

<b>AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT</b>			1. CONTRACT ID CODE	PAGE 1 OF 46 PAGES
2. AMENDMENT/MODIFICATION NO. <b>A037</b>	3. EFFECTIVE DATE <b>See Block 16C</b>	4. REQUISITION/PURCHASE REQ. NO. <b>06-09RL14788.037 - 040</b>	5. PROJECT NO. (If applicable) <b>N/A</b>	
6. ISSUED BY <b>U.S. Department of Energy Richland Operations Office P. O. Box 550, MSIN A7-80 Richland, WA 99352</b>		7. ADMINISTERED BY (If other than Item 6) <b>Same as item 6.</b>		
8. NAME AND ADDRESS OF CONTRACTOR (No. Street, county, State and ZIP: Code) <b>CH2M Hill Plateau Remediation Company P.O. Box 1600 Richland, WA 99352-1600</b>			( <input checked="" type="checkbox"/> ) 9A. AMENDMENT OF SOLICITATION NO.	
			( ) 9B. DATED (SEE ITEM 11)	
			( <input checked="" type="checkbox"/> ) 10A. MODIFICATION OF CONTRACT/ORDER NO. <b>DE-AC06-08RL14788</b>	
			( ) 10B. DATED (SEE ITEM 13) <b>06/19/2008</b>	
CODE	FACILITY CODE			

**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 one (1) copy 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 ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATA 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 data specified.

**12. ACCOUNTING AND APPROPRIATION DATA (If required)**

See modification attachments

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

( <input checked="" type="checkbox"/> ) 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>X I.102 - FAR 52.243-2, Changes - Cost Reimbursement</b>
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:
<b>X D. OTHER Specify type of modification and authority B.14, DOE Authorization of Work</b>

E. IMPORTANT: Contractor  is not,  is required to sign this document and return N/A copies to the issuing office.

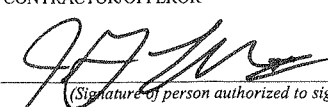
**14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)**

Change Order #15: In accordance with Clause 1.102, FAR 52.243-2, Changes - Cost Reimbursement, and by mutual agreement of the parties, this modification issues change order #15 revising the assignment of work by contract line item (CLIN) and making certain other changes to the contract terms associated with the requirements of the American Recovery and Reinvestment Act (ARRA or "Recovery Act").

In accordance with contract clause B.3, Obligation and Availability of Funds, as revised below, Recovery Act funds are hereby increased by \$1,063,500,000.00 from \$-0- to \$1,063,500,000.00 as shown on page 3. The detailed breakout of funding by accounting code is provided in the "Financial Plan Report - Detail" reports, included as an attachment to this modification.

Continued on Page 2.

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) <b>J.G. LEHWIN III, Pres. &amp; CEO</b>		16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) <b>Jenise C. Connerly</b>	
15B. CONTRACTOR/OFFEROR  (Signature of person authorized to sign)	15C. DATE SIGNED <b>4/9/09</b>	16B. UNITED STATES OF AMERICA BY <b>Jenise C Connerly</b> (Signature of Contracting Officer)	16C. DATE SIGNED <b>4/9/09</b>

The work, identified under the revision to Clause B.2, Item(s) Being Acquired, shall be performed using funds obligated under this contract appropriated under the American Recovery and Reinvestment Act of 2009, Pub. L. 1115 (Recovery Act) and as such is subject to special statutory conditions.

When this modification providing Recovery Act funds has been fully executed by the government, the contractor is authorized to incur costs not to exceed an aggregate total of \$319,050,000 and it may not exceed the individual thresholds identified by the Work Breakdown Structure (WBS) as shown below, consistent with the other contract terms and conditions and pending definitization of this change. Table B.4-1, Contract Cost and Contract Fee, and the assignment of specific WBS activities to Contract Line Items, contained in Section J, Attachment J.11, Supplemental Work Description Tables, will be revised through the definitization of this change in accordance with clauses provided in this modification.

The following changes are hereby made to the contract:

**1. B.2 Item(s) Being Acquired, paragraph (d) is added, as follows:**

(d) 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. This work is identified by activities to be performed under the following WBS elements:

**WBS 011, Nuclear Material Stabilization and Disposition PFP:**

- Disposition glove boxes, laboratory hoods, pencil tanks from facilities
- Prepare facilities for demolition
- Cost not to exceed \$76,050,000.00

**WBS 013, Solid Waste Stabilization and Disposition:**

- Continue retrieving and re-packaging contact handled Transuranic (TRU) waste
- Initiate retrieval and disposition of remote-handled TRU waste (including large package waste)
- Continue building backlog of waste for shipments to the Waste Isolation Pilot Plant
- Continue treatment of current backlog of legacy mixed, low-level waste
- Complete activities required to support disposition and deliver plutonium 238 drums to shipper
- 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
- Support increased disposal capabilities at the Environmental Restoration Disposal Facility and Integrated Disposal Facility
- Cost not to exceed \$54,900,000.00

**WBS 030, Soil and Groundwater Remediation, Groundwater/Vadose Zone:**

- Accelerate construction of the pump and treat facility, expand current pump and treat operations, and install additional wells in the 100 D/H Areas

- Accelerate construction of the pump and treat system for groundwater contaminants in both 200 West Area operable units
- Accelerate completion of remedial investigations, treatability tests, cleanup decisions, and groundwater well decommissioning in the Central Plateau Area
- Groundwater remediation and well drilling to support overall reduction of active clean-up of the Hanford Site
- Cost not to exceed \$47,100,000.00

**WBS 040, Nuclear Facility D&D - Remainder of Hanford:**

- 200 North Area:
  - Demolish spent fuel transfer storage facilities
  - Remediate waste sites
  - Dispose of locomotive and rail cars
- Complete cleanup of B/C Control Area
- Initiate remediation of other waste sites in the Central Plateau
- U Plant Zone:
  - Demolish 5 remaining ancillary facilities
  - Disposition Cell 30 tank contents
  - Clear canyon deck and grout-fill cells
- Complete demolition of up to 15 facilities in the Central Plateau Inner Zone
- Prepare and submit a study of utilization of a landfill for non-hazardous waste debris. Construct the landfill if directed by DOE.
- Complete demolition of DOE facilities and clean-up debris areas on the Arid Lands Ecology Reserve
- Cost not to exceed \$77,100,000.00

**WBS 041, Nuclear Facility D&D – River Corridor:**

- 100 K Area:
  - Remediate waste sites along the river in the 100 K Area
  - Accelerate D&D of 100 K ancillary facilities
  - Accelerate 100 K waste site remediation
  - Accelerate KE and KW Reactor disposition
- Cost not to exceed \$63,900,000.00

**2. B.3, Obligation and Availability of Funds, is modified to add the following paragraph after paragraph (a):**

Pursuant to the clause in Section I, entitled “Limitation of Funds,” total funds in the amount of **\$1,063,500,000.00** 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 this modification through the period of performance for the Recovery Act work, contained in Section F.

