

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT		1. CONTRACT ID CODE	PAGE 1	OF 1	PAGES 4
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2. AMENDMENT/MODIFICATION NO. M920	3. EFFECTIVE DATE (M/D/Y) See Block 16C	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. (If applicable)
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6. ISSUED BY CODE U.S. Department of Energy Pacific Northwest Site Office Post Office Box 350 Richland, WA 99352	7. ADMINISTERED BY (If other than Item 6) CODE
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8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP code) Battelle Memorial Institute Pacific Northwest Division Richland, Benton County, WA 99352 DUNS # 032987476	<input type="checkbox"/>	9A. AMENDMENT OF SOLICITATION NO.
	<input type="checkbox"/>	9B. DATED (SEE ITEM 11)
	<input checked="" type="checkbox"/>	10A. MODIFICATION OF CONTRACT/ ORDER NO. DE-AC05-76RL01830
	<input checked="" type="checkbox"/>	10B. DATED (SEE ITEM 13) December 30, 1964

CODE	FACILITY CODE
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11. THIS ITEM APPLIES TO AMENDMENTS OF SOLICITATIONS

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

12. ACCOUNTING AND APPROPRIATION DATA (If required)

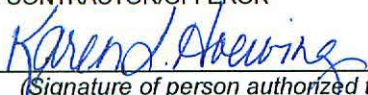
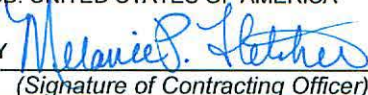
13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS SET FORTH IN ITEM 14.

CHECK <input type="checkbox"/>	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE
<input type="checkbox"/>	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO AUTHORITY OF FAR 43.103(b).
<input checked="" type="checkbox"/>	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO THE AUTHORITY OF: The mutual agreement of the parties
<input type="checkbox"/>	D. OTHER (Specify type of modification and authority)

E. IMPORTANT: Contractor is not, is required to sign this document and return 2 copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including a solicitation/contract subject matter where feasible.)
This bilateral contract modification incorporates changes to Part I, Section H, and Part III, Section J. (See Continuation Pages for the purpose and description of this modification)

15A. NAME AND TITLE OF SIGNER (Type or print) Karen L. Hoewing General Counsel	16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) Melanie P. Fletcher Contracting Officer
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15B. CONTRACTOR/OFFEROR  (Signature of person authorized to sign)	15C. DATE SIGNED 1-17-13	16B. UNITED STATES OF AMERICA BY  (Signature of Contracting Officer)	16C. DATE SIGNED 1/17/2013
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Part I – The Schedule

Section B

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B-1 Designation of Work and Facilities

The Government expressly engages the Contractor to manage and perform work and services, and to manage, operate and maintain the facilities of Department of Energy (DOE) both as described in this Contract and as designated in writing from time to time by DOE, including the utilization of information, material, funds, and other property of DOE, the collection of revenues, and the acquisition, sale or other disposal of property for DOE subject to the limitations as hereinafter set forth. The Contractor undertakes and promises to exert its best efforts to manage and perform said work and services and to manage, operate, and maintain said facilities, upon the terms and conditions herein provided and in accordance with such directions and instructions not inconsistent with this Contract which DOE may deem necessary to give to the Contractor from time to time. In the absence of applicable directions and instructions from DOE, the Contractor will use its best judgment, skill and care in all matters pertaining to the performance of this Contract.

(End of Clause)

B-2 Obligated Funds

The total amount of funds presently obligated by the Government with respect to this Contract is \$14,359,862,369.59 (through modification A880). Such amount may be increased or decreased in accordance with Contract clause 970.5232-4 “Obligation of Funds”.

(End of Clause)

[M881]

B-3 Estimated Fee Base and Total Available Performance Fees

In FY12, the total available performance fee is \$9,000,000.

Fiscal Year	Estimated Fee Base	Performance Fee Available
FY 13	\$904.2M	\$11.9M
FY 14	\$910.5M	\$11.9M
FY 15	\$902.8M	\$12.5M
FY 16	\$892.9M	\$12.5M
FY 17	\$892.9M	\$12.5M

At the end of each fiscal year, there shall be no adjustment in the amount of the maximum available performance fee based on differences between any estimate of cost for performance of the work and the actual cost for performance of the work. Fee is subject to adjustment only –

1. under the provisions of the “Changes” clause;
2. for a +/- 10 percent change in the Estimated Fee Base; or
3. the mutual agreement of the Parties that a fee adjustment is required.

[M881]
(End of Clause)

PART I – The Schedule

Section C

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C-1 Introduction

This Performance-Based Management Contract (PBMC) is for the management and operation of the Pacific Northwest National Laboratory (the Laboratory). Battelle Memorial Institute (the Contractor) shall, in accordance with the provisions of this Contract, accomplish the missions and programs assigned by the U.S. Department of Energy (DOE) and manage and operate the Laboratory. The Laboratory is one of the DOE's Office of Science (SC) multi-program laboratories. The Laboratory is a Federally Funded Research and Development Center (FFRDC) established in accordance with Federal Acquisition Regulation Part 35 and operated under this management and operating (M&O) contract, as defined in FAR 17.6 and DEAR 917.6.

This Contract reflects the Department's effort to enable the Contractor to achieve more highly effective and efficient management of the Laboratory, resulting in a safe and secure environment, outstanding science and technology results, more cost effective operations, and enhanced Contractor accountability.

This Contract reflects the application of performance-based contracting approaches and techniques which emphasize results/outcomes and minimize "how to" performance descriptions. The Contractor has the responsibility for total performance under the Contract, including determining the specific methods for accomplishing the work effort, performing quality control, and assuming accountability for accomplishing the work under the Contract. Accordingly, this PBMC provides flexibility, within the terms and conditions of the Contract, to the Contractor in managing and operating the Laboratory.

Desired results of this Contract include improved Contractor operational efficiencies, allocations of Contractor oversight resources to direct mission work, and streamlined and more effective federal line management focused on a system-based approach to federal oversight with increased reliance on the results obtained from the Contractor's assurance system as well as certified nationally recognized experts and other independent reviewers. Moreover, science and technology have improved peer review metrics, stretch goals, and incentives to achieve extraordinary results.

Under this PBMC, it is the Contractor's responsibility to develop and implement innovative approaches and adopt practices that foster continuous improvement in accomplishing the mission of the Laboratory. DOE expects the Contractor to

produce effective and efficient management structures, systems, and operations that maintain high levels of quality and safety in accomplishing the work required under this Contract, and that to the extent practicable and appropriate, rely on national, commercial, and industrial standards and can be verified and certified by independent, nationally recognized experts and other independent reviewers. The Contractor shall conduct all work in a manner that optimizes productivity, minimizes waste, and fully complies with all applicable laws, regulations, and terms and conditions of the Contract.

To the maximum extent practical, this PBMC shall:

- (a) Describe the requirements in terms of outcomes or results required rather than the methods of performance of the work;
- (b) Use a limited number of systems-based measurable performance standards (*i.e.*, terms of quality, timeliness, quantity, etc.) to drive improved performance and increased effective and efficient management of the Laboratory;
- (c) Provide for appropriate financial incentives (e.g., fee) when performance standards and contract requirements are achieved;
- (d) Specify procedures for reduction of fee when services are not performed or do not meet Contract requirements; and
- (e) Include non-financial performance incentives where appropriate.

[M600]

C-2 RESERVED [M707]

C-3 Performance Expectations, Objectives, and Measures

3.1 Core Expectations

3.1.1 General

The relationship between DOE and its national laboratory management and operating contractors is designed to bring best practices for research and development to bear on the Department's missions. Through application of these best practices, the Department seeks to assure both outstanding programmatic and operational performance of today's research programs and the long-term quality, relevance, and productivity of the laboratories against tomorrow's needs. Accordingly, DOE has substantial expectations of the Contractor in the areas of: program delivery and mission accomplishment; laboratory stewardship; and excellence in laboratory operations and financial management.

3.1.2 Program Development and Mission Accomplishment

The Contractor is expected to provide effective planning, management, and execution of assigned research and development programs. The Contractor is expected to execute assigned programs so as to strive for the greatest possible impact on achieving DOE's mission objectives, to aggressively manage the Laboratory's science and technology capabilities and intellectual property to meet these objectives, and to bring forward innovative concepts and research proposals that are well-aligned with DOE missions. The Contractor shall propose work that is aligned with, and likely to advance, DOE's mission objectives, and that is well matched to Laboratory capabilities. The Contractor shall strive to meet the highest standards of scientific quality and productivity, "on-time, on budget, as-promised" delivery of program deliverables, and first-rate service to the research community through user facility operation.

The Contractor is expected to demonstrate benefit to the nation from R&D investments by transferring technology to the private sector and supporting excellence in science and mathematics education to the extent such activities are consistent with achieving continuous progress towards DOE's core missions.

3.1.3 Laboratory Stewardship

The Contractor is expected to be an active partner with DOE in

assuring that the Laboratory is renewed and enhanced to meet future mission needs. Within the constraints of available resources and other Contract requirements, the Contractor, in partnership with DOE, shall:

- (a) Maintain a Laboratory vision and long-term strategic plan that addresses the evolution of Laboratory capabilities to meet anticipated DOE and national needs.
- (b) Attract, develop, and retain an outstanding work force, with the skills and capabilities to meet DOE's evolving mission needs.
- (c) Renew and enhance research facilities and equipment so that the Laboratory remains at the state-of-the-art over time and is well-positioned to meet future DOE needs.
- (d) Build and maintain a financially viable portfolio of research programs that generates the resources required to renew and enhance Laboratory research capabilities over time.
- (e) Maintain a positive relationship with the broader research community, to enhance the intellectual vitality and research relevance of the Laboratory, and to bring the best possible capabilities to bear on DOE mission needs through partnerships.
- (f) Build a positive, supportive relationship founded on openness and trust with the community and region in which the Laboratory is located.

3.1.4 Operational and Financial Management Excellence

The Contractor is expected to effectively and efficiently manage and operate the Laboratory through best-in class management practices designed to enable research while assuring the protection and proper maintenance of DOE research and information assets, the health and safety of Laboratory staff and the public, and the environment. The Contractor is expected to operate the Laboratory so as to meet all applicable laws, regulations, and requirements. The Contractor is expected to manage the Laboratory cost-effectively, striving to provide the greatest possible research output per dollar of research investment, and, accordingly, to develop and deploy management systems and practices that are designed to enhance research productivity and mission accomplishment consistent with meeting operational requirements.

3.1.5 Program and Project Management for the Acquisition of Capital Assets

The Department of Energy's Project Management Principles apply to all capital asset projects using a tailored approach as defined or approved by the sponsoring project office. This includes General Plant Projects (GPPs) and Institutional General Plant Projects (IGPPs) as defined in DOE O 430.1B. The Contractor is expected to provide for:

- a. Line management accountability
- b. Sound, disciplined, up-front project planning.
- c. Well-defined and documented project requirements.
- d. Development and implementation of sound acquisition strategies that incorporate effective risk handling mechanisms.
- e. Well-defined and managed project scope and risk-based Performance Baselines (PBs) and stable funding profiles that support original cost baseline execution.
- f. Development of reliable and accurate cost estimates using appropriate cost methodologies and databases.
- g. Properly resourced and appropriately skilled project staffs.
- h. Effective implementation of all management systems supporting the project (e.g., quality assurance, integrated safety management, risk management, change control, performance management and contract management).
- i. Early integration of safety into the design process.
- j. Effective communication among all project stakeholders.
- k. Utilization of peer reviews throughout the life of a project to appropriately assess and make course corrections.
- l. Process to achieve operational readiness is defined early in the project for Hazard Category 1, 2, and 3 nuclear facilities.

For all capital asset projects with a Total Project Cost (TPC) equal to or greater than \$20 million, the Contractor shall comply with the requirements as set forth in DOE Order 413.3B Contractor Requirements Document (CRD).

[M873]

3.2 Performance Evaluation Expectations

The performance expectations of this Contract are broadly set forth in this Section and reflect the DOE's minimum needs and expectations for Contractor performance. Specific performance work statements, performance standards (measures applied to results/outputs), acceptable performance levels (performance expectations), acceptable quality levels (permissible deviations from performance expectations), and related incentives shall be established annually, or at other such intervals determined by the DOE to be appropriate. The related incentives may be monetary, or where monetary incentives are not desirable or considered effective, the Contractor's performance may be used as a factor which directly affects the past performance report card, or a factor in a decision to reduce or increase DOE oversight or Contractor reporting, as appropriate.

In performance under this Contract, the Contractor shall be evaluated within the following general performance goals and expectations:

- (a) **Mission Accomplishment:** Produce original, creative scientific output that advances science and technology while achieving sustained scientific progress and impact that is recognized by the scientific and technical community.
- (b) **Design, Fabrication, Construction, and/or Operation of Facilities:** Provide quality strategic planning, design, fabrication, and construction for facilities/equipment needed to insure the Laboratory can meet its S&T missions today and in the future, while effectively and efficiently maintaining current S&T facilities and equipment and providing effective, efficient operation of user facilities.
- (c) **Science and Technology Program Management:** Provide for effective S&T program vision, leadership, strategic planning, and development of initiatives while maintaining efficient and effective communications and responsiveness to customer needs.
- (d) **Leadership and Stewardship of the Laboratory:** Provide for strategic planning to meet the mission and vision of the overall Laboratory; appropriate accountability and responsiveness to specific issues and needs, and appropriate levels of corporate office leadership, resources, and support for the overall success of the Laboratory.
- (e) **Integrated Safety, Health, and Environmental Protection:** Provide for and sustain an effective, and well deployed integrated safety,

health and environmental protection program.

- (f) Business Programs and Resources: Provide for effective, efficient, and responsive business programs and resources that enable the successful achievement of the Laboratory missions.
- (g) Operating, Maintaining, and Renewing the Facility and Infrastructure Portfolio to meet Laboratory Needs: Provide appropriate planning for, construction and management of Laboratory facilities and infrastructures required to efficiently and effectively carry out current and future programs.
- (h) Integrated Safeguards and Security Management and Emergency Management: Provide for and sustain an effective, and well deployed integrated safeguards, security and emergency management program.

[M599]

3.3 Performance Objectives and Measures

The results-oriented performance goals/objectives of this Contract are stated in the Performance Evaluation and Measurement Plan, and/or in the Work Authorization Directives issued annually in accordance with the clause entitled, "DEAR 970.5211-1, Work Authorization" and Clause H-41, "Work Authorization". The goals/objectives shall be accomplished within an overall framework of management and operational performance requirements and standards contained elsewhere in this Contract. DOE's Quality Assurance/Surveillance Plan (QASP) for evaluating the Contractor's performance under the Contract shall consist primarily of the Performance Evaluation and Measurement Plan (PEMP) as called for within the Section I Contract clause entitled "Total Available Fee: Base Fee Amount and Performance Fee Amount." The QASP establishes the process DOE shall use to ensure that the Contractor has performed in accordance with the performance standards and expectations. The QASP shall summarize the performance standards, expectations and acceptable quality levels for each task; describe how performance will be monitored and measured; describe how the results will be evaluated; and state how the results will affect Contract payment. The Contractor shall develop and implement an assurance system in accordance with the clause entitled "Contractor Assurance System".

[M707]

C-4 Statement of Work

4.1 General

The Contractor shall furnish the necessary personnel, facilities, equipment, materials, supplies, and services (except those provided by the Government) to accomplish the statement of work. The statement of work under this PBMC is comprehensive in that the Contractor is expected to perform all necessary technical, operational, and management functions to manage and operate the Laboratory and perform the DOE missions assigned to the Laboratory. This statement of work encompasses all on-going objectives of the Laboratory, as well as those objectives that may be assigned during the term of the Contract, and includes, but is not limited to: all infrastructure management and maintenance; human resources management; environmental management; health, safety, and security; and purchasing, financial, and other administrative systems.

4.2 Mission

The Laboratory's research and development missions and programs support the overarching national security mission of the DOE through efforts in fundamental science, energy and environmental sciences and technologies, and national security. The Laboratory shall continue to provide highly skilled staff who support multi-disciplinary efforts to rapidly translate scientific discoveries into applications in physical, computational, and environmental sciences, and on special facilities, including the Environmental Molecular Sciences Laboratory (EMSL). The Laboratory shall support the President's commitment to sustain and nurture the nation's science and technology enterprise, to support national goals in security, energy, environmental quality, human health and economic growth, and to provide a significant resource for scientists world-wide to engage with Laboratory staff in accelerating the nation's progress towards these goals.

The Laboratory's mission statement is documented and updated annually as necessary as part of the Laboratory's strategy development process. As a multi-program national laboratory, the Laboratory's mission is to create new knowledge and deliver solutions to science and technology challenges in DOE's core missions. The Laboratory envisions being DOE's best-in-class multi-program laboratory known for breakthrough science and for rapidly translating discoveries into applications that solve critical challenges and benefit our nation and society. Over the term of this Contract, the Contractor shall conduct a broad spectrum of research and development programs in DOE's science, national security, environmental quality, and energy missions as assigned by DOE. The Contractor shall make its government-funded scientific and technical research results

broadly available to the public. The Contractor shall continue to use its multidisciplinary capabilities and apply its expertise to conduct research for the government and the private sector. The Contractor shall also provide technical advice and guidance to DOE in support of policy development, program planning, and other DOE activities as requested by DOE, and shall bring forward recommendations for new research and development programs designed to achieve DOE mission goals.

In keeping with its overall role as a multi-program national laboratory, the specific research programs conducted and the overall mix of research at the Laboratory will change, as needed, over the Contract period in keeping with DOE's changing mission needs, advances in science and technology, and other drivers. Accordingly, this statement of work is not intended to be all-inclusive or restrictive, but is intended to provide a broad framework and general scope of the work to be performed at the Laboratory. This statement of work does not represent a commitment to, or imply funding for, specific projects or programs.

As a multi-program laboratory, work under this Contract includes scientific and technical programs sponsored by major DOE organizations. Primary DOE sponsors include:

- Office of Science
- Environmental Management
- Nuclear Energy Science and Technology
- Energy Efficiency and Renewable Energy
- Fossil Energy
- National Nuclear Security Administration
- Office of Intelligence
- Office of Counterintelligence

Additionally, the Contractor shall engage in other DOE and non-DOE science and technology initiatives that derive from the Laboratory's missions and utilize the Laboratory's core competencies. A summary of current Laboratory programs supporting DOE's mission areas follows. Descriptions of major programs are updated annually in the Laboratory's strategy.

4.2.1 Science mission role

In the science mission, the Contractor shall deliver the scientific knowledge and discoveries for DOE's applied missions; advance the frontiers of the physical sciences and areas of the biological,

environmental and computational sciences; and provide world-class research facilities and essential scientific human capital to the nation's overall science enterprise. Areas of research shall include conducting research under DOE's Biological and Environmental Research programs, including biomolecular science and microbiology, environmental science (atmospheric science, climate research, and subsurface science), and computational modeling. The Contractor shall also conduct research programs in chemistry, chemical physics, materials science, nuclear science and technology, and computer and information science as part of DOE's Basic Energy Sciences and Advanced Scientific Computing Research programs.

Specifically the Contractor shall operate the William R. Wiley Environmental Molecular Sciences Laboratory (EMSL), a user facility that provides a broad range of advanced experimental and computational tools for advanced research in the environmental, biological, chemical, and materials sciences, and other user facilities as designated by or constructed by DOE.

4.2.2 National Security mission role

In the national security mission, the Contractor shall support DOE efforts to strengthen United States security through the application of nuclear science and by reducing the global threat from weapons of mass destruction. The Contractor shall also support DOE efforts in arms control and nonproliferation, intelligence analysis, and counterintelligence. In particular, the Contractor shall provide science, technology, and engineered systems to monitor nuclear treaties and agreements, to prevent the proliferation of weapons of mass destruction, and to counter terrorism, including threats from chemical and biological agents. The Contractor shall provide technical expertise for the United States' international efforts to improve the safety of nuclear power generation and the management and safeguarding of nuclear materials. Other areas of emphasis shall include cyber security, homeland security, and infrastructure protection. The Contractor shall also provide selected support for DOE's stockpile stewardship.

4.2.3 Energy Resources mission role

In the energy resources mission, the Contractor shall increase global energy security, maintain energy affordability and reduce adverse environmental impacts associated with energy production, distribution, and use by developing and promoting advanced energy technologies, policies and practices that efficiently increase domestic energy supply, diversity, productivity, and reliability. The Contractor shall be a major asset to DOE and the nation in providing a balanced portfolio of secure,

clean, and affordable energy systems compatible with achieving a sustainable energy future. The Contractor shall provide science and engineering for developing clean, affordable technologies for transportation, energy generation, and energy efficient buildings and industrial processing. Particular areas of emphasis include development of low-cost, high performance, solid oxide fuel cells, hybrid fuel cell systems, energy storage systems, bio-based products, and essential technology for a hydrogen economy. Tools shall also be developed for transforming the energy grid into a secure and dynamically predictable transmission and distribution system. Other areas of emphasis include leadership in climate modeling, integrated assessment, and CO₂ capture and sequestration science and technology, establishing a sound basis for the geologic and terrestrial sequestration that enables the nation to effectively manage the risks posed by climate change. The Contractor shall also provide unique capabilities in advanced materials, processes and diagnostics critical to the development of next-generation nuclear reactors and securing a safe and viable nuclear energy option.

4.2.4 Environmental Quality mission role

In the environmental quality mission, the Contractor shall provide science and technology support to DOE's effort to aggressively clean up the environmental legacy of nuclear weapons and civilian nuclear research and development programs, permanently dispose of the Nation's radioactive wastes, minimize the social and economic impacts to individual workers and their communities resulting from departmental activities, and ensure the health and safety of DOE workers, the public and protection of the environment. The Contractor shall provide science and technology contributions that substantially reduce the cost, time, and risk associated with DOE's cleanup, and enable site cleanup and closure decisions to have a sound, scientific basis. The Contractor shall support DOE's waste characterization, waste disposal, cleanup, and land restoration programs, both nationally and at the Hanford Site. The Contractor shall utilize advanced computational capabilities that enable the design of bio-chemical remediation processes that target specific distributed contaminants, optimize the facilities that will be used to treat large quantities of concentrated contaminants, and provide sub-surface contaminant behavior models that satisfy stakeholder needs for decision and informational tools. Areas of emphasis include solving tank waste problems at DOE sites, vitrification and processing technologies for waste treatment and immobilization, fate and transport modeling, environmental measurements and monitoring, ecological studies, and technology for groundwater cleanup. The tools and technologies developed by the Contractor for cleanup shall be expanded to help address the region's and Nation's most challenging natural resource issues - water stewardship, carbon management, and ecosystem protection.

4.2.5 Technology Transfer Programs

The Contractor shall contribute to U.S. technological competitiveness through research and development partnerships with industry that capitalize on the Laboratory's expertise and facilities. Principal mechanisms to effect such contributions are: cooperative research and development, access to user facilities, reimbursable work for non-DOE activities, personnel exchanges, and licenses.

The Contractor shall cooperate with industrial organizations to assist in increasing U.S. industrial competitiveness, by assisting in the application of energy science and technology. Such cooperation may include an early transfer of information to industry by arranging for the active participation by industrial representatives in the Laboratory's programs. Cooperation with industrial partners may include long-term strategic partnerships aimed at commercialization of inventions or the improvement of industrial products. The Contractor shall respond to specific near-term technological needs of industrial companies with special consideration given to working with small, small disadvantaged and women-owned businesses as well as regional and local companies through special assistance programs targeting such organizations. The Contractor shall develop productive relationships/partnerships with regional and local companies, Governments and universities through forums such as conferences, workshops, and traveling presentations. It is anticipated that these organizations will be particularly effective participants in the Laboratory's technology transfer activities in promoting a mutually beneficial relationship between DOE, the Contractor and the communities surrounding the Laboratory.

Cooperation may also include use by industrial organizations of Laboratory facilities and other assistance as may be authorized, in writing, by the Contracting Officer.

4.2.6 Science and Mathematics Education Programs and Cooperation with Universities and Other Research Institutions

The Contractor shall develop partnerships with colleges and universities, including Minority-Serving Institutions, and manage programs to enhance science and mathematics and technology education at all levels. The Contractor shall encourage participation by a diverse group of faculty and students in Laboratory programs bringing their talents to bear on important research problems and contributing to the education of future scientists and engineers. The Contractor shall conduct programs for pre-college students and faculty to enrich science and mathematics and technology education including programs to encourage members of under-represented societal groups to enter careers in the science and engineering fields.

The Contractor shall manage and operate programs for cooperation with academic and nonprofit research institutions to integrate research and education in scientific and technical fields underlying DOE's programs, as well as facilitate partnerships between the Laboratory and other research and educational institutions. This cooperation may include, but is not limited to, such activities as: (i) joint experimental programs with colleges, universities, and nonprofit research institutions; (ii) exchange of college and university faculty and Laboratory staff; (iii) student/teacher educational research programs at the pre-collegiate and collegiate level; (iv) post-doctoral programs; (v) arrangement of and participation in regional, national, or international professional meetings or symposia; (vi) use of special Laboratory facilities by colleges, universities, and nonprofit research institutes; or (vii) provision of unique experimental materials to colleges, universities, or nonprofit research institutions or to qualified members of their staffs.

4.2.7 International Research Collaboration

In accordance with established DOE policies, the Contractor will maintain a broad program of international research collaboration in areas of research of interest to the DOE. This collaboration will be both in areas where DOE has formal international cooperation agreements which assign the Contractor a specific role, as well as in areas of general interest to DOE's research programs.

This collaboration may include, but is not limited to, such activities as: (i) participation in assigned aspects of formal international agreements; (ii) maintenance of liaison with peer groups in the international R&D community; (iii) participation in programs of international scientific organizations; (iv) developing and proposing to DOE, joint experimental programs and/or work for others from international sponsors; or (v) participation in programs involving visits, assignments, or exchanges of staff/students.

4.2.8 Other Related Work and Operation of the Laboratory

The Contractor shall plan, manage and execute other research and development programs as directed or approved by DOE. In addition, the Contractor shall support local and regional economic development and apply existing Laboratory assets in the execution of such support.

The Contractor shall also manage, operate, protect, maintain and enhance the Laboratory's ability to function as a DOE multi-program national laboratory, provide the infrastructure and support activities, support the accomplishment of the Laboratory's missions and provide the

accountability to the DOE under the results-oriented, performance-based provisions of this Contract.

The Contractor shall assist DOE through direct participation and other support in achieving DOE's energy efficiency goals and objective in electricity, water, and thermal consumption, conservation, and savings, including goals and objectives contained in Executive Order 13423, Strengthening Federal Environmental, Energy, and Transportation Management. The Contractor shall maintain and update, as appropriate, its Site Plan (as required elsewhere in the contract) to include detailed plans and milestones for achieving site-specific energy efficiency goals and objectives. With respect to this paragraph, the Plan shall consider all potential sources of funds, in the following order: 1) the maximum use of private sector, third party financing applied on a life-cycle cost effective basis, particularly from Energy Savings Performance contracts and Utility Energy Services Contracts awarded by DOE; and 2) only after third-party financing options are evaluated, in the event that energy efficiency and water conservation improvements cannot be effectively incorporated into a private sector financing arrangement that is in the best interests of the Government, then DOE funding and funding from overhead accounts can be utilized. [M485]

4.3 Operating Envelope

4.3.1 Operating Principles

Contractor and federal line managers are fully responsible for achieving assigned objectives in a manner that is safe, secure, legally and ethically sound, as well as fiscally responsible.

The Contractor is accountable for providing *reasonable assurance* to the DOE that the Laboratory's system of management controls when properly implemented provides an effective and efficient means of meeting all applicable requirements while accomplishing assigned missions.

To provide reasonable assurance, the Contractor must identify, monitor, and address existing and/or emerging risks important to the accomplishment of the Laboratory's mission and Contract requirements.

Laboratory management provides performance data to Governance processes, which ultimately provide assurance to DOE.

Provisions of reasonable assurance are the result of properly functioning performance management and Governance processes, not a substitute for the processes themselves.

Effective Assurance is built on mutual trust between DOE and the Contractor and must be combined with effective Governance in order for DOE to consider modification of its oversight model.

[M600]

4.3.2 Facilities

The Laboratory's facilities include Government-owned or leased land, buildings, utilities, equipment and other facilities located on the PNNL Site in Richland, Washington in addition, Laboratory facilities may include Government-owned or leased facilities at such other locations as may be approved by DOE for use under this Contract. Subject to mutual agreement, other facilities may be used in the performance of the work under this Contract (e.g., Contractor-owned or Contractor-leased facilities) as approved by the Contracting Officer. Research and development work performed outside approved Laboratory space (i.e. Off-site) shall be reviewed and assessed for hazards, risks, and application of appropriate mitigating controls prior to the initiation of work consistent with a documented approach accepted by the DOE Contracting Officer.

In accordance with the *Operational Agreement Between the Office of Science Pacific Northwest Site Office and the Office of Environmental Management Richland Operations Office (Operational Agreement)*, dated March 2008, and contained in Section J, Appendix F of this Contract, the Contractor shall operate designated EM facilities located on the Hanford Site in the 300 Area. These facilities shall be operated consistent with the clauses contained in the Operational Agreement and include operation of a Hazard Category 2 nuclear facility as well as various facilities categorized as less than Hazard Category 3. The Contractor will maintain the resources and expertise required to support these activities.

The Contractor shall perform overall integrated planning, acquisition, upgrades, and management of Government-owned, leased, or controlled facilities and real property accountable to the Laboratory. The Contractor shall employ an integrated management approach for management and utilization of the Laboratory facilities and infrastructure and shall renew and enhance research facilities and equipment such that the Laboratory remains state-of-the-art over time. The facilities management approach for the Laboratory shall be clearly defined and consistent with the latest DOE-approved Campus Master Plan.

The Contractor shall employ facilities management practices that are integrated with mission assignments and business operations. The maintenance management program shall maintain facilities, equipment and materials in a manner that:

- promotes and continuously improves operational safety, environmental protection and compliance, property preservation, and cost effectiveness;
- ensures protection of life and property from potential hazards, continuity and reliability of operations, and fulfillment of program requirements;
- ensures the condition of the assets will be maintained or improved to most effectively meet the DOE mission.

The Contractor shall initiate and continually improve facility and waste management practices that implement the “Start Clean – Stay Clean” principles whereby research projects and facility operations are planned to minimize wastes at the end of each project or the life of each facility.

[M599]

4.3.3 Hazards/Risks

The hazards associated with accomplishing the Laboratory’s mission and the operations of the Laboratory include but are not limited to the following:

- Biological, including animal
- Nuclear, radiological, and chemical, including nano.
- Non-ionizing radiation hazards including but not limited to infrared sources, lasers, magnetic fields, radio frequency fields, microwave fields, electric fields and ultraviolet light sources.
- Physical hazards including but not limited to electrical, pressure systems, work at heights (e.g. roofs and ladders), noise greater than 85dBA, thermal hazards, and other energy hazards.
- Operating equipment or hazards including but not limited to the following: aircraft, boats, firearms, underwater diving, confined space, facility construction and modification, forklifts, cranes, hoists, and off-road motor vehicle use.

The Contractor shall be responsible for maintaining effective systems of management controls for both administrative and programmatic functions. The Contractor shall conduct research in accordance with authorized limits. The Contractor shall not conduct research with biological agents that exceed biosafety level II without prior DOE approval. The Contractor will maintain individual facility chemical inventories below Threshold Planning Quantities. The Contractor will maintain radiological materials

within authorized operating limits. The Contractor shall maintain business systems within compliance of applicable laws, regulations and directives.

The Contractor will maintain a risk analysis system(s) acceptable to DOE that addresses institutional/reputational, environment, safety, health or business risks and legacy considerations created by the acceptance of work under this Contract. All proposed work shall clearly identify risks and legacy considerations as part of the work authorization package along with justification for performing the work and controls that will be instituted to mitigate the risks and legacy considerations.

DOE maintains its right to not authorize the proposed work based upon analysis of the hazards/risks and legacy considerations involved.

