated advance payments. If full liquidation has been made, payments under the contract shall resume.
- (f) *Interest.*
- (1) The Contractor shall pay interest to the Government on the daily unliquidated advance payments at the daily rate specified in paragraph (f)(3) of this clause. Interest shall be computed at the end of each calendar month for the actual number of days involved. For the purpose of computing the interest charge, the following shall be observed:
- (i) Advance payments shall be considered as increasing the unliquidated balance as of the date of the advance payment check.
 - (ii) Repayments by Contractor check shall be considered as decreasing the unliquidated balance as of the date on which the check is received by the Government authority designated by the Contracting Officer.
 - (iii) Liquidations by deductions from payments to the Contractor shall be considered as decreasing the unliquidated balance as of the dates on which the Contractor presents to the Contracting Officer full and accurate data for the preparation of each voucher. Credits resulting from these deductions shall be made upon the approval of the reimbursement vouchers by the Disbursing Officer, based upon the Contracting Officer's certification of the applicable dates.

- (2) Interest charges resulting from the monthly computation shall be deducted from any payments on account of the fixed-fee due to the Contractor. If the accrued interest exceeds the payment due, any excess interest shall be carried forward and deducted from subsequent payments of the contract price or fixed-fee. Interest carried forward shall not be compounded. Interest on advance payments shall cease to accrue upon (i) satisfactory completion or (ii) termination of the contract for the convenience of the Government. The Contractor shall charge interest on advance payments to subcontractors in the manner described above and credit the interest to the Government. Interest need not be charged on advance payments to nonprofit educational or research subcontractors for experimental, developmental, or research work.
 - (3) If interest is required under the contract, the Contracting Officer shall determine a daily interest rate based on the higher of (i) the published prime rate of the financial institution (depository) in which the special account is established or (ii) the rate established by the Secretary of the Treasury under Pub. L. 92-41 (50 U.S.C. App. 1215(b)(2)). The Contracting Officer shall revise the daily interest rate during the contract period in keeping with any changes in the cited interest rates.
 - (4) If the full amount of interest charged under this paragraph has not been paid by deduction or otherwise upon completion or termination of this contract, the Contractor shall pay the remaining interest to the Government on demand.
- (g) *Financial institution agreement.* Before an advance payment is made under this contract, the Contractor shall transmit to the administering office, in the form prescribed by the administering office, an agreement in triplicate from the financial institution in which the special account is established, clearly setting forth the special character of the account and the responsibilities of the financial institution under the account. The Contractor shall select a financial institution that is a member bank of the Federal Reserve System, an "insured" bank within the meaning of the Federal Deposit Insurance Corporation Act (12 U.S.C. 1811), or a credit union insured by the National Credit Union Administration.
- (h) *Lien on special bank account.* The Government shall have a lien upon any balance in the special account paramount to all other liens. The Government lien shall secure the repayment of any advance payments made under this contract and any related interest charges.
- (i) Lien on property under contract.
- (1) All advance payments under this contract, together with interest charges, shall be secured, when made, by a lien in favor of the Government, paramount to all other liens, on the supplies or other things covered by this contract and on material and other property acquired for or allocated to the performance of this contract, except to the extent that the Government by virtue of any other terms of this contract, or otherwise, shall have valid title to the supplies, materials, or other property as against other creditors of the Contractor.
 - (2) The Contractor shall identify, by marking or segregation, all property that is subject to a lien in favor of the Government by virtue of any terms of this contract in such a way as to indicate that it is subject to a lien and that it has been acquired for or allocated to performing this contract. If, for any reason, the

supplies, materials, or other property are not identified by marking or segregation, the Government shall be considered to have a lien to the extent of the Government's interest under this contract on any mass of property with which the supplies, materials, or other property are commingled. The Contractor shall maintain adequate accounting control over the property on its books and records.