**3. B.4, Contract Cost and Contract Fee, is modified to add paragraph (j) as follows:**

- (j) No fee shall be paid to the contractor for Recovery Act work, including provisional fee, prior to definitization.

**4. Section C, Statement of Work, is modified as follows:**

Section C.5, Summary of Contract Deliverables, Table C.5, is modified as follows:

Deliverable C.3.1.2.2-1, Initial Performance Measurement Baseline, is changed from "April 30, 2009" to "June 1, 2009."

**5. Section E, Clause E.1, DOE Inspection and Acceptance, is modified as follows:**

Paragraph E.1 (f) is added, which is applicable only to the Recovery Act work:

- (f) Certification -

In order for the Contracting Officer to accept any products or services funded by the Recovery Act, the Contractor shall certify that the items were delivered and/or work was performed for a purpose authorized under the Recovery Act.

**6. Section F, Clause F.1, Period of Performance is modified as follows:**

Paragraph F.1, (d) is added as follows:

- (d) The period of performance for the Recovery Act work specified in Section B shall be for the period of performance beginning on the effective date of modification A037, as specified on the Standard Form 30, block 3, through September 30, 2011.

**7. Section G, Clause G.1, Contract Administration, is modified as follows:**

Paragraph G.1 (d) is added as follows:

- (d) The following procedure will apply to draw downs against the Special Financial Account Agreement, included in Section J, Attachment J.9 in accordance with clause H. 23, Payments and Advances, for Recovery Act work specified in Section B:

The contractor may draw-down costs through the "Special Financial Account Agreement" included in Section J, Attachment J.9 in accordance with clause H. 23, Payments and Advances for both Recovery Act work and other work in the same draw-down. However, the contractor shall separately identify costs in its draw-down that pertain to the Recovery Act work. Recovery Act costs shall also be segregated in the draw-down so as to identify those costs associated with each applicable appropriation at the Program and Project level of the following accounting and appropriations data:

**Appropriation**    **Appropriation Title**  
**89-09/10-0253**    **Defense Environmental Cleanup,  
 Recovery Act**

Fund Code	Fiscal Year	Legacy Program Value	Program Value	Legacy Program value Description	Project Code	Legacy Project Code	Program Parent
06049	2009	FD0210110	1111328	Plutonium Finishing Plant (PFP)	2002140	Richland - Hanford Site - Accelerate TRU waste retrieval, and cleanup of surplus nuclear facilities, soil and groundwater	C002678
06049	2009	FD0210120	1111329	Central Plateau	2002140	Richland - Hanford Site - Accelerate TRU waste retrieval, and cleanup of surplus nuclear facilities, soil and groundwater	C002678
06049	2009	FD0211110	1111330	River Corridor - K-Area	2002111	Richland - Hanford Site - Accelerate TRU waste retrieval, and cleanup of surplus nuclear facilities, soil and groundwater	C002679
06049	2009	FD0220000	1111332	Soil and Groundwater - RL-1000	2002141	Richland - Hanford Site - Accelerate TRU waste retrieval, and cleanup of surplus nuclear facilities, soil and groundwater	C002674
06049	2009	FD0230000	1111334	Tru and Solid Waste - RL-1000	2002142	Richland - Hanford Site - Accelerate TRU waste retrieval, and cleanup of surplus nuclear facilities, soil and groundwater	C002676

The contractor shall certify in each monthly submittal of its cost summary file that the costs included in the summary file for Recovery Act work were incurred only to accomplish the Recovery Act work in accordance with Section B. Other existing provisions applicable to draw-down procedures are applicable to Recovery Act draw-downs.

**8. Section H, Special Contract Requirements is amended as follows:**

A. The following clause is added (*from Policy Flash 2009-32*):

**H.45, SPECIAL PROVISIONS RELATING TO WORK FUNDED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (Feb 2009)**

Preamble:

Work performed under this contract will be funded, in whole or in part, with funds appropriated by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, (Recovery Act or Act). The Recovery Act's purposes are to stimulate the economy and to create and retain jobs. The Act gives preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds made available by it for activities that can be initiated not later than June 17, 2009.

Contractors should begin planning activities for their first tier subcontractors, including obtaining a DUNS number (or updating the existing DUNS record), and registering with the Central Contractor Registration (CCR).

Be advised that Recovery Act funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of the Recovery Act and related Guidance. For projects funded by sources other than the Recovery Act, Contractors should plan to keep separate records for Recovery Act funds and to ensure those records comply with the requirements of the Act.

The Government has not fully developed the implementing instructions of the Recovery Act, particularly concerning the how and where for the new reporting requirements. The Contractor will be provided these details as they become available. The Contractor must comply with all requirements of the Act. If the contractor believes there is any inconsistency between Recovery Act requirements and current contract requirements, the issues will be referred to the Contracting Officer for reconciliation.

Be advised that special provisions may apply to projects funded by the Act relating to:

- Reporting, tracking and segregation of incurred costs;
- Reporting on job creation and preservation;
- Publication of information on the Internet;
- Protecting whistleblowers; and
- Requiring prompt referral of evidence of a false claim to the Inspector General.

#### Definitions:

For purposes of this clause, "Covered Funds" means funds expended or obligated from appropriations under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5. Covered Funds will have special accounting codes and will be identified as Recovery Act funds in the contract and/or modification using Recovery Act funds. Covered Funds must be reimbursed by September 30, 2015.