[M707]

4.3.4 Security

The Contractor shall conduct work in a manner that protects sensitive unclassified information, classified information, special nuclear material, cyber systems and Government property, from sabotage, espionage, loss or theft. The Contractor shall obtain approval of safeguards and security plans from the cognizant security authority (i.e., Site Office Manager) which describes protective measures appropriate to the work being performed. Any significant changes or deviations from the approved safeguards and security plans require the cognizant security authority's review and approval.

[M707]

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Recovery Act Work)1**

E – 1 52.246-9 Inspection of Research and Development (Short Form) (Apr 1984)

The Government has the right to inspect and evaluate the work performed or being performed under the Contract, and the premises where the work is being performed, at all reasonable times and in a manner that will not unduly delay the work. If the Government performs inspection or evaluation on the premises of the Contractor or a subcontractor, the Contractor shall furnish and shall require subcontractors to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

(End of Clause)

E – 2 Certification Related to Recovery Act Project Work (Applicable only to Recovery Act Work)

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.

(A508)

(End of Clause)

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F – 1 Period of Performance

This Contract shall be effective as specified in Block No. 3 – Effective Date, of the Standard Form 30, for this modification, except as otherwise provided, and shall continue up to and including September 30, 2017, unless sooner terminated according to its terms and conditions, or extended in accordance with the appropriate FAR and DEAR provisions. [M881]

(End of Clause)

F – 2 52.242-15 Stop-Work Order (Aug. 1989) Alternate I (Apr 1984)

- (a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this Contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the Parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the Parties shall have agreed, the Contracting Officer shall either:
- (1) Cancel the stop-work order; or
 - (2) Terminate the work covered by the order as provided in *the Termination clause of this Contract*.
- (b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make *an equitable adjustment in the delivery schedule, the estimated cost, the fee, or a combination thereof, and in any other terms of the Contract that may be affected*, and the Contract shall be modified, in writing, accordingly, if:
- (1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this Contract; and
 - (2) The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this Contract.

- (3) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.
- (4) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

(End of Clause)

F – 3 Deliverables

The Contractor will provide to the Contracting Officer the routine deliverables identified in the following table. These deliverables are in addition to those required elsewhere in this Contract.

Deliverable	Source Requirement	Description
Reserved [M881]		
B	CO Letter 02-FMD-0060, dated October 23, 2002, subject "Reconciliation of Activities Charged to Suspense Debits and Budget and Reporting YN01".	Provide by the 10th of every month a reconciliation of activities charged to suspense accounts.
C	CO Letter 09-PNSO-0219 dated March 20, 2009, subject "Review of Related Party Transactions at PNNL".	By April 15 of every year, provide a report disclosing all corporate allocations and the nature of the allocations.
D	CO Letter 10-PNSO-0186 dated February 17, 2010, subject "Oregon State University - Use of DOE Owned Equipment".	Provide report within 30 days of the end of each fiscal year of changes in DOE equipment usage at the Microproducts Breakthrough Institute (MBI) located at Oregon State University.
E	DOE HQ	As required by DOE HQ, provide input into the DOE Workforce Information System (WFIS): 1) Annual workforce restructuring report, and 2) quarterly EEO reports.
F	CO letter 06-PD-187 dated May 10, 2006, subject "Field Office Integrated Contactor Trial Balance Reconciliation Certification".	By the 15th calendar day of each month, provide a trial balance monthly recertification. Additionally, provide a biannual reconciliation and certification at the full Accounting Flex Field level for specific Standard General Ledger accounts.

G	DOE letter dated Feb. 10, 1987 from MJ Plahuta to PNNL Director, subject "Cost of Work Performed under the Related Services Article of Contract 1830".	Within six months after end of each fiscal year provide a notification report with supporting documentation of Other Federal Agencies funds used to replenish General Research Equipment (GRE).
H	CO letter 08-PNSO-0601 dated Sept. 29, 2008, subject "Letter of Credit".	Quarterly review of payments cleared financing arrangement with the financial institution, to be provided within 30 days of end of each quarter, plus semi-annual analysis that demonstrates the adequacy of funds on deposit for the previous six-month period consistent with DOE Accounting Handbook, section 6-11.
I	CO letter 09-PNSO-0158 dated Jan. 16, 2009, subject "Washington State University Use of DOE Owned Equipment.	Consistent with DOE Order 522.1 required analysis of pricing data, provide annual report detailing DOE equipment in BSEL, WSU usage of equipment in the service center and equipment that meets the criteria for a service center, and an analysis showing WSU non-collaborative usage no later than 30 days after the end of each fiscal year.
J	COR letter 99-STO-032 dated March 2, 1999, from Roger Christensen, subject "Use of Dispersible Radioactive Material at the Environmental Molecular Sciences Laboratory (EMSL)."	Provide PNSO a quarterly summary of all projects whose activities apply to Washington State Department of Health (WDOH) "Exemption for radioactive materials Notice of Construction for materials where there is no potential for airborne dispersion" pursuant to letter from Allen Conklin, WDOH Manager, to James Rasmussen, DOE-RL Director, dated November 23, 1998.

[M840]

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Section G

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G-1 Head of Contracting Activity (HCA), Contracting Officer (CO), and Contracting Officer’s Representative (COR)

- (a) The Chief Operating Officer, DOE Office of Science, has been designated as the HCA for this Contract.
- (b) Contract correspondence for the Pacific Northwest Site Office Contracting Officer is as follows:

Ryan M. Kilbury
 Contracting Officer
 Pacific Northwest Site Office (PNSO)
 U.S. Department of Energy
 P.O. Box 350, K9-42
 Richland, WA 99352
[M779]

In the event that the above named individual is absent for an extended period or an urgent action is required, any other duly appointed Contracting Officer assigned to PNSO or assigned to the Procurement and Contracts Division of the DOE Oak Ridge Operations Office, shall be authorized to take the required contractual action(s) within the limits of his/her authority. **[M528]**

- (c) The CO/COR(s) for this Contract have been designated in writing in accordance with paragraph (b) of the Clause G-2, Technical Direction and are listed below:

Name & Position	Authorities
Ryan M. Kilbury, Contract Specialist, Pacific Northwest Site Office	Authorized Contracting Officer for consent to subcontract in amounts not to exceed \$25M and direct changes to the contract in an amount not to exceed \$25M.
Melanie P. Fletcher, Contract Specialist, Pacific Northwest Site Office	Authorized Contracting Officer for consent to subcontract in amounts not to exceed \$10M and direct changes to the contract in an amount not to exceed \$10M.
Roger E. Snyder, Manager, Pacific Northwest Site Office	Unlimited authority to act for the Contracting Officer for functions that do not involve a change in the scope, price, terms or conditions of the Contract.
Julie K. Erickson, Deputy Manager, Pacific Northwest Site Office	Unlimited authority to act for the Contracting Officer for functions that do not involve a change in the scope, price, terms or conditions of the Contract.
Debbie E. Trader, Director, Laboratory Stewardship Division, Pacific Northwest Site Office	Unlimited authority to act for the Contracting Officer for functions within the scope of the PNSO Laboratory Stewardship Division that do

	not involve a change in the scope, price, terms, or conditions of the Contract.
Theodore P. Pietrok, Director, Operations Division, Pacific Northwest Site Office	Unlimited authority to act for the Contracting Officer for functions within the scope of the PNSO Operations Division that do not involve a change in the scope, price, terms, or conditions of the Contract.
Jeffery W. Day, Program Manager, Laboratory Stewardship Division, Pacific Northwest Site Office	Authorized to take all actions associated with your position as Program Manager for the acquisition of the High Performance Computing System-4 (HSPC-4), which will be procured and placed into the Environmental Molecular Sciences Laboratory (EMSL).
Dationa O. Carter, Attorney-Advisor, Office of Chief Counsel, Oak Ridge Operations Office	Unlimited authority to act for the Contracting Officer for Litigation Management and Legal Policy functions that do not involve a change in the scope, price, terms or conditions of the Contract.
Wendy E. Bryant, Assistant Chief Counsel for Contracts and General Law, Office of Chief Counsel, Oak Ridge Operations Office	Unlimited authority to act for the Contracting Officer for Litigation Management and Legal Policy functions that do not involve a change in the scope, price, terms or conditions of the Contract.

[M873]

(End of Clause)

G-2 952.242-70 Technical Direction (DEC 2000)

- (a) Performance of this work under this Contract shall be subject to the technical direction of the Contracting Officer’s Representative (COR). The term “technical direction” is defined to include, without limitation:
- (1) Providing direction to the Contractor that redirects Contract effort, shift work emphasis between work areas or tasks, require pursuit of certain lines of inquiry, fill in details, or otherwise serve to accomplish the contractual Statement of Work.
 - (2) Providing written information to the Contractor that assists in interpreting drawings, specifications, or technical portions of the work description.
 - (3) Reviewing and, where required by the Contract, approving, technical reports, drawings, specifications, and technical information to be delivered by the Contractor to the Government.
- (b) The Contractor will receive a copy of the written COR designation from the Contracting Officer. It will specify the extent of the COR’s authority to act on

- behalf of the Contracting Officer.
- (c) Technical direction must be within the scope of the work stated in the Contract. The COR does not have the authority to, and may not, issue any technical direction that:
- (1) Constitutes an assignment of additional work outside the Statement of Work;
 - (2) Constitutes a change as defined in the Contract clause entitled "Changes;"
 - (3) In any manner causes an increase or decrease in the total estimated Contract cost, the fee (if any), or the time required for Contract performance;
 - (4) Changes any of the expressed terms, conditions or specifications of the Contract; or
 - (5) Interferes with the Contractor's right to perform the terms and conditions of the Contract.
- (d) All technical directions shall be issued in writing by the COR.
- (e) The Contractor must proceed promptly with the performance of technical direction duly issued by the COR in the manner prescribed by this clause and within its authority under the provisions of this clause. If, in the opinion of the Contractor, any instruction or direction by the COR falls within one of the categories defined in (c)(1) through (c)(5) of this clause, the Contractor must not proceed and must notify the Contracting Officer in writing within five (5) working days after receipt of any such instruction or direction and must request the Contracting Officer to modify the Contract accordingly. Upon receiving the notification from the Contractor, the Contracting Officer must:
- (1) Advise the Contractor in writing within thirty (30) days after receipt of the Contractor's letter that the technical direction is within the scope of the Contract effort and does not constitute a change under the Changes clause of the Contract;
 - (2) Advise the Contractor in writing within a reasonable time that the Government will issue a written change order; or
 - (3) Advise the Contractor in writing within a reasonable time not to proceed with the instruction or direction of the COR.
- (f) A failure of the Contractor and Contracting Officer either to agree that the technical direction is within the scope of the Contract or to agree upon the

Contract action to be taken with respect to the technical direction will be subject to the provisions of the clause entitled "Disputes."

(End of Clause)

G-3 Correspondence Procedure

Acting as a representative of the DOE Office of Science, the Pacific Northwest Site Office (PNSO) has the overall lead responsibility for oversight and administration of the programs and activities conducted by the Laboratory. To promote timely and effective administration, correspondence, submitted under the Contract, shall contain a subject line commencing with the Contract number and shall be subject to the following procedures:

(a) **Technical Correspondence**

Technical correspondence shall be addressed to the DOE Program Manager, COR, or other duly authorized Government representative, with an information copy of the correspondence to the PNSO. For the purpose of this paragraph, technical correspondence does not include technical correspondence where patent issues are involved; correspondence which proposes or otherwise involves waivers, deviations, or modifications to the requirements, terms, or conditions, of this Contract; and correspondence associated with approval requirements of the Contracting Officer.

(b) **Other Correspondence**

Other than technical correspondence shall be addressed to the Contracting Officer with information copies of the correspondence to the PNSO and as appropriate to the DOE Program Manager, COR, or other authorized Government representatives.

(End of Clause)

G-4 Modification Authority

Notwithstanding any of the other provisions of this Contract, a Contracting Officer shall be the only individual on behalf of the Government authorized to:

(a) **Accept nonconforming work;**

(b) **Waive any requirement of this Contract; or**

(c) **Take any action involving a change in the scope, price, terms, or conditions of this Contract.**

(End of Clause)

**G-5 Cost Reporting Requirements Involving Recovery Act Project Work
(Applicable only to Recovery Act Work)**

The following reporting procedure will apply to submission of monthly cost reports for Recovery Act work specified in the work scope baseline.

- (a) The contractor will separately identify costs that pertain to the Recovery Act work. The contractor will provide a monthly report that identifies the total amount drawn on the letter of credit. This monthly report shall separate and identify Recovery Act costs associated with each appropriation at the Recovery Act program and project levels.
- (b) The contractor shall certify in each monthly report that the costs included in the report for Recovery Act work were incurred only to accomplish the Recovery Act work in accordance with the work scope.

[A508]

(End of Clause)

G-6 Indirect Charges Involving Recovery Act Project Work (Applicable only to Recovery Act Work)

In accordance with the general principles of the Recovery Act the contractor must take the following steps to minimize the impacts of indirect costs and enhance transparency and accountability of each Recovery Act funded project:

- (a) Clearly identify the estimated full cost of projects to include total direct and indirect costs, indirect costs rates, and adjust existing indirect cost rate to account for the material infusion of funds provided in the Recovery Act;
- (b) Exempt funds from contract cost base for distributing Laboratory Directed Research and Development or similar funds taxing programs.
- (c) Ensure all funds transferred by Battelle Memorial Institute are completed using the Approved Funding Program process described in Chapter 12 of the Accounting Handbook; and
- (d) The Federal Administrative Charge (FAC) of three percent is waived on reimbursable work funded by the Recovery Act and performed by Departmental Federal offices or Battelle Memorial Institute.
- (e) In all cases listed above and otherwise, the Contractor shall develop and maintain prudent management and good business practices regarding their indirect rate structure as it applies to Recovery Act funding.

[A508]

(End of Clause)

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Section H

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H-1 Pacific Northwest National Laboratory Land/Facilities

DOE agrees to furnish and make available to the Contractor, for the performance of work under this Contract, the Laboratory land/facilities designated as follows:

- (a) The Government-owned or leased land, buildings, utilities, equipment and other facilities situated at the Pacific Northwest National Laboratory Site at Richland, Benton County, Washington and Sequim, Clallam County, Washington; and
- (b) Government-owned or leased facilities at such other locations as may be approved by DOE for use under this Contract.

DOE reserves the right to make part of the above-mentioned land or facilities in paragraphs (a) and (b) available to other Government agencies or other users on the basis that the responsibilities and undertakings of the Contractor will not be unreasonably interfered with. Before exercising its right to make any part of the land or facilities available to another agency or user, DOE will confer with the Contractor.

Unless otherwise authorized by this Contract or as agreed to by the Parties, the Contractor agrees to provide to DOE the exclusive use of the Contractor-owned facilities and the beneficial use of the Contractor-owned land for the operations of the Pacific Northwest National Laboratory, in accordance with the rights and obligations set forth in Section J, Appendix J, Advance Agreement on Costs and Associated Use of Battelle Owned Facilities and Real Property. Before exercising its right to make any part of the Contractor-owned land or facilities available to another entity, the Contractor will confer with the Contracting Officer or his/her designee(s). [M881]

A list of current approved Government-owned and leased and Contractor-owned and Contractor-leased Laboratory land/facilities is contained in Section J, Appendix H – List of Approved Laboratory Land/Facilities (Owned and Leased).

Subject to mutual agreement land/facilities may be authorized or removed in the performance of the work under this Contract.

The Contractor may use the above-mentioned Government-owned or leased land, facilities and property in its custody under this Contract to conduct research and development activities for its own account, to the extent and in accordance with Clauses H-44 and H-45 of this Contract or as agreed to by DOE and the Contractor. [M881]

H-2 Implementation Procedures for Public Affairs

(a) Public Affairs and News Releases

- (1) The Parties recognize the importance of coordination with regard to areas covered in this clause so as to achieve public policy objectives important to the nation. As a federal agency, DOE must assure that news releases which describe its policies and procedures as related to the operation of its national scientific laboratories do so on an accurate and timely basis. Accordingly, the Parties recognize the importance of advanced coordination of significant news media activities, including news releases, major announcements, and significant interactions with national news media. The Parties agree that the procedures and policies established in this clause shall constitute the procedures required by the clause in this Contract entitled Public Affairs.
- (2) Coordination is especially important in certain circumstances and the Contractor shall be guided by the following principles. The Contractor will:
 - i. Coordinate and communicate with the PNSO Public Affairs Officer on interactions with Congress.
 - ii. Ensure that State, local, territorial, and Indian Governments are provided an opportunity to participate in development of national energy and energy-related policies and programs, and particularly in those policies and programs which directly affect them.
 - iii. Seek public participation in coordination with the PNSO Public Affairs Officer to the extent allowable in pending policy and planning issues which are substantial and which can have major impacts on the public.
- (3) The Contractor will exercise diligent efforts to inform DOE in advance of significant public affairs events or other major activities, including presentations, publications, significant audio-visual materials, and special exhibits. When such advance exchange is not possible operationally, the Contractor shall promptly furnish the released information to the DOE concurrent with its release. When preparing public information about the Contractor's performance or activities, DOE will exercise the same diligence in attempting to coordinate with the Contractor prior to its release.
- (4) The Contractor shall not release information attributed directly to DOE or which purports to represent established DOE policy without advance concurrence of the PNSO Public Affairs Officer. Nothing in this clause shall be construed so as to limit the right of the Contractor to publicize the results

of its scientific research, consistent with the advance coordination principles outlined above.

- (5) In all public releases of information in communication products related to the Laboratory, identification of the facility as a Department of Energy facility shall be made prominently in the communication product involved. This identification should include a statement that the Laboratory is a DOE facility which is operated by the Contractor under a performance based management contract. The inclusion of such a standard statement does not replace, however, the requirement for prominent identification of the Laboratory as a DOE facility in an appropriate editorial context in the communications product.
- (6) Nothing in this clause is intended to interfere with requirements associated with information that is classified or controlled under a statute or Executive Order.

(b) Public Involvement

- (1) The Contractor agrees to provide public involvement where appropriate and in cooperation with the PNSO Public Affairs Officer.
- (2) DOE recognizes such activities as an integral component of Contractor management responsibilities in the execution of the Contract. The Parties recognize their mutual responsibilities to coordinate public involvement activities and to coordinate all related external communications consistent with the principles outlined in paragraph (a), Public Affairs and News Releases, above.
- (3) In carrying out Laboratory public involvement activities, the Contractor agrees that it will make no statements contrary to DOE policy or enter into any commitments with external parties regarding departmental actions without DOE concurrence.

(End of Clause)

H-3 Transportation

The Contractor shall use carriers providing services commensurate with DOE program needs, taking full advantage of special reduced rates where available.

(End of Clause)

H-4 Source and Special Nuclear Materials

The Contractor shall comply with all applicable regulations and instructions of DOE relative to the control of and accounting for source and special nuclear material (as these terms are defined in applicable regulations). The Contractor shall make such reports and permit such inspections as DOE may require with reference to source and special nuclear materials. The Contractor shall take all reasonable steps and precautions to protect such materials against theft and misappropriations and to minimize all losses of such materials. The Contractor shall also submit to DOE, as requested for all specified nuclear materials, the annual Nuclear Materials Inventory Assessment and the Nuclear Materials Forecast.

(End of Clause)

H-5 Workers' Compensation

- (a) Pursuant to State of Washington Revised Code (RCW) Title 51, the Department of Energy (DOE), Richland Operations Office (RL) is a group self-insurer for purposes of workers' compensation coverage. The coverage afforded by those workers' compensation statutes shall, for work under this Contract in the state of Washington, be subject to the following:
- (1) Under the terms of a Memorandum of Understanding (MOU) with the Washington Department of Labor and Industries (L&I), DOE has agreed to perform all functions required by self-insurers in the State of Washington. While this MOU is in effect, the Contractor is not required to pay for workers compensation coverage or benefits except as otherwise provided below or as directed by the Contracting Officer.
 - (2) The Contractor shall submit to DOE (or other party as designated by DOE for transmittal to the L & I), such payroll records required by the workers compensation laws of the State of Washington.
 - (3) The Contractor shall submit to DOE (or other party as designated by DOE), for transmittal to the Department, the accident reports provided for by RCW Title 51, Section 51.28.010, or any other documentation requested by DOE or the L&I pursuant to the workers compensation laws of the State of Washington.
 - (4) The Contractor shall take such action, and only such action, as DOE requests in connection with any accident reports, including assistance in the investigation and disposition of any claim thereunder and, subject to the direction and control of DOE, the conduct of litigation in the Contractor's own name in connection therewith.
 - (5) Under RCW Title 51.32.073, DOE is the self-insurer and is responsible for making quarterly payments to the State Department of L&I. In support of this

arrangement, the Contractor is responsible for withholding appropriate employee contributions and forwarding on a timely basis these contributions plus the employer-matching amount to DOE.

- (6) The workers' compensation program shall operate in partnership with Contractor employee benefits, risk management, and environmental, safety, and health management programs. The Contractor shall cooperate with DOE for the management and administration of DOE, Richland Operations Office (RL) self-insurance program that provides workers' compensation benefit coverage to Contractor employees at PNNL.
 - (7) The Contractor must certify to the accuracy of the payroll record used by the Department in establishing the self-insurance claims reserves, and cooperate with any state audit.
 - (8) The Contractor shall submit to the Contracting Officer, a yearly evaluation and analysis of workers' compensation cost as a percent of payroll compared with the percentage of payroll cost reported by a nationally recognized Cost of Risk Survey that has been pre-approved by the Department (once DOE has provided the Contractor with the necessary data to perform the analysis required in this paragraph).
- (b) The Contractor will provide statutory worker's compensation coverage for staff members performing work under this Contract outside of the State of Washington and not otherwise covered by the State of Washington worker's compensation laws.
 - (c) Subcontractors performing work under this Contract on behalf of the Contractor are not covered by the provision of the Agreement referenced in (a)(1) of this clause. The Contractor shall flow-down to its subcontractors the requirement to provide statutory worker's compensation coverage for the subcontractor's employees. The Contractor shall have no responsibility for subcontractor worker's compensation when it includes this requirement in the subcontract.

(End of Clause)

H-6 Unemployment Compensation

- (a) The Contractor will provide coverage for staff members under state unemployment compensation laws in any state in which any part of the work is carried on.
- (b) DOE shall be given the benefit of any employer experience rating credit received by the Contractor and attributable to wages subject to contribution paid under this Contract.

(End of Clause)

H-7 Contractor Acceptance of Notices of Violation or Alleged Violations, Fines, and Penalties

- (a) The Contractor shall accept, in its own name, service of notices of violation or alleged violations (NOVs/NOAVs) issued by Federal or State regulators to the Contractor resulting from the Contractor's performance of work under this Contract, without regard to liability. The allowability of the costs associated with fines and penalties shall be subject to the other provisions of this Contract.
- (b) The Contractor shall notify DOE promptly when it receives service from the regulators of NOVs/NOAVs and fines and penalties.
(End of Clause)

H-8 Allocation of Responsibilities for Contractor Environmental Compliance Activities

- (a) The Parties commit to full cooperation with regard to acquiring any necessary permits or licenses required by environmental, safety and health (ES&H) laws, codes, ordinances, and regulations of the United States, states or territories, municipalities or other political subdivisions, and which are applicable to the performance of work under this Contract. It is recognized that certain ES&H permits will be obtained jointly as co-permittees, and other permits will be obtained by either party as the sole permittee. The Contractor, unless otherwise directed by the Contracting Officer, shall procure all necessary non-ES&H permits or licenses.
- (b) This clause allocates the responsibilities of DOE and the Contractor, referred to collectively as the "Parties", for implementing the environmental requirements at facilities within the scope of the Contract. In this Clause, the term "environmental requirements" means requirements imposed by applicable Federal, State, and local environmental laws and regulations, including, without limitation, statutes, ordinances, regulations, court orders, consent decrees, administrative orders, or compliance agreements, including the *Hanford Federal Facility Agreement and Consent Order*, consent orders, permits, and licenses.
- (c) (i) Liability and responsibility for civil fines or penalties arising from or related to violations of environmental requirements shall be borne by the party causing the violation irrespective of the fact that the cognizant regulatory authority may assess any such fine or penalty upon either party or both Parties without regard to the allocation of responsibility or liability under this Contract. This contractual allocation of liability for any such fine or penalty is effective regardless of which party signs permit applications, manifests, reports, or other required documents, is a permittee, or is the named subject of an enforcement action or assessment of a fine or penalty. The

allowability of the costs associated with fines and penalties assessed against the Contractor shall be subject to the other provisions of this Contract.

- (ii) In the event that the Contractor is deemed to be the primary party causing the violation, and the costs of fines and penalties proposed by the regulatory agency to be assessed against the Government (or the Government and Contractor jointly) are determined by the Government to be presumptively unallowable if allocated against the Contractor, then the Contractor shall be afforded the opportunity to participate in negotiations to settle or mitigate the penalties with the regulatory authority. If the Contractor is the sole party of the enforcement action, the Contractor shall take the lead role in the negotiations and the Government shall participate and have final authority to approve or reject any settlement involving costs charged to the Contract.
- (d) DOE agrees that if bonds, insurance, or administrative fees are required as a condition for permits obtained by the Contractor under this Contract, and the Contractor has been directed in by the Contracting Officer to obtain such permits after the Contractor has notified the Contracting Officer of the costs of complying with such conditions, such costs shall be allowable. In the event such costs are determined by DOE to be excessive or unreasonable, DOE shall provide the regulatory agency with the acceptable form of financial responsibility. Under no circumstances shall the Contractor be required to provide any corporate resources or corporate guarantees to satisfy such regulatory requirements.

(End of Clause)

H-9 Other Intellectual Property Related Matters

- (a) Transfer of Patent Rights to a Successor Contractor

As consideration for the Contractor's commitment to expend private monies in its privately-funded technology transfer effort under this Contract at a level at least commensurate with such expenditures under its prior contracts, including an average of five hundred thousand dollars (\$500,000) per year for activities under the privately-funded technology transfer program which includes a combination of the filing of an average of 7 patent applications, and no fewer than 5, per year during the period of this Contract, including expenses related to the patenting, marketing, licensing and development of Subject Inventions, the Parties agree that at the termination or expiration of this Contract, the following terms and conditions shall apply to Subject Inventions which were elected to be pursued under the Contractor's privately-funded technology transfer program, and to the licenses and royalties generated therefrom: [M881]

- (1) In the event Contractor has executed a license, assignment or other commercialization agreement to a Subject Invention prior to termination or

expiration of this Contract in which royalties, fees, equity or other consideration is to be or has been paid (hereinafter "agreement"), the distribution of net income from royalties, equity, or any other consideration received or to be received under such agreement shall remain as prior to Contract termination or expiration and shall continue for the duration of such agreement. As set forth in paragraph (d) below, fifty-one percent (51%) of such net income shall go to the Successor Contractor at the Facility for use at the Facility pursuant to its contract or, in the absence of a Successor Contractor, to such other entity designated by the Government, and forty-nine percent (49%) may be retained by the Contractor for use in accordance with 35 USC Section 200 et seq. Administration of agreements related to such Subject Invention, shall remain with the Contractor. Title to such Subject Invention shall remain with the Contractor provided the Contractor has fulfilled the commitments set forth in paragraph (a) above. If the Contractor has not fulfilled the commitments set forth in paragraph (a) above, upon request, title to such Subject Invention shall be transferred to the Successor Contractor, or such other entity designated by the Government.

- (2) In the event Contractor has not executed an agreement (as defined in paragraph (1) above) to a Subject Invention, upon request, title to such Subject Invention shall be transferred to the Successor Contractor, or to such other entity designated by the Government, unless Contractor can demonstrate that it has expended at least twenty thousand dollars (\$20,000) of private monies in its privately funded technology transfer program toward the patenting, licensing, marketing and/or development of such Subject Invention, and the Contractor has fulfilled the commitments set forth in paragraph (a) above. In the event Contractor retains title to a Subject Invention under this paragraph, the distribution of royalties, fees, equity or other consideration from such agreement shall be as set forth in paragraph (1) above.
- (3) In the event Contractor retains title to Subject Inventions under paragraphs (1) or (2) above, and executes an agreement (as defined in paragraph (1) above) to such Subject Inventions after the termination or expiration of this Contract, the distribution of royalties, fees, equity or other consideration from such agreement shall be as set forth in paragraph (1) above.
- (4) The Contractor and the Government shall enter negotiations prior to such termination or expiration with respect to retention of the title to Subject Inventions. Such negotiations shall consider the equities of the Parties with respect to each Subject Invention and shall take into consideration the presence of private investment, DOE's need for continued operation of the Facility, potential commercial use, assumption of patent related liabilities, effective technology transfer, and the need to market the technology. Such

negotiations shall not change the disposition of title provided for in paragraphs (1) and (2) above unless mutually agreed by the Contractor and the Government.

- (5) For any Subject Invention to which the Contractor maintains title or administration of an agreement under paragraphs (a)(1)-(2) above, the Contractor agrees that, to the extent it is able to do so in view of prior licenses or assignments, it will negotiate in good faith to enable the Successor Contractor to practice such subject invention in the form of CRADAs, Work For Others agreements, licenses or other appropriate agreements, in order to fulfill the missions and programs of the Facility. It is the intention of the Contractor to enable the Successor Contractor to continue operation of the Facility, including the Facility's technology transfer program. In any event, the Successor Contractor retains the nonexclusive royalty-free right to practice the Subject Invention on behalf of the U.S. Government.

(b) Costs

- (1) Except as otherwise specified in the clause of this Contract entitled, "Technology Transfer Mission," as allowable costs for conducting activities pursuant to provisions of that clause, no costs are allowable as direct or indirect costs for the preparation, filing, or prosecution of patent applications or the payment of maintenance fees or licensing and marketing costs after the Contractor elects to pursue commercialization of a Subject Invention under its privately-funded technology transfer program pursuant to paragraph (f) below. Should the Contractor make such election after allowable costs have been incurred with respect to the patenting of a particular Subject Invention, such costs shall be repaid from private funds concurrent with such election.
- (2) **RESERVED [M779]**
- (3) **RESERVED [M779]**
- (4) **RESERVED [M779]**

(c) Liability of the Government

- (1) It is understood that the privately-funded technology transfer activities of the Contractor under this clause are not subject to the clause entitled, "Insurance-Litigation and Claims".
- (2) The Contractor shall not include in any license agreement or assignment any guarantee or requirement, which would obligate the Government to pay any

costs or create any liability on behalf of the Government.

- (3) The Contractor shall include in all licensing agreements and in any assignment of title the following clauses unless otherwise approved or directed by the Contracting Officer following consultation with the DOE Patent Counsel:
- (i) “This agreement is entered into by Battelle Memorial Institute (BMI) in its private capacity. It is understood and agreed that the U.S. Government is not a party to this agreement and in no manner whatsoever shall be liable for nor assume any responsibility or obligation for any claim, cost or damages arising out of or resulting from this agreement or the subject matter licensed assigned).”
 - (ii) “Nothing in this Agreement shall be deemed to be a representation or warranty by the U.S. Government of the validity of any of the patents or the accuracy, safety, or usefulness for any purpose, of any TECHNICAL INFORMATION, techniques, or practices at any time made available by BMI. The U.S. Government shall have no liability whatsoever to LICENSEE or any other person for or on account of any injury, loss, or damage of any kind or nature sustained by, or any damage assessed or asserted against, or any other liability incurred by or imposed upon LICENSEE or any other person, arising out of or in connection with or resulting from:
 - (A) The production, use, or sale of any apparatus or product, or the practice of the INVENTIONS;
 - (B) The use of any TECHNICAL INFORMATION, techniques, or practices disclosed by BMI; or
 - (C) Any advertising or other promotional activities with respect to any of the foregoing, and LICENSEE shall hold the U.S. Government harmless in the event the U.S. Government is held liable. BMI represents that it has the right to grant all of the rights granted herein, except as to such rights as the Government of the United States of America may have or may assert.”
- (d) Distribution of net income

In the event the Contractor engages in a privately funded technology transfer program under the clause of this Contract entitled, “Patent Rights – Management and

Operating Contracts, Nonprofit Organization or Small Business Firm Contractor” or the clause of this Contract entitled, “Rights in Data – Technology Transfer”, such that private funds are utilized for technology transfer after the Contractor elects to pursue privately-funded commercialization of a Subject Invention or after the Contractor has received permission from the Contracting Officer to assert statutory copyright in a software program and received DOE approval to commercialize such software under its privately funded technology transfer program under paragraph (i) below, net income from such privately funded technology transfer program shall be distributed as follows:

- (1) Fifty-one percent (51%) of net income shall be used at the Facility for scientific research, development and education consistent with the research and development mission and objectives of the Facility. Forty-nine percent (49%) of such net income may be used by the Contractor at a location other than the Facility if such use is for scientific research, development, and education consistent with the research and development mission and objectives of the Facility in accordance with 35 USC Section 200 et seq.
- (2) “Net income” is defined as that amount remaining after the expense of patenting costs, licensing and marketing costs, payments to inventors, and other expenses incidental to the administration of Subject Inventions is deducted from gross income received.