- (3) If, at any time during the progress of the work on the contract, it becomes necessary to deliver to a third person any items or materials on which the Government has a lien, the Contractor shall notify the third person of the lien and shall obtain from the third person a receipt in duplicate acknowledging the existence of the lien. The Contractor shall provide a copy of each receipt to the Contracting Officer.
 - (4) If, under the termination clause, the Contracting Officer authorizes the Contractor to sell or retain termination inventory, the approval shall constitute a release of the Government's lien to the extent that—
 - (i) The termination inventory is sold or retained; and
 - (ii) The sale proceeds or retention credits are applied to reduce any outstanding advance payments.
- (j) Insurance.
- (1) The Contractor shall maintain with responsible insurance carriers—
 - (i) Insurance on plant and equipment against fire and other hazards, to the extent that similar properties are usually insured by others operating plants and properties of similar character in the same general locality;
 - (ii) Adequate insurance against liability on account of damage to persons or property; and
 - (iii) Adequate insurance under all applicable workers' compensation laws.
 - (2) Until work under this contract has been completed and all advance payments made under the contract have been liquidated, the Contractor shall—
 - (i) Maintain this insurance;
 - (ii) Maintain adequate insurance on any materials, parts, assemblies, subassemblies, supplies, equipment, and other property acquired for or allocable to this contract and subject to the Government lien under paragraph (i) of this clause; and
 - (iii) Furnish any evidence with respect to its insurance that the administering office may require.
- (k) Default.

- (1) If any of the following events occurs, the Government may, by written notice to the Contractor, withhold further withdrawals from the special account and further payments on this contract:
 - (i) Termination of this contract for a fault of the Contractor.
 - (ii) A finding by the administering office that the Contractor has failed to—
 - (A) Observe any of the conditions of the advance payment terms;
 - (B) Comply with any material term of this contract;
 - (C) Make progress or maintain a financial condition adequate for performance of this contract;
 - (D) Limit inventory allocated to this contract to reasonable requirements; or
 - (E) Avoid delinquency in payment of taxes or of the costs of performing this contract in the ordinary course of business.
 - (iii) The appointment of a trustee, receiver, or liquidator for all or a substantial part of the Contractor's property, or the institution of proceedings by or against the Contractor for bankruptcy, reorganization, arrangement, or liquidation.
 - (iv) The service of any writ of attachment, levy of execution, or commencement of garnishment proceedings concerning the special account.
 - (v) The commission of an act of bankruptcy.
- (2) If any of the events described in paragraph (k)(1) of this clause continue for 30 days after the written notice to the Contractor, the Government may take any of the following additional actions:
 - (i) Withdraw by checks payable to the Treasurer of the United States, signed only by the countersigning agency, all or any part of the balance in the special account and apply the amounts to reduce outstanding advance payments and any other claims of the Government against the Contractor.
 - (ii) Charge interest, in the manner prescribed in paragraph (f) of this clause, on outstanding advance payments during the period of any event described in paragraph (k)(1) of this clause.
 - (iii) Demand immediate repayment by the Contractor of the unliquidated balance of advance payments.
 - (iv) Take possession of and, with or without advertisement, sell at public or private sale all or any part of the property on which the Government has a

lien under this contract and, after deducting any expenses incident to the sale, apply the net proceeds of the sale to reduce the unliquidated balance of advance payments or other Government claims against the Contractor.

- (3) The Government may take any of the actions described in paragraphs (k)(1) and (2) of this clause it considers appropriate at its discretion and without limiting any other rights of the Government.
- (l) *Prohibition against assignment.* Notwithstanding any other terms of this contract, the Contractor shall not assign this contract, any interest therein, or any claim under the contract to any party.
- (m) *Information and access to records.* The Contractor shall furnish to the administering office (1) monthly or at other intervals as required, signed or certified balance sheets and profit and loss statements together with a report on the operation of the special account in the form prescribed by the administering office; and (2) if requested, other information concerning the operation of the Contractor's business. The Contractor shall provide the authorized Government representatives proper facilities for inspection of the Contractor's books, records, and accounts.
- (n) *Other security.* The terms of this contract are considered to provide adequate security to the Government for advance payments; however, if the administering office considers the security inadequate, the Contractor shall furnish additional security satisfactory to the administering office, to the extent that the security is available.
- (o) *Representations.* The Contractor represents the following:
- (1) The balance sheet, the profit and loss statement, and any other supporting financial statements furnished to the administering office fairly reflect the financial condition of the Contractor at the date shown or the period covered, and there has been no subsequent materially adverse change in the financial condition of the Contractor.
 - (2) No litigation or proceedings are presently pending or threatened against the Contractor, except as shown in the financial statements.
 - (3) The Contractor has disclosed all contingent liabilities, except for liability resulting from the renegotiation of defense production contracts, in the financial statements furnished to the administering office.
 - (4) None of the terms in this clause conflict with the authority under which the Contractor is doing business or with the provision of any existing indenture or agreement of the Contractor.
 - (5) The Contractor has the power to enter into this contract and accept advance payments, and has taken all necessary action to authorize the acceptance under the terms of this contract.