Non-Federal employer means any employer with respect to Covered Funds – the contractor or subcontractor, as the case may be, if the contractor or subcontractor is an employer; and any professional membership organization, certification of other professional body, any agent or licensee of the Federal government, or any person acting directly or indirectly in the interest of an employer receiving Covered Funds; or with respect to Covered Funds received by a State or local government, the State or local government receiving the funds and any contractor or subcontractor receiving the funds and any contractor or subcontractor of the State or local government; and does not mean any department, agency, or other entity of the federal government.

#### (a) Flow Down Provision

This clause must be included in every first-tier subcontract. The contractor shall also flow down requirements to any site service provider required to provide services to support Recovery Act work through appropriate controlling agreements, as described in clause H.42, Hanford Site Services and Interface Requirements Matrix.

(b) Segregation and Payment of Costs

Contractor must segregate the obligations and expenditures related to funding under the Recovery Act. Financial and accounting systems should be revised as necessary to segregate, track and maintain these funds apart and separate from other revenue streams. No part of the funds from the Recovery Act shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for Recovery Act projects. Where Recovery Act funds are authorized to be used in conjunction with other funding to complete projects, tracking and reporting must be separate from the original funding source to meet the reporting requirements of the Recovery Act and OMB Guidance. In accordance with clause G.1, Contract Administration, paragraph (d), draw downs on the Special Financial Institution Account shall clearly indicate work funded by the Recovery Act.

(c) Prohibition on Use of Funds

None of the funds provided under this agreement derived from the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may be for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

(d) Wage Rates

All laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan numbered 14 of 1950 (64 Stat. 1267, 5 U.S.C. App.) and section 3145 of title 40 United States Code. See <http://www.dol.gov/esa/whd/contracts/dbra.htm>.

(e) Publication

Information about this agreement will be published on the Internet and linked to the website [www.recovery.gov](http://www.recovery.gov), maintained by the Accountability and Transparency Board (the Board). The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security or to protect information that is not subject to disclosure under sections 552 and 552a of title 5, United States Code.

(f) Registration requirements

Contractor shall ensure that all first-tier subcontractors, as required in accordance with the Section I clause entitled FAR 52.204-11, American Recovery and Reinvestment Act – Reporting Requirements (MAR 2009), have a DUNS number and are registered in the Central Contractor Registration (CCR) no later than the date the first report is due under the clause.

(g) Utilization of Small Business

Contractor shall to the maximum extent practicable give a preference to small business in the award of subcontracts for projects funded by Recovery Act dollars.

B. The following clause is hereby added:

**H.46 MODIFICATION DEFINITIZATION**

(a) The Contractor agrees to begin promptly negotiating with the Contracting Officer the terms of a definitive modification for the Recovery Act work directed under this modification. The Contractor agrees to submit a technical, cost, and fee proposal in accordance with the instructions contained in section 11 of this modification.

(b) The schedule for definitizing this modification is as follows:

<u>Action</u>	<u>Date*</u>
<b>Contractor submits technical, cost, and fee Proposal</b>	<b>60 days</b>
<b>Commence negotiations</b>	<b>140 days</b>
<b>Mutual agreement on definitization of Recovery Act work</b>	<b>160 days</b>
<b>Contractor submits certificate of current cost or pricing data</b>	<b>160 days</b>
<b>Execute definitization contract modification</b>	<b>180 days</b>

*\*Date is specified as the number of calendar days after the contractor has authorization to proceed, which occurs after government execution of this modification.*

(c) If agreement on a definitive modification is not reached by the target date in paragraph (b) of this section, or within any extension of it granted by the Contracting Officer, the Contracting Officer may, with the approval of the head of the contracting activity, determine a reasonable price or fee in accordance with [Subpart 15.4](#) and [Part 31](#) of the FAR, subject to Contractor appeal as provided in the Disputes clause. In any event, the Contractor shall proceed with completion of the contract, subject only to the clause in section I, entitled "Limitation of Government Liability," added by this modification.

(1) After the Contracting Officer's determination of price or fee, the contract shall be governed by—

(i) All clauses required by the FAR on the date of execution of this modification for either fixed-price or cost-reimbursement contracts, as determined by the Contracting Officer under this paragraph (c);



- (ii) All clauses required by law as of the date of the Contracting Officer's determination; and
  - (iii) Any other clauses, terms, and conditions mutually agreed upon.
- (2) To the extent consistent with paragraph (c)(1) of this section, all clauses, terms, and conditions included in this contract shall continue in effect, except those that by their nature apply only to the undefinitized modification.

C. The following clause is added as follows:

#### **H.47 BASELINE AND REPORTING REQUIREMENTS FOR WORK PERFORMED UNDER THE RECOVERY ACT**

This clause defines the unique requirements for the contractor's project management baseline and associated reporting requirements to address the modified contract performance requirements as implemented in Section B to be performed and funded under the provisions of the American Recovery and Reinvestment Act of 2009 (Recovery Act).

##### **Baseline Requirements**

- (a) For purposes of this clause the "pre-definitized period" is defined as that timeframe from the date of execution of modification number A037 directing the contractor to begin the Recovery Act work until the work is definitized in accordance with the clause in Section H entitled "Modification Definitization." All requirements for plans and deliverables during the pre-definitized period shall be based on the definitization time period estimated in the "Modification Definitization" clause.
- (b) During the pre-definitized period, the contractor shall develop and deliver to the Contracting Officer the following:
  - (1) Within 30 days after execution of modification no. A037, the contractor shall provide a work plan for performance of that portion of the work specified in Section B expected to be performed during the 180-day period after execution of modification no. A037. This plan shall include the following:
    - (i) Product-oriented Work Breakdown Structure (WBS) and WBS dictionary in alignment with the statement of work, as modified for the Recovery Act work, to include performance of Recovery Act work totally within distinctly defined, separately tracked and uniquely managed WBS elements;
    - (ii) Monthly spend plan consistent with the statement of work, completely segregating the non-Recovery Act work from the Recovery Act funded portions of the statement of work;
    - (iii) Crosswalk of statement of work WBS elements and associated planned milestones, metrics, and estimated costs (at the 80% confidence level), at the Activity Building Block (ABB) level, between the current base program/project Near-Term Baseline (NTB) and/or Out-year Planning Estimate Range (OPER) and the Recovery Act work;