(e) Equity Plan

It is the intent of the Government and the Contractor that the Contractor shall, in its discretion, take reasonable and prudent actions from both a commercial and stewardship of the Facility’s technology transfer perspective related to the ownership of equity received from third parties under this Contract. The Contractor shall submit to the Contracting Officer a plan, which shall set forth principles for the Contractor’s acquisition, retention and disposition of equity received from third parties as consideration for licenses or assignments granted to such third party. Such plan shall consider, at a minimum,

- (1) the manner in which the Contractor shall acquire such equity in a third party, including the manner in which the Contractor shall apportion capital contributions to such third party between the relative value of private Contractor contributions and the value of contributions representing a license under a Subject Invention;
- (2) the manner in which the Contractor shall hold such equity, given that the Government has an undivided 51% interest in that portion of such equity representing the value of contributions resulting from a license to such Subject

Invention;

- (3) the manner in which the Contractor shall dispose of such equity, giving due consideration to the potential for a conflict of interest between the interests of the Government and the Contractor; and
- (4) the manner in which the Contractor's inventors are compensated.
- (f) The Contractor shall indicate whether a Subject Invention will be pursued under its government-funded technology transfer program or its privately-funded technology transfer program within six (6) months after the Subject Invention is reported to the Contractor, unless otherwise agreed in writing by the DOE Patent Counsel.
- (g) In its privately-funded technology transfer program, the Contractor shall be substantially guided by the principles of U.S. Competitiveness and Fairness of Opportunity as set forth herein.
- (h) When requesting approval from DOE to assert statutory copyright in a particular software package pursuant to the clause entitled "Rights in Data—Technology Transfer" (Clause I-93(e) herein), Contractor may request that commercialization of such software proceed under the provisions of this Clause H-9. If approved, no costs of such commercialization thereafter shall be allowable, and the proceeds of such commercialization shall be treated in accordance with paragraph (a) above as if such proceeds had resulted from the commercialization of a Subject Invention.

(End of Clause)

H-10 Continued Improvement Initiative

It is the intent of the Parties to continue to work together during the term of this Contract to develop and implement innovative approaches and techniques for improving Contractor performance and Contract administration. This initiative for continued improvement will focus on improving Contractor efficiency and effectiveness, enhancing Contractor accountability, gaining savings in Laboratory programs, improving cost-effective management of risks, and increasing efficiencies in Federal oversight of the Contract. Areas that the Parties will evaluate, include, but are not limited to, the following:

- (a) Management/reduction of mandatory Hanford Site Services and ensure cost allocation equity;
- (b) Policies and procedures related to the Technology Transfer mission of the Laboratory; and

- (c) Incentive Compensation and/or other enhancements to variable pay programs.

(End of Clause)

[M881]

H-11 Standards of Contractor Performance Evaluation

- (a) Use of objective standards of performance, self-assessment and performance evaluation
- (1) The Parties agree that the Contractor will utilize a comprehensive performance-based management approach for overall Laboratory management. The performance-based management approach will include the use of standardized performance goals and objectives as the measurement basis against which the Contractor's overall performance of the scientific and technical mission obligations under this Contract will be assessed. The performance criteria will focus on results to drive improved performance and increased effective and efficient management of the Laboratory.
 - (2) The Parties agree to utilize the process described within Section J, Appendix E "Performance Evaluation and Measurement Plan" (PEMP) to evaluate the performance of the Laboratory. The Parties further agree that the evaluation process described in Appendix E will be reviewed annually and modified, if necessary, by agreement of the Parties. If agreement of the Parties cannot be reached, the Contracting Officer has the unilateral right to establish the evaluation process.
 - (3) The Parties agree that the Contractor will conduct an ongoing self-assessment process as a principal means of determining its compliance with the Contract Statement of Work and performance objectives identified within Section J, Appendix E. To assist the DOE in accomplishing the appropriate level of oversight, the Contractor shall work in partnership and cooperation with DOE and other external organization, as appropriate, in the self-assessment process. This work includes, but is not limited to, the development and execution of self-assessments and the utilization of the results for continuous improvement.
 - (4) The Contractor shall provide formal status briefings for performance against Appendix E, as agreed to by the Laboratory Director and the Manager, PNSO.
[M813]
 - (5) DOE, as a part of its responsibility for oversight, evaluation, and information exchange, shall provide an annual programmatic appraisal and other appraisals, and reviews of the Contractor's performance of authorized work in

accordance with the terms and conditions of this Contract. The Office of Science, through the PNSO, has the lead responsibility for oversight of the programs and activities conducted by the Contractor.

- (6) The Contracting Officer shall annually provide a written assessment of the Laboratory's performance to the Contractor, which shall be based upon the process described in Appendix E. The Parties acknowledge that the performance levels achieved against the specific performance objectives and measures shall be the primary, but not sole, criteria for determining the Contractor's final performance evaluation and rating for each goal. The Contractor's self-assessment results, to include results of any third party reviews which may have been conducted during the evaluation period, will be considered at all levels to assess and evaluate the Contractor's performance. The Contracting Officer may also consider other relevant information not specifically measured by the objectives and measures established within Appendix E that is deemed to have an impact (either positive or negative) on the Contractor's performance. Other relevant information that may be used by the Contracting Officer may include, but is not limited to, information gained from peer reviews, operational awareness, outside agency reviews (i.e., OIG, GAO, DCAA, etc.) conducted throughout the year, annual reviews (if needed), and DOE "for cause" reviews. With exception of "for cause" reviews, the DOE Pacific Northwest Site Office will conduct no more than one management and operations review per year. The on-site portion of such reviews will normally last no more than two weeks.
- (b) Standards of performance measure review
 - (1) The Parties agree to review the PEMP elements (measurement basis and performance measures/targets) contained in Appendix E annually and to modify them upon the agreement of the Parties; provided, however, that if the Parties cannot reach agreement on all the measurement basis and/or performance measures/targets for the next period, the Contracting Officer shall have the unilateral right to establish reasonable new measurement basis and/or performance measures/targets and/or to modify and/or delete existing measurement basis and/or performance measures/targets of performance. It is expected that the measurement basis and performance measures/targets for objectives will be modified by the Contractor and the DOE as new areas of emphasis or priorities emerge which the Parties may agree warrant recognition in the performance-based integrated management approach.

- (2) Failure to include an objective or performance measure/target in the Contract Appendix E does not eliminate the Contractor's obligation to comply with all applicable terms and conditions as set forth elsewhere within the Contract.
- (3) In the event the Contracting Officer or HCA decides to exercise the rights set forth in paragraphs (a)(6) or (b)(1) above, he/she will notify the Contractor, in writing, of the intended decision ten days prior to issuance.
[M432]

(End of Clause)

H-12 Notice Regarding the Purchase of American-Made Equipment and Products – Sense of Congress (AL-2003-03)

It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this award should be American-Made.

(End of Notice)

H-13 Care Of Laboratory Animals

- (a) Before undertaking performance of any contract involving the use of Laboratory animals, the Contractor shall register with the Secretary of Agriculture of the United States in accordance with Section 6, Public Law 89-544, Laboratory Animal Welfare Act, August 24, 1966, as amended. The Contractor shall furnish evidence of such registration to the Contracting Officer.
- (b) The Contractor shall acquire animals used in research and development programs from a dealer licensed by the Secretary of Agriculture, or from exempted sources in accordance with the Public Laws enumerated in (a), above, of this provision.
- (c) In the care of any animals used or intended for use in the performance of this Contract, the Contractor shall comply with USDA regulations governing animal care and usage, as well as all other relevant local, State, and Federal regulations concerning animal care and usage. In addition the Contractor will ensure that research will be conducted in a facility that either: (i) has a current National Institutes of Health (NIH) assurance number for animal care and usage, or (ii) is currently accredited for animal care and usage by an appropriate organization such as the Association for Assessment and Accreditation of Laboratory Animal Care (AAALAC) International, or (iii) has a DOE Assurance Plan Number.

(End of Clause)

H-14 RESERVED [M707]

H-15 Privacy Act Records

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a (Public Law 93-579) and implementing DOE regulations (10 CFR 1008), the Contractor shall maintain the following "Systems of Records" on individuals in order to accomplish the United States Department of Energy functions:

- (a) Intelligence Related Access Authorization (DOE-15)
- (b) Personnel Radiation Exposure Records (DOE-35)
- (c) Security Education and/or Infraction Reports (DOE-48)
- (d) Access Control Records of International Visits, Assignments, and Employment at DOE Facilities and Contractor Sites (DOE-52)
- (e) Counterintelligence Administrative and Analytical Records and Reports (DOE-81)
- (f) Counterintelligence Investigative Records (DOE-84)

The parenthetical DOE number designations for each system of records refer to the official "System of Records" number published by the DOE in the Federal Register pursuant to the Privacy Act.

(End of Clause)

H-16 Administration of Subcontracts

- (a) The administration of all subcontracts entered into and/or managed by the Contractor, including responsibility for payment hereunder, shall remain with the Contractor unless assigned at the direction of DOE.
- (b) The DOE reserves the right to direct the Contractor to assign to the DOE, or another Contractor, any subcontract awarded under this Contract.
- (c) The DOE reserves the right to identify specific work activities in Section C "Description/Specifications" to be removed (de-scoped) from the Contract in order to contract directly for the specific work activities. The Department will work with the Contractor to identify the areas of work that can be performed by small businesses in order to maximize direct federal contracts with small businesses. The Contractor agrees to facilitate these actions. This facilitation will include identifying direct contracting opportunities valued at \$5 million or above for small businesses for work presently performed under subcontracts, as well as work performed by Contractor

employees. The Contractor shall notify the DOE one-year in advance of the expiration of any of its subcontracts valued at \$5 million or above, or if applicable, one-year prior to the exercise of an option and/or the option notification requirement, if any, contained in the subcontracts. The DOE will review this information and the requirements of the Contractor to determine the appropriateness for small business opportunities. This review may result in the DOE electing to enter into contracts directly with small businesses for these areas of work. The Contracting Officer will give notice to the Contractor not less than 120 calendar days prior to the date for exercising the option and/or the expiration of the subcontract and/or prior to entering into a contract for work being performed by Contractor employees. Following award of these direct federal contracts, DOE may assign administration of these contracts to the Contractor. The Contractor agrees to accept assignments from the DOE for the administration of these contracts. The parameters of the Contractor's responsibilities for the small business contracts and/or changes, if any, to this Contract, will be incorporated via a modification to the Contract. The Contractor will accept management and administration responsibilities, if so determined.

- (d) To the extent that DOE removes (de-scopes) work from this Contract, any such removed or withdrawn work shall be treated as a change in accordance with the clause of this Contract, titled Changes (Dec 2000). A "material change" for the purpose of this clause is defined as cumulative changes during a fiscal year that result in a plus or minus 10% change to the Laboratory's Estimated Fee Base. To the extent that DOE assigns the administration of a contract to the Contractor, or removes (de-scopes) work, the Parties reserve the right to negotiate an equitable adjustment in the Contractor's annual available performance fee. The negotiation of fee will be in accordance with the Contract clause entitled "Determining Total Available Performance Fee and Fee Earned". The Parties will also negotiate appropriate adjustments to the Contractor's Subcontracting Plan or any other applicable Contract terms and conditions impacted by such withdrawal or addition of work scope to recognize the changes to the Contractor's subcontracting base and goals. [M881]

(End of Clause)

H-17 RESERVED [M707]

H-18 RESERVED [M600]

H-19 Cap on Liability

- (a) The Parties have agreed that the Contractor's liability, for certain obligations it has assumed under this Contract, shall be limited as set forth in paragraph (b) below. These limitations or caps shall only apply to obligations the Contractor has assumed pursuant to the following:

- (1) The cost principle at DEAR 931.205-47 titled “Costs Related to Legal and Other Proceedings” [DOE coverage—paragraph (h), Costs Associated with Whistleblower Actions];
 - (2) The clause titled “Property”, paragraph (f)(1)(i)(C);
 - (3) The clause titled “Insurance – Litigation and Claims”, (h), with respect to prudent business judgment only; and
 - (4) The clause titled “Insurance – Litigation and Claims”, (j)(2), except for punitive damages resulting from the willful misconduct or lack of good faith on the part of the Contractor’s managerial personnel as defined in the clause titled “Property”. [M881]
- (b) The Contractor shall be liable for an amount not-to-exceed 1.25 times the maximum total available performance fee for each fiscal year. The amount of the Contractor’s liability shall be calculated on a cumulative, per fiscal year basis. The annual cap which will apply shall be based on the fiscal year in which the Contractor’s act or failure to act was the proximate cause of the liability assumed by the Contractor. In the event the Contractor’s act or failure to act overlaps more than one fiscal year, the limitation will be the annual limitation for the last fiscal year in which the Contractor’s act or failure to act occurred. If the Contractor’s cumulative obligations equal the amount of the annual limitation of liability, the Contractor shall have no further responsibility for the costs of the liabilities it has assumed pursuant to (a)(1) through (4) above.
- (End of Clause)

H-20 Performance Based Management and Oversight

- (a) Performance-based management shall be the key enabling mechanism for establishing the DOE-Contractor expectations on oversight and accountability. DOE expectations (outside of individual program performance and requirements of laws and regulations) and performance targets shall be established through the Performance Evaluation and Measurement Plan (PEMP) pursuant to the clause entitled “Standards of Contractor Performance Evaluation”. This PEMP shall establish the expected strategic results in the areas of science and technology, stewardship, and management/operations excellence. The measurement basis for the science and technology performance goals shall be established by each major customer of the Laboratory, and customer evaluation will be the primary means of evaluating science and technology performance. The performance measures/targets for the management/operational goals shall be established by agreement with DOE. Confirmation of Contractor assurance results shall be the primary method for evaluating Contract management/operational performance. The types and level of evaluation utilized to confirm results are dependent on the Contracting Officer’s determination of the effectiveness of the Contractor’s assurance system and is described in the Section H Contract clause, entitled

“Contractor Assurance System”. [M600]

- (b) The performance-based management system shall be the primary vehicle for addressing issues associated with performance expectations. In the event of a substantive performance shortfall in any area, the appropriate improvement expectations and measures/targets will be incorporated into the PEMP and tracked through self-assessment and independent oversight, as appropriate.
- (c) Compliance with applicable Federal, State and local laws and regulations, and permits and licenses, shall be primarily determined by the cognizant regulatory agency and DOE will primarily rely upon the determination of the external regulators in assessing Contract compliance. [M600]

(End of Clause)

H-21 Shared Services

(a) Alternative Proposals

The Contractor may submit to the Contracting Officer alternative proposals for obtaining services currently provided by other contractors as Shared Services. All proposals will reflect innovative cost-effective approaches whereby the Contractor will obtain services in a manner reflecting the best interests of the Government and the Contractor. The Contractor will consider contractual and regulatory constraints in all proposals. The Contractor must submit proposals under this clause to the Contracting Officer a minimum of 90 calendar days in advance of the proposed date for transitioning services. The Contracting Officer shall accept, reject, or conditionally accept the proposal, in writing, within 90 calendar days of receipt. The Contracting Officer shall provide an explanation for any rejection.

(b) Cost-Efficiency Comparison Information

To facilitate the cost-efficiency comparisons required under paragraph (a) above, DOE agrees to provide pricing information associated with services provided by other Hanford Site contractors to the fullest extent possible and at the highest level sufficient to perform such analysis. DOE will deliver the information to the Contractor within 30 days of the Contractor's request or such time period as agreed to by the Parties.

(End of Clause)

[M873]

H-22 Lobbying Restriction (Energy and Water Act 2005) (AL-2005-02)

The Contractor agrees that none of the funds obligated on this award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation

matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation. [M422]

(End of Clause)

H-23 Lobbying Restriction (Interior Act 2005) (AL-2005-02)

The Contractor agrees that none of the funds obligated on this award shall be made available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which Congressional action is not complete. This restriction is in addition to those prescribed elsewhere in statute and regulation. [M422]

(End of Clause)

H-24 Determining Total Available Performance Fee and Fee Earned

In implementation of the clause in Section I entitled, “Total Available Fee: Base Fee Amount and Performance Fee Amount,” the following shall apply:

- (a) There shall be no base fee for the period of this Contract. The Parties have agreed to a multi-year performance fee for the Contract period, to be 100% at risk, and determined as described below:

- (1) In FY12, the total available performance fee is \$9,000,000. [M494]

- (2)

Fiscal Year	Estimated Fee Base	Performance Fee Available
FY 13	\$904.2M	\$11.9M
FY 14	\$910.5M	\$11.9M
FY 15	\$902.8M	\$12.5M
FY 16	\$892.9M	\$12.5M
FY 17	\$892.9M	\$12.5M

[M881]

- (3) The Parties have agreed that the available performance fee shall be subject to adjustment in the event of a significant change (greater than plus or minus 10%) to the Laboratory’s Estimated Fee Base for any fiscal year, or work scope. The Parties may re-negotiate, in good faith, the total available performance fee pool. [M881]

- (b) Determination of Total Available Fee Amount Earned.

The Government shall, at the conclusion of each specified evaluation period, evaluate and/or validate the Contractor’s performance in accordance with the clause in Section I entitled “Total Available Fee: Base Fee Amount and Performance Fee Amount.” The evaluation of the Contractor performance shall

be in accordance with Section J, Appendix E “Performance Evaluation and Measurement Plan.”

(End of Clause)

H-25 RESERVED [M707]

H-26 Advance Understandings on Allowable Costs

Allowable costs under this Contract shall be determined according to the requirements of DEAR 970.5232-2, Payments and Advances. For purposes of effective contract implementation, certain items of cost are being specifically identified below as allowable under this Contract to the extent indicated:

- 1) Foreign Rental Car Insurance - Foreign rental car insurance is allowable to the extent it is not covered by an existing insurance plan being billed to the government or is required by law and is not personal in nature.
- 2) Home Office Expenses - Home Office expenses are allowable to the extent that such expenses are allowable per FAR 31.2 and DEAR 970.3102 and are allocable consistent with FAR 31.2 and the Cost Accounting Standards. These costs are initially capped at \$5.4M per year to be reviewed annually.
- 3) Operational Support and Strategic Sourcing – In circumstances when there is a clear advantage to the Government for operational support to be sourced from Battelle, such costs will be deemed allowable under this Contract if expressly approved by the Contracting Officer.
- 4) **Stipends and payments, if not otherwise unallowable under any other term of the contract, made to reimburse travel or other expenses - Researchers and students who are not employed under this Contract but are participating in research, educational or training activities under this Contract are allowable to the extent such costs are incurred in connection with fellowship, international agreements, or other research, educational or training programs approved in writing by the Contracting Officer. (Deviation authorized from FAR 31.205-44 (e))**
- 5) Tuition Reimbursement – Tuition and fees for staff who are employed under this Contract are allowable to the extent the staff continue their employment during the period of reimbursement and this cost is not otherwise unallowable.
- 6) **Payments, if not otherwise unallowable under any other term of the contract, to educational institutions - Tuition and fees for researchers and students who are not employed under this Contract but are participating in research, educational or training activities under this Contract, or institutional allowances in connection with fellowship or other research, educational or training programs are allowable. (Deviation authorized**

from FAR 31.205-44 (e)

- 7) Rewards & Recognition - The cost incurred by the Contractor will be allowable, to the extent specified under FAR 31.205-6 (f), and as applicable to work under this Contract for administering the Contractor's Recognition and Reward Program for the Commercialization of Intellectual Property as described in the program description. Such costs shall include cash awards and rewards and recognition events to the extent that they are not otherwise unallowable.
- 8) Imputed interest costs - Leases classified and accounted for as capital leases under generally accepted accounting principles (GAAP) are allowable, provided that the decision to enter into a capital leasing arrangement has been specifically authorized and approved in writing by the DOE Contracting Officer in accordance with applicable procedures and such interest costs are recorded in an appropriately specified DOE account established for such purpose.
- 9) ISM Awareness Program - PNNL has an Integrated Safety Management (ISM) Awareness Program (ISMAP) which is separate and distinct from the Laboratory's variable pay programs. ISMAP includes tangible awards valued at less than \$25 each. The ISMAP awards are for PNNL staff for having participated in educational and survey safety activities that are linked to ISM program performance improvement and achievement or for supporting staff recognition and awareness in the areas of safety and wellness. Costs associated with the "ISM Awareness Program" are allowable subject to an annual ceiling amount. ISM Awareness Program tangible awards will not promote the Battelle name or logo. However, the PNNL branding logo is acceptable (i.e. Pacific Northwest National Laboratory branding logo, along with Operated by Battelle for the U.S. Department of Energy). Allowable cost is limited to tangible awards for PNNL staff, and any awards to non-PNNL employees will be an unallowable cost.
- 10) Management and Operations Sustainability Program – The PNNL Site Sustainability Plan is to reduce Greenhouse Gas emissions in accordance with H-43 and Departmental goals. To this end, Battelle is authorized up to \$10,000 for use in creating and implementing sustainability initiatives to include tangible awards valued at less than \$25 each. Tangible awards will not promote the Battelle name or logo. However, the PNNL branding logo is acceptable (i.e. Pacific Northwest National Laboratory branding logo, along with Operated by Battelle for the U.S. Department of Energy). Allowable cost is limited to tangible awards for PNNL staff, and any award to non-PNNL employees will be an unallowable cost.

(End of Clause)

[M881]

H-27 Employee Concerns Program

- (a) The Contractor shall develop and maintain an employee concerns program (ECP) and plan to be reviewed and approved by DOE.
- (1) Contractor and subcontractor personnel shall be informed of the availability of the ECP, their right to raise concerns relating to the environment, safety, health, or management of DOE-related activities through the Contractor or Departmental ECP programs and to do so without any fear of harassment or reprisal.
 - (2) The Contractor shall evaluate and attempt to resolve employee concerns in a manner that protects the health and safety of both employees and the public, ensure effective and efficient operation of programs, and use alternative dispute resolution techniques whenever appropriate.
 - (3) The Contractor shall conduct an annual self-assessment to measure the effectiveness of the ECP. Problems that hinder the ECP from achieving its objectives shall be corrected.
 - (4) The Contractor shall provide timely notification to the Department of any significant staff concerns or allegations of retaliation or harassment. The Contractor shall cooperate with any Departmental actions including requests for documentation or information involving employee concerns.
- (b) The Contractor currently has in place an ECP that meets these requirements. If the Contractor revises the ECP, a copy of the revised ECP shall be provided to DOE for approval.

(End of Clause)

H-28 Greening the Government Through Federal Fleet and Transportation Efficiency

When performing motor vehicle fleet operations for the Department of Energy, the Contractor will conduct such operations in accordance with the requirements of Executive Order 13149 of April 21, 2000, Greening the Government Through Federal Fleet and Transportation Efficiency, including implementing guidance for the Department of Energy fleet. Such operations should include the use of environmentally preferable motor vehicle products in the maintenance of these vehicles when such products are reasonably available, and meet manufacturer's warranty requirement and applicable performance standards. Environmentally preferable motor vehicle products include re-refined motor vehicle lubricating oils, retread tires, and bio-based motor vehicle products.

(End of Clause)

H-29 RESERVED [M779]

H-30 Contractor Compensation, Benefits and Pension

- (a) The Contractor shall develop, implement and maintain formal policies, practices and procedures to be used in the administration of its compensation system including a compensation system self-assessment plan consistent with 48 CFR 31.205-6, "Compensation for personal services." The Contractor's compensation system and methods shall be fully documented, consistently applied, and acceptable to DOE in accordance with 48 CFR 31.205-6 as supplemented by DEAR 970.3102-05-6. Costs incurred under a compensation program will generally be deemed reasonable if they are in accordance with the program accepted by the Contracting Officer, consistent with applicable cost principles, and conform to Contracting Officer approved applicable industry benchmarks. Further advance understandings on allowable costs are detailed in the attached Appendix A of this Contract.
- (b) The Contractor shall submit the following to the Contracting Officer for a determination of cost reimbursement under the Contract:
- (1) A description of the compensation program supported by the relevant data comparing it to other industry or relevant benchmark programs.
 - (2) Compensation System self-assessment and compensation system existing baseline package for DOE validation.
 - (3) Proposed compensation design changes that increase cost must be approved by the Contracting Officer prior to implementation.
 - (4) Annual Compensation Increase Plan (CIP).
 - (5) Individual compensation actions, as required in the Contract including initial and proposed changes to base salary and or payments under an Executive Incentive Compensation Plan submitted on the Application for Contractor Compensation Approval, DOE F 3220.5.
 - (6) Any proposed establishment of an incentive compensation plan.
- (c) The Contractor shall provide the Contracting Officer with the following reports:
- (1) Annual Contractor Salary-Wage Increase Expenditure Report to include, at a minimum, breakouts for merit, promotion, variable pay, special adjustments, and structure movements for each pay structure showing actual against approved amounts.

- (2) At the time of Contract award and upon any change thereafter, a list of the top five most highly compensated executives and their salaries.
- (3) Annual Report of Contractor Expenditures for Employee Supplemental Compensation through the Department Workforce Information System (WFIS), compensation and benefits module.

Part I – Benefit Programs

The Contractor shall implement an employee benefits program that supports at a reasonable cost the effective recruitment and retention of highly skilled workforce at the Department facility. No presumption of allowability will exist when the Contractor implements changes to its existing employee benefits program until the Contracting Officer makes a determination of cost reimbursement for reasonable changes to the program.

- (a) Submit to the Contracting Officer for a determination of cost reimbursement a periodic evaluation of the Contractors Employee Benefits Program based on two professionally recognized performance measures:
 - (1) An Employee Benefits Value Study (ben-val) Measure every two years which is an actuarial study of the relative value (RV) of the benefits programs offered by the Contractor measured against the RV of benefit programs offered by comparator companies approved by the Contracting Officer. To the extent that the value study does not address post-retirement benefits (PRB) other than pension, the Contractor shall provide separate PRB cost and plan design data comparison with external benchmarks for nationally recognized and Contracting Officer approved survey sources.
 - (2) An Employee Benefits Cost Survey Comparison (cost survey) Method every year that analyzes the Contractor's employee benefits cost on a per capita basis per full time equivalent employee and compares it with the cost reported by the U.S. Chamber of Commerce (CoC) Annual Employee Benefits Cost Survey or other Contracting Officer approved broad based national survey.
- (b) When net benefit value and/or per capita cost exceed the comparator group by more than 5 percent, submit corrective action plans to achieve a net benefit value and per capita cost not to exceed the comparator group by more than 5 percent.
- (c) When required by the Contracting Officer submit an analysis of the specific plan costs that are above the per capita cost range and a corrective action plan to achieve conformance with a Contracting Officer directed per capita cost range.

- (d) Implement corrective action plans determined to be reimbursable by the Contracting Officer to align employee benefit programs with the target in paragraph (b) of this Part I.
- (e) Post Retirement Life, Medical and Other Benefit Obligations Upon Contract Termination. Employer costs for retiree medical benefits will be prorated based only on service under this Contract.
 - (1) Subject to the availability of appropriated funds obligated to this Contract, if the Contract terminates, the Department of Energy will make available to the Contractor in a timely manner sufficient funds so that the Contractor has no out-of-pocket expenditures from corporate funds to cover all liabilities incurred under this Contract related to Contracting Officer-approved employee welfare benefit plans (including but not limited to medical, life, and workers' compensation). If so requested by the DOE at the time of Contract termination or expiration, the Contractor will continue as the sponsor of these plans until all liabilities of such plans are discharged.
 - (2) If the Contract terminates, the Department of Energy may make use of a third party such as an insurer to guarantee benefit payments.

Part II – Leave of Absence Without Pay

An employee may be granted a leave of absence without pay for up to three years by the Contractor provided the absence will not interfere with the Contractor's operations or create any conflict of interest. Continuation of benefits during leave of absence without pay will be administered according to the Contractor's leave of absence policy and any applicable Plan amendments as subject to ERISA.

- (a) Granting of company service for a period of leave and restoration of vacation eligibility immediately upon return to work may be provided for employees who return to work from leaves including, but not limited to:
 - (1) Leaves granted when it is in the Government's interest to make an employee's expertise or services available to DOE, another DOE Contractor, another government agency (e.g. Department of Homeland Security, Department Of Defense, Centers for Disease Control, or National Aeronautics and Space Administration), colleges or universities, or other work-related activities such as the International Atomic Energy Agency.
 - (2) Entrepreneurial leave granted to accelerate technology start up based on DOE developed technologies.

- (b) Continuation of company service credit and/or immediate restoration of vacation upon return to work for any leave without pay other than those listed above require DOE approval if the leave exceeds 180 days.
- (c) The Contractor shall submit an annual report to the Contracting Officer identifying all employees on leave of absence without pay under this provision, the organization they are supporting, the location of assignment and length of leave of absence.

Part III Group Pension Plans

Staff members of the Contractor's Pacific Northwest National Laboratories (PNNL) assigned to or performing work under the Contract may participate in the Contractor's Group Pension Plans (the Plans) applicable to PNNL in accordance with the terms of the Plans. The Group Pension Plans are trustee plans described in items (a) and (b) below and with respect to the Plans, the Contractor and DOE agree as follows:

- (a) "Pension Plan of Pacific Northwest Laboratories, Battelle Memorial Institute," [PNNL Plan] (applicable to non-bargaining unit employees) effective July 1, 1987, and as the foregoing PNNL Plan may be amended from time to time by the Contractor's Board of Trustees; and as determined to be reimbursable by the DOE Contracting Officer.
- (b) "Hanford Contractors Multi Employer Defined Benefit Pension Plan for HAMTC Represented Employees," [HAMTC Plan] (applicable to bargaining unit employees) effective April 1, 1987; and, as the foregoing HAMTC Plan may be amended from time to time by the Plan Administrator in cooperation with the Administrative Committee; as determined to be reimbursable by the DOE Contracting Officer.
- (c) The PNNL Plan and disposition, payment and transfer of Plan assets shall satisfy the requirements of the Employee Retirement Income Security Act (ERISA), the Internal Revenue Service (IRS), and the Department of Labor and any other applicable Federal statutes and regulations.
- (d) All costs related to the PNNL Plan required to meet the requirements of this Article including administrative costs incurred by the Contractor and applicable to the work under the Contract and employer contributions related to work performed under this Contract will be allowable costs. To the extent practicable all non-settler administrative costs shall be charged to the pension plan rather than to the operating budget to the maximum extent permitted by Department of Labor regulations. The employer contributions will be allowable at rates determined for PNNL based on actuarial valuations performed by the actuary appointed by Battelle, using the entry age normal cost method of funding.