- (6) The assets of the Contractor are not subject to any lien or encumbrance of any character except for current taxes not delinquent, and except as shown in the financial statements furnished by the Contractor. There is no current assignment of claims under any contract affected by these advance payment provisions.
 - (7) All information furnished by the Contractor to the administering office in connection with each request for advance payments is true and correct.
 - (8) These representations shall be continuing and shall be considered to have been repeated by the submission of each invoice for advance payments.
- (p) *Covenants.* To the extent the Government considers it necessary while any advance payments made under this contract remain outstanding, the Contractor, without the prior written consent of the administering office, shall not—
- (1) Mortgage, pledge, or otherwise encumber or allow to be encumbered, any of the assets of the Contractor now owned or subsequently acquired, or permit any preexisting mortgages, liens, or other encumbrances to remain on or attach to any assets of the Contractor which are allocated to performing this contract and with respect to which the Government has a lien under this contract;
 - (2) Sell, assign, transfer, or otherwise dispose of accounts receivable, notes, or claims for money due or to become due;
 - (3) Declare or pay any dividends, except dividends payable in stock of the corporation, or make any other distribution on account of any shares of its capital stock, or purchase, redeem, or otherwise acquire for value any of its stock, except as required by sinking fund or redemption arrangements reported to the administering office incident to the establishment of these advance payment provisions;
 - (4) Sell, convey, or lease all or a substantial part of its assets;
 - (5) Acquire for value the stock or other securities of any corporation, municipality, or governmental authority, except direct obligations of the United States;
 - (6) Make any advance or loan or incur any liability as guarantor, surety, or accommodation endorser for any party;
 - (7) Permit a writ of attachment or any similar process to be issued against its property without getting a release or bonding the property within 30 days after the entry of the writ of attachment or other process;
 - (8) Pay any remuneration in any form to its directors, officers, or key employees higher than rates provided in existing agreements of which notice has been given to the administering office; accrue excess remuneration without first obtaining an agreement subordinating it to all claims of the Government; or employ any person at a rate of compensation over the limitations established by FAR 31.205-6 and DEAR 970.3102-05-6 a year;

- (9) Change substantially the management, ownership, or control of the corporation;
- (10) Merge or consolidate with any other firm or corporation, change the type of business, or engage in any transaction outside the ordinary course of the Contractor's business as presently conducted;
- (11) Deposit any of its funds except in a bank or trust company insured by the Federal Deposit Insurance Corporation or a credit union insured by the National Credit Union Administration;
- (12) Create or incur indebtedness for advances, other than advances to be made under the terms of this contract, or for borrowings;
- (13) Make or covenant for capital expenditures exceeding \$0 in total;
- (14) Permit its net current assets, computed in accordance with generally accepted accounting principles, to become less than \$0; or
- (15) Make any payments on account of the obligations listed below, except in the manner and to the extent provided in this contract:

I.112 FAR 52.247-67, SUBMISSION OF COMMERCIAL TRANSPORTATION BILLS TO THE GENERAL SERVICES ADMINISTRATION FOR AUDIT (FEB 2006)

- (a) The Contractor shall submit to the address identified below, for prepayment audit, transportation documents on which the United States will assume freight charges that were paid—
 - (1) By the Contractor under a cost-reimbursement contract; and
 - (2) By a first-tier subcontractor under a cost-reimbursement subcontract thereunder.
- (b) Cost-reimbursement Contractors shall only submit for audit those bills of lading with freight shipment charges exceeding \$100. Bills under \$100 shall be retained on-site by the Contractor and made available for on-site audits. This exception only applies to freight shipment bills and is not intended to apply to bills and invoices for any other transportation services.
- (c) Contractors shall submit the above referenced transportation documents to—

General Services Administration
Attn: FWA
1800 F Street NW
Washington, DC 20405

I.118 FAR 52.252-6, AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984)

- (a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of “(DEVIATION)” after the date of the clause.
- (b) The use in this solicitation or contract of any Department of Energy Acquisition Regulation (48 CFR Chapter 9) clause with an authorized deviation is indicated by the addition of “(DEVIATION)” after the name of the regulation.