- (iv) Milestone list including, but not limited to, major hiring actions that create newly “created” or “retained” jobs by the contractor or first tier subcontractors in accordance with the clause in Section H, entitled “Special provisions relating to work funded under American Recovery and Reinvestment Act of 2009, key starts and completions, enforceable regulatory dates, approval of key regulatory decisions, project critical decisions, delivery of critical Government Furnished Services and Items; and
  - (v) Planned quarterly summary of jobs “created” or “retained” by the contractor and first tier subcontractors as defined in the Section H clause entitled “Special provisions relating to work funded under the American Recovery and Reinvestment Act of 2009.”
- (2) Within 120 days after execution of modification no. A037, the contractor shall propose a Performance Baseline for the complete work specified in Section B. This baseline shall use control accounts that will be made up of work packages. The WBS elements at the lowest level should roll up within the WBS structure and clearly identify the entire work to be performed. The WBS shall clearly distinguish all non-Recovery Act work from all Recovery Act work. The proposed Performance Baseline shall include the following:
- (i) The contractor shall propose a performance baseline, at a high confidence level, for the work to be performed, including the pre-definitized period and the post-definitized period. This baseline shall be based upon the work and schedule included in modification no. A037 and the contractor’s cost proposal. A month-by-month baseline or budgeted cost of work scheduled (BCWS)/planned value (PV) must be developed for the complete Recovery Act work. This will be the original baseline for Recovery Act work and shall include all of the work by WBS, including both the pre- and post- definitized periods, and the contractor’s defined management reserve. The sum of these three items (estimated cost for the pre-definitized period, estimated cost for the post-definitized period, and the management reserve) shall equal the contractor’s proposed estimated cost for the Recovery Act work. This performance baseline is subject to independent project review and certification before approval by the government.
  - (ii) A network logic schedule utilizing Primavera will be developed at the activity level for each control account which includes milestones. The schedule must be resource loaded and coded to allow summarization of lower level activities through the control account for the complete Recovery Act work.
  - (iii) The proposed Performance Baseline shall also include the planned quarterly summary of jobs “created” or “retained” by the contractor and first tier subcontractors as defined in the Section H clause entitled “Special provisions relating to work funded under American Recovery and Reinvestment Act of 2009.”

Deliverables supporting the Recovery Act performance baseline shall include all deliverables required under existing contract requirements, those Recovery Act deliverable and reporting requirements specified in the section H clause entitled "Special provisions relating to work funded under American Recovery and Reinvestment Act of 2009." For all common deliverables, the data shall be clearly segregated and distinguished between non-Recovery Act work and Recovery Act work, as well as summing to complete contract totals.

These documents shall be submitted to the Contracting Officer to support DOE review and baseline approval. The Contracting Officer may identify other documents as needed to support project reviews and audits.

- (3) The contractor shall support resolution of IPR or External Independent Review (EIR) corrective actions for the performance baseline submitted.
- (c) During the pre-definitized period, the contractor shall determine the budgeted cost of work scheduled (BCWS)/earned value (EV) for budgeted cost for work performed (BCWP)/planned value (PV) on a monthly basis utilizing measurable units associated with each activity in the schedule (e.g., square foot reduction, number of TRU shipments, foot print reduction, etc.), as appropriate, that will allow the reporting of the contractor's progress in accordance with the reporting requirements specified in the clause in Section H entitled "Special provisions relating to work funded under American Recovery and Reinvestment Act." The associated actual cost of work performed (ACWP)/actual cost (AC), cost and schedule variances and performance indices, and variance analyses shall be reported monthly. Performance against the Recovery Act performance baseline shall be tracked separately from other work under the contract funded by other appropriations.
- (d) Upon negotiation of the definitive modification to the contract, the performance baseline documentation submitted in accordance with paragraph b.2 above shall be revised by the contractor to reconcile cost estimates and WBS elements, if necessary, consistent with the definitive modification.

#### Reporting Requirements

- (e) Within 30 days of definitization of the Recovery Act work, the contractor shall begin reporting against the established performance baseline in accordance with the reporting requirements specified under existing contract requirements, those reporting requirements specified in the section H. clause entitled "Special provisions relating to work funded under American Recovery and Reinvestment Act of 2009, *and those Recovery Act-unique deliverables listed below.* Performance against the Recovery Act work shall be tracked and reported separately from other work under the contract funded by other appropriations.
- (f) These reports shall be provided to the Contracting Officer on a monthly basis.
  - (1) *Contract Performance Report (Refer to OMB No. 0704-0188 or DD FORM 2734/1, MAR 05) :Format 1 - Work Breakdown Structure, Format 3 - Baseline, and Format 5 - Explanations and Problem Analyses.*

- (2) *A Milestone report from Primavera reflecting status of all milestones being reported with columns for the scope, original planned date, current planned date, and the actual date the milestone was completed.*
- (3) *A funds management report by Budgeting & Reporting (B&R) codes that identifies the amount of funds obligated to the contract and the amount of funds obligated to the contractor, and committed and expended by the contractor.*

**9. Section I, Contract Clauses is amended as follows:**

The following clauses are added:

- A. This clause shall apply only to the Recovery Act work specified in Section B.

**52.216-24 LIMITATION OF GOVERNMENT LIABILITY**

- (a) In performing this contract, the Contractor is not authorized to make expenditures or incur obligations exceeding 30% of the Recovery Act funds obligated in Clause B.3, Obligation and Availability of Funds.
- (b) The maximum amount for which the Government shall be liable if this contract is terminated is 30% of the Recovery Act funds obligated in Clause B.3, Obligation and Availability of Funds.

**B. 52.243-6, CHANGE ORDER ACCOUNTING (APR 1984)**

The Contracting Officer may require change order accounting whenever the estimated cost of a change or series of related changes exceeds \$100,000. The Contractor, for each change or series of related changes, shall maintain separate accounts, by job order or other suitable accounting procedure, of all incurred segregable, direct costs (less allocable credits) of work, both changed and not changed, allocable to the change. The Contractor shall maintain such accounts until the parties agree to an equitable adjustment for the changes ordered by the Contracting Officer or the matter is conclusively disposed of in accordance with the Disputes clause.

**C. 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.

**D. 52.204-11 AMERICAN RECOVERY AND REINVESTMENT ACT – REPORTING REQUIREMENTS (MAR 2009)**

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

*“Contract,”* as defined in FAR 2.101, means a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate the Government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to) awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by 31 U.S.C. 6301, *et seq.* For discussion of various types of contracts, see FAR Part 16.