- (e) The Contractor will provide DOE with annual actuarial valuation reports and IRS Form 5500 Reports. These reports shall contain information regarding PNNL Plan assets and liabilities. Said information shall be based on the valuation assumptions and calculation methods which are then in use for the PNNL Plan. The actuarial valuation reports shall be provided to DOE within thirty (30) days after preparation or nine (9) months following the opening of a plan year for which funding requirements are calculated, whichever is earlier.
- (f) Unless otherwise agreed, the Contractor will obtain an actuarial valuation of the PNNL Plan as of the effective date of Contract termination or expiration. The cost of such valuation will be allocated in accordance with then current procedures for allocating actuarial valuation costs.
- (g) Procedures for Annual Accounting of Employer Pension Contributions for PNNL Plan
 - (1) For each plan year, the Contractor will provide to DOE an accounting of assets associated with employer pension contributions with respect to the Contract work of PNNL and the Non-Contract work of PNNL as follows:
 - (i) accrual basis market value of such associated assets at the beginning of the PNNL Plan year;
 - (ii) the dollar amount of employer pension contributions made during the plan year allocated, on the basis of the cost of non-bargaining direct staff labor during such year, to the Contract work and the Non-Contract work;
 - (iii) the dollar amount of investment income on such associated assets based on the yield rate determined on the dollar-weighted market value basis as shown in actuarial reports of the Plan;
 - (iv) the dollar amount of related benefits and/or assets disbursed to terminated and retired PNNL staff members and beneficiaries; such related benefits and/or assets will be allocated on the basis of the historical relationship of non-bargaining direct staff labor to the Contract work of PNNL staff members and the other work of PNNL staff members; and
 - (v) accrual basis market value of associated assets at the end of the plan year [(i) + (ii) + (iii) - (iv) = (v)].
 - (2) The first accounting under this PNNL Plan shall be as of June 30, 1987, and shall reflect the removal of those assets and liabilities transferred to the HAMTC Plan effective April 1, 1987, from total PNNL pension assets accounted for in previous reports covering the periods from January 1,

1965 on. For the Plan year ending June 30, 1987, and annually thereafter, the Contractor will provide to DOE an accounting of assets as described in Part III, paragraph (g)(1) above. Such reports shall be provided to DOE within thirty (30) days after preparation but no more than nine (9) months following the opening of the plan year for which funding requirements are calculated. The final accounting period shall end with the effective date of Contract termination.

- (h) References to termination of the Contract in this Article are intended to cover the circumstances created when the contractual relationship between DOE and the Contractor is terminated in whole or in part by formal action of DOE in accordance with the Clause of the Contract entitled "Termination". It is not intended that the provisions of this Article pertaining to Contract termination be implemented in cases when reduced funding levels or cessation of individual projects or programs require work force reductions but do not affect the continuing contractual relationship under the Contract.
- (i) Procedures for Determination of Contract Service Pension Assets and Liabilities Upon Contract Termination.
 - (1) Contract Service Assets. Contract Service Assets shall include all assets attributable to employer contributions with respect to the Contract work of PNNL, as determined in this Part III, paragraphs (g)(1) and (g)(2) above. Such assets shall also include applicable employer contributions due the fund but not paid as of the effective date of termination.
 - (2) Non-Contract Service Assets. Non-Contract Service Assets shall include all assets attributable to employer contributions with respect to the Non-Contract work of PNNL as determined in this Part III, paragraphs (g)(1) and (g)(2) above. Such assets shall also include applicable employer contributions due the fund but not paid as of the effective date of termination.
 - (3) Liabilities for Present and Future Benefits
 - (i) Pensioners, Beneficiaries, and Terminated Vested Members

The liability for benefits for PNNL pensioners, beneficiaries, and terminated vested members who separated prior to the date of Contract termination and whose separation was not directly caused by such termination, shall be equal to the present value of such benefits as of the effective date of termination of the Contract. Such present value shall be calculated using GATT rates for interest and mortality as appropriate for the PNNL Plan, consistent with the then current actuarial valuation, or as mutually agreeable to the DOE and the Contractor based on circumstances at the time.

(ii) Active Participants Retained by Battelle

For the active participants retained by Battelle, the past service liability shall be calculated as of the effective date of Contract termination using the PNNL Plan actuarial assumptions, actuarial cost method, and benefits as then in effect. The calculations shall be completed in a manner comparable to those for an ongoing plan.

(iii) Active Participants Not Retained by Battelle in the Event There Is No Successor Pension Plan

If there is no successor pension plan, liabilities for vested accrued benefits of PNNL Participants whose active membership is terminated as a result of Contract termination, including benefits becoming vested by reason of such termination under applicable PNNL Plan provisions, law and/or IRS regulations, shall be equal to the present value of such vested benefits calculated using the GATT rates for interest and mortality, as appropriate for the PNNL Plan consistent with the then current actuarial valuation, or as mutually agreeable to the DOE and the Contractor based on circumstances at the time.

(iv) Active Participants Not Retained by Battelle in the Event There is a Successor Pension Plan

For the Participants covered by a successor pension plan, the past service liability shall be calculated as of the effective date of Contract termination using the Plan actuarial assumptions, actuarial cost method, and benefits as then in effect. The calculations shall be completed in a manner comparable to those for an ongoing pension plan.

(j) Disposition of Contract Service Assets and Liabilities

- (1) The liabilities and Contract Service Assets associated with such liabilities for pensioners, beneficiaries, and terminated vested members as described in this Part III, paragraph (i)(3)(i) shall be retained by Battelle and shall include an amount actuarially determined to cover reasonable administrative service costs provided, however, that if requested by DOE to do so, Battelle shall solicit proposals from at least three insurance carriers for a single premium purchase non-participating contract for assumption of liabilities for such participants. The award shall be based on mutual agreement between the DOE and the Contractor, and shall be consistent with fiduciary standards related to such transactions. In such

case, retained assets shall equal the cost of such insurance contracts.

(2) The remainder of Contract Service Assets, after the retention described in this Part III, paragraph (j)(1) above, shall be divided into two parts as follows:

(i) One part equals such remainder of Contract Service Assets multiplied by the ratio $R / (R+S)$ where:

R = past service liability for active Participants retained by Battelle calculated as described in this Part III, paragraph (i)(3)(ii). And

S = past service liability for active Participants not retained by Battelle calculated as described in this Part III, Paragraph (i)(3)(iv).

This part of Contract Service Assets will be retained by Battelle.

(ii) The other part of Contract Service Assets equals the total of Contract Service Assets less the amount retained by Battelle under Part III, paragraph (j)(1) and paragraph (j)(2)(i) above.

(A) If there is a successor plan, then this part shall be transferred to, and associated liabilities calculated in accordance with this Part III, paragraph (i)(3)(iv) shall be assumed by, the successor plan.

(B) If there is no successor plan, then

1. this part and associated liabilities calculated in accordance with this Part III, paragraph (i)(3)(iii) will be retained by Battelle;
2. if such assets exceed the associated liabilities (including the option of purchasing annuities to cover the liabilities) and the PNNL Plan terminates, Battelle will pay to DOE from Plan assets any excess amount remaining after plan termination costs, penalties, and taxes resulting from such termination of the Plan; and
3. if Plan assets remaining after the costs, penalties and taxes resulting from termination of the Plan are not sufficient to cover the liabilities in accordance with this Part III, paragraph (i)(3)(iii) then DOE will pay to Battelle the deficiency; provided, however, payment

by DOE shall be subject to the availability of appropriated funds which may be used for such purposes.

- (C) If there is no successor plan, then
 - 1. this part and associated liabilities calculated in accordance with this Part III, paragraph (i)(3)(iii) will be retained by Battelle; and
 - 2. if the PNNL Plan does not terminate, then DOE and Battelle shall meet to determine an equitable disposition of the PNNL Plan.

(k) Disposition of Non-Contract Service Assets and Liabilities

(1) The liabilities and Non-Contract Service Assets associated with such liabilities for pensioners, beneficiaries and terminated vested members as described in this Part III, paragraph (i)(3)(i) shall be retained by Battelle.

(2) The remainder of Non-Contract Service Assets, after the retention described in paragraph (k)(1) above, shall be divided into two parts as follows:

- (i) One part equals such Non-Contract Service Assets multiplied by the ratio $T / (T+W)$ where:

T = past service liability for active Participants retained by Battelle calculated as described in paragraph (i)(3)(ii); and

W = past service liability for active Participants not retained by Battelle calculated as described in paragraph (i)(3)(iv).

This part of Non-Contract Service Assets will be retained by Battelle.

- (ii) The other part of Non-Contract Service Assets equals the total of Non-Contract Service Assets less the amount retained by Battelle under paragraph (k)(1) and paragraph (k)(2)(i) above.

- (A) If there is a successor plan, then this part shall be transferred to, and associated liabilities calculated in accordance with paragraph (i)(3)(iv) shall be assumed by, the successor plan.

- (B) If there is no successor plan, then this part and associated liabilities calculated in accordance with paragraph (i)(3)(iii) will be retained by Battelle. Any excess or shortage of Non-Contract Service Assets in relation to such liabilities will be retained or absorbed by Battelle.

(l) Financial Adjustments

- (1) If within six (6) months after the termination of the Contract, a retained staff member of Battelle is transferred to the successor contractor, or a transferred staff member is returned to Battelle, adjustments will be made to Contract and Non-Contract Service Assets as if the transfer had been effective on the date of Contract termination, and appropriate payments or transfers of assets will be made.
- (2) If at the end of twenty-four (24) months following Contract termination, the terminations of retained staff members during this period exceed the numbers expected in the actuarial assumptions of the Plan at Contract termination, liabilities for vested benefits of the excess terminated staff members will be calculated as the present value of benefits as of the date the staff member terminated; such present value shall be calculated using the GATT rates for interest and mortality, as appropriate for the PNNL Plan consistent with the then current actuarial valuation, or as mutually agreeable to the DOE and the Contractor based on circumstances at the time. This value will be substituted for the value previously established for the retained staff members; adjustments will be made to Contract and Non-Contract Assets; and appropriate payments or transfers of assets will be made.
- (3) The procedures outlined above in paragraph (1)(2) shall also be applied to all staff members who transfer to a successor contractor; adjustments shall be made as above and appropriate payments will be made.

(m) Payments and Transfers of Assets

- (1) Payments by either party for excesses or shortages of Contract Service Assets as described in paragraph (j)(2)(ii) shall be in U.S. currency and completed within thirty-six (36) months of the effective date of Contract termination or such longer period as may be mutually agreed upon. Both parties shall have the option of making payments in one lump sum or in any series of installments at a rate of return mutually agreeable to the parties.
- (2) If transfers of Plan assets are made to a successor plan as described in paragraph (j)(2)(ii) and paragraph (k)(2)(ii) in the form of investment

holdings, such holdings shall include cash, equity securities, and fixed income securities. Such assets shall be allocated on a pro rata basis, with the prorating for fixed income assets based on rating and sector classification. Transfers shall include interest earnings on applicable assets from the effective date of termination to the date of transfer as calculated in paragraph (m)(1) above.

- (3) Battelle will transfer Plan assets at a rate at least sufficient to meet the cash flow requirements of transferred staff members who go into benefit status after the effective date of Contract termination.
- (n) The Contractor will take no unilateral action concerning the termination, merger, spin-off, or other action affecting the status of the Plan as covering only Non-Bargaining employees of the Pacific Northwest National Laboratory without the approval of the DOE. In the event of a Plan termination, the costs and disposition of Plan assets and liabilities shall be as set out in paragraphs (i) and (j) above, or as mutually agreeable to the DOE and the Contractor based on circumstances at the time.
- (o) With respect to the Multi-Employer Pension Plan for HAMTC Represented Employees (Part III, paragraph (b) above), the Contractor and DOE agree that effective April 1, 1987, pursuant to a collective bargaining agreement, the Contractor became a participating employer in the Hanford Contractor Multi-Employer Pension Plan for HAMTC Represented Employees. All assets and liabilities of the "Employees Retirement Plan of Battelle Memorial Institute" were transferred to and merged with the said Multi-Employer Plan.
- (p) Costs incurred by the Contractor for contributions required by the HAMTC Plan are allowable to the extent applicable to the work under the Contract.
- (q) The HAMTC Plan fund, not the Contractor, shall be liable for costs incurred in the course of administration (actuary fees, reports, and similar expenses); provided, however, that costs for employee communications, sign up and termination, payroll, and similar expenses are allowable as normal operating expenses to the extent applicable to work under the Contract.
- (r) Upon expiration or termination of the Contract, all liability of the Contractor with respect to the HAMTC Plan shall cease. The Contractor shall have no claim to any HAMTC Plan assets in excess of HAMTC Plan liabilities, nor shall the Contractor be required to fund any excess of HAMTC Plan liabilities over HAMTC Plan assets. DOE agrees that all costs, including cost of defense, from any withdrawal liability arising under federal law by reason of the Contractor's withdrawal from the Multi-Employer Plan shall be an allowable cost under the Contract subject to the provisions of paragraph (j) of the clause entitled "Payments and Advances".

- (s) The Contractor will take no action concerning the termination, merger, spin-off, or other action affecting the status of the plan as covering only Bargaining Unit employees of the Pacific Northwest National Laboratory.
- (t) With respect to all Plans, unless otherwise required by federal law or resulting from the collective bargaining process, no amendment to any of the Plans shall result in allowable costs under this Contract if the adoption date of such amendment is later than 12 months before the termination or expiration date of the Contract and the termination or expiration of the Contract is due to the act or failure to act of the Contractor, or the failure of the Contractor to bargain in good faith with the government for an extension of the Contract.
- (u) The aggregate annual contribution to any Plan shall range from the minimum specified by Internal Revenue Code (IRC) Section 412(b) to the amount necessary to fully fund the year end expected current liability. However, the aggregate annual contribution to a Plan shall be no less than the minimum specified by IRC Section 412(b) nor greater than the tax-deductible limit specified by IRC Section 404.

Part IV – Group Savings Plans

The Contractor maintains or is a participating employer in savings plans for eligible non-bargaining employees. In addition, the Contractor is a participating employer in a multi-employer plan for bargaining unit employees. The savings plans are trusted plans described in the following two documents entitled “Battelle Employees’ Savings Plan”, and “Hanford Contractors Multi-Employer Savings Plan for HAMTC Represented Employees”. The plans must be established and maintained as qualified defined contribution plans under the regulations of the Internal Revenue Service. The Plan and Trust documents and any amendments thereto which effect substantive changes or increase costs are subject to the approval of the Contracting Officer. With respect to the Plans, the parties agree as follows:

- (a) Costs of employer matching contributions incurred and accrued under the terms of the Plans are allowable to the extent applicable to Contract work. To the extent permitted by law or regulation, the Plans funds, not the Contractor, shall be liable for the costs of administration.
- (b) The Contractor will provide the Contracting Officer with annual accounting reports within eight months after the close of a Plan year. A copy of IRS Form 5500, together with any supplemental or supporting documents submitted therewith, will be provided to DOE each year when prepared by the Contractor, which may be provided in lieu of the accounting report required by this provision.
- (c) Employee forfeitures of accrued benefits shall be in accordance with the terms of the Plans and such forfeitures shall be used to reduce Contractor contributions

made on behalf of remaining participating employees.

- (d) In the event of Contract expiration or termination, the Contractor, if requested by DOE to do so, will transfer assets and liabilities to a replacement contractor's plan.
- (e) In the event of Plan terminations, vest immediately one hundred percent in the Plan participants' individual accounts.
- (f) Upon expiration or termination of the Contract, all liability of the Contractor with respect to the Hanford Contractors Multi-Employer Savings Plan for HAMTC Represented Employees shall cease. DOE agrees that all costs, including cost of defense from any withdrawal liability arising under federal law by reason of the Contractor's withdrawal from the Multi-Employer Plan shall be an allowable cost under the Contract, subject to the provisions of paragraph (j) of the clause entitled "Payments and Advances".
- (g) The Contractor will take no action concerning termination, merger, spin-off, or other action affecting the status of the Plans without the approval of the DOE.

(End of Clause)

H-31 RESERVED [M599]

H-32 Other Advance Understandings

- (a) To facilitate continuity of performance and Contract administration, all agreements, memorandums of understanding, and contractual assumptions which have been appropriately agreed to in writing by both Parties prior to this Contract extension will continue in effect according to the terms thereof unless they have been superceded or, if they are in conflict with any other terms and conditions of this Contract extension.
- (b) For purposes of the clause in this Contract titled "Access to and Ownership of Records, it is understood and agreed that the Contractor-owned legal records that are subject to an attorney-client privilege or an attorney-work-product privilege require special handling to preserve these privileges. Therefore, the Parties agree that inspection, copying, or audit of any such records will only be conducted by DOE Counsel or its designees.

[M600]

(End of Clause)

H-33 RESERVED [M543]

H-34 Electronic Subcontracting Reporting System (AL 2006-01)

The requirement for the submittal of paper versions of the Standard Form (SF) 294, Subcontracting Reports for Individual Contracts, and SF 295, Summary Subcontract Reports, as provided in FAR 52.219-9(j) is hereby deleted and is replaced with the electronic submittal of data under the Electronic Subcontract Reporting System (eSRS).

The offeror's subcontracting plan shall include assurances that the offeror will (1) submit the Individual Subcontracting Reports and Summary Subcontracting Reports under the eSRS and (2) ensure that its subcontractors agree to submit Individual Subcontracting Reports and Summary Subcontracting Reports at all tiers, in eSRS.

The contractor or subcontractor shall provide such information that will allow applicable lower tier subcontractors to fully comply with the statutory requirements of FAR 19.702. [M432]

(End of Clause)

H-35 Joint Global Climate Change Research Institute

The Department of Energy directive titled, "Use of Management and Operating or Other Facility Management Contractor Employees for Services to DOE in the Washington, D.C., Area", or its successor, is not applicable to PNNL employees whose permanent duty station is at the Joint Global Climate Change Research Institute in College Park, Maryland, provided that those employees are performing or supporting research and development work. However, if at any time any of those employees are assigned to a position to provide technical expertise and/or experience in support of program missions, the Contractor must meet all of the applicable requirements of the above-mentioned directive or its successor for those employees. [M881]

(End of Clause)

H-36 Energy Efficiency In Energy Consuming Products

The Contractor will make its best effort to specify or deliver ENERGYSTAR[®] qualified products or products conforming to the Federal Energy Management Program's (FEMP) Energy Efficiency Requirements, whichever may be applicable, provided products with such a designation are available and are life cycle cost effective and meet applicable performance standards. Information about these products is available for ENERGYSTAR[®] at <http://www.energystar.gov/products> and FEMP at http://www.eere.energy.gov/femp/procurement/eep_requirements.cfm

[M453]

H-37 Information Technology Acquisitions

All information technology acquisitions shall include the appropriate information technology security policies and requirements, including use of common security configurations available from the National Institute of Standards and Technology's website <http://checklists.nist.gov> or approved secure configurations that

are commensurate with the mission of the contract and conducive to the research and development efforts of the laboratory. This requirement shall be included in all subcontracts which are for information technology acquisitions; and the Laboratory CIO shall annually certify to the DOE Site Office Contracting Officer that this requirement is being incorporated into information technology acquisitions. [M490]

H-38 Special Provisions Relating to Work Funded under American Recovery and Reinvestment Act of 2009 (Apr 2009) (Applicable only to Recovery Act Work)

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 ARRA 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.

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.

Invoices must clearly indicate the portion of the requested payment that is for work funded by the Recovery Act.

Note: For contractors currently using drawdown on a letter of credit, the current procedure remains in effect and is used for Recovery Act activity in lieu of invoicing.

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, 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 have a DUNS number and are registered in the Central Contractor Registration (CCR) no later than the date the first report is due under FAR 52.204-11 American Recovery and Reinvestment Act – Reporting Requirements.

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.

[A508]

(End of Clause)

H-39 H-39 Definition of Unusually Hazardous or Nuclear Risk for FAR Clause 52.250-1 Indemnification Under Public Law 85-804

- A. The term “a risk defined in this contract as unusually hazardous or nuclear” as used in FAR Clause 52.250-1 means the risk of legal liability to third parties (including legal costs as defined in paragraph (jj) of section 11 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. §2014(jj), notwithstanding the fact that the claim or suit may not arise under section 170 of said Act, 42 U.S.C. §2010) arising from actions or inactions in the course of the following work performed by the Contractor under the Contract:

- (1) Providing assistance in implementing physical security at nuclear and radiological facilities worldwide to ensure effective safeguards and security of weapons-usable nuclear materials and high-risk radiological materials both domestically and internationally under Department of Energy's (DOE) Global Threat Reduction Initiative (GTRI). Supporting activities shall include vulnerability assessments; design and installation of physical security systems; material consolidation; secure transportation; materials disposition and conversion to less attractive forms; implementation of detection and measurement technologies; and security operations training.
- (2) Providing assistance in DOE's Material Protection Control and Accounting (MPC&A) program including cooperative work outside the United States on the design and implementation of MPC&A systems for facilities processing, handling, and storing nuclear materials, and the transportation of nuclear materials; provision of U.S.-manufactured equipment, and procurement of equipment for installation in facilities in order to implement the above systems; training in the design, use and assessment of MPC&A systems, export control, and facility transition support.
- (3) Participation in the DOE/National Nuclear Security Administration program(s) focusing on the complete denuclearization of the Democratic People's Republic of Korea (DPRK), including cooperative work outside the United States on the disablement and dismantlement of all declared and undeclared DPRK nuclear facilities and the verification of activities, equipment, and materials at said facilities; inspection, packaging, removal, securing in place, transportation, storage and disposition of spent nuclear fuel, nuclear materials (including uranium, highly-enriched uranium, and plutonium), and other radiological materials and equipment; and the conversion of any reactors using highly-enriched uranium fuel to low-enriched uranium fuel.
- (4) Participation in tasks or activities by the Contractor or its subcontractors on or after March 11, 2011 that is directed or authorized by the U.S. Department of Energy or the U.S. Department of Energy National Nuclear Security Administration as an element of activities taken in response to the Japanese earthquake and tsunami, including efforts to address and assess damage to nuclear power plants and potential radioactive releases from these plants now and into the future. [M764]
- (5) Other activities relating to nonproliferation, emergency response, anti-terrorism activities, or critical national security activities that involve the use, detection, identification, assessment, control, containment, dismantlement, characterization, packaging, transportation, movement, storage or disposal of nuclear, radiological, chemical, biological, or

explosive materials, facilities or devices, provided such activities are specifically requested or approved, in writing, by the President of the United States, the Secretary of Energy, the Deputy Secretary of Energy, or an Under Secretary, and further provided that the request or approval specifically identifies a particular project involving one of those activities and makes the indemnity provided by this clause applicable to that particular project under the contract.

- B. The unusually hazardous or nuclear risks described above are indemnified only to the extent that they are not covered by the Price-Anderson Act (section 170d of the Atomic Energy Act of 1954, as amended 42 U.S.C. §2210d) or where the indemnification provided by the Price Anderson Act is limited by the restriction on public liability imposed by section 170e of the Atomic Energy Act of 1954, as amended, (42 U.S.C. §2210e) to an amount which is not sufficient to provide complete indemnification for the legal liability to which the Contractor is exposed.

[M920]

H-40 Contractor Assurance System

- (a) The Contractor shall develop a Contractor assurance system that is executed by the Contractor's Board of Directors (or equivalent corporate oversight entity) and implemented throughout the Contractor's organization. This system provides reasonable assurance that the objectives of the contractor management systems are being accomplished and that the systems and controls will be effective and efficient. The Contractor assurance system, at a minimum, shall include the following key attributes:
- (1) A comprehensive description of the assurance system with processes, key activities, and accountabilities clearly identified.
 - (2) A method for verifying/ensuring effective assurance system processes. Third party audits, peer reviews, independent assessments, and external certification (such as VPP and ISO 9001 or ISO 14001) may be used.
 - (3) Timely notification to the Contracting Officer of significant assurance system changes prior to the changes.
 - (4) Rigorous, risk-based, credible self-assessments, and feedback and improvement activities, including utilization of nationally recognized experts, and other independent reviews to assess and improve the Contractor's work process and to carry out independent risk and vulnerability studies.
 - (5) Identification and correction of negative performance/compliance trends before they become significant issues.

- (6) Integration of the assurance system with other management systems including Integrated Safety management.
- (7) Metrics and targets to assess performance, including benchmarking of key functional areas with other DOE contractors, industry and research institutions. Assure development of metrics and targets that result in efficient and cost effective performance.
- (8) Continuous feedback and performance improvement.
- (9) An implementation plan (if needed) that considers and mitigates risks.
- (10) Timely and appropriate communication to the Contracting Officer, including electronic access, of assurance related information.

The initial Contractor assurance system description shall be approved by the Contracting Officer.

- (b) The Government may revise its level and/or mix of oversight of this Contract when the Contracting Officer determines that the assurance system is or is not operating effectively.

[M600]

H-41 Work Authorization

Prior to the issuance of a work authorization or direction concerning continuation of activities of the contract, the Contractor shall provide a detailed description of work, identification of hazards/risks and legacy considerations and controls that will be instituted to mitigate the hazards/risks and legacy considerations, a budget of estimated costs, and a schedule of performance for the work, and shall provide or make available those items through an approved approach or as directed by the Contracting Officer or designee. The “estimate” referred to in paragraph (e) of the clause entitled, “DEAR 970.5211-1, Work Authorization” shall be defined as total available funds, and standard monthly budget reports meet the notification requirements of this clause.

[M707]

H-42 Implementation of Section I Clauses

- (a) For purposes of identifying the use of Alternates and Deviations to FAR and DEAR clauses, ***bold italic*** lettering will be used where the language contained within a FAR or DEAR clause is providing alternative language or a deviation to the affected clause.
- (b) For purposes of implementation of Contract Clause I-9B, entitled “Personal Identity Verification of Contractor Personnel”, the Parties agree to the following:

- 1) The agency personal identity verification procedures that implement Homeland Security Presidential Directive-12 (HSPD-12), Office of Management and Budget (OMB) guidance M-05-24, and Federal Information Processing Standards Publication (FIPS PUB) Number 201 and that must be complied with, are the applicable DOE directives included in Appendix D, List of Applicable DOE Directives & External Requirements.
 - 2) The Contractor shall only account for Government-provided identification issued through processes managed by the Contractor in connection with this Contract.
 - 3) The Contractor shall return or disposition the Government-provided identification issued to Contractor employees in connection with HSPD-12 credentials in the manner approved by DOE.
- (c) For purposes of implementation of Contract Clause I-56, entitled, “Government Supply Sources”, the Parties agree that the applicable reference is to the “Property” clause in this Contract.
- (d) For purposes of implementation of Contract Clause I-90, entitled, “Diversity Plan”, the Parties agree to the following:
- 1) The Contractor has submitted a Diversity Plan to the Contracting Officer and the Contracting Officer has approved it.
 - 2) The Contractor shall review its Diversity Plan annually and submit an update to its Diversity Plan as necessary, or upon request from the Contracting Officer.
- (e) For purposes of implementation of Contract Clause I-100, entitled “Insurance-Litigation and Claims”, the Parties agree that the term “contractor’s managerial personnel” is defined in the “Property” Clause in this Contract.
- (f) For purposes of implementation of Contract Clause I-104, entitled “Payments and Advances”, the Parties agree to the following:
- 1) Monthly Provisional Fee Payments. The Contractor may withdraw against the payments cleared financing arrangement, up to one-twelfth (1/12) of 90% of the performance fee for the fiscal year, on the first day of each month, unless otherwise instructed in writing by the Contracting Officer.
 - 2) Final Fee Payment. Following DOE’s determination of Total Available Fee Amount Earned, the Contractor is authorized to withdraw any amount of earned fee over the amount previously paid on a provisional basis from the payments cleared financing arrangement. In the event DOE determines there

has been an overpayment to the Contractor, such overpayment plus interest shall be redeposited to the payments cleared financing arrangement within 30 calendar days, or otherwise used as directed by the Contracting Officer. Interest shall be computed from the date of overpayment to the date of repayment using the interest rate specified by the Secretary of Treasury pursuant to Pub. L. 92-41 (85 Stat. 97).

(g)For purposes of implementation of Contract Clause I-111, entitled “Federally Funded Research and Development Center Sponsoring Agreement”, the Parties agree that the referenced clause only applies to work performed under this Contract and does not apply to work authorized in accordance with Contract Clause H-45, entitled “Battelle Memorial Institute Legacy Work”.**[M881]**

(End of Clause)

[M779]

H-43 Sustainability Program

In accordance with Executive Orders 13423, Strengthening Federal Environmental, Energy and Transportation Management, and 13514, Federal Leadership in Environmental, Energy, and Economic Performance, the Department of Energy is committed to managing its facilities in an environmentally preferable and sustainable manner. In the performance of work under this contract, the Contractor shall endeavor to provide its services in a manner that will promote the natural environment and protect the health and well-being of Federal employees, contract service providers and visitors using the facility. The Contractor shall make reasonable efforts to specify or deliver environmentally preferable and sustainable products and services, recycled content products, bio-based products, energy efficient products, water efficient products, alternative fuels and vehicles, and non-ozone depleting substances consistent with the Contractor's Site Sustainability Plan and the Contractor's Environmental Management System.

The Site Sustainability Plan will identify the contributions toward meeting the Department's sustainability goals and will be updated annually based on annual guidance provided by the DOE Pacific Northwest Site Office. The Contractor will develop and implement an Environmental Management System that is certified to the International Organization for Standardization's 14001:2004 standard. The sustainability goals identified within the Contractor's Site Sustainability Plan will be integrated into the Contractor's Environmental Management System.

(End of Clause)

[M813]

H-44 Non-Federal Agreements for Commercializing Technology (Pilot)

This Clause implements a PILOT program for a new technology transfer mechanism, Agreements for Commercialization of Technology (ACT). In accordance with the requirements specified in this Clause, the Contractor may conduct privately-sponsored

research at the Contractor's risk for third parties. In performing ACT work, the Contractor may use staff and other resources associated with this Contract for the purposes of conducting research and furthering the technology transfer mission of the Department, on the condition that such use does not interfere with Contractor's activities conducted as authorized by other parts of this Contract. The resources that may be used include Government-owned or leased facilities, equipment, or other property that is either in Contractor's custody or available to the Contractor under this Contract (unless specifically excluded by the Contracting Officer). For Contractor's activities conducted under authority of this Clause, the Contractor shall provide full-cost recovery, assume indemnification and liability as provided in Paragraph 9, below, and may assume other risks normally borne by private parties sponsoring research at the Laboratory. In exchange for accepting such risks, or for other private consideration provided by the Contractor, the Contractor is authorized to negotiate separate agreements (ACT agreements) with the sponsoring third parties. Under ACT agreements, the Contractor may charge those parties additional compensation beyond the direct costs of the work at the Laboratory. Any statement of work involving Federal funds or falling within the scope of a Federally-funded contract or award (other than this Contract) shall not be eligible for an ACT transaction.

DOE and the Contractor recognize that implementation of ACT under this Clause is a PILOT program authorized by the Department and that during the PILOT either party may suggest changes to the program based on the experiences gained. Furthermore, the Contractor recognizes that the Department may decide to end the PILOT at any time and that termination of the PILOT by the Department will be in accordance with Paragraph 12, below.

1. *Authority to Perform work under this Clause.* Pursuant to the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.) and other applicable authorities, the Contractor may perform work for non-federal entities, in accordance with the requirements of this Clause.
2. *Contractor's Implementation.* The Contractor must draft, implement, and maintain formal policies, practices, and procedures in accordance with this Clause, which must be approved by the Contracting Officer, and such approval shall not be unreasonably withheld.
3. *Conditions for Participation in ACT.* The Contractor:
 - a. Must not perform ACT activities that would place it in direct competition with the private sector;
 - b. May only conduct work under this Clause if the work does not interfere with or adversely affect projects and programs the Contractor conducts on behalf of the Government under this Contract, and complies with FFRDC requirements applicable to the Facility. If the Government determines that an activity conducted under this Clause interferes with the Department's

work under the Contract, or that termination/stay/suspension of work under an ACT agreement is in the best interest of the Government, the Contractor must stop the interfering ACT work immediately to the extent necessary to resolve the interference. At any time, the Contracting Officer may require the use of specified Government-owned or leased property and facilities for the exclusive use of the Facility's mission by providing a written notice excluding said property from the Contractor's activities under this Clause. Any cost incurred as a result of Contracting Officer decisions identified in this subparagraph shall be borne by the Contractor. The Contracting Officer shall provide to the Contractor in writing its decision, identifying the issues and reasons for the decisions. The Contractor shall be provided with a reasonable opportunity to address and resolve the issues identified by the Contracting Officer;

- c. Except as otherwise excluded in this Clause, must perform all ACT activities in accordance with the standards, policies, and procedures that apply to performance under this Contract, including but not limited to environmental, safety and health, security, safeguards and classification procedures, and human and animal research regulations;
- d. Contractor must utilize its standard Laboratory subcontracting procedures for any work subcontracted by the Laboratory under the Contract. Otherwise, the Contractor may subcontract ACT work scope that is not performed under the Contract using commercially reasonable subcontracting practices and terms. Costs for performing such subcontracting activities outside the scope of the Contract are not reimbursable under the Contract;
- e. Must make available to DOE a summary of project information for each active ACT project, consisting of: total estimated costs; project title and description; project point of contact; and, estimated start and completion dates;
- f. Is responsible for addressing the following items in ACT agreements as appropriate, as they are in non-federal WFO agreements: disposition of property acquired under the agreement, export control, notice of intellectual property infringement, and a statement that the Government and/or Contractor shall have the right to perform similar services in the Statement of Work for other Parties as otherwise authorized by this Contract subject to applicable data restrictions;
- g. Must include a standard legal disclaimer notice on all publications generated under ACT activities. Each DOE contractor has its own pre-approved publications statement, and this should be used; and

- h. Must insert the following disclaimer in each agreement under ACT, which must be conspicuous (e.g. bold type, all capital letters, or large font) in all Agreements under ACT so as to meet the standards of due notice.