*“First-tier subcontract”* means a subcontract awarded directly by a Federal Government prime contractor whose contract is funded by the Recovery Act.

*“Jobs created”* means an estimate of those new positions created and filled, or previously existing unfilled positions that are filled, as a result of funding by the American Recovery and Reinvestment Act of 2009 (Recovery Act). This definition covers only prime contractor positions established in the United States and outlying areas (see definition in FAR 2.101). The number shall be expressed as “full-time equivalent” (FTE), calculated cumulatively as all hours worked divided by the total number of hours in a full-time schedule, as defined by the contractor. For instance, two full-time employees and one part-time employee working half days would be reported as 2.5 FTE in each calendar quarter.

*“Jobs retained”* means an estimate of those previously existing filled positions that are retained as a result of funding by the American Recovery and Reinvestment Act of 2009 (Recovery Act). This definition covers only prime contractor positions established in the United States and outlying areas (see definition in FAR 2.101). The number shall be expressed as “full-time equivalent” (FTE), calculated cumulatively as all hours worked divided by the total number of hours in a full-time schedule, as defined by the contractor. For instance, two full-time employees and one part-time employee working half days would be reported as 2.5 FTE in each calendar quarter.

*“Total compensation”* means the cash and noncash dollar value earned by the executive during the contractor’s past fiscal year of the following (for more information see 17 CFR 229.402(c)(2)):

- (1) Salary and bonus.
- (2) Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
- (3) Earnings for services under non-equity incentive plans. Does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
- (4) Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

- (5) Above-market earnings on deferred compensation which is not tax-qualified.
  - (6) Other compensation. For example, severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property if the value for the executive exceeds \$10,000.
- (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 contractors for all work funded, in whole or in part, by the Recovery Act, and for which an invoice is submitted prior to June 30, 2009, are due no later than July 10, 2009. Thereafter, reports shall be submitted no later than the 10th day after the end of each calendar quarter.
  - (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 only address the impact on the contractor's workforce. 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, in the United States and outlying areas. A job cannot be reported as both created and retained.
- (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 over \$25,000 and not subject to reporting under paragraph 9, the contractor shall require the subcontractor to provide the information described in (i), (ix), (x), and (xi) below 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.

**E. 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*—
- (1) The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the Contractor's directly pertinent records involving transactions related to this contract or a subcontract hereunder and to interview any current 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) The Contractor shall insert a clause containing all the terms of this clause, including this paragraph (g), in all subcontracts under this contract that exceed the simplified acquisition threshold, and --
- (1) That are cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these;
  - (2) For which cost or pricing data are required; or
  - (3) That require the subcontractor to furnish reports as discussed in paragraph (e) of this clause.

The clause may be altered only as necessary to identify properly the contracting parties and the Contracting Officer under the Government prime contract.

(End of Clause)

*Alternate I (Mar 2009).* As prescribed in [15.209](#) (b)(2), substitute the following paragraphs (d)(1) and (g) for paragraphs (d)(1) and (g) of the basic clause:

- (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.
- (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.

**F. 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:

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*[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.]

(End of clause)

*Alternate I (MAR 2009).* As prescribed in [25.1102](#) (e), add the following definition of "Bahrainian, Mexican, or Omani construction material" to paragraph (a) of the basic clause, and substitute the following paragraphs (b)(1) and (b)(2) for paragraphs (b)(1) and (b)(2) of the basic clause:

"Bahrainian, Mexican, or Omani construction material" means a construction material that—

- (1) Is wholly the growth, product, or manufacture of Bahrain, Mexico, or Oman; 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 Bahrain, Mexico, or Oman 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 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 providing a preference for unmanufactured domestic construction material.
- (2) The Contractor shall use only domestic or Recovery Act designated country construction material other than Bahrainian, Mexican, or Omani construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.

**G. 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.

(End of provision)

*Alternate I (MAR 2009).* As prescribed in 25. [25.1102](#)(e), substitute the following paragraph (b) for paragraph (b) of the basic provision:

- (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 shall submit the request with its offer, including the information and applicable supporting data required by paragraphs (c) and (d) of FAR clause 52.225-23.

*Alternate II (MAR 2009).* As prescribed in [25.1102](#)(e), add the definition of “Bahrainian, Mexican, or Omani construction material” to paragraph (a) and substitute the following paragraph (d) for paragraph (d) of the basic provision:

(d) Alternate offers.

- (1) When an offer includes foreign construction material, except foreign construction material from a Recovery Act designated country other than Bahrain, Mexico, or Oman 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 other than Bahrainian, Mexican, or Omani 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 other than Bahrainian, Mexican, or Omani 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.

**H. 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.]

(End of clause)

*Alternate I (MAR 2009).* As prescribed in [25.1102](#) (e), add the following definition of “Bahrainian, Mexican, or Omani construction material” to paragraph (a) of the basic clause, and substitute the following paragraphs (b)(1) and (b)(2) for paragraphs (b)(1) and (b)(2) of the basic clause:

“*Bahrainian, Mexican, or Omani construction material*” means a construction material that—

(1) Is wholly the growth, product, or manufacture of Bahrain, Mexico, or Oman; 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 Bahrain, Mexico, or Oman 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 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 providing a preference for unmanufactured domestic construction material.

(2) The Contractor shall use only domestic or Recovery Act designated country construction material other than Bahrainian, Mexican, or Omani construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.

**I. 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.

(End of provision)

*Alternate I (MAR 2009).* As prescribed in 25. [25.1102\(e\)](#), substitute the following paragraph (b) for paragraph (b) of the basic provision:

(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 shall submit the request with its

offer, including the information and applicable supporting data required by paragraphs (c) and (d) of FAR clause 52.225-23.

*Alternate II (MAR 2009).* As prescribed in [25.1102](#)(e), add the definition of “Bahrainian, Mexican, or Omani construction material” to paragraph (a) and substitute the following paragraph (d) for paragraph (d) of the basic provision:

(d) Alternate offers.

(1) When an offer includes foreign construction material, except foreign construction material from a Recovery Act designated country other than Bahrain, Mexico, or Oman 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 other than Bahrainian, Mexican, or Omani 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 other than Bahrainian, Mexican, or Omani 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.

#### **10. Section J, List of Attachments is amended as follows:**

There are certain attachments to the contract that will need to be updated as a result of the addition of the Recovery Act work to the contract. These will be addressed during the definitization period in accordance with the applicable provisions of the contract, e.g., (*Performance Evaluation Measurement Plan (PEMP), Small Business Subcontracting Plan, etc. For example, the fee incentives for the Recovery Act work must be separately identified, with associated available fee, in a modification to the PEMP, a separate PEMP created solely for the Recovery Act work, or other method depending on the type of fee under the contract.*) The Section J, Attachment J.11, Supplemental Work Description Tables, entitled Contract Line Item Number (CLIN) Assignment Against Contract Structure, will be updated to reflect the change in CLIN assignment of the activities identified, above in Section B, that will be funded by Recovery Act.

#### **11. Proposal Preparation Instructions**

The contractor’s technical, cost, and fee proposal shall be prepared in accordance with Attachment 1 to this modification.



Attachment 1  
 Modification M037

PROPOSAL PREPARATION INSTRUCTIONS

**1. INTRODUCTION**

This document contains instructions to the contractor for the preparation of a proposal in response to the modification of the contract which defines work that will be funded by and performed under the provisions of the American Recovery and Reinvestment Act (Recovery Act).

The contractor shall provide a written proposal consisting of a Technical Proposal and a Cost and Fee Proposal. The Technical Proposal shall contain the contractor’s approach to perform the work, and the Cost and Fee Proposal shall contain the estimated cost of performing the work and any associated fee. The contractor shall assure that there is consistency between the Technical Proposal and the Cost and Fee Proposal.

**2. PREPARATION INSTRUCTIONS – GENERAL INFORMATION**

The contractor shall submit written proposal information in the format as outlined in Table 1.

Table 1

<b>Proposal Instructions</b>	
Number of Copies	<ul style="list-style-type: none"> <li>• Technical Proposal – 5 hard copies and 5 electronic copies.</li> <li>• Cost and Fee Proposal – 5 hard copies and 5 electronic copies.</li> <li>• Both portions of the proposal shall contain a table of contents.</li> </ul>
Paper Size	<ul style="list-style-type: none"> <li>• 8 1/2" x 11" paper, shall be printed double-sided on paper that meets requirements for recycled content.</li> <li>• Fold-outs shall not exceed 11" x 17" and shall be printed single-sided on paper that meets requirements for recycled content.</li> </ul>
Print Type	<ul style="list-style-type: none"> <li>• Print type (Font size) used in the text portions of the proposal shall be no smaller than 12 point font.</li> <li>• Print type used in completing any forms attached to this document as Microsoft® (MS) Word®, Access®, or Excel® documents should not be changed from the styles used in the attachments.</li> <li>• Print type used in charts, graphics, figures and tables may be smaller than 12 point Font, but must be clearly legible.</li> </ul>
Page Margins	Page margins shall be 1-inch on the top, bottom, left, and right sides of the page, exclusive of headers and footers.
Page Numbering	All pages, including forms, tables, and exhibits, shall be appropriately numbered and identified with the name of the contractor.
CD-ROM or DVD	CD-ROMs or DVDs shall be clearly labeled with the contract number.

Requirements	Files submitted shall be readable using Microsoft® (MS) Word®, Access®, or Excel® (Version 2003), and the proposal schedule shall be submitted as a Primavera P6 Version 5.x, "XER" file type.
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### 3. PREPARATION INSTRUCTIONS - COVER LETTER

The cover letter shall include, but not be limited to, the following:

- (a) The contract and modification number.
- (b) The name, address, telephone numbers, facsimile numbers, and electronic addresses of the contractor's representative(s) responsible for providing additional information, as required, on the Technical Proposal and the Cost and Fee Proposal.
- (c) The name and contact information of the contractor's representative(s) with the authority to negotiate the definitization of this modification with the Contracting Officer.
- (d) Identification of any proposed changes to the statement of work or other terms included in this modification that the contractor believes would be in the best interest of the Government in meeting the objectives of the Recovery Act.
- (e) A statement that the contractor will cooperate fully and expeditiously in providing access to proposal information that may be necessary to be reviewed by representatives of DOE, e.g. Defense Contract Audit Agency (DCAA), for the purpose of definitizing this modification.
- (f) CERTIFICATIONS - TBD

### 4. PREPARATION INSTRUCTIONS - TECHNICAL PROPOSAL

The Technical Proposal shall be organized in accordance with the WBS as shown in Section C. Statement of Work and shall include the following:

- (a) Description of the proposed strategy and technical approach (including any innovations) to implement the requirements of the Recovery Act work.
- (b) Description of the specific detailed approach to the management, execution and sequencing of the work for the major Work Breakdown Structure (WBS) elements identified in the Section C. Statement of Work. This description shall include the following:
  - (i) A description of the work that will be performed by the contractor and the work that will be performed by subcontractors;
  - (ii) The supporting rationale for the division of work between the contractor and subcontractors, including considerations related to efficiency of performance, cost, the need to hire additional staff, etc;
  - (iii) The extent of utilization of small business subcontractors; and
  - (iv) The extent of utilization of fixed-price subcontracting.

- (c) Identification of the risks and impacts to the proposed approach, rationale for the identified risks and impacts, and the contractor's approach to eliminate, avoid and/or mitigate the risks throughout performance of the Recovery Act work.
- (d) Integrated critical path method schedule, through completion, for the activities defined in the WBS.
- (e) Description of the contractor's approach to achieve regulatory approval, as required, for the proposed execution of the Recovery Act work and how the regulatory approach will be integrated with project management and execution.
- (f) Identification of the project staffing throughout the performance of the Recovery Act work. This should include the estimated staffing for both the contractor's employees and existing or proposed subcontractor employees (assure this is consistent with the man hours identified in the cost proposal).
- (g) Description of existing and/or any new methods or processes that the contractor will use in the oversight and control of the Recovery Act work to help assure the following:
  - (i) The work is performed in accordance with the statement of work requirements;
  - (ii) The performance schedule and milestones are accomplished;
  - (iii) The deliverables are completed; and
  - (iv) The performance outcomes and measures are attained.
- (h) Estimate of contractor's and first tier subcontractors' jobs that will be "created" or "retained" as a result of the performance of the Recovery Act work. The definitions for "created" and "retained" are based on the requirements of the clause added by this modification in Section H, entitled "Special provisions relating to work funded under American Recovery and Reinvestment Act of 2009." This estimate should be by fiscal year.