DISCLAIMER

THIS AGREEMENT IS SOLELY BETWEEN [INSERT NAME OF CONTRACTOR] ACTING IN A PRIVATE CAPACITY AND [THE OTHER IDENTIFIED PARTY(IES)]. THE UNITED STATES GOVERNMENT IS **NOT** A PARTY TO THIS AGREEMENT, THIS AGREEMENT DOES NOT CREATE ANY OBLIGATIONS OR LIABILITY ON BEHALF OF THE GOVERNMENT AND THE GOVERNMENT MAKES NO EXPRESS OR IMPLIED WARRANTY AS TO THE CONDITIONS OF THE RESEARCH OR ANY INTELLECTUAL PROPERTY, GENERATED INFORMATION, OR PRODUCT MADE OR DEVELOPED UNDER THIS AGREEMENT, OR THE OWNERSHIP, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE RESEARCH OR RESULTING PRODUCT; THAT THE GOODS, SERVICES, MATERIALS, PRODUCTS, PROCESSES, INFORMATION, OR DATA TO BE FURNISHED HEREUNDER WILL ACCOMPLISH INTENDED RESULTS OR ARE SAFE FOR ANY PURPOSE INCLUDING THE INTENDED PURPOSE; OR THAT ANY OF THE ABOVE WILL NOT INTERFERE WITH PRIVATELY OWNED RIGHTS OF OTHERS. THE GOVERNMENT SHALL NOT BE LIABLE FOR SPECIAL, CONSEQUENTIAL, OR INCIDENTAL DAMAGES ATTRIBUTED TO SUCH RESEARCH OR RESULTING PRODUCT, INTELLECTUAL PROPERTY, GENERATED INFORMATION, OR PRODUCT MADE OR DELIVERED UNDER THIS AGREEMENT. THIS DISCLAIMER DOES NOT AFFECT ANY RIGHTS THE GOVERNMENT MAY HAVE AGAINST THIRD PARTIES ARISING FROM WORK CONDUCTED IN CONNECTION WITH THIS AGREEMENT.

4. Contracting Authority.

- a. Subject to DOE approval as described in this Paragraph, the Contractor is hereby authorized to negotiate terms and conditions between the Contractor and third parties when entering into ACT agreements. The Contractor will have no authority to bind the Government in any way with such terms and conditions. The Government will have no obligation to the Contractor due to such terms and conditions.
- b. The Contractor shall submit an ACT proposal package (Package) to the Contracting Officer for approval prior to beginning work under an ACT Agreement.

- i. A complete Package will include at a minimum: the identity of the parties to the ACT Agreement; the principal place of performance; any foreign ownership or control of the ACT Agreement parties; a Statement of Work; an estimate of costs incurred under the Contract; an anticipated schedule; identification of key Government equipment and facilities that will be used under the ACT Agreement; a list of expected deliverables; identification of the IP Lead and proposed selection of IP rights, as defined in DOE Class Waiver W(C)-2011-013; a signed certification by the private party(ies) that the Contractor offered the option to use CRADA and WFO alternatives (see Paragraph 7a) sufficiently that the private parties are aware of the relative costs and other differences between the ACT agreement and the CRADA and WFO alternatives; source of funds, including a statement that no Federal funds, including pass-through funds received as a subcontractor or partner, are being utilized to fund the agreement; applicable ES&H and NEPA documentation; a statement of consideration, summarizing the risk and/or consideration offered the private participants in exchange for charging beyond full cost recovery or for other compensation provided by the participants; and when multiple third parties are parties to the ACT Agreement, or otherwise requested by the Contracting Officer, an IP Management Plan that sets forth the proposed disposition of IP rights, and income and royalty sharing, among the parties to an ACT agreement.
 - ii. If the Contractor, Contractor's parent, member, subsidiary, or other entity in which the Contractor, Contractor's parent, member or subsidiary has an equity interest, is a party to the ACT Agreement, the Contractor shall include as necessary a project-specific addendum to the Master OCI Plan in the Package to address special circumstances not fully anticipated in the prior approved Master OCI Plan (see Paragraph 7).
 - iii. If the ACT Agreement includes a foreign entity as a party or the statement of work includes the use of human subjects, animal subjects, classified or sensitive subject matter or describes a work scope involving high risks or hazards including environmental issues, the Contractor shall include additional information as necessary or as requested by the Contracting Officer.
- c. The Contracting Officer shall use reasonable best efforts to review each complete Package submitted by the Contractor under subparagraph b. of this Paragraph within ten (10) business days of receiving the Package and provide the Contractor with approval or non-approval of the Package. The review of the complete Package by the Contracting Officer shall include a determination that the

- proposed work: (1) is consistent with or complementary to DOE missions and the missions of the Facility; (2) will not adversely impact programs assigned to the Facility; (3) will not place the Facility in direct competition with the domestic private sector; and (4) will not create a detrimental future burden on DOE resources.
- d. Except as conditionally allowed under subparagraph i. below, the Contracting Officer must approve the Package before the Contractor may begin work under the proposed ACT Agreement. If the Contracting Officer rejects the Package then the Contracting Officer must provide said rejection to the Contractor in writing including the reasons for the rejection. Upon receipt of the Contracting Officer's written rejection, the Contractor agrees to not further pursue the work described in the package or incur additional costs under the Contract for the work described in the Package.
- i. The Contractor may request a preliminary determination that the proposed scope of work is consistent with the Facility mission and the Contracting Officer will use his/her best efforts to provide such a determination within three (3) business days. Upon such a determination from the Contracting Officer the Contractor may begin work under the ACT Agreement at the Contractor's risk pending final approval of the complete Package. The Contractor must submit a complete Package, as identified in subparagraph 4b above, within (10) business days of the preliminary determination. All costs associated with the performance of work under a preliminary determination are the responsibility of the Contractor, as no Federal funds will be used to fund any work conducted under this Clause.
- ii. If the Contractor, Contractor's parent, member, subsidiary, or other entity in which the Contractor, Contractor's parent, member or subsidiary has an equity interest is a party sponsoring work in connection with the ACT agreement, work may not commence until approval of the complete Package by the Contracting Officer
5. *Advance Payment for ACT Projects.* The Contractor shall be responsible for providing adequate advance payment for ACT work conducted under this Clause consistent with procedures defined in the Department's Financial Management Handbook. The Contractor shall be solely responsible for collecting payments from third parties for any work conducted under this Clause and such collections shall be independent of providing advance payment. For such payments and for any costs, obligations, or liabilities arising due to the Contractor's work under this Clause, the Contractor is entirely at risk and the Government shall have no risk.
6. *Costs.* All direct costs associated with Contractor's work conducted under this Clause shall be directly charged to separate and identifiable accounts in

accordance with the requirements of the Department's Financial Management Handbook. An allocable portion of indirect costs normally applied to equivalent work under this Contract shall also be applied to work conducted under this Clause in accordance with the requirements of the Financial Management Handbook. As required by the Financial Management Handbook, changes to the Handbook will be incorporated into this Clause by a unilateral administrative modification to the contract.

- a. Work conducted under this Clause shall be excluded from Contract award fee calculations and such fee shall not be allocable to work conducted under this Clause.
 - b. No Federal funds will be used to fund work conducted under this Clause.
7. *Organizational Conflict of Interest.* Contractor shall conduct work under this Clause in a manner that minimizes the appearance of conflicts of interest and avoids or neutralizes actual conflicts of interest with Contractor's functions under this Contract. Accordingly, Contractor shall develop a Master Organizational Conflict of Interest Mitigation Plan (OCI Plan). The Master OCI Plan should address OCI issues that arise as a result of the Contractor taking a financial interest in ACT projects, especially in those cases where the Contractor retains rights in ACT IP. Such Master OCI Plan shall be provided to the Contracting Officer for review and approval as soon as practicable after execution of the Contract modification incorporating this Clause into the Contract. In addition to those elements expressly stated in the Master OCI Plan, the Department may condition any ACT transaction on such other mitigating conditions it determines are appropriate. The Master OCI Plan shall, at a minimum, include elements that address the following:
- a. *Full Disclosure.* Before work can begin under an ACT transaction, all parties to ACT agreements must sign a DOE-approved certification that they have been fully informed about the availability of WFO agreements and CRADAs in addition to ACT. The certification at a minimum shall briefly describe WFO agreements, CRADAs and ACT, and will include the relative disposition of IP rights and the costs (including any additional compensation to the Contractor under ACT) under each agreement for the scope of work being proposed for the Laboratory.
 - b. *Priority of Work.* The Contractor shall not give work under ACT any special attention or priority over other work at the Laboratory. Work under ACT shall be approved by the Contracting Officer and assigned the same priority relative to other work at the Laboratory that it would normally have if performed under a non-Federal WFO agreement. The Contracting Officer has discretion to determine the agency's priority of work, considering the Contractor's input.

- c. *Participation by Contractor-related Entity:* Where the Contractor, Contractor's parent, member, subsidiary, or other entity in which the Contractor, Contractor's parent, member or subsidiary has an equity interest, is a party to the ACT Agreement, the Contractor shall include as necessary an addendum to the Master OCI Plan to address special circumstances not fully anticipated in the Master OCI Plan.
 - d. *Right of Inquiry for ACT IP Designation.* DOE Patent Counsel may inquire into Contractor's designation of any invention or data as arising under an ACT transaction. Contractor is responsible for curing any defect identified in such inquiry, and if Contractor cannot adequately justify the designation or cure the defect, then the parties to the ACT agreement may receive modified rights in the IP to the degree necessary to resolve the issues identified by the inquiry.
8. *Intellectual Property.* Disposition of intellectual property (IP) arising from work conducted under this Clause shall be governed by Class Waiver W(C)-2011-013 (ACT Class Waiver) which is incorporated herein by reference.
- a. All Contractor ACT inventions shall be reported to DOE pursuant to the requirements of the [cite Patent Rights – Management and Operating Contracts, Nonprofit Organization or Small Business Firm Contractor] clause of this Contract.
 - b. In reporting ACT inventions, the Contractor shall identify the ACT agreement under which the invention was made and specify the rights reserved by the Government pursuant to the ACT Class Waiver.
 - c. All technical data identified by the ACT client as ACT Protected Information shall also be marked to identify the ACT agreement under which the data was generated.
 - d. The Contractor shall ensure that all rights and obligations concerning ACT IP, including the appropriate IP provisions authorized in the ACT Class Waiver, are clearly provided in ACT agreements, and that all parties granted any rights in ACT IP are informed of the terms of the waived rights, including the rights reserved by the Government.
 - e. Where the Contractor receives ownership or license rights to ACT IP, the Contractor may elect to commercialize the ACT IP consistent with the Technology Transfer Mission clause of this Contract.
 - f. As an alternative to subparagraph e., the Contractor may elect to retain private ownership of the ACT IP and commercialize the IP using its private funds, where no costs for developing, patenting, and marketing will be allowable under this Contract. The Contractor will share royalties

collected on ACT IP with inventors in accordance with paragraph (h) of the Technology Transfer Mission clause of this Contract.

- g. Where terms and conditions governing Data and Subject Inventions under this Contract are inconsistent with the terms of the ACT Class Waiver, the ACT Class Waiver will control. Except as provided in this paragraph 8, licensing of ACT Subject Inventions the Contractor retains in its private capacity will not be subject to the Technology Transfer Mission clause of this Contract.

9. *Contractor Liability and Indemnification.*

a. General Indemnity.

- (i) The Contractor agrees to indemnify and hold harmless the Government, the Department, and persons acting on their behalf from all liability, including costs and expenses incurred, to any person, including the ACT Participants, for injury to or death of persons or other living things or injury to or destruction of property arising out of the performance of an ACT transaction by the Government, the Department, Contractor, or persons acting on their behalf, or arising out of the use of the services performed, materials supplied, or information given hereunder by any person including the Contractor, and not directly resulting from the fault or negligence of the Government, the Department, or persons (other than the Contractor) acting on their behalf.
- (ii) Subject to Contracting Officer approval, the General Indemnity set forth in (i) above may be modified or waived where: (1) ACT Participants are not providing material or equipment to the Contractor to be used in the performance of the Statement of Work under the ACT transaction; and (2) ACT Participants are not sending their employees to the Facility as part of the Statement of Work; and (3) the specific activities performed under the ACT transaction are normally performed by the DOE Contractor at the Facility.
- (iii) Notwithstanding the provisions in a (i) and a (ii) above, the Contractor shall indemnify and hold harmless the Government, the Department, and persons acting on their behalf for loss, damage, or destruction of Government property resulting from the fault or negligence of the Contractor. Such indemnification shall be subject to a liability limit of \$2,000,000 (two million dollars) per year, or such greater liability limit approved by the cognizant DOE/NNSA Program for the Facility. Above the applicable liability limit, Contractor's responsibility to the Government for

such loss, damage or destruction shall be as set forth in the "Property" clause of this Contract.

- b. Intellectual Property Indemnity. The Contractor shall indemnify the Government, its agents, and employees against liability, including costs, for infringement of any United States patent, copyright, or other intellectual property arising out of any acts required or directed to be performed under the Statement of Work under an ACT transaction to the extent such acts are not already performed at the Facility. Such indemnity shall not apply to a claimed infringement that is settled without the consent of the Contractor unless required by a court of competent jurisdiction.
- c. Product Liability Indemnity.
 - (i) Except for any liability resulting from any negligent acts or omissions of the Government, the Contractor agrees to indemnify the Government for all damages, costs, and expenses, including attorney's fees, arising from personal injury or property damage occurring as a result of the making, using, or selling of a product, process, or service by or on behalf of the ACT Participants or the Contractor, their assignees, or licensees, which was derived from the work performed under ACT transactions. In respect to this clause, neither the Government nor the Contractor shall be considered assignees or licensees as a result of reserved Government rights in ACT IP. The indemnity set forth in this paragraph shall apply only if the Contractor shall have been informed as soon and as completely as practical by the Government of the action alleging such claim and shall have been given an opportunity, to the maximum extent afforded by applicable laws, rules, or regulations, to participate in and control its defense, and the Government shall have provided all reasonably available information and reasonable assistance requested by the Contractor. No settlement for which the Contractor would be responsible shall be made without the Contractor's consent, unless required by final decree of a court of competent jurisdiction.
 - (ii) Where Contractor assigns the responsibility for indemnifying the Government under subsection c (i) above to other ACT Participants, DOE agrees to seek such indemnification from the Contractor only to the extent not satisfied after reasonable efforts to obtain indemnification from those other ACT Participants.
- d. Claims and liabilities resulting from Contractor's performance of work under an ACT transaction authorized pursuant to this Clause shall not be subject to the Contract clause entitled "Insurance - Litigation and Claims."

In no event shall the Contractor be reimbursed under the Contract for liabilities (and expenses incidental to such liabilities, including litigation costs, counsel fees, and judgment and settlements) incurred as a result of third party claims related to the Contractor's performance under this clause.

- e. Contractor shall not include any guarantee or requirement that will obligate the Government to pay or incur any costs or create any liability on behalf of the Government in any ACT agreement or commitment the Contractor executes under authority of this Clause. The Contractor agrees if the Contractor does include such a guarantee or requirement, it will have no effect on the Government, that is, the Contractor will be responsible for any costs or liability due to such a guarantee or requirement.

10. *ACT Records.* All records associated with Contractor's activities conducted under authority of this Clause shall be treated as Contractor-owned records under the provisions of the Access to and Ownership of Records clause of this Contract.

11. *Reports and Abstracts.* The Contractor shall produce the following deliverables for each ACT Agreement:

- a. An initial abstract suitable for public release at the time the ACT transaction is approved by DOE;
- b. A non-proprietary final report, upon completion or termination of the Agreement, to include a list of subject inventions; and
- c. Where pursuant to the ACT Class Waiver, the Government reserves the right to use generated data after the particular project expires, computer software in source and executable object code format as defined within the statement of work or elsewhere within the Agreement.

12. *Termination of ACT Authority.* The PILOT Program implemented by this Clause will terminate five years from the date of the Contract modification adding this Clause to the Contract, unless renewed by the Contracting Officer. The Government may provide the Contractor with written notice to terminate Contractor's authority to conduct work under this Clause at any time. If the Contractor's authority to conduct work under this Clause has expired or been terminated, the Contractor may be permitted, subject to any other provisions of this Clause, to complete any work that was DOE approved work at the time Contractor's authority to conduct work under this Clause was terminated by the Government. [M881]

13. *Successor Contractor.*

- a. To minimize the potential for negative Government programmatic impact and to facilitate seamless transition of work to a successor contractor of the Facility, ACT Agreement(s) executed under this Clause and any contractual instruments associated therewith may be novated to the successor contractor with the mutual consent of the Contractor, the successor contractor, and the parties to the affected ACT Agreement(s). If the ACT Agreement(s) cannot be novated, then the Contractor as a private sponsor shall be permitted to enter into a Non-Federal Work for Others agreement with the successor contractor that will enable completion of the statement of work. Such agreements shall be entered into pursuant to DOE WFO policies. DOE shall make good faith efforts to incorporate the terms of the applicable ACT Agreement.
- b. The Contractor may retain private ownership of any individual piece of ACT IP that it obtained during the term of the Contract if the Contractor demonstrates:
 - i. the ACT IP was successfully commercialized or deployed in the commercial marketplace using private funds; or
 - ii. the Contractor expended at least \$20,000 (USD) of private funds for patenting, marketing, licensing, or maturing the ACT IP.
- c. If the Contractor has not satisfied the criteria of Subparagraph b. to this Paragraph, then the Contractor and Contracting Officer, with input from the DOE Patent Counsel providing oversight to the Facility shall, prior to expiration or termination of the Contract, enter into negotiations to determine an equitable distribution of rights in the affected ACT IP. Such negotiations shall consider the equities of the parties with respect to each piece of intellectual property including, at a minimum, the private expenditures made by the Contractor for patenting, marketing, licensing, and maturing the ACT IP up to the date of Contract expiration or termination; which party is best positioned to appropriately commercialize the ACT IP; and any other equities that may apply under the circumstances.

14. *Minimum Reporting Requirements for ACT Activities.* During the ACT PILOT, the Contractor shall maintain records of its activities related to ACT in a manner and to the extent satisfactory to DOE and specifically including, but not limited to the number of ACT agreements, the amount of funds reimbursed to DOE for work under ACT, the number of private sector entities engaged through ACT that had not previously engaged the Laboratory and the number that had not previously engaged any DOE/NNSA laboratory, the amount of funds reimbursed to DOE by newly engaged entities, the number of parties and types of entities engaged in each individual ACT agreement, and the number of invention disclosures, licenses and start-ups arising from ACT. The Contractor shall obtain from each entity engaged in

ACT the entity's reason(s) for selecting ACT for laboratory engagement. Also during the PILOT, the Contractor shall report the above-identified data semiannually to DOE and in such a format which will serve to adequately inform DOE of the Contractor's activities under ACT while protecting any data not subject to disclosure under this Contract. Such records shall be made available in accordance with the clauses of this Contract pertaining to inspection, audit and examination of records.

[M842](End of Clause)

H-45 Battelle Memorial Institute Legacy Work

(a) Authority to Use DOE Facilities.

Contractor may utilize the Government-owned or leased facilities and property to complete previously awarded Projects as identified in Appendix I – List of Battelle Memorial Institute Legacy Work (Legacy Work), under the same terms and conditions as previously agreed to with Battelle clients, provided that such utilization is not incompatible with existing or planned DOE programs and that it does not substantially interfere with Contractor's performance of work under the Contract, or with the work of another DOE on-site operating contractor.

(b) Non-FFRDC Work

DOE and Battelle agree that work performed by Battelle under this Clause is performed neither on behalf of DOE nor as a part of PNNL in its status as a Federally Funded Research and Development Center or as a DOE national laboratory, but as a separate division of Battelle for its own account. DOE and Battelle also agree that the projects that are performed under this Clause are prohibited under the requirements for a Non-Federal Work for Others (NFWFO) Agreement or under "Clause H-44, Non-Federal Agreements for the Commercialization of Technology (PILOT)" unless otherwise permitted as described in the paragraph of this Clause that is entitled "Conversion to ACT or NFWFO."

(c) Term

The term of Legacy Work will continue in accordance with the list of Projects identified in Appendix I of the Contract. Each Project will have a defined end date and estimated cost of completion as specified in Appendix I and no additional funds or extensions to these Projects will be authorized without a modification to the Contract. Authority to use facilities for Legacy Work under this Clause will expire on or before September 30, 2015.

(d) Full Cost Recovery

For Contractor's activities conducted under authority of this Clause, the Contractor shall provide full-cost recovery, and shall indemnify the Government in accordance with Paragraph (h), Indemnification, of this Clause. All direct costs associated with Contractor's work conducted under this Clause shall be directly charged to separate and identifiable accounts in accordance with the requirements of the Department's Financial Management Handbook. An allocable portion of indirect costs normally applied to equivalent work under this Contract shall also be applied to work conducted under this Clause in accordance with the requirements of the Department's Financial Management Handbook. Work conducted under this Clause shall be excluded from Contract award fee calculations and such fee shall not be allocable to work conducted under this Clause.

(e) Effect of Termination

If, prior to its specified expiration date, the Contract is terminated in whole or in part, DOE will terminate this Clause in whole or in part at any time after the effective date of the termination of the Contract by giving Battelle 30 days written notice and, upon the date specified in such notice, this Clause shall terminate; provided, however, that for a period of one year following the effective date of the termination of the Contract or until the date on which the Contract would have expired had it not been terminated, whichever period of time is less, this Clause shall continue in effect as to those facilities and that property necessary for the performance of research and development Legacy Work in progress when the Contractor receives notice of the termination of the Contract; provided, further, that such continued use will not substantially interfere with the conduct of DOE programs.

In the event DOE selects a successor contractor to replace Battelle to manage and operate PNNL, Battelle will coordinate its access to DOE facilities and equipment on a non-interference basis with said successor contractor in order to complete work in progress or work for which Battelle has been committed prior to receiving notice of the termination of the Contract. An agreement between the successor contractor and Battelle will be required to perform any new work using DOE facilities and equipment.

(f) Nuclear Work

In cases involving nuclear-related work DOE may, but shall not be obligated to, extend Battelle's permission to use all or part of the facilities and property.

(g) Effect of Emergencies

In the event an emergency situation arises involving an on-site or off-site incident as hereinafter defined, which as determined by the Contracting Officer requires the utilization of the Government-owned facilities or property or of personnel then engaged in the conduct of activities for Battelle's own account, Battelle shall,

upon request of the Contracting Officer, cease all or any part of such activities during the duration of the emergency situation and shall make the facilities, property and personnel immediately available for such work as the Contracting Officer shall direct. The Government, DOE, their officers, employees or authorized representatives shall not be liable for any loss sustained by Battelle, its clients, or others directly or indirectly attributable to the cessation of activities requested under the authority of this Paragraph.

(h) Indemnification

The Contractor shall be liable for, and indemnify and hold harmless the DOE, its officers, agents, employees and persons acting on its behalf against liability and claims of any kind (including costs and expenses incurred) arising out of or relating to activities conducted under this Clause, or arising from any exercise of Contracting Officer's authority with regard to this Clause.

Contractor's liability and indemnification obligations under this Clause shall not apply to any injury, destruction, or death which results directly from the negligence of DOE, other DOE contractors, or the officers, employees or representatives of the DOE or other DOE contractors.

(i) Intellectual Property Considerations.

(1) Intellectual property conceived, first reduced to practice, authored or otherwise created under the projects listed in Appendix I (Legacy IP) will be owned and allocated in accordance with the terms and conditions of the agreements for such projects.

(2) The Contractor may in the exercise of its sole and independent discretion donate Legacy IP to the Government for commercialization under this Contract with the approval of the Contracting Officer. Once donated, the Legacy IP will be Subject Inventions and copyrightable data under this Contract and the Contractor's commercialization activities for the Legacy IP will be conducted in compliance with the following clauses that are included in this Contract: Technology Transfer Mission; Patent Rights-Management and Operating Contracts, Nonprofit Organization or Small Business Firm Contractor; and Rights in Data – Technology Transfer.

(j) Intellectual Property Indemnity.

The Contractor shall indemnify DOE, its agents, and employees against liability, including costs, for infringement of any United States patent, copyright, or other intellectual property arising out of and relating to activities conducted under this Clause. Such indemnity shall not apply to a claimed infringement that is settled without the consent of the Contractor unless required by a court of competent jurisdiction.

- (k) Damage to Government-owned and Leased Facilities and Equipment.
- (1) Except for loss or destruction of, or damage to, Government-owned or leased facilities, equipment, or other property that are subject to this Clause and are caused by the willful misconduct or lack of good faith on the part of Contractor's managerial personnel, Contractor during the conduct of activities under this Clause shall not be liable for: (1) loss or destruction of, or damage to, such facilities, equipment, or property; and (2) expenses related to or incidental to such loss, destruction of, or damage to, such facilities and property, due to excepted perils as described in this Paragraph J. when such loss, destruction, or damage is caused by or arises out of any activity undertaken pursuant to this Clause; provided, that this waiver of liability shall be applicable only when the amount of such loss, destruction or damage caused by any of such excepted perils is in excess of \$5,000,000 or such other amount as the Government and Contractor may agree upon from time-to-time.
- (2) Excepted perils comprise fire; lightning; windstorm; cyclone; tornado; hail; explosion; riot attending a strike; civil commotion; vandalism and malicious mischief; nuclear incident; aircraft or objects falling therefrom; vehicles running on land or tracks (excluding vehicles owned or operated by Contractor or any agent or employee thereof operating in the course of the agency or employment); smoke; sprinkler leakage; earthquake or volcanic eruption; flood, meaning thereby rising of rivers or streams; enemy attack or any action by the military forces of the United States in resisting enemy attack.
- (l) The clause in this Contract entitled "DEAR 970.5228-1 Insurance—Litigation and Claims" is not applicable to the Legacy Work performed under this clause. DOE is not responsible for any costs of litigation arising out of or relating to the Legacy Work performed under this Clause.
- (m) Legacy Work Only
- In no event will work other than that listed in Appendix I – List of Battelle Memorial Institute Legacy Work, dated October 15, 2012, be permitted under this Clause.
- (n) Conversion to ACT or NFWFO
- If any Project identified in Appendix I can be performed in compliance with Clause H-44 or under an NFWFO Agreement, the Contractor may submit a written request to the Contracting Officer that identifies the Project and a statement establishing the reasons why the Project may be performed in compliance with Clause H-44 or under an NFWFO Agreement. Contractor may perform the converted Project under Clause H-44 or under an NFWFO Agreement upon approval by the Contracting Officer. However, the Contractor

will continue to indemnify DOE in accordance with this Clause for Legacy Work approved for conversion to ACT or NFWFO. The IP terms of any such converted project will be subject to the terms and conditions of the applicable agreement arising under the H-44 Clause.

[M920]
(End of Clause)

Part II – Contract Clauses

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Contract Clauses

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I-1 FAR 52.202-1 Definitions (July 2004)

- (a) When a solicitation provision or contract clause uses a word or term that is defined in the Federal Acquisition Regulation (FAR), the word or term has the same meaning as the definition in FAR 2.101 in effect at the time the solicitation was issued, unless--

The solicitation, or amended solicitation, provides a different definition;

The contracting parties agree to a different definition;

The part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning; or

The word or term is defined in FAR Part 31, for use in the cost principles and procedures.

- (b) The FAR Index is a guide to words and terms the FAR defines and shows where each definition is located. The FAR Index is available via the Internet at <http://www.acqnet.gov> at the end of the FAR, after the FAR Appendix.

(End of Clause)

[M779]

I-2 FAR 52.203-3 Gratuities (Apr 1984)

- (a) The right of the Contractor to proceed may be terminated by written notice if, after notice and hearing, the agency head or a designee determines that the Contractor, its agent, or another representative --

(1) Offered or gave a gratuity (e.g., an entertainment or gift) to an officer, official, or employee of the Government; and

(2) Intended, by the gratuity, to obtain a contract or favorable treatment under a contract.

- (b) The facts supporting this determination may be reviewed by any court having lawful jurisdiction.

- (c) If this Contract is terminated under paragraph (a) of this clause, the Government is entitled --

(1) To pursue the same remedies as in a breach of the Contract; and

(2) In addition to any other damages provided by law, to exemplary damages of not less than 3 nor more than 10 times the cost incurred by the Contractor in giving gratuities to the person concerned, as determined by the agency head or a designee. (This subparagraph (c)(2) is applicable

only if this Contract uses money appropriated to the Department of Defense.)

- (d) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

(End of Clause)

I-3 FAR 52.203-5 Covenant Against Contingent Fees (Apr 1984)

- (a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this Contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this Contract without liability or, in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of the contingent fee.

- (b) "Bona fide agency," as used in this clause, means an established commercial or selling agency, maintained by a Contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

"Bona fide employee," as used in this clause, means a person, employed by a Contractor and subject to the Contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

"Contingent fee," as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

"Improper influence," as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

(End of Clause)

I-4 FAR 52.203-6 Restrictions on Subcontractor Sales to the Government (Sept 2006)

- (a) Except as provided in (b) of this clause, the Contractor shall not enter into any agreement with an actual or prospective subcontractor, nor otherwise act in any manner, which has or may have the effect of restricting sales by such subcontractors directly to the Government of any item or process (including

computer software) made or furnished by the subcontractor under this contract or under any follow-on production contract.

- (b) The prohibition in (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation.
- (c) The Contractor agrees to incorporate the substance of this clause, including this paragraph (c), in all subcontracts under this contract which exceed the simplified acquisition threshold.

[M490]

(End of Clause)

I-5 FAR 52.203-7 Anti-Kickback Procedures (Oct 2010)

- (a) Definitions.

“Kickback,” as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

“Person,” as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

“Prime contract,” as used in this clause, means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

“Prime Contractor” as used in this clause, means a person who has entered into a prime contract with the United States.

“Prime Contractor employee,” as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.

“Subcontract,” as used in this clause, means a contract or contractual action entered into by a prime Contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

“Subcontractor,” as used in this clause,

- (1) means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract, and

- (2) includes any person who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier subcontractor.

“Subcontractor employee,” as used in this clause, means any officer, partner, employee, or agent of a subcontractor.

- (b) The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act), prohibits any person from --

- (1) Providing or attempting to provide or offering to provide any kickback;
- (2) Soliciting, accepting, or attempting to accept any kickback; or
- (3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

- (c)

- (1) The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph (b) of this clause in its own operations and direct business relationships.
- (2) When the Contractor has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.
- (3) The Contractor shall cooperate fully with any Federal agency investigating a possible violation described in paragraph (b) of this clause.
- (4) The Contracting Officer may
 - (i) offset the amount of the kickback against any monies owed by the United States under the prime contract and/or
 - (ii) direct that the Prime Contractor withhold from sums owed a subcontractor under the prime contract the amount of the kickback. The Contracting Officer may order that monies withheld under subdivision (c)(4)(ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision (c)(4)(i) of this clause. In either case, the Prime Contractor shall notify the Contracting Officer when the monies are withheld.

- (5) The Contractor agrees to incorporate the substance of this clause, including subparagraph (c)(5) but excepting subparagraph (c)(1), in all subcontracts under this contract which exceed \$150,000.

(End of Clause)

[M779]

I-6 FAR 52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (Jan 1997)

- (a) If the Government receives information that a Contractor or a person has engaged in conduct constituting a violation of subsection (a), (b), (c), or (d) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) (the Act), as amended by section 4304 of the National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104-106), the Government may --

- (1) Cancel the solicitation, if the contract has not yet been awarded or issued; or

- (2) Rescind the contract with respect to which --

- (i) The Contractor or someone acting for the Contractor has been convicted for an offense where the conduct constitutes a violation of subsection 27(a) or (b) of the Act for the purpose of either --

(A) Exchanging the information covered by such subsections for anything of value; or

(B) Obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract; or

- (ii) The head of the contracting activity has determined, based upon a preponderance of the evidence, that the Contractor or someone acting for the Contractor has engaged in conduct constituting an offense punishable under subsection 27(e)(1) of the Act.

- (b) If the Government rescinds the Contract under paragraph (a) of this clause, the Government is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the Contract.

- (c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law, regulation, or under this Contract.

(End of Clause)

I-7 FAR 52.203-10 Price or Fee Adjustment for Illegal or Improper Activity (Jan 1997)

- (a) The Government, at its election, may reduce the price of a fixed-price type contract and the total cost and fee under a cost-type contract by the amount of profit or fee determined as set forth in paragraph (b) of this clause if the head of the contracting activity or designee determines that there was a violation of subsection 27(a), (b), or (c) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), as implemented in section 3.104 of the Federal Acquisition Regulation.
- (b) The price or fee reduction referred to in paragraph (a) of this clause shall be --
- (1) For cost-plus-fixed-fee contracts, the amount of the fee specified in the contract at the time of award;
 - (2) For cost-plus-incentive-fee contracts, the target fee specified in the contract at the time of award, notwithstanding any minimum fee or "fee floor" specified in the contract;
 - (3) For cost-plus-award-fee contracts --
 - (i) The base fee established in the contract at the time of contract award;
 - (ii) If no base fee is specified in the contract, 30 percent of the amount of each award fee otherwise payable to the Contractor for each award fee evaluation period or at each award fee determination point.
 - (4) For fixed-price-incentive contracts, the Government may --
 - (i) Reduce the contract target price and contract target profit both by an amount equal to the initial target profit specified in the contract at the time of contract award; or
 - (ii) If an immediate adjustment to the contract target price and contract target profit would have a significant adverse impact on the incentive price revision relationship under the contract, or adversely affect the contract financing provisions, the Contracting Officer may defer such adjustment until establishment of the total final price of the contract. The total final price established in accordance with the incentive price revision provisions of the contract shall be reduced by an amount equal to the initial target profit specified in the contract at the time of contract award and such reduced price shall be the total final contract price.

- (5) For firm-fixed-price contracts, by 10 percent of the initial contract price or a profit amount determined by the Contracting Officer from records or documents in existence prior to the date of the contract award.
- (c) The Government may, at its election, reduce a prime Contractor's price or fee in accordance with the procedures of paragraph (b) of this clause for violations of the Act by its Subcontractors by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was first definitively priced.
- (d) In addition to the remedies in paragraphs (a) and (c) of this clause, the Government may terminate this contract for default. The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this contract.

(End of Clause)

I-8 FAR 52.203-12 Limitation on Payments to Influence Certain Federal Transactions (Oct 2010)

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

“Agency” means executive agency as defined in Federal Acquisition Regulation (FAR) 2.101.

“Covered Federal action” means any of the following Federal actions:

- (1) Awarding any Federal contract.
- (2) Making any Federal grant.
- (3) Making any Federal loan.
- (4) Entering into any cooperative agreement.
- (5) Extending, continuing, renewing, amending, or modifying any Federal contract, grant, loan, or cooperative agreement.

“Indian tribe” and “tribal organization” have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C.450B) and include Alaskan Natives.

“Influencing or attempting to influence” means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

“Local government” means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

“Officer or employee of an agency” includes the following individuals who are employed by an agency:

- (1) An individual who is appointed to a position in the Government under Title 5, United States Code, including a position under a temporary appointment.
- (2) A member of the uniformed services, as defined in subsection 101(3), Title 37, United States Code.
- (3) A special Government employee, as defined in section 202, Title 18, United States Code.
- (4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, Title 5, United States Code, appendix 2.

“Person” means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit, or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph (b) of this clause and are permitted by other Federal law.

“Reasonable compensation” means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

“Reasonable payment” means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

“Recipient” includes the Contractor and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph (b) of this clause and *are* permitted by other Federal law.

“Regularly employed” means, with respect to an officer or employee of a person requesting or receiving a Federal contract, an officer or employee who is employed by such person for at least 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

“State” means a State of the United States, the District of Columbia, or an outlying area of the United States, an agency or instrumentality of a State, and multi-State, regional, or interstate entity having governmental duties and powers.

- (b) *Prohibition.* 31 U.S.C. 1352 prohibits a recipient of a Federal contract, grant, loan, or cooperative agreement from using appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal actions. In accordance with 31 U.S.C. 1352 the Contractor shall not use appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the award of this contractor the extension, continuation, renewal, amendment, or modification of this contract.
- (1) The term *appropriated funds* does not include profit or fee from a covered Federal action.
 - (2) To the extent the Contractor can demonstrate that the Contractor has sufficient monies, other than Federal appropriated funds, the Government will assume that these other monies were spent for any influencing activities that would be unallowable if paid for with Federal appropriated funds.
- (c) *Exceptions.* The prohibition in paragraph (b) of this clause does not apply under the following conditions:
- (1) Agency and legislative liaison by Contractor employees.
 - (i) Payment of reasonable compensation made to an officer or employee of the Contractor if the payment is for agency and legislative liaison activities not directly related to this contract. For purposes of this paragraph, providing any information specifically requested by an agency or Congress is permitted at any time.

- (ii) Participating with an agency in discussions that are not related to a specific solicitation for any covered Federal action, but that concern—
 - (A) The qualities and characteristics (including individual demonstrations) of the person's products or services, conditions or terms of sale, and service capabilities; or
 - (B) The application or adaptation of the person's products or services for an agency's use.
 - (iii) Providing prior to formal solicitation of any covered Federal action any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;
 - (iv) Participating in technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and
 - (v) Making capability presentations prior to formal solicitation of any covered Federal action by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Pub. L. 95-507, and subsequent amendments.
- (2) Professional and technical services.
- (i) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.
 - (ii) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a

person requesting or receiving a covered Federal action include consultants and trade associations.

- (iii) As used in this paragraph (c)(2), “professional and technical services” are limited to advice and analysis directly applying any professional or technical discipline (for examples, see FAR 3.803(a)(2)(iii)).
 - (iv) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation and any other requirements in the actual award documents.
- (3) Only those communications and services expressly authorized by paragraphs (c)(1) and (2) of this clause are permitted.
- (d) Disclosure.
- (1) If the Contractor did not submit OMB Standard Form LLL, Disclosure of Lobbying Activities, with its offer, but registrants under the Lobbying Disclosure Act of 1995 have subsequently made a lobbying contact on behalf of the Contractor with respect to this contract, the Contractor shall complete and submit OMB Standard Form LLL to provide the name of the lobbying registrants, including the individuals performing the services.
 - (2) If the Contractor did submit OMB Standard Form LLL disclosure pursuant to paragraph (d) of the provision at FAR 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, and a change occurs that affects Block 10 of the OMB Standard Form LLL (name and address of lobbying registrant or individuals performing services), the Contractor shall, at the end of the calendar quarter in which the change occurs, submit to the Contracting Officer within 30 days an updated disclosure using OMB Standard Form LLL.
- (e) Penalties.
- (1) Any person who makes an expenditure prohibited under paragraph (b) of this clause or who fails to file or amend the disclosure to be filed or amended by paragraph (d) of this clause shall be subject to civil penalties as provided for by 31 U.S.C.1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.
 - (2) Contractors may rely without liability on the representation made by their subcontractors in the certification and disclosure form.

- (f) *Cost allowability.* Nothing in this clause makes allowable or reasonable any costs which would otherwise be unallowable or unreasonable. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any other provision.
- (g) *Subcontracts.*
- (1) The Contractor shall obtain a declaration, including the certification and disclosure in paragraphs (c) and (d) of the provision at FAR 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, from each person requesting or receiving a subcontract exceeding \$150,000 under this contract. The Contractor or subcontractor that awards the subcontract shall retain the declaration.
 - (2) A copy of each subcontractor disclosure form (but not certifications) shall be forwarded from tier to tier until received by the prime Contractor. The prime Contractor shall, at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor, submit to the Contracting Officer within 30 days a copy of all disclosures. Each subcontractor certification shall be retained in the subcontract file of the awarding Contractor.
 - (3) The Contractor shall include the substance of this clause, including this paragraph (g), in any subcontract exceeding \$150,000.

(End of Clause)

[M779]

I-9 FAR 52.204-4 Printed or Copied Double-Sided on Recycled Paper (Aug 2000)

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

"Postconsumer material" means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Postconsumer material is a part of the broader category of "recovered material." For paper and paper products, postconsumer material means "postconsumer fiber" defined by the U.S. Environmental Protection Agency (EPA) as-

- (1) Paper, paperboard, and fibrous materials from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; or
- (2) All paper, paperboard, and fibrous materials that enter and are collected from municipal solid waste; but not

- (3) Fiber derived from printers' over-runs, converters' scrap, and over-issue publications.

"Printed or copied double-sided" means printing or reproducing a document so that information is on both sides of a sheet of paper.

"Recovered material," for paper and paper products, is defined by EPA in its Comprehensive Procurement Guideline as "recovered fiber" and means the following materials:

- (1) Postconsumer fiber; and
- (2) Manufacturing wastes such as-
 - (i) Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel into smaller rolls or rough sheets) including: envelope cuttings, bindery trimmings, and other paper and paperboard waste resulting from printing, cutting forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and
 - (ii) Repulped finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others.
- (b) In accordance with Section 101 of Executive Order 13101 of September 14, 1998, Greening the Government through Waste Prevention, Recycling, and Federal Acquisition, the Contractor is encouraged to submit paper documents, such as offers, letters, or reports, that are printed or copied double-sided on recycled paper that meet minimum content standards specified in Section 505 of Executive Order 13101, when not using electronic commerce methods to submit information or data to the Government.
- (c) If the Contractor cannot purchase high-speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white woven envelopes, writing and office paper, book paper, cotton fiber paper, and cover stock meeting the 30 percent postconsumer material standard for use in submitting paper documents to the Government, it should use paper containing no less than 20 percent postconsumer material. This lesser standard should be used only when paper meeting the 30 percent postconsumer material standard is not obtainable at a reasonable price or does not meet reasonable performance standards.

(End of Clause)

I-9A FAR 52.204-7 Central Contractor Registration (Apr 2008)

(a) Definitions. As used in this clause—

“Central Contractor Registration (CCR) database” means the primary Government repository for Contractor information required for the conduct of business with the Government.

“Data Universal Numbering System (DUNS) number” means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

“Data Universal Numbering System+4 (DUNS+4) number” means the DUNS number means the number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see the FAR at Subpart 32.11) for the same concern.

“Registered in the CCR database” means that—

- (1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and
 - (2) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS), and has marked the record “Active”. The Contractor will be required to provide consent for TIN validation to the Government as a part of the CCR registration process.
- (b)
- (1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.
 - (2) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation “DUNS” or “DUNS+4” followed by the DUNS or DUNS+4 number that identifies the offeror’s name and address exactly as stated in the offer. The DUNS number will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.
- (c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

- (1) An offeror may obtain a DUNS number—
 - (i) Via the internet at <http://fedgov.dnb.com/webform> or if the offeror does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or
 - (ii) If located outside the United States, by contacting the local Dun and Bradstreet office. The offeror should indicate that it is an offeror for a U.S. Government contract when contacting the local Dun and Bradstreet office.
- (2) The offeror should be prepared to provide the following information:
 - (i) Company legal business name.
 - (ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.
 - (iii) Company physical street address, city, state and Zip Code.
 - (iv) Company mailing address, city, state and Zip Code (if separate from physical).
 - (v) Company telephone number.
 - (vi) Date the company was started.
 - (vii) Number of employees at your location.
 - (viii) Chief executive officer/key manager.
 - (ix) Line of business (industry).
 - (x) Company Headquarters name and address (reporting relationship within your entity).
- (d) If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.
- (e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.
- (f) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's

reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(g)

(1)

(i) If a Contractor has legally changed its business name, “doing business as” name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day’s written notification of its intention to:

(A) Change the name in the CCR database;

(B) Comply with the requirements of Subpart 42.12 of the FAR;

(C) Agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (g)(1)(i) of this clause, or fails to perform the agreement at paragraph (g)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the “Suspension of Payment” paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor’s CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information

within the meaning of the “Suspension of payment” paragraph of the EFT clause of this contract.

- (h) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the Internet at <http://www.ccr.gov> or by calling 1-888-227-2423, or 269-961-5757.

(End of Clause)

[M779]

I-9B FAR 52.204-9 Personal Identity Verification of Contractor Personnel (Jan 2011)

- (a) The Contractor shall comply with agency personal identity verification procedures identified in the contract that implement Homeland Security Presidential Directive-12 (HSPD-12), Office of Management and Budget (OMB) guidance M-05-24, and Federal Information Processing Standards Publication (FIPS PUB) Number 201.
- (b) The Contractor shall account for all forms of Government-provided identification issued to the Contractor employees in connection with performance under this contract. The Contractor shall return such identification to the issuing agency at the earliest of any of the following, unless otherwise determined by the Government;
 - (1) When no longer needed for contract performance.
 - (2) Upon completion of the Contractor employee’s employment.
 - (3) Upon contract completion or termination.
- (c) The Contracting Officer may delay final payment under a contract if the Contractor fails to comply with these requirements.
- (d) The Contractor shall insert the substance of clause, including this paragraph (d), in all subcontracts when the subcontractor’s employees are required to have routine physical access to a Federally-controlled facility and/or routine access to a Federally-controlled information system. It shall be the responsibility of the prime Contractor to return such identification to the issuing agency in accordance with the terms set forth in paragraph (b) of this section, unless otherwise approved in writing by the Contracting Officer.

(End of Clause)

[M779]

I-10 FAR 52.208-8 Required Sources for Helium and Helium Usage Data (Apr 2002)

(a) *Definitions.*

"Bureau of Land Management," as used in this clause, means the Department of the Interior, Bureau of Land Management, Amarillo Field Office, Helium Operations, located at 801 South Fillmore Street, Suite 500, Amarillo, TX 79101-3545.

"Federal helium supplier" means a private helium vendor that has an in-kind crude helium sales contract with the Bureau of Land Management (BLM) and that is on the BLM Amarillo Field Office's Authorized List of Federal Helium Suppliers available via the Internet at http://www.nm.blm.gov/www/amfo/amfo_home.html .

"Major helium requirement" means an estimated refined helium requirement greater than 200,000 standard cubic feet (scf) (measured at 14.7 pounds per square inch absolute pressure and 70 degrees Fahrenheit temperature) of gaseous helium or 7510 liters of liquid helium delivered to a helium use location per year.

(b) *Requirements --*

- (1) Contractors must purchase major helium requirements from Federal helium suppliers, to the extent that supplies are available.
- (2) The Contractor shall provide to the Contracting Officer the following data within 10 days after the Contractor or Subcontractor receives a delivery of helium from a Federal helium supplier --
 - (i) The name of the supplier;
 - (ii) The amount of helium purchased;
 - (iii) The delivery date(s); and
 - (iv) The location where the helium was used.

(c) *Subcontracts* --The Contractor shall insert this clause, including this paragraph (c), in any subcontract or order that involves a major helium requirement.

(End of Clause)

I-11 FAR 52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Sept 2006)

- (a) The Government suspends or debar Contractors to protect the Government's interests. The Contractor shall not enter into any subcontract in excess of \$30,000 with a Contractor that is debarred, suspended, or proposed for debarment unless there is a compelling reason to do so.
- (b) The Contractor shall require each proposed first-tier subcontractor, whose subcontract will exceed \$30,000, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.
- (c) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the Excluded Parties List System). The notice must include the following:
 - (1) The name of the subcontractor.
 - (2) The Contractor's knowledge of the reasons for the subcontractor being in the Excluded Parties List System.
 - (3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion in the Excluded Parties List System.
 - (4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

[M490]

(End of Clause)

I-12 FAR 52.211-5 Material Requirements (Aug 2000)

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

"New" means composed of previously unused components, whether manufactured from virgin material, recovered material in the form of raw material, or materials and by-products generated from, and reused within, an original manufacturing process; *provided* that the supplies meet contract requirements, including but not limited to, performance, reliability, and life expectancy.

"Reconditioned" means restored to the original normal operating condition by readjustments and material replacement.

"Recovered material" means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

"Remanufactured" means factory rebuilt to original specifications.

"Virgin material" means--

- (1) Previously unused raw material, including previously unused copper, aluminum, lead, zinc, iron, other metal or metal ore; or
 - (2) Any undeveloped resource that is, or with new technology will become, a source of raw materials.
- (b) Unless this contract otherwise requires virgin material or supplies composed of or manufactured from virgin material, the Contractor shall provide supplies that are new, reconditioned, or remanufactured, as defined in this clause.
- (c) A proposal to provide unused former Government surplus property shall include a complete description of the material, the quantity, the name of the Government agency from which acquired, and the date of acquisition.
- (d) A proposal to provide used, reconditioned, or remanufactured supplies shall include a detailed description of such supplies and shall be submitted to the Contracting Officer for approval.
- (e) Used, reconditioned, or remanufactured supplies, or unused former Government surplus property, may be used in contract performance if the Contractor has proposed the use of such supplies, and the Contracting Officer has authorized their use.

(End of Clause)

I-13 FAR 52.215-8 Order of Precedence -- Uniform Contract Format (Oct 1997)

Any inconsistency in this solicitation or contract shall be resolved by giving precedence in the following order:

- (a) The Schedule (excluding the specifications).
- (b) Representations and other instructions.
- (c) Contract clauses.

- (d) Other documents, exhibits, and attachments.
- (e) The specifications.

(End of Clause)

I-14 FAR 52.215-12 Subcontractor Cost or Pricing Data (Oct 1997)

- (a) Before awarding any subcontract expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, the Contractor shall require the Subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless an exception under FAR 15.403-1 applies.
- (b) The Contractor shall require the Subcontractor to certify in substantially the form prescribed in FAR 15.406-2 that, to the best of its knowledge and belief, the data submitted under paragraph (a) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.
- (c) In each subcontract that exceeds the threshold for submission of cost or pricing data at FAR 15.403-4, when entered into, the Contractor shall insert either --
 - (1) The substance of this clause, including this paragraph (c), if paragraph (a) of this clause requires submission of cost or pricing data for the subcontract; or
 - (2) The substance of the clause at FAR 52.215-13, Subcontractor Cost or Pricing Data -- Modifications.

(End of Clause)

I-15 FAR 52.215-13 Subcontractor Cost or Pricing Data – Modifications (Oct 1997)

- (a) The requirements of paragraphs (b) and (c) of this clause shall --
 - (1) Become operative only for any modification to this contract involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4; and
 - (2) Be limited to such modifications.
- (b) Before awarding any subcontract expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of

cost or pricing data at FAR 15.403-4, the Contractor shall require the Subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless an exception under FAR 15.403-1 applies.

- (c) The Contractor shall require the Subcontractor to certify in substantially the form prescribed in FAR 15.406-2 that, to the best of its knowledge and belief, the data submitted under paragraph (b) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.
- (d) The Contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract that exceeds the threshold for submission of cost or pricing data at FAR 15.403-4 on the date of agreement on price or the date of award, whichever is later.

(End of Clause)

I-16 FAR 52.219-8 Utilization of Small Business Concerns (Jan 2011)

- (a) It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.
- (b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.
- (c) *Definitions.* As used in this contract—

“HUBZone small business concern” means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

“Service-disabled veteran-owned small business concern”—

(1) Means a small business concern—

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

“Small business concern” means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

“Small disadvantaged business concern” means a small business concern that represents, as part of its offer that—

(1) (i) It has received certification as a small disadvantaged business concern consistent with 13 CFR part 124, Subpart B;

(ii) No material change in disadvantaged ownership and control has occurred since its certification;

(iii) Where the concern is owned by one or more individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(iv) It is identified, on the date of its representation, as a certified small disadvantaged business in the CCR Dynamic Small Business Search database maintained by the Small Business Administration, or

(2) It represents in writing that it qualifies as a small disadvantaged business (SDB) for any Federal subcontracting program, and believes in good faith that it is owned and controlled by one or more socially and economically disadvantaged individuals and meets the SDB eligibility criteria of 13 CFR 124.1002.

“Veteran-owned small business concern” means a small business concern—

- (1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and
- (2) The management and daily business operations of which are controlled by one or more veterans.

“Women-owned small business concern” means a small business concern—

- (1) That is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
- (2) Whose management and daily business operations are controlled by one or more women.

(d)

(1) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a veteran-owned small business concern, a service-disabled veteran-owned small business concern, a small disadvantaged business concern, or a women-owned small business concern.

(2) The Contractor shall confirm that a subcontractor representing itself as a HUBZone small business concern is certified by SBA as a HUBZone small business concern by accessing the Central Contractor Registration (CCR) database or by contacting the SBA. Options for contacting the SBA include—

- (i) HUBZone small business database search application web page at http://dsbs.sba.gov/dsbs/search/dsp_searchhubzone.cfm; or <http://www.sba.gov/hubzone>;
- (ii) In writing to the Director/HUB, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416; or
- (iii) The SBA HUBZone Help Desk at hubzone@sba.gov.

(End of Clause)

[M881]

I-17 FAR 52.219-9 Small Business Subcontracting Plan (Jan 2011)

(a) This clause does not apply to small business concerns.

(b) *Definitions.* As used in this clause—

“Alaska Native Corporation (ANC)” means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, *et seq.*) and which is considered a minority and economically disadvantaged concern under the criteria at 43 U.S.C. 1626(e)(1). This definition also includes ANC direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of 43 U.S.C. 1626(e)(2).

“Commercial item” means a product or service that satisfies the definition of commercial item in section 2.101 of the Federal Acquisition Regulation.

“Commercial plan” means a subcontracting plan (including goals) that covers the offeror’s fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (*e.g.*, division, plant, or product line).

“Electronic Subcontracting Reporting System (eSRS)” means the Governmentwide, electronic, web-based system for small business subcontracting program reporting. The eSRS is located at <http://www.esrs.gov>.

“Indian tribe” means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601 *et seq.*), that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs in accordance with 25 U.S.C. 1452(c). This definition also includes Indian-owned economic enterprises that meet the requirements of 25 U.S.C. 1452(e).

“Individual contract plan” means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror’s planned subcontracting in support of the specific contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

“Master plan” means a subcontracting plan that contains all the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved.

“Subcontract” means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(c) The offeror, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business concerns, small disadvantaged business, and women-owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate the subcontracting plan shall make the offeror ineligible for award of a contract.

(d) The offeror’s subcontracting plan shall include the following:

(1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. The offeror shall include all sub-contracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs. In accordance with 43 U.S.C. 1626:

- (i) Subcontracts awarded to an ANC or Indian tribe shall be counted towards the subcontracting goals for small business and small disadvantaged business (SDB) concerns, regardless of the size or Small Business Administration certification status of the ANC or Indian tribe.
- (ii) Where one or more subcontractors are in the subcontract tier between the prime contractor and the ANC or Indian tribe, the ANC or Indian tribe shall designate the appropriate contractor(s) to count the subcontract towards its small business and small disadvantaged business subcontracting goals.

(A) In most cases, the appropriate Contractor is the Contractor that awarded the subcontract to the ANC or Indian tribe.

(B) If the ANC or Indian tribe designates more than one Contractor to count the subcontract toward its goals, the ANC or Indian tribe shall designate only a portion of the total subcontract award to each Contractor. The sum of the amounts designated to various Contractors cannot exceed the total value of the subcontract.

(C) The ANC or Indian tribe shall give a copy of the written designation to the Contracting Officer, the prime Contractor, and the subcontractors in between the prime Contractor and the ANC or Indian tribe within 30 days of the date of the subcontract award.

(D) If the Contracting Officer does not receive a copy of the ANC's or the Indian tribe's written designation within 30 days of the subcontract award, the Contractor that awarded the subcontract to the ANC or Indian tribe will be considered the designated Contractor.

(2) A statement of—

- (i) Total dollars planned to be subcontracted for an individual contract plan; or the offeror's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;
- (ii) Total dollars planned to be subcontracted to small business concerns (including ANC and Indian tribes);
- (iii) Total dollars planned to be subcontracted to veteran-owned small business concerns;
- (iv) Total dollars planned to be subcontracted to service-disabled veteran-owned small business;
- (v) Total dollars planned to be subcontracted to HUBZone small business concerns;
- (vi) Total dollars planned to be subcontracted to small disadvantaged business concerns (including ANCs and Indian tribes); and
- (vii) Total dollars planned to be subcontracted to women-owned small business concerns.

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to—

- (i) Small business concerns;
- (ii) Veteran-owned small business concerns;
- (iii) Service-disabled veteran-owned small business concerns;
- (iv) HUBZone small business concerns;

- (v) Small disadvantaged business concerns; and
 - (vi) Women-owned small business concerns.
- (4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.
- (5) A description of the method used to identify potential sources for solicitation purposes (*e.g.*, existing company source lists, the Central Contractor Registration database (CCR), veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in CCR as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of CCR as its source list does not relieve a firm of its responsibilities (*e.g.*, outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.
- (6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with—
- (i) Small business concerns (including ANC and Indian tribes);
 - (ii) Veteran-owned small business concerns;
 - (iii) Service-disabled veteran-owned small business concerns;
 - (iv) HUBZone small business concerns;
 - (v) Small disadvantaged business concerns (including ANC and Indian tribes); and
 - (vi) Women-owned small business concerns.
- (7) The name of the individual employed by the offeror who will administer the offeror's subcontracting program, and a description of the duties of the individual.
- (8) A description of the efforts the offeror will make to assure that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.
- (9) Assurances that the offeror will include the clause of this contract entitled "Utilization of Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of \$650,000

(\$1.5 million for construction of any public facility) with further subcontracting possibilities to adopt a subcontracting plan that complies with the requirements of this clause.

(10) Assurances that the offeror will—

- (i) Cooperate in any studies or surveys as may be required;
- (ii) Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;
- (iii) Submit the Individual Subcontract Report (ISR) and/or the Summary Subcontract Report (SSR), in accordance with paragraph (l) of this clause using the Electronic Subcontracting Reporting System (eSRS) at <http://www.esrs.gov>. The reports shall provide information on subcontract awards to small business concerns (including ANCs and Indian tribes that are not small businesses), veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns (including ANCs and Indian tribes that have not been certified by the Small Business Administration as small disadvantaged businesses), women-owned small business concerns, and Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with this clause, or as provided in agency regulations;
- (iv) Ensure that its subcontractors with subcontracting plans agree to submit the ISR and/or the SSR using eSRS;
- (v) Provide its prime contract number, its DUNS number, and the e-mail address of the offeror's official responsible for acknowledging receipt of or rejecting the ISRs, to all first-tier subcontractors with subcontracting plans so they can enter this information into the eSRS when submitting their ISRs; and
- (vi) Require that each subcontractor with a subcontracting plan provide the prime contract number, its own DUNS number, and the e-mail address of the subcontractor's official responsible for acknowledging receipt of or rejecting the ISRs, to its subcontractors with subcontracting plans.

(11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

- (i) Source lists (*e.g.*, CCR), guides, and other data that identify small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.
- (ii) Organizations contacted in an attempt to locate sources that are small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.
- (iii) Records on each subcontract solicitation resulting in an award of more than \$150,000, indicating—
 - (A) Whether small business concerns were solicited and, if not, why not;
 - (B) Whether veteran-owned small business concerns were solicited and, if not, why not;
 - (C) Whether service-disabled veteran-owned small business concerns were solicited and, if not, why not;
 - (D) Whether HUBZone small business concerns were solicited and, if not, why not;
 - (E) Whether small disadvantaged business concerns were solicited and, if not, why not;
 - (F) Whether women-owned small business concerns were solicited and, if not, why not; and
 - (G) If applicable, the reason award was not made to a small business concern.
- (iv) Records of any outreach efforts to contact—
 - (A) Trade associations;
 - (B) Business development organizations;
 - (C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources; and
 - (D) Veterans service organizations.
- (v) Records of internal guidance and encouragement provided to buyers through—
 - (A) Workshops, seminars, training, etc.; and
 - (B) Monitoring performance to evaluate compliance with the program's requirements.
- (vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.

(e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:

(1) Assist small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(2) Provide adequate and timely consideration of the potentialities of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all "make-or-buy" decisions.

(3) Counsel and discuss subcontracting opportunities with representatives of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.

(4) Confirm that a subcontractor representing itself as a HUBZone small business concern is identified as a certified HUBZone small business concern by accessing the Central Contractor Registration (CCR) database or by contacting SBA.

(5) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, veteran-owned small business, HUBZone small, small disadvantaged, or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.

(6) For all competitive subcontracts over the simplified acquisition threshold in which a small business concern received a small business preference, upon determination of the successful subcontract offeror, the Contractor must inform each unsuccessful small business subcontract offeror in writing of the name and location of the apparent successful offeror prior to award of the contract.

(f) A master plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided—

(1) The master plan has been approved;

- (2) The offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer; and
- (3) Goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.
- (g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror's planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Once the Contractor's commercial plan has been approved, the Government will not require another subcontracting plan from the same Contractor while the plan remains in effect, as long as the product or service being provided by the Contractor continues to meet the definition of a commercial item. A Contractor with a commercial plan shall comply with the reporting requirements stated in paragraph (d)(10) of this clause by submitting one SSR in eSRS for all contracts covered by its commercial plan. This report shall be acknowledged or rejected in eSRS by the Contracting Officer who approved the plan. This report shall be submitted within 30 days after the end of the Government's fiscal year.
- (h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.
- (i) A contract may have no more than one plan. When a modification meets the criteria in 19.702 for a plan, or an option is exercised, the goals associated with the modification or option shall be added to those in the existing subcontract plan.
- (j) Subcontracting plans are not required from subcontractors when the prime contract contains the clause at 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items, or when the subcontractor provides a commercial item subject to the clause at 52.244-6, Subcontracts for Commercial Items, under a prime contract.
- (k) The failure of the Contractor or subcontractor to comply in good faith with—
- (1) The clause of this contract entitled "Utilization Of Small Business Concerns;"
 - or
 - (2) An approved plan required by this clause, shall be a material breach of the contract.
- (l) The Contractor shall submit ISRs and SSRs using the web-based eSRS at <http://www.esrs.gov>. Purchases from a corporation, company, or subdivision that is an affiliate of the prime Contractor or subcontractor are not included in these reports. Subcontract award data reported by prime Contractors and subcontractors shall be limited to awards made to their immediate next-tier subcontractors. Credit cannot be taken for

awards made to lower tier subcontractors, unless the Contractor or subcontractor has been designated to receive a small business or small disadvantaged business credit from an ANC or Indian Tribe. Only subcontracts involving performance in the United States or its outlying areas should be included in these reports with the exception of subcontracts under a contract awarded by the State Department or any other agency that has statutory or regulatory authority to require subcontracting plans for subcontracts performed outside the United States and its outlying areas.

(1) *ISR*. This report is not required for commercial plans. The report is required for each contract containing an individual subcontract plan.

(i) The report shall be submitted semi-annually during contract performance for the periods ending March 31 and September 30. A report is also required for each contract within 30 days of contract completion. Reports are due 30 days after the close of each reporting period, unless otherwise directed by the Contracting Officer. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or the previous reporting period.

(ii) When a subcontracting plan contains separate goals for the basic contract and each option, as prescribed by FAR 19.704(c), the dollar goal inserted on this report shall be the sum of the base period through the current option; for example, for a report submitted after the second option is exercised, the dollar goal would be the sum of the goals for the basic contract, the first option, and the second option.

(iii) The authority to acknowledge receipt or reject the *ISR* resides—

(A) In the case of the prime Contractor, with the Contracting Officer;
and

(B) In the case of a subcontract with a subcontracting plan, with the entity that awarded the subcontract.

(2) *SSR*.

(i) Reports submitted under individual contract plans—

(A) This report encompasses all subcontracting under prime contracts and subcontracts with the awarding agency, regardless of the dollar value of the subcontracts.

(B) The report may be submitted on a corporate, company or subdivision (*e.g.* plant or division operating as a separate profit center) basis, unless otherwise directed by the agency.

(C) If a prime Contractor and/or subcontractor is performing work for more than one executive agency, a separate report shall be submitted to each executive agency covering only that agency's contracts, provided at least one of that agency's contracts is over \$650,000 (over

\$1.5 million for construction of a public facility) and contains a subcontracting plan. For DoD, a consolidated report shall be submitted for all contracts awarded by military departments/agencies and/or subcontracts awarded by DoD prime Contractors. However, for construction and related maintenance and repair, a separate report shall be submitted for each DoD component.

(D) For DoD and NASA, the report shall be submitted semi-annually for the six months ending March 31 and the twelve months ending September 30. For civilian agencies, except NASA, it shall be submitted annually for the twelve month period ending September 30. Reports are due 30 days after the close of each reporting period.

(E) Subcontract awards that are related to work for more than one executive agency shall be appropriately allocated.

(F) The authority to acknowledge or reject SSRs in eSRS, including SSRs submitted by subcontractors with subcontracting plans, resides with the Government agency awarding the prime contracts unless stated otherwise in the contract.

(ii) Reports submitted under a commercial plan—

(A) The report shall include all subcontract awards under the commercial plan in effect during the Government's fiscal year.

(B) The report shall be submitted annually, within thirty days after the end of the Government's fiscal year.

(C) If a Contractor has a commercial plan and is performing work for more than one executive agency, the Contractor shall specify the percentage of dollars attributable to each agency from which contracts for commercial items were received.

(D) The authority to acknowledge or reject SSRs for commercial plans resides with the Contracting Officer who approved the commercial plan.

(iii) All reports submitted at the close of each fiscal year (both individual and commercial plans) shall include a Year-End Supplementary Report for Small Disadvantaged Businesses. The report shall include subcontract awards, in whole dollars, to small disadvantaged business concerns by North American Industry Classification System (NAICS) Industry Subsector. If the data are not available when the year-end SSR is submitted, the prime Contractor and/or subcontractor shall submit the Year-End Supplementary Report for Small Disadvantaged Businesses within 90 days of submitting the year-end SSR. For a commercial plan, the Contractor may obtain from each of its subcontractors a predominant NAICS Industry Subsector and report all

awards to that subcontractor under its predominant NAICS Industry Subsector.

(End of Clause)

[M881]

I-18 FAR 52.219-16 Liquidated Damages Subcontracting Plan (Jan 1999)

- (a) "Failure to make a good faith effort to comply with the subcontracting plan", as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract entitled "Small Business Subcontracting Plan," or willful or intentional action to frustrate the plan.
- (b) Performance shall be measured by applying the percentage goals to the total actual subcontracting dollars or, if a commercial plan is involved, to the pro rata share of actual subcontracting dollars attributable to Government contracts covered by the commercial plan. If, at contract completion, or in the case of a commercial plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled "Small Business Subcontracting Plan," the Contractor shall pay the Government liquidated damages in an amount stated. The amount of probable damages attributable to the Contractor's failure to comply, shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal.
- (c) Before the Contracting Officer makes a final decision that the Contractor has failed to make such good faith effort, the Contracting Officer shall give the Contractor written notice specifying the failure and permitting the Contractor to demonstrate what good faith efforts have been made and to discuss the matter. Failure to respond to the notice may be taken as an admission that no valid explanation exists. If, after consideration of all the pertinent data, the Contracting Officer finds that the Contractor failed to make a good faith effort to comply with the subcontracting plan, the Contracting Officer shall issue a final decision to that effect and require that the Contractor pay the Government liquidated damages as provided in paragraph (b) of this clause.
- (d) With respect to commercial plans; the Contracting Officer who approved the plan will perform the functions of the Contracting Officer under this clause on behalf of all agencies with contracts covered by that commercial plan.
- (e) The Contractor shall have the right of appeal, under the clause in this contract entitled, Disputes, from any final decision of the Contracting Officer.

- (f) Liquidated damages shall be in addition to any other remedies that the Government may have.

(End of Clause)

I-19 FAR 52.222-1 Notice to the Government of Labor Disputes (Feb 1997)

If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice, including all relevant information, to the Contracting Officer.

(End of Clause)

I-20 FAR 52.222-3 Convict Labor (June 2003)

- (a) Except as provided in paragraph (b) of this clause, the Contractor shall not employ in the performance of this contract any person undergoing a sentence of imprisonment imposed by any court of a State, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands.
- (b) The Contractor is not prohibited from employing persons--
- (1) On parole or probation to work at paid employment during the term of their sentence;
 - (2) Who have been pardoned or who have served their terms; or
 - (3) Confined for violation of the laws of any of the States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if--
 - (i) The worker is paid or is in an approved work training program on a voluntary basis;
 - (ii) Representatives of local union central bodies or similar labor union organizations have been consulted;
 - (iii) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services;
 - (iv) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed; and

- (v) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Orders 12608 and 12943.

[M490]

(End of Clause)

I-21 FAR 52.222-4 Contract Work Hours and Safety Standards Act -- Overtime Compensation (July 2005)

- (a) *Overtime requirements.* No Contractor or subcontractor employing laborers or mechanics (see Federal Acquisition Regulation 22.300) shall require or permit them to work over 40 hours in any workweek unless they are paid at least 1 and 1/2 times the basic rate of pay for each hour worked over 40 hours.
- (b) *Violation; liability for unpaid wages; liquidated damages.* The responsible Contractor and subcontractor are liable for unpaid wages if they violate the terms in paragraph (a) of this clause. In addition, the Contractor and subcontractor are liable for liquidated damages payable to the Government. The Contracting Officer will assess liquidated damages at the rate of \$10 per affected employee for each calendar day on which the employer required or permitted the employee to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the Contract Work Hours and Safety Standards Act.
- (c) *Withholding for unpaid wages and liquidated damages.* The Contracting Officer will withhold from payments due under the contract sufficient funds required to satisfy any Contractor or subcontractor liabilities for unpaid wages and liquidated damages. If amounts withheld under the contract are insufficient to satisfy Contractor or subcontractor liabilities, the Contracting Officer will withhold payments from other Federal or Federally assisted contracts held by the same Contractor that are subject to the Contract Work Hours and Safety Standards Act.
- (d) *Payrolls and basic records.*
 - (1) The Contractor and its subcontractors shall maintain payrolls and basic payroll records for all laborers and mechanics working on the contract during the contract and shall make them available to the Government until 3 years after contract completion. The records shall contain the name and address of each employee, social security number, labor classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records need not duplicate those required for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Davis-Bacon Act.
 - (2) The Contractor and its subcontractors shall allow authorized representatives of the Contracting Officer or the Department of Labor to inspect, copy, or transcribe records maintained under paragraph (d)(1) of

this clause. The Contractor or subcontractor also shall allow authorized representatives of the Contracting Officer or Department of Labor to interview employees in the workplace during working hours.

- (e) *Subcontracts.* The Contractor shall insert the provisions set forth in paragraphs (a) through (d) of this clause in subcontracts may require or involve the employment of laborers and mechanics and require subcontractors to include these provisions in any such lower-tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

[M490]

(End of Clause)

I-22 FAR 52.222-11 Subcontracts (Labor Standards) (Jul 2005)

- (a) *Definition.* “Construction, alteration or repair,” as used in this clause means all types of work done by laborers and mechanics employed by the construction Contractor or construction subcontractor on a particular building or work at the site thereof, including without limitation—
- (1) Altering, remodeling, installation (if appropriate) on the site of the work of items fabricated off-site;
 - (2) Painting and decorating;
 - (3) Manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building or work;
 - (4) Transportation of materials and supplies between the site of the work within the meaning of paragraphs (a)(1)(i) and (ii) of the “site of the work” as defined in the FAR clause at 52.222-6, Davis-Bacon Act of this contract, and a facility which is dedicated to the construction of the building or work and is deemed part of the site of the work within the meaning of paragraph (2) of the “site of work” definition; and
 - (5) Transportation of portions of the building or work between a secondary site where a significant portion of the building or work is constructed, which is part of the “site of the work” definition in paragraph (a)(1)(ii) of the FAR clause at 52.222-6, Davis-Bacon Act, and the physical place or places where the building or work will remain (paragraph (a)(1)(i) of the FAR clause at 52.222-6, in the “site of the work” definition).
- (b) The Contractor or subcontractor shall insert in any subcontracts for construction, alterations and repairs within the United States the clauses entitled—
- (1) Davis-Bacon Act;

- (2) Contract Work Hours and Safety Standards Act -- Overtime Compensation (if the clause is included in this contract);
 - (3) Apprentices and Trainees;
 - (4) Payrolls and Basic Records;
 - (5) Compliance with Copeland Act Requirements;
 - (6) Withholding of Funds;
 - (7) Subcontracts (Labor Standards);
 - (8) Contract Termination – Debarment;
 - (9) Disputes Concerning Labor Standards;
 - (10) Compliance with Davis-Bacon and Related Act Regulations; and
 - (11) Certification of Eligibility.
- (c) The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor performing construction within the United States with all the contract clauses cited in paragraph (b).
- (d)
- (1) Within 14 days after award of the contract, the Contractor shall deliver to the Contracting Officer a completed Standard Form (SF) 1413, Statement and Acknowledgment, for each subcontract for construction within the United States, including the subcontractor's signed and dated acknowledgment that the clauses set forth in paragraph (b) of this clause have been included in the subcontract.
 - (2) Within 14 days after the award of any subsequently awarded subcontract the Contractor shall deliver to the Contracting Officer an updated completed SF 1413 for such additional subcontract.
- (e) The Contractor shall insert the substance of this clause, including this paragraph (e) in all subcontracts for construction within the United States.

(End of Clause)

[M779]

I-23 FAR 52.222-21 Prohibition of Segregated Facilities (Feb 1999)

- (a) "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains,

recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between sexes.

- (b) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Opportunity clause in the contract.
- (c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.
(End of clause)

I-24 FAR 52.222-26 Equal Opportunity (March 2007)

- (a) *Definition.* "United States," as used in this clause, means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.
- (b)
 - (1) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Contractor shall comply with this clause, except for work performed outside the United States by employees who were not recruited within the United States. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.
 - (2) If the Contractor is a religious corporation, association, educational institution, or society, the requirements of this clause do not apply with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of the Contractor's activities (41 CFR 60-1.5).
- (c)
 - (1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. However, it shall not be a violation of this clause for the Contractor to extend a publicly announced preference in employment to Indians living

on or near an Indian reservation, in connection with employment opportunities on or near an Indian reservation, as permitted by 41 CFR 60-1.5.

- (2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to --
 - (i) Employment;
 - (ii) Upgrading;
 - (iii) Demotion;
 - (iv) Transfer;
 - (v) Recruitment or recruitment advertising;
 - (vi) Layoff or termination;
 - (vii) Rates of pay or other forms of compensation; and
 - (viii) Selection for training, including apprenticeship.
- (3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
- (4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (5) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- (6) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (7) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. The Contractor shall also file Standard Form 100 (EEO-1), or any successor form, as prescribed in 41 CFR part 60-1. Unless the Contractor has filed within the 12 months preceding the date of contract award, the Contractor shall, within 30 days after contract award, apply to either the regional Office of Federal

Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary forms.

- (8) The Contractor shall permit access to its premises, during normal business hours, by the contracting agency or the (OFCCP) for the purpose of conducting on-site compliance evaluations and complaint investigations. The Contractor shall permit the Government to inspect and copy any books, accounts, records (including computerized records), and other material that may be relevant to the matter under investigation and pertinent to compliance with Executive Order 11246, as amended, and rules and regulations that implement the Executive Order.
 - (9) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, in the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
 - (10) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.
 - (11) The Contractor shall take such action with respect to any subcontract or purchase order as the contracting officer may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.
- (d) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.
[M490]

(End of Clause)

I-25 FAR 52.222-29 Notification of Visa Denial (June 2003)

It is a violation of Executive Order 11246, for a Contractor to refuse to employ any applicant or not to assign any person hired in the United States, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, or Wake Island, on the

basis that the individual's race, color, religion, sex, or national origin is not compatible with the policies of the country where or for whom the work will be performed (41 CFR 60-1.10). The Contractor shall notify the U.S. Department of State, Assistant Secretary, Bureau of Political-Military Affairs (PM), 2201 C Street NW, Room 6212, Washington, DC 20520, and the U.S. Department of Labor, Deputy Assistant Secretary for Federal Contract Compliance, when it has knowledge of any employee or potential employee being denied an entry visa to a country where this contract will be performed, and it believes the denial is attributable to the race, color, religion, sex, or national origin of the employee or potential employee. [M490]

(End of Clause)

I-26 FAR 52.222-35 – Equal Opportunity for Veterans (Sep 2010)

(a) *Definitions.* As used in this clause –

“All employment openings” means all positions except executive and senior management, those positions that will be filled from within the Contractor's organization, and positions lasting 3 days or less. This term includes full-time employment, temporary employment of more than 3 days duration, and part-time employment.

“Armed Forces service medal veteran” means any veteran who, while serving on active duty in the U.S. military, ground, naval, or air service, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order 12985 (61 FR 1209).

“Disabled veteran” means--

- (1) A veteran of the U.S. military, ground, naval, or air service, who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary of Veterans Affairs; or
- (2) A person who was discharged or released from active duty because of a service-connected disability.

“Executive and senior management” means—

- (1) Any employee--
 - (i) Compensated on a salary basis at a rate of not less than \$455 per week (or \$380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities;

- (ii) Whose primary duty consists of the management of the enterprise in which the individual is employed or of a customarily recognized department or subdivision thereof;
 - (iii) Who customarily and regularly directs the work of two or more other employees; and
 - (iv) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; or
- (2) Any employee who owns at least a bona fide 20-percent equity interest in the enterprise in which the employee is employed, regardless of whether the business is a corporate or other type of organization, and who is actively engaged in its management.

“Other protected veteran” means a veteran who served on active duty in the U.S. military, ground, naval, or air service, during a war or in a campaign or expedition for which a campaign badge has been authorized under the laws administered by the Department of Defense.

“Positions that will be filled from within the Contractor's organization” means employment openings for which the Contractor will give no consideration to persons outside the Contractor's organization (including any affiliates, subsidiaries, and parent companies) and includes any openings the Contractor proposes to fill from regularly established “recall” lists. The exception does not apply to a particular opening once an employer decides to consider applicants outside of its organization.

“Qualified disabled veteran” means a disabled veteran who has the ability to perform the essential functions of the employment positions with or without reasonable accommodation.

“Recently separated veteran” means any veteran during the three-year period beginning on the date of such veteran's discharge or release from active duty in the U.S. military, ground, naval or air service.

(b) General.

- (1) The Contractor shall not discriminate against any employee or applicant for employment because the individual is a disabled veteran, recently separated veteran, other protected veterans, or Armed Forces service medal veteran, regarding any position for which the employee or applicant for employment is qualified. The Contractor shall take affirmative action to employ, advance in employment, and otherwise treat qualified

individuals, including qualified disabled veterans, without discrimination based upon their status as a disabled veteran, recently separated veteran, Armed Forces service medal veteran, and other protected veteran in all employment practices including the following:

- (i) Recruitment, advertising, and job application procedures.
 - (ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring.
 - (iii) Rate of pay or any other form of compensation and changes in compensation.
 - (iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists.
 - (v) Leaves of absence, sick leave, or any other leave.
 - (vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor.
 - (vii) Selection and financial support for training, including apprenticeship, and on-the-job training under 38 U.S.C. 3687, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training.
 - (viii) Activities sponsored by the Contractor including social or recreational programs.
 - (ix) Any other term, condition, or privilege of employment.
- (2) The Contractor shall comply with the rules, regulations, and relevant orders of the Secretary of Labor issued under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (the Act), as amended (38 U.S.C. 4211 and 4212).
 - (3) The Department of Labor's regulations require contractors with 50 or more employees and a contract of \$100,000 or more to have an affirmative action program for veterans. See 41 CFR part 60-300, subpart C.
- (c) Listing openings.
- (1) The Contractor shall immediately list all employment openings that exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract, and including those occurring at an establishment of the

Contractor other than the one where the contract is being performed, but excluding those of independently operated corporate affiliates, at an appropriate employment service delivery system where the opening occurs. Listing employment openings with the State workforce agency job bank or with the local employment service delivery system where the opening occurs shall satisfy the requirement to list jobs with the appropriate employment service delivery system.

- (2) The Contractor shall make the listing of employment openings with the appropriate employment service delivery system at least concurrently with using any other recruitment source or effort and shall involve the normal obligations of placing a bona fide job order, including accepting referrals of veterans and nonveterans. This listing of employment openings does not require hiring any particular job applicant or hiring from any particular group of job applicants and is not intended to relieve the Contractor from any requirements of Executive orders or regulations concerning nondiscrimination in employment.
 - (3) Whenever the Contractor becomes contractually bound to the listing terms of this clause, it shall advise the State workforce agency in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these terms and has so advised the State agency, it need not advise the State agency of subsequent contracts. The Contractor may advise the State agency when it is no longer bound by this contract clause.
- (d) **Applicability.** This clause does not apply to the listing of employment openings that occur and are filled outside the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.
- (e) **Postings.**
- (1) The Contractor shall post employment notices in conspicuous places that are available to employees and applicants for employment.
 - (2) The employment notices shall--
 - (i) State the rights of applicants and employees as well as the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants who are disabled veterans, recently separated veterans, Armed Forces service medal veterans, and other protected veterans; and

- (ii) Be in a form prescribed by the Director, Office of Federal Contract Compliance Programs, and provided by or through the Contracting Officer.
- (3) The Contractor shall ensure that applicants or employees who are disabled veterans are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled veteran, or may lower the posted notice so that it can be read by a person in a wheelchair).
- (4) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement, or other contract understanding, that the Contractor is bound by the terms of the Act and is committed to take affirmative action to employ, and advance in employment, qualified disabled veterans, recently separated veterans, other protected veterans, and Armed Forces service medal veterans.
- (f) Noncompliance. If the Contractor does not comply with the requirements of this clause, the Government may take appropriate actions under the rules, regulations, and relevant orders of the Secretary of Labor. This includes implementing any sanctions imposed on a contractor by the Department of Labor for violations of this clause (52.222-35, Equal Opportunity for Veterans). These sanctions (see 41 CFR 60-300.66) may include--
 - (1) Withholding progress payments;
 - (2) Termination or suspension of the contract; or
 - (3) Debarment of the contractor.
- (g) Subcontracts. The Contractor shall insert the terms of this clause in subcontracts of \$100,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs, to enforce the terms, including action for noncompliance.

(End of Clause)

[M779]

I-27 FAR 52.222-36 Affirmative Action for Workers with Disabilities (Oct 2010)

- (a) *General.*
 - (1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against any employee or applicant because of physical or mental disability. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified individuals with disabilities

without discrimination based upon their physical or mental disability in all employment practices such as --

- (i) Recruitment, advertising, and job application procedures;
 - (ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;
 - (iii) Rates of pay or any other form of compensation and changes in compensation;
 - (iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
 - (v) Leaves of absence, sick leave, or any other leave;
 - (vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor;
 - (vii) Selection and financial support for training, including apprenticeships, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
 - (viii) Activities sponsored by the Contractor, including social or recreational programs; and
 - (ix) Any other term, condition, or privilege of employment.
- (2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Rehabilitation Act of 1973 (29 U.S.C. 793) (the Act), as amended.
- (b) *Postings.*
- (1) The Contractor agrees to post employment notices stating --
 - (i) The Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified individuals with disabilities; and
 - (ii) The rights of applicants and employees.
 - (2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. The Contractor shall ensure that applicants and employees with disabilities are informed of the

contents of the notice (*e.g.*, the Contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair). The notices shall be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance of the U.S. Department of Labor (Deputy Assistant Secretary) and shall be provided by or through the Contracting Officer.

- (3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Act and is committed to take affirmative action to employ, and advance in employment, qualified individuals with physical or mental disabilities.
- (c) *Noncompliance.* If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.
- (d) *Subcontracts.* The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of \$15,000 unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Deputy Assistant Secretary to enforce the terms, including action for noncompliance.

(End of Clause)

[M779]

I-28 FAR 52.222-37 Employment Reports on Veterans (Sep 2010)

- (a) **Definitions.** As used in this clause, “Armed Forces service medal veteran,” “disabled veteran,” “other protected veteran,” and “recently separated veteran,” have the meanings given in the Equal Opportunity for Veterans clause 52.222-35.
- (b) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by the Secretary of Labor, on--
 - (1) The total number of employees in the contractor's workforce, by job category and hiring location, who are disabled veterans, other protected veterans, Armed Forces service medal veterans, and recently separated veterans.
 - (2) The total number of new employees hired during the period covered by the report, and of the total, the number of disabled veterans, other protected veterans, Armed Forces service medal veterans, and recently separated veterans; and

- (3) The maximum number and minimum number of employees of the Contractor or subcontractor at each hiring location during the period covered by the report.
- (c) The Contractor shall report the above items by completing the Form VETS-100A, entitled "Federal Contractor Veterans' Employment Report (VETS-100A Report)."
- (d) The Contractor shall submit VETS-100A Reports no later than September 30 of each year.
- (e) The employment activity report required by paragraphs (b)(2) and (b)(3) of this clause shall reflect total new hires, and maximum and minimum number of employees, during the most recent 12-month period preceding the ending date selected for the report. Contractors may select an ending date--
 - (1) As of the end of any pay period between July 1 and August 31 of the year the report is due; or
 - (2) As of December 31, if the Contractor has prior written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).
- (f) The number of veterans reported must be based on data known to the contractor when completing the VETS-100A. The contractor's knowledge of veterans status may be obtained in a variety of ways, including an invitation to applicants to self-identify (in accordance with 41 CFR 60-300.42), voluntary self-disclosure by employees, or actual knowledge of veteran status by the contractor. This paragraph does not relieve an employer of liability for discrimination under 38 U.S.C. 4212.
- (g) The Contractor shall insert the terms of this clause in subcontracts of \$100,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor.

(End of Clause)

[M779]

I-28A FAR 52.222-54 Employment Eligible Verification (JAN 2009)

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

"Commercially available off-the-shelf (COTS) item"--

- (1) Means any item of supply that is--
 - (i) A commercial item (as defined in paragraph (1) of the definition at 2.101);

- (ii) Sold in substantial quantities in the commercial marketplace; and
 - (iii) Offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace; and
- (2) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702), such as agricultural products and petroleum products. Per 46 CFR 525.1 (c)(2), "bulk cargo" means cargo that is loaded and carried in bulk onboard ship without mark or count, in a loose unpackaged form, having homogenous characteristics. Bulk cargo loaded into intermodal equipment, except LASH or Seabee barges, is subject to mark and count and, therefore, ceases to be bulk cargo.

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

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

"Subcontract means any contract, as defined in 2.1 01, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. It includes but is not limited to purchase orders, and changes and modifications to purchase orders.

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

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

(b) *Enrollment and verification requirements.*

- (1) If the Contractor is not enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall—
 - (i) *Enroll.* Enroll as a Federal Contractor in the E-Verify program within 30 calendar days of contract award;
 - (ii) *Verify all new employees.* Within 90 calendar days of enrollment in the E-Verify program, begin to use E-Verify to initiate verification of employment eligibility of all new hires of the Contractor, who are working in the United States, whether or not

assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); and

- (iii) *Verify employees assigned to the contract.* For each employee assigned to the contract, initiate verification within 90 calendar days after date of enrollment or within 30 calendar days of the employee's assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section).
- (2) If the Contractor is enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall use E-Verify to initiate verification of employment eligibility of—
- (i) *All new employees.*
 - (A) *Enrolled 90 calendar days or more.* The Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or
 - (B) *Enrolled less than 90 calendar days.* Within 90 calendar days after enrollment as a Federal Contractor in E-Verify, the Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or
 - (ii) *Employees assigned to the contract.* For each employee assigned to the contract, the Contractor shall initiate verification within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section).
- (3) If the Contractor is an institution of higher education (as defined at 20 U.S.C. 1001 (a)); a State or local government or the government of a Federally recognized Indian tribe; or a surety performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond, the Contractor may choose to verify only employees assigned to the contract, whether existing employees or new hires. The Contractor shall follow the applicable verification requirements at (b)(1) or (b)(2), respectively, except that any requirement for verification of new employees applies only to new employees assigned to the contract.

- (4) *Option to verify employment eligibility of all employees.* The Contractor may elect to verify all existing employees hired after November 6, 1986, rather than just those employees assigned to the contract. The Contractor shall initiate verification for each existing employee working in the United States who was hired after November 6, 1986, within 180 calendar days of—
- (i) Enrollment in the E-Verify program; or
 - (ii) Notification to E-Verify Operations of the Contractor's decision to exercise this option, using the contact information provided in the E-Verify program Memorandum of Understanding (MOU).
- (5) The Contractor shall comply, for the period of performance of this contract, with the requirement of the E-Verify program MOU.
- (i) The Department of Homeland Security (DHS) or the Social Security Administration (SSA) may terminate the Contractor's MOU and deny access to the E-Verify system in accordance with the terms of the MOU. In such case, the Contractor will be referred to a suspension or debarment official.
 - (ii) During the period between termination of the MOU and a decision by the suspension or debarment official whether to suspend or debar, the Contractor is excused from its obligations under paragraph (b) of this clause. If the suspension or debarment official determines not to suspend or debar the Contractor, then the Contractor must reenroll in E-Verify.
- (c) *Web site.* Information on registration for and use of the E-Verify program can be obtained via the Internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.
- (d) *Individuals previously verified.* The Contractor is not required by this clause to perform additional employment verification using E-Verify for any employee—
- (1) Whose employment eligibility was previously verified by the Contractor through the E-Verify program;
 - (2) Who has been granted and holds an active U.S. Government security clearance for access to confidential, secret, or top secret information in accordance with the National Industrial Security Program Operating Manual; or
 - (3) Who has undergone a completed background investigation and been issued credentials pursuant to Homeland Security Presidential Directive

(HSPD) -12, Policy for a Common Identification Standard for Federal Employees and Contractors.

- (e) *Subcontracts.* The contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for identification of the parties), in each subcontract that—
- (1) *Is for—*
 - (i) Commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item); or
 - (ii) Construction;
 - (2) Has a value of more than \$3,000; and
 - (3) Includes work performed in the United States.

(End of Clause)

[M813]

I-29 FAR 52.223-5 Pollution Prevention and Right-to-Know Information (Aug 2003) Alternate I (Aug 2003)

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

“Priority chemical” means a chemical identified by the interagency Environmental Leadership Workgroup or, alternatively, by an agency pursuant to Section 503 of Executive Order 13148 of April 21, 2000, Greening the Government through Leadership in Environmental Management.

“Toxic chemical” means a chemical or chemical category in listed in 40 CFR 372.65.

- (b) Executive Order 13148 requires Federal facilities to comply with the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11001-11050) and the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101-13109).
- (c) The Contractor shall provide all information needed by the Federal facility to comply with the following:
- (1) The emergency planning reporting requirements of Section 302 of EPCRA.

- (2) The emergency notice requirements of Section 304 of EPCRA
- (3) The list of Material Safety Data Sheets required by Section 311 of EPCRA
- (4) The emergency and hazardous chemical inventory forms of Section 312 of EPCRA
- (5) The toxic chemical release inventory of Section 313 of EPCRA, which includes the reduction and recycling information required by Section 6607 of PPA
- (6) The toxic chemical, priority chemical, and hazardous substance release and use reduction goals of Section 502 and 503 of Executive Order 13148.
- (7) ***The environmental management system as described in Section 401 of E.O. 13148.***

(End of Clause)

I-30 FAR 52.223-10 Waste Reduction Program (Aug 2000)

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

"Recycling" means the series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form of raw materials in the manufacture of products other than fuel for producing heat or power by combustion.

"Waste prevention" means any change in the design, manufacturing, purchase, or use of materials or products (including packaging) to reduce their amount or toxicity before they are discarded. Waste prevention also refers to the reuse of products or materials.

"Waste reduction" means preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.

- (b) Consistent with the requirements of Section 701 of Executive Order 13101, the Contractor shall establish a program to promote cost-effective waste reduction in all operations and facilities covered by this contract. The Contractor's programs shall comply with applicable Federal, State, and local requirements, specifically including Section 6002 of the Resource Conservation and Recovery Act (42 U.S.C. 6962, *et seq.*) and implementing regulations (40 CFR part 247).

(End of Clause)

I-31 FAR 52.223-12 Refrigeration Equipment and Air Conditioners (May 1995)

The Contractor shall comply with the applicable requirements of Sections 608 and 609 of the Clean Air Act (42 U.S.C. 7671g and 7671h) as each or both apply to this contract.

(End of Clause)

I-32 FAR 52.224-1 Privacy Act Notification (Apr 1984)

The Contractor will be required to design, develop, or operate a system of records on individuals, to accomplish an agency function subject to the Privacy Act of 1974, Public Law 93-579, December 31, 1974 (5 U.S.C.552a) and applicable agency regulations.

Violation of the Act may involve the imposition of criminal penalties.

(End of Clause)

I-33 FAR 52.224-2 Privacy Act (Apr 1984)

(a) The Contractor agrees to --

(1) Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations issued under the Act in the design, development, or operation of any system of records on individuals to accomplish an agency function when the contract specifically identifies --

(i) The systems of records; and

(ii) The design, development, or operation work that the Contractor is to perform;

(2) Include the Privacy Act notification contained in this contract in every solicitation and resulting subcontract and in every subcontract awarded without a solicitation, when the work statement in the proposed subcontract requires the redesign, development, or operation of a system of records on individuals that is subject to the Act; and

(3) Include this clause, including this subparagraph (3), in all subcontracts awarded under this contract which requires the design, development, or operation of such a system of records.

(b) In the event of violations of the Act, a civil action may be brought against the agency involved when the violation concerns the design, development, or operation of a system of records on individuals to accomplish an agency function, and criminal penalties may be imposed upon the officers or employees of the agency when the violation concerns the operation of a system of records on individuals to accomplish an agency function. For purposes of the Act, when the contract is for the operation of a system of records on individuals to accomplish an agency function, the Contractor is considered to be an employee of the agency.

(c)

- (1) "Operation of a system of records," as used in this clause, means performance of any of the activities associated with maintaining the system of records, including the collection, use, and dissemination of records.
- (2) "Record," as used in this clause, means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and that contains the person's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint or voiceprint or a photograph.
- (3) "System of records on individuals," as used in this clause, means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.
(End of Clause)

I-34 FAR 52.225-1 Buy American Act - Supplies (Feb 2009) (AL 2002-06)

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

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

- (1) Means any item of supply (including construction material) that is –
 - (i) A commercial item (As defined in paragraph (1) of the definition at FAR 2.101);
 - (ii) Sold in substantial quantities in the commercial marketplace; and
 - (iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and
- (2) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702), such as agricultural products and petroleum products.

“Component” means an article, material, or supply incorporated directly into an end product.

"Cost of components" means--

- (1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
- (2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

"Domestic end product" means--

- (1) An unmanufactured end product mined or produced in the United States;
- (2) An end product manufactured in the United States, if –
 - (i) The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic; or
 - (ii) The end product is a COTS item.

"End product" means those articles, materials, and supplies to be acquired under the contract for public use.

"Foreign end product" means an end product other than a domestic end product.

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

- (b) The Buy American Act (41 U.S.C. 10a-10d) provides a preference for domestic end products for supplies acquired for use in the United States. In accordance with 41 U.S.C. 431, the component test of the Buy American Act is waived for an end product that is a COTS item (See 12.505(a)(1)).
- (c) Offerors may obtain from the Contracting Officer a list of foreign articles that the Contracting Officer will treat as domestic for this contract.
- (d) **[AL 2002-06]** The Contractor shall *use* only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the solicitation entitled "Buy American Act Certificate."

[M506]

(End of Clause)

I-35 FAR 52.225-9 Buy American Act – Construction Materials (Sep 2010)

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

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

- (1) Means any item of supply (including construction material) that is—
 - (i) A commercial item (as defined in paragraph (1) of the definition at FAR 2.101);
 - (ii) Sold in substantial quantities in the commercial marketplace; and
 - (iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and
- (2) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702), such as agricultural products and petroleum products.

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

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

“Cost of components” means--

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

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

“Domestic construction material” means—

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

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

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

(b) *Domestic preference.*

- (1) This clause implements the Buy American Act (41 U.S.C. 10a-10d) by providing a preference for domestic construction material. In accordance with 41 U.S.C. 431, the component test of the Buy American Act is waived for construction material that is a COTS item. (See FAR 12.505(a)(2)). The Contractor shall use only domestic construction material in performing this contract, except as provided in paragraphs (b)(2) and (b)(3) of this clause.
- (2) This requirement does not apply to information technology that is a commercial item or to the construction materials or components listed by the Government as follows: _____ [*Contracting Officer to list applicable excepted materials or indicate “none”*]
- (3) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(2) of this clause if the Government determines that
 - (i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to

the requirements of the Buy American Act is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;

- (ii) The application of the restriction of the Buy American Act to a particular construction material would be impracticable or inconsistent with the public interest; or
- (iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

(c) *Request for determination of inapplicability of the Buy American Act.*

(1)

- (i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(3) of this clause shall include adequate information for Government evaluation of the request, including--
 - (A) A description of the foreign and domestic construction materials;
 - (B) Unit of measure;
 - (C) Quantity;
 - (D) Price;
 - (E) Time of delivery or availability;
 - (F) Location of the construction project;
 - (G) Name and address of the proposed supplier; and
 - (H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(3) of this clause.
- (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause.

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

Foreign and Domestic Construction Materials Price Comparison

Construction material description	Unit of measure	Quantity	Price (dollars) *
<i>Item 1</i>			
Foreign construction material			
Domestic construction material			
<i>Item 2</i>			
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 and any applicable duty (whether or not a duty-free entry certificate is issued).]*

(End of Clause)

[M779]

I-36 FAR 52.225-13 Restriction on Certain Foreign Purchases (Jun 2008)

- (a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services if any proclamation, Executive order, or statute administered by OFAC, or if OFAC's implementing regulations at 31 CFR chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.
- (b) Except as authorized by OFAC, most transactions involving Cuba, Iran, and Sudan are prohibited, as are most imports from Burma or North Korea, into the United States or its outlying areas. Lists of entities and individuals subject to economic sanctions are included in OFAC's List of Specially Designated Nationals and Blocked Persons at <http://www.treas.gov/offices/enforcement/ofac/sdn/>. More information about these restrictions, as well as updates, is available in the OFAC's regulations at 31 CFR chapter V and/or on OFAC's website at <http://www.treas.gov/offices/enforcement/ofac>.
- (c) The Contractor shall insert this clause, including this paragraph (c), in all subcontracts.

[M490]

(End of Clause)

I-37 FAR 52.229-8 Taxes -- Foreign Cost-Reimbursement Contracts (Mar 1990)

- (a) Any tax or duty from which the United States Government is exempt by agreement with the Government of the successor states of the former Soviet Union (the Ukraine, Belarus, Kazakhstan, Russia, the Baltic States of Latvia and Lithuania, and Uzbekistan), or from which the Contractor or any Subcontractor under this contract is exempt under the laws of the successor states of the former Soviet Union (the Ukraine, Belarus, Kazakhstan, Russia, the Baltic States of Latvia and Lithuania, and Uzbekistan), shall not constitute an allowable cost under this contract.
- (b) If the Contractor or Subcontractor under this contract obtains a foreign tax credit that reduces its Federal income tax liability under the United States Internal Revenue Code (Title 26, U.S. Code) because of the payment of any tax or duty that was reimbursed under this contract, the amount of the reduction shall be paid or credited at the time of such offset to the Government of the United States as the

Contracting Officer directs.

(End of Clause)

I-38 FAR 52.230-2 – Cost Accounting Standards (Oct 2010)

- (a) Unless the contract is exempt under 48 CFR 9903.201-1 and 9903.201-2, the provisions of 48 CFR Part 9903 are incorporated herein by reference and the Contractor, in connection with this contract, shall --
- (1) *(CAS-covered Contracts Only)* By submission of a Disclosure Statement, disclose in writing the Contractor's cost accounting practices as required by 48 CFR 9903.202-1 through 9903.202-5, including methods of distinguishing direct costs from indirect costs and the basis used for allocating indirect costs. The practices disclosed for this contract shall be the same as the practices currently disclosed and applied on all other contracts and subcontracts being performed by the Contractor and which contain a Cost Accounting Standards (CAS) clause. If the Contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement shall be protected and shall not be released outside of the Government.
 - (2) Follow consistently the Contractor's cost accounting practices in accumulating and reporting contract performance cost data concerning this contract. If any change in cost accounting practices is made for the purposes of any contract or subcontract subject to CAS requirements, the change must be applied prospectively to this contract and the Disclosure Statement must be amended accordingly. If the contract price or cost allowance of this contract is affected by such changes, adjustment shall be made in accordance with subparagraph (a)(4) or (a)(5) of this clause, as appropriate.
 - (3) Comply with all CAS, including any modifications and interpretations indicated thereto contained in 48 CFR Part 9904, in effect on the date of award of this contract or, if the Contractor has submitted certified cost or pricing data, on the date of final agreement on price as shown on the Contractor's signed certificate of current cost or pricing data. The Contractor shall also comply with any CAS (or modifications to CAS) which hereafter become applicable to a contract or subcontract of the Contractor. Such compliance shall be required prospectively from the date of applicability to such contract or subcontract.
 - (4)
 - (i) Agree to an equitable adjustment as provided in the Changes clause of this contract if the contract cost is affected by a change which, pursuant to subparagraph (a)(3) of this clause, the

Contractor is required to make to the Contractor's established cost accounting practices.

- (ii) Negotiate with the Contracting Officer to determine the terms and conditions under which a change may be made to a cost accounting practice, other than a change made under other provisions of subparagraph (a)(4) of this clause; provided that no agreement may be made under this provision that will increase costs paid by the United States.
 - (iii) When the parties agree to a change to a cost accounting practice, other than a change under subdivision (a)(4)(i) of this clause, negotiate an equitable adjustment as provided in the Changes clause of this contract.
- (5) Agree to an adjustment of the contract price or cost allowance, as appropriate, if the Contractor or a subcontractor fails to comply with an applicable Cost Accounting Standard, or to follow any cost accounting practice consistently and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States, together with interest thereon computed at the annual rate established under section 6621(a)(2) of the Internal Revenue Code of 1986 (26 U.S.C.6621(a)(2)) for such period, from the time the payment by the United States was made to the time the adjustment is effected. In no case shall the Government recover costs greater than the increased cost to the Government, in the aggregate, on the relevant contracts subject to the price adjustment, unless the Contractor made a change in its cost accounting practices of which it was aware or should have been aware at the time of price negotiations and which it failed to disclose to the Government.
- (b) If the parties fail to agree whether the Contractor or a subcontractor has complied with an applicable CAS in 48 CFR 9904 or a CAS rule or regulation in 48 CFR 9903 and as to any cost adjustment demanded by the United States, such failure to agree will constitute a dispute under the Contract Disputes Act (41 U.S.C.601).
 - (c) The Contractor shall permit any authorized representatives of the Government to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause.
 - (d) The Contractor shall include in all negotiated subcontracts which the Contractor enters into, the substance of this clause, except paragraph (b), and shall require such inclusion in all other subcontracts, of any tier, including the obligation to comply with all CAS in effect on the subcontractor's award date or if the subcontractor has submitted certified cost or pricing data, on the date of final agreement on price as shown on the subcontractor's signed Certificate of Current

Cost or Pricing Data. If the subcontract is awarded to a business unit which pursuant to 48 CFR 9903.201-2 is subject to other types of CAS coverage, the substance of the applicable clause set forth in subsection 30.201-4 of the Federal Acquisition Regulation shall be inserted. This requirement shall apply only to negotiated subcontracts in excess of \$650,000, except that the requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a CAS clause as specified in 48 CFR 9903.201-1.

(End of Clause)

[M779]

I-39 FAR 52.230-6 Administration of Cost Accounting Standards (Jun 2010)

For the purpose of administering the Cost Accounting Standards (CAS) requirements under this contract, the Contractor shall take the steps outlined in paragraphs (b) through (i) and (k) through (n) of this clause:

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

“Affected CAS-covered contract or subcontract” means a contract or subcontract subject to CAS rules and regulations for which a Contractor or subcontractor--

- (1) Used one cost accounting practice to estimate costs and a changed cost accounting practice to accumulate and report costs under the contract or subcontract; or
- (2) Used a noncompliant practice for purposes of estimating or accumulating and reporting costs under the contract or subcontract.

“Cognizant Federal agency official (CFAO)” means the Contracting Officer assigned by the cognizant Federal agency to administer the CAS.

“Desirable change” means a compliant change to a Contractor's established or disclosed cost accounting practices that the CFAO finds is desirable and not detrimental to the Government and is, therefore, not subject to the no increased cost prohibition provisions of CAS-covered contracts and subcontracts affected by the change.

“Fixed-price contracts and subcontracts” means--

- (1) Fixed-price contracts and subcontracts described at FAR 16.202, 16.203, (except when price adjustments are based on actual costs of labor or material, described at 16.203-1(a)(2)), and 16.207;

- (2) Fixed-price incentive contracts and subcontracts where the price is not adjusted based on actual costs incurred (FAR Subpart 16.4);
- (3) Orders issued under indefinite-delivery contracts and subcontracts where final payment is not based on actual costs incurred (FAR Subpart 16.5); and
- (4) The fixed-hourly rate portion of time-and-materials and labor-hours contracts and subcontracts (FAR Subpart 16.6).

“Flexibly-priced contracts and subcontracts” means—

- (1) Fixed-price contracts and subcontracts described at FAR 16.203-1(a)(2), 16.204, 16.205, and 16.206;
- (2) Cost-reimbursement contracts and subcontracts (FAR Subpart 16.3);
- (3) Incentive contracts and subcontracts where the price may be adjusted based on actual costs incurred (FAR Subpart 16.4);
- (4) Orders issued under indefinite-delivery contracts and subcontracts where final payment is based on actual costs incurred (FAR Subpart 16.5); and
- (5) The materials portion of time-and-materials contracts and subcontracts (FAR Subpart 16.6).

“Noncompliance” means a failure in estimating, accumulating, or reporting costs to--

- (1) Comply with applicable CAS; or
- (2) Consistently follow disclosed or established cost accounting practices.

“Required change” means—

- (1) A change in cost accounting practice that a Contractor is required to make in order to comply with applicable Standards, modifications or interpretations thereto, that subsequently becomes applicable to existing CAS-covered contracts or subcontracts due to the receipt of another CAS-covered contract or subcontract; or
- (2) A prospective change to a disclosed or established cost accounting practice when the CFAO determines that the former practice was in compliance with applicable CAS and the change is necessary for the Contractor to remain in compliance.

“Unilateral change” means a change in cost accounting practice from one compliant practice to another compliant practice that a Contractor with a CAS-covered contract(s) or subcontract(s) elects to make that has not been deemed a desirable change by the CFAO and for which the Government will pay no aggregate increased costs.

(b) Submit to the CFAO a description of any cost accounting practice change as outlined in paragraphs (b)(1) through (3) of this clause (including revisions to the Disclosure Statement, if applicable), and any written statement that the cost impact of the change is immaterial. If a change in cost accounting practice is implemented without submitting the notice required by this paragraph, the CFAO may determine the change to be a failure to follow paragraph (a)(2) of the clause at FAR 52.230-2, Cost Accounting Standards; paragraph (a)(4) of the clause at FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices; or paragraph (a)(4) of the clause at FAR 52.230-4, Disclosure and Consistency of Cost Accounting Practices—Foreign Concerns; or paragraph (a)(2) of the clause at FAR 52.230-5, Cost Accounting Standards--Educational Institution.

- (1) When a description has been submitted for a change in cost accounting practice that is dependent on a contract award and that contract is subsequently awarded, notify the CFAO within 15 days after such award.
- (2) For any change in cost accounting practice not covered by (b)(1) of this clause that is required in accordance with paragraphs (a)(3) and (a)(4)(i) of the clause at FAR 52.230-2; or paragraphs (a)(3), (a)(4)(i), or (a)(4)(iv) of the clause at FAR 52.230-5; submit a description of the change to the CFAO not less than 60 days (or such other date as may be mutually agreed to by the CFAO and the Contractor) before implementation of the change.
- (3) For any change in cost accounting practices proposed in accordance with paragraph (a)(4)(ii) or (iii) of the clauses at FAR 52.230-2 and FAR 52.230-5; or with paragraph (a)(3) of the clauses at FAR 52.230-3 and 52.230-4, submit a description of the change not less than 60 days (or such other date as may be mutually agreed to by the CFAO and the Contractor) before implementation of the change. If the change includes a proposed retroactive date submit supporting rationale.
- (4) Submit a description of the change necessary to correct a failure to comply with an applicable CAS or to follow a disclosed practice (as contemplated by paragraph (a)(5) of the clause at FAR 52.230-2 and FAR 52.230-5; or by paragraph (a)(4) of the clause at FAR 52.230-3 and FAR 52.230-4)—
 - (i) Within 60 days (or such other date as may be mutually agreed to by the CFAO and the Contractor) after the date of agreement with the CFAO that there is a noncompliance; or

- (ii) In the event of Contractor disagreement, within 60 days after the CFAO notifies the Contractor of the determination of noncompliance.
- (c) When requested by the CFAO, submit on or before a date specified by the CFAO-
- (1) A general dollar magnitude (GDM) proposal in accordance with paragraph (d) or (g) of this clause. The Contractor may submit a detailed cost-impact (DCI) proposal in lieu of the requested GDM proposal provided the DCI proposal is in accordance with paragraph (e) or (h) of this clause;
 - (2) A detailed cost-impact (DCI) proposal in accordance with paragraph (e) or (h) of this clause;
 - (3) For any request for a desirable change that is based on the criteria in FAR 30.603-2(b)(3)(ii), the data necessary to demonstrate the required cost savings; and
 - (4) For any request for a desirable change that is based on criteria other than that in FAR 30.603-2(b)(3)(ii), a GDM proposal and any other data necessary for the CFAO to determine if the change is a desirable change.
- (d) For any change in cost accounting practice subject to paragraph (b)(1), (b)(2), or (b)(3) of this clause, the GDM proposal shall--
- (1) Calculate the cost impact in accordance with paragraph (f) of this clause;
 - (2) Use one or more of the following methods to determine the increase or decrease in cost accumulations:
 - (i) A representative sample of affected CAS-covered contracts and subcontracts.
 - (ii) The change in indirect rates multiplied by the total estimated base computed for each of the following groups:
 - (A) Fixed-price contracts and subcontracts.
 - (B) Flexibly-priced contracts and subcontracts.
 - (iii) Any other method that provides a reasonable approximation of the total increase or decrease in cost accumulations for all affected fixed-price and flexibly-priced contracts and subcontracts;
 - (3) Use a format acceptable to the CFAO but, as a minimum, include the following data:

- (i) The estimated increase or decrease in cost accumulations by Executive agency, including any impact the change may have on contract and subcontract incentives, fees, and profits, for each of the following groups:
 - (A) Fixed-price contracts and subcontracts.
 - (B) Flexibly-priced contracts and subcontracts.
 - (ii) For unilateral changes, the increased or decreased costs to the Government for each of the following groups:
 - (A) Fixed-price contracts and subcontracts.
 - (B) Flexibly-priced contracts and subcontracts; and
 - (4) When requested by the CFAO, identify all affected CAS- covered contracts and subcontracts.
- (e) For any change in cost accounting practice subject to paragraph (b)(1), (b)(2), or (b)(3) of this clause, the DCI proposal shall--
- (1) Show the calculation of the cost impact in accordance with paragraph (f) of this clause;
 - (2) Show the estimated increase or decrease in cost accumulations for each affected CAS-covered contract and subcontract unless the CFAO and Contractor agree to include--
 - (i) Only those affected CAS-covered contracts and subcontracts having an estimate to complete exceeding a specified amount; and
 - (ii) An estimate of the total increase or decrease in cost accumulations for all affected CAS-covered contracts and subcontracts, using the results in paragraph (e)(2)(i) of this clause;
 - (3) Use a format acceptable to the CFAO but, as a minimum, include the information in paragraph (d)(3) of this clause; and
 - (4) When requested by the CFAO, identify all affected CAS- covered contracts and subcontracts.
- (f) For GDM and DCI proposals that are subject to the requirements of paragraph (d) or (e) of this clause, calculate the cost impact as follows:

- (1) The cost impact calculation shall include all affected CAS- covered contracts and subcontracts regardless of their status (*i.e.*, open or closed) or the fiscal year in which the costs were incurred (*i.e.*, whether or not the final indirect rates have been established).
- (2) For unilateral changes--
 - (i) Determine the increased or decreased cost to the Government for flexibly-priced contracts and subcontracts as follows:
 - (A) When the estimated cost to complete using the changed practice exceeds the estimated cost to complete using the current practice, the difference is increased cost to the Government.
 - (B) When the estimated cost to complete using the changed practice is less than the estimated cost to complete using the current practice, the difference is decreased cost to the Government;
 - (ii) Determine the increased or decreased cost to the Government for fixed-priced contracts and subcontracts as follows:
 - (A) When the estimated cost to complete using the changed practice is less than the estimated cost to complete using the current practice, the difference is increased cost to the Government.
 - (B) When the estimated cost to complete using the changed practice exceeds the estimated cost to complete using the current practice, the difference is decreased cost to the Government;
 - (iii) Calculate the total increase or decrease in contract and subcontract incentives, fees, and profits associated with the increased or decreased costs to the Government in accordance with 48 CFR 9903.306(c). The associated increase or decrease is based on the difference between the negotiated incentives, fees, and profits and the amounts that would have been negotiated had the cost impact been known at the time the contracts and subcontracts were negotiated; and
 - (iv) Calculate the increased cost to the Government in the aggregate.
- (3) For equitable adjustments for required or desirable changes--

- (i) Estimated increased cost accumulations are the basis for increasing contract prices, target prices and cost ceilings; and
 - (ii) Estimated decreased cost accumulations are the basis for decreasing contract prices, target prices and cost ceilings.
- (g) For any noncompliant cost accounting practice subject to paragraph (b)(4) of this clause, prepare the GDM proposal as follows:
- (1) Calculate the cost impact in accordance with paragraph (i) of this clause.
 - (2) Use one or more of the following methods to determine the increase or decrease in contract and subcontract prices or cost accumulations, as applicable:
 - (i) A representative sample of affected CAS-covered contracts and subcontracts.
 - (ii) When the noncompliance involves cost accumulation the change in indirect rates multiplied by the applicable base for only flexibly-priced contracts and subcontracts.
 - (iii) Any other method that provides a reasonable approximation of the total increase or decrease.
 - (3) Use a format acceptable to the CFAO but, as a minimum, include the following data:
 - (i) The total increase or decrease in contract and subcontract price and cost accumulations, as applicable, by Executive agency, including any impact the noncompliance may have on contract and subcontract incentives, fees, and profits, for each of the following groups:
 - (A) Fixed-price contracts and subcontracts.
 - (B) Flexibly-priced contracts and subcontracts.
 - (ii) The increased or decreased cost to the Government for each of the following groups:
 - (A) Fixed-price contracts and subcontracts.
 - (B) Flexibly-priced contracts and subcontracts.

- (iii) The total overpayments and underpayments made by the Government during the period of noncompliance.
- (4) When requested by the CFAO, identify all CAS-covered contracts and subcontracts.
- (h) For any noncompliant practice subject to paragraph (b)(4) of this clause, prepare the DCI proposal as follows:
 - (1) Calculate the cost impact in accordance with paragraph (i) of this clause.
 - (2) Show the increase or decrease in price and cost accumulations for each affected CAS-covered contract and subcontract unless the CFAO and Contractor agree to--
 - (i) Include only those affected CAS-covered contracts and subcontracts having--
 - (A) Contract and subcontract values exceeding a specified amount when the noncompliance involves estimating costs; and
 - (B) Incurred costs exceeding a specified amount when the noncompliance involves accumulating costs; and
 - (ii) Estimate the total increase or decrease in price and cost accumulations for all affected CAS-covered contracts and subcontracts using the results in paragraph (h)(2)(i) of this clause.
 - (3) Use a format acceptable to the CFAO that, as a minimum, include the information in paragraph (g)(3) of this clause.
 - (4) When requested by the CFAO, identify all CAS-covered contracts and subcontracts.
- (i) For GDM and DCI proposals that are subject to the requirements of paragraph (g) or (h) of this clause, calculate the cost impact as follows:
 - (1) The cost impact calculation shall include all affected CAS- covered contracts and subcontracts regardless of their status (*i.e.*, open or closed) or the fiscal year in which the costs are incurred (*i.e.*, whether or not the final indirect rates have been established).
 - (2) For noncompliances that involve estimating costs, determine the increased or decreased cost to the Government for fixed-price contracts and subcontracts as follows:

- (i) When the negotiated contract or subcontract price exceeds what the negotiated price would have been had the Contractor used a compliant practice, the difference is increased cost to the Government.
 - (ii) When the negotiated contract or subcontract price is less than what the negotiated price would have been had the Contractor used a compliant practice, the difference is decreased cost to the Government.
- (3) For noncompliances that involve accumulating costs, determine the increased or decreased cost to the Government for flexibly-priced contracts and subcontracts as follows:
 - (i) When the costs that were accumulated under the noncompliant practice exceed the costs that would have been accumulated using a compliant practice (from the time the noncompliant practice was first implemented until the date the noncompliant practice was replaced with a compliant practice), the difference is increased cost to the Government.
 - (ii) When the costs that were accumulated under the noncompliant practice are less than the costs that would have been accumulated using a compliant practice (from the time the noncompliant practice was first implemented until the date the noncompliant practice was replaced with a compliant practice), the difference is decreased cost to the Government.
- (4) Calculate the total increase or decrease in contract and subcontracts incentives, fees, and profits associated with the increased or decreased cost to the Government in accordance with 48 CFR 9903.306(c). The associated increase or decrease is based on the difference between the negotiated incentives, fees, and profits and the amounts that would have been negotiated had the Contractor used a compliant practice.
- (5) Calculate the increased cost to the Government in the aggregate.
- (j) If the Contractor does not submit the information required by paragraph (b) or (c) of this clause within the specified time, or any extension granted by the CFAO, the CFAO may take one or both of the following actions:
 - (1) Withhold an amount not to exceed 10 percent of each subsequent amount payment to the Contractor's affected CAS-covered contracts, (up to the estimated general dollar magnitude of the cost impact), until such time as the Contractor provides the required information to the CFAO.

- (2) Issue a final decision in accordance with FAR 33.211 and unilaterally adjust the contract(s) by the estimated amount of the cost impact.
- (k) Agree to—
- (1) Contract modifications to reflect adjustments required in accordance with paragraph (a)(4)(ii) or (a)(5) of the clauses at FAR 52.230-2 and 52.230-5; or with paragraph (a)(3)(i) or (a)(4) of the clause at FAR 52.230-3 and FAR 52.230-4; and
 - (2) Repay the Government for any aggregate increased cost paid to the Contractor.
- (l) For all subcontracts subject to the clauses at FAR 52.230-2, 52.230-3, 52.230-4, or 52.230-5—
- (1) So state in the body of the subcontract, in the letter of award, or in both (do not use self-deleting clauses);
 - (2) Include the substance of this clause in all negotiated subcontracts; and
 - (3) Within 30 days after award of the subcontract, submit the following information to the Contractor's CFAO:
 - (i) Subcontractor's name and subcontract number.
 - (ii) Dollar amount and date of award.
 - (iii) Name of Contractor making the award.
- (m) Notify the CFAO in writing of any adjustments required to subcontracts under this contract and agree to an adjustment to this contract price or estimated cost and fee. The Contractor shall—
- (1) Provide this notice within 30 days after the Contractor receives the proposed subcontract adjustments; and
 - (2) Include a proposal for adjusting the higher-tier subcontract or the contract appropriately.
- (n) For subcontracts containing the clause or substance of the clause at FAR 52.230-2, FAR 52.230-3, FAR 52.230-4, or FAR 52.230-5, require the subcontractor to comply with all Standards in effect on the date of award or of final agreement on price, as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data, whichever is earlier.

(End of Clause)

[M779]

I-40 FAR 52.232-17 Interest (Oct 2010)

- (a) Except as otherwise provided in this contract under a Price Reduction for Defective Certified Cost or Pricing Data clause or a Cost Accounting Standards clause, all amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 611 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as provided in paragraph (e) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.
- (b) The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.
- (c) Final Decisions. The Contracting Officer will issue a final decision as required by 33.211 if—
 - (1) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt in a timely manner;
 - (2) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or
 - (3) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see 32.607-2).
- (d) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.
- (e) Amounts shall be due at the earliest of the following dates:
 - (1) The date fixed under this contract.
 - (2) The date of the first written demand for payment, including any demand for payment resulting from a default termination.
- (f) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on—

- (1) The date on which the designated office receives payment from the Contractor;
 - (2) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or
 - (3) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.
- (g) The interest charge made under this clause may be reduced under the procedures prescribed in 32.608-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(End of Clause)

[M779]

I-41 FAR 52.232-24 Prohibition of Assignment of Claims (Jan 1986)

The assignment of claims under the Assignment of Claims Act of 1940, as amended, 31 U.S.C. 3727, 41 U.S.C. 15, is prohibited for this contract.

(End of Clause)

I-42 FAR 52.233-1 Disputes (Jul 2002) Alternate I (Dec 1991)

- (a) This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).
- (b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.
- (c) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting Parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.
- (d)
 - (1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the

Government against the Contractor shall be subject to a written decision by the Contracting Officer.

- (2)
- (i) The Contractor shall provide the certification specified in paragraph (d)(2)(iii) of this clause when submitting any claim exceeding \$100,000.
 - (ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.
 - (iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am duly authorized to certify the claim on behalf of the Contractor."
- (3) The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.
- (e) For Contractor claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$100,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.
- (f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.
- (g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the Parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the offer.
- (h) The Government shall pay interest on the amount found due and unpaid from
- (1) the date that the Contracting Officer receives the claim (certified, if required); or
 - (2) the date that payment otherwise would be due, if that date is later, until the date of payment.

With regard to claims having defective certifications, as defined in FAR 33.201, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

- (i) ***The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision of the Contracting Officer.***

[M432]

(End of Clause)

I-43 FAR 52.233-3 Protest After Award (Aug 1996) Alternate I (Jun 1985)

- (a) Upon receipt of a notice of protest (as defined in FAR 33.101) or a determination that a protest is likely (see FAR 33.102(d)), the Contracting Officer may, by written order to the Contractor, direct the Contractor to stop performance of the work called for by this contract. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Upon receipt of the final decision in the protest, the Contracting Officer shall either --

- (1) Cancel the stop-work order; or
- (2) Terminate the work covered by the order as provided in ***the Termination clause of this contract.***

- (b) If a stop-work order issued under this clause is canceled either before or after a final decision in the protest, the Contractor shall resume work. The Contracting Officer shall make ***an equitable adjustment in the delivery schedule, the estimated cost, the fee, or a combination thereof, and in any other terms of the contract that may be affected,*** and the contract shall be modified, in writing, accordingly, if --

- (1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and
- (2) The Contractor asserts its right to an adjustment within 30 days after the end of the period of work stoppage; provided, that if the Contracting Officer decides the facts justify the action, the Contracting Officer may

receive and act upon a proposal at any time before final payment under this contract.

- (c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.
- (d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.
- (e) The Government's rights to terminate this contract at any time are not affected by action taken under this clause.
- (f) If, as the result of the Contractor's intentional or negligent misstatement, misrepresentation, or miscertification, a protest related to this contract is sustained, and the Government pays costs, as provided in FAR 33.102(b)(2) or 33.104(h)(1), the Government may require the Contractor to reimburse the Government the amount of such costs. In addition to any other remedy available, and pursuant to the requirements of Subpart 32.6, the Government may collect this debt by offsetting the amount against any payment due the Contractor under any contract between the Contractor and the Government.

(End of Clause)

I-44 FAR 52.236-8 Other Contracts (Apr 1984)

The Government may undertake or award other contracts for additional work at or near the site of the work under this contract. The Contractor shall fully cooperate with the other Contractors and with Government employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, heeding any direction that may be provided by the Contracting Officer. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other Contractor or by Government employees.

(End of Clause)

I-45 FAR 52.237-3 Continuity of Services (Jan 1991)

- (a) The Contractor recognizes that the services under this contract are vital to the Government and must be continued without interruption and that, upon contract expiration, a successor, either the Government or another Contractor, may continue them. The Contractor agrees to --
 - (1) Furnish phase-in training; and
 - (2) Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

- (b) The Contractor shall, upon the Contracting Officer's written notice,
- (1) furnish phase-in, phase-out services for up to 90 days after this contract expires and
 - (2) negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required.

The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the Contracting Officer's approval. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this contract are maintained at the required level of proficiency.

- (c) The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this contract. The Contractor also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.
- (d) The Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract.

(End of Clause)

I-46 FAR 52.242-1 Notice of Intent to Disallow Costs (Apr 1984)

- (a) Notwithstanding any other clause of this contract --
- (1) The Contracting Officer may at any time issue to the Contractor a written notice of intent to disallow specified costs incurred or planned for incurrence under this contract that have been determined not to be allowable under the contract terms; and
 - (2) The Contractor may, after receiving a notice under subparagraph (1) above, submit a written response to the Contracting Officer, with justification for allowance of the costs. If the Contractor does respond within 60 days, the Contracting Officer shall, within 60 days of receiving the response, either make a written withdrawal of the notice or issue a written decision.

- (b) Failure to issue a notice under this Notice of Intent to Disallow Costs clause shall not affect the Government's rights to take exception to incurred costs.

(End of Clause)

I-47 FAR 52.242-13 Bankruptcy (Jul 1995)

In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the contract, written notification of the bankruptcy to the Contracting Officer responsible for administering the contract. This notification shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Government contract numbers and contracting offices for all Government contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract.

(End of Clause)

I-48 FAR 52.244-5 Competition in Subcontracting (Dec 1996)

- (a) The Contractor shall select Subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the contract.
- (b) If the Contractor is an approved mentor under the Department of Defense Pilot Mentor-Protégé Program (Pub. L. 101-510, section 831 as amended), the Contractor may award subcontracts under this contract on a noncompetitive basis to its protégés.

(End of Clause)

I-49 FAR 52.244-6 Subcontracts for Commercial Items (Dec 2010)

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

“Commercial item” has the meaning contained Federal Acquisition Regulation 2.101, Definitions.

“Subcontract” includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

- (b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.
- (c)

- (1) The Contractor shall insert the following clauses in subcontracts for commercial items:
- (i) 52.203-13, Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)), if the subcontract exceeds \$5,000,000 and has a performance period of more than 120 days. In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.
 - (ii) 52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Jun 2010) (Section 1553 of Pub. L. 111-5), if the subcontract is funded under the Recovery Act.
 - (iii) 52.219-8, Utilization of Small Business Concerns (Dec 2010) (15 U.S.C. 637(d)(2) and (3)), if the subcontract offers further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$650,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.
 - (iv) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).
 - (v) 52.222-35, Equal Opportunity for Veterans (Sep 2010) (38 U.S.C. 4212(a));
 - (vi) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).
 - (vii) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496), if flow down is required in accordance