## 5. PREPARATION INSTRUCTIONS – COST AND FEE PROPOSAL

The Cost and Fee Proposal shall be prepared in accordance with the following instructions:

- (a) FAR 15 - The contractor shall prepare its cost proposal in accordance with Table 15-2, of Part 15 of the Federal Acquisition Regulation (FAR).
- (b) WBS - Costs shall be proposed consistent with and at the lowest level of the WBS described in the contract solicitation attachment L.4, Work Breakdown Structure/Cost Data and the WBS activities identified in Section J, Attachment J.11, Supplemental Work Description Tables, consistent with the Technical Proposal.

- (c) Formats - Formats contained in the appendices to this document shall be used for the submission of the estimated costs as follows:

Appendix 1 – Cost by WBS (Schedules A-C)  
Appendix 2 – Labor – Consolidated Summary  
Appendix 3 – Material, Equipment, Subcontracts, and Other Direct Costs -  
Consolidated Summaries (Schedules A-D)  
Appendix 4 – Waste Quantities and Cost – Consolidated Summary

The contractor should assure consistency and traceability between these various appendices, schedules, and supporting information. If multiple Recovery Act funding sources are identified, the contractor shall identify the estimated costs for each work activity by the appropriate funding source.

- (d) Appendix 2 - Appendix 2 is to be used to provide a direct labor summary (labor category, labor rate, and labor hours) on both a cumulative total and fiscal year basis. This should show the hours for the contractor, subcontractor, LLC members, and any other direct labor hours. The summary shall include labor rate build-up, by category, as provided in the contract proposal via the Labor Rate Calculation Table.
- (e) Appendix 3 - Appendix 3 is to be used to provide, in total and by fiscal year, materials (Schedule A), equipment (Schedule B), subcontracts (Schedule C, subcontracts are to be individually listed), and other direct costs (Schedule D). Additional schedules should be included as appropriate to address elements of cost which are not included in Schedules A-D.
- (f) Appendix 4 - Appendix 4 is to be used to provide a separate summary table of waste quantities by waste type in cubic feet by fiscal year by WBS. The contractor shall provide the summary of waste quantities, at a minimum, to a level equal to the WBS. This waste summary shall be supplemented by additional tables that include all costs associated with waste disposition including treatment, transportation and disposal for each waste type by fiscal year. Separate detailed computations shall be provided for treatment, transportation, and disposal cost by WBS. The basis of estimate associated with information provided in the waste summary table (including the additional tables) should be fully explained in supporting documentation.
- (g) Schedule - A resource loaded P6 schedule shall be provided which shall be presented at the level of detail as shown in the WBS. The schedule shall include logic ties.
- (e) Basis of Estimate – A basis of estimate shall be provided that thoroughly documents all estimates. A basis of estimate description shall be provided for each activity at the lowest level in the estimate. The detailed narrative description of the basis of estimate shall be organized by WBS and include the following: how the proposed costs were derived; key assumptions and supporting rationale, including assumptions related to site conditions; source of existing verifiable data and judgment factors in projecting from known data to the estimate; estimating methods, parametric estimates, and models, etc; and other

assumptions and related information to provide clarity and understanding of the contractor's basis of estimate to demonstrate reasonableness and realism.

- (i) Cost Elements - Costs shall be provided by major cost elements such as: direct labor (including labor categories, direct labor hours and direct labor rates for each labor category type), fringe benefits (if applicable), direct labor overhead (if applicable), material, material handling overhead (if applicable), equipment (including capital investments), subcontract cost, disposal cost, transportation cost, treatment cost, supplies, travel, relocation, other direct costs, and general and administrative (G&A) costs (if applicable). Notwithstanding that all "subcontract" costs are included above, LLC member/other teaming arrangement/subcontractors shall be individually estimated and costs provided by major cost elements as described in this paragraph. Appendix 1 is to be used to provide the costs by major cost elements, WBS, and fiscal year.
- (j) Indirect Rates - A detailed estimate for each indirect rate (fringe benefit, material handling, labor overhead and G&A, if applicable) proposed by fiscal year is to be provided. The detailed estimate shall include cost, by cost element, for the allocation pool and the allocation base showing how each cost element within the allocation pool and allocation base was derived. The contractor shall provide all related information to provide a clear understanding of the basis of estimate. The contractor shall compute all of the indirect rates by fiscal year. This data shall be provided for each LLC member/other teaming arrangement/subcontractor.
- (l) Escalation - Identify the escalation factors used for each fiscal year, the source of the proposed escalation rates, and the rationale as to why the proposed escalation rates are reasonable.
- (m) Electronic Media - Cost Proposal information and any spreadsheets or mathematical computation shall be submitted using Microsoft Excel 2003 and shall be working versions, including formulas and computations. The contractor shall provide the electronic version of the cost proposal in Adobe Acrobat 8.0 (PDF) or higher. The electronic media versions provided shall be searchable.
- (n) Cognizant ACO/DCAA - The contractor shall provide the name, address and telephone number of the cognizant Administrative Contracting Officer and the cognizant Defense Contract Audit Agency (DCAA) office, if any. If the contractor is an LLC or has subcontractor(s), this data must be provided for each entity performing work.
- (o) Accounting System - The contractor shall submit an explanation of how costs related to the Recovery Act work will be accumulated, recorded, invoiced, and reported using the contractor's accounting system in order to assure that costs associated with Recovery Act work are separate from other costs incurred under the contract. The contractor shall describe how its existing accounting system, any proposed changes, and/or new oversight controls will help assure this necessary separation of Recovery Act funds. The contractor shall identify the cognizant Government audit agency that has issued reports regarding the adequacy of the accounting system for accumulating and billing costs under

Government contracts. This data must also be provided for each member of an LLC and each subcontractor that is performing work under a cost-type contract.

- (p) Cost Accounting Standards - If the contractor, LLC members, or subcontractor(s) (\$X million or more) performing work are covered by Cost Accounting Standards (CAS), the contractor shall discuss the adequacy of the disclosure statement. The contractor shall also identify whether the cognizant Government audit agency has issued any audit reports on the compliance with the CAS requirements of any of these entities.
- (p) Government Furnished Property - The contractor shall provide a list of any Government Furnished Property (GFP) that will be used in the performance of the Recovery Act work that is in addition to the GFP already provided.
- (q) Fee - The contractor's fee proposal shall address the following:
  - (i) The contractual basis for any adjustment in the fee currently in the contract;
  - (ii) The proposed amount of fee associated with the Recovery Act work; and
  - (iii) A description of how the proposed fee is calculated and the supporting rationale as to why the proposed fee amount is reasonable.

Appendix 1  
 Schedule A

**Cost By WBS**

<u>WBS</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>Total</u>
C.1.1 - Groundwater Environmental Actions				
C.2.1 - D&D of Building XX				
C.3.1 - Waste Disposal				
Total Cost				
Fee				
Total Cost and Fee				

Appendix 1  
 Schedule B

**Cost by Cost Element WBS 1.1 - Groundwater Environmental Actions**

	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>Total</u>
Direct Labor				
<i>Insert Direct Labor Categories</i>				
Fringe Benefits				
Direct Labor Overhead				
Materials				
Material Handling Overhead				
Equipment				
Subcontract Costs (Under \$?M)				
Disposal Costs				
Transportation Costs				
Treatment Costs				
Supplies				
Travel				
Relocation				
Other Direct Costs				
<i>Joint Venture/LLC Member/Other teaming arrangement/Subcontractor</i>				
<i>(\$?M or over) (complete for each major entity)</i>				
<i>Direct Labor</i>				
<i>Insert Direct Labor Categories</i>				
<i>Fringe Benefits</i>				
<i>Direct Labor Overhead</i>				
<i>Materials</i>				
<i>Material Handling Overhead</i>				
<i>Equipment</i>				
<i>Subcontract costs</i>				
<i>Disposal Costs</i>				
<i>Transportation Costs</i>				
<i>Treatment Costs</i>				
<i>Supplies</i>				
<i>Travel</i>				
<i>Relocation</i>				
<i>Other Direct Costs</i>				
G&A Costs				
Subtotal Cost				
G&A Costs				
<b>Total Cost</b>				

**Each Spreadsheet shall be completed by FY and cumulatively**

**Cost by Cost Element WBS 1.1.1 - Groundwater Subproject X**

	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>Total</u>
Direct Labor				
Fringe Benefits				
Direct Labor Overhead				
Materials				
Material Handling Overhead				
Equipment				
Subcontract Costs (Under \$?M)				
Disposal Costs				
Transportation Costs				
Treatment Costs				
Supplies				
Travel				
Relocation				
Other Direct Costs				
<i>Joint Venture/LLC Member/Other teaming arrangement/Subcontractor</i>				
<i>(\$?M or Over) (complete for each major entity)</i>				
<i>Direct Labor</i>				
<i>Insert Direct Labor Categories</i>				
<i>Fringe Benefits</i>				
<i>Direct Labor Overhead</i>				
<i>Materials</i>				
<i>Material Handling Overhead</i>				
<i>Equipment</i>				
<i>Subcontract costs</i>				
<i>Disposal Costs</i>				
<i>Transportation Costs</i>				
<i>Treatment Costs</i>				
<i>Supplies</i>				
<i>Travel</i>				
<i>Relocation</i>				
<i>Other Direct Costs</i>				
<i>G&amp;A Costs</i>				
Subtotal Cost				
G&A Costs				
<b>Total Cost</b>				

**Each Spreadsheet shall be completed by FY and cumulatively**









Appendix 3  
Schedule C

**Subcontracts - Consolidated Summary**

<u>Description</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>Total All Years</u>
-A				
-B				
-C				
-D				
Total				





## Financial Plan Report - Detail

**RL14788 - PLATEAU REMEDIATION CONTRACT (PRC) ARRA FUNDING 89**

Report Generated on: April 8, 2009 at 04:24:47 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	06049	EZ	1111328	FD0210110	25400	0000000	2002140	0000000		0.00	0.00	253,500,000.00	253,500,000.00	253,500,000.00
<i>AY 2009 - Recovery Act (ARRA) funds, subject to the restrictions of that Act</i>														
422100	06049	EZ	1111329	FD0210120	25400	0000000	2002140	0000000		0.00	0.00	297,000,000.00	297,000,000.00	297,000,000.00
<i>AY 2009 - Recovery Act (ARRA) funding, subject to the restrictions of that Act.</i>														
<b>Total for Program Parent/Control Point: FD0210110</b>										0.00	0.00	550,500,000.00	550,500,000.00	550,500,000.00
422100	06049	EZ	1111330	FD0211110	25400	0000000	2002111	0000000		0.00	0.00	213,000,000.00	213,000,000.00	213,000,000.00
<i>AY 2009 - Recovery Act (ARRA) funding, in the amount of \$213M.</i>														
<b>Total for Program Parent/Control Point: FD0211110</b>										0.00	0.00	213,000,000.00	213,000,000.00	213,000,000.00
422100	06049	EZ	1111332	FD0220000	25400	0000000	2002141	0000000		0.00	0.00	117,000,000.00	117,000,000.00	117,000,000.00
<i>AY 2009 - Recovery Act (ARRA) funding, in the amount of \$117M.</i>														
<b>Total for Program Parent/Control Point: FD0220000</b>										0.00	0.00	117,000,000.00	117,000,000.00	117,000,000.00
422100	06049	EZ	1111334	FD0230000	25400	0000000	2002142	0000000		0.00	0.00	183,000,000.00	183,000,000.00	183,000,000.00
<i>AY 2009 - Recovery Act (ARRA) funding, in the amount of \$183M.</i>														
<b>Total for Program Parent/Control Point: FD0230000</b>										0.00	0.00	183,000,000.00	183,000,000.00	183,000,000.00
<b>Total for Fund Type: EZ</b>										0.00	0.00	1,063,500,000.00	1,063,500,000.00	1,063,500,000.00
<b>Total for Recipient Code: RL</b>										0.00	0.00	1,063,500,000.00	1,063,500,000.00	1,063,500,000.00
<b>Total for Reporting Entity: 422100</b>										0.00	0.00	1,063,500,000.00	1,063,500,000.00	1,063,500,000.00
<b>Total for RL14788 - PLATEAU REMEDIATION CONTRACT (PRC) ARRA FUNDING 89</b>										0.00	0.00	1,063,500,000.00	1,063,500,000.00	1,063,500,000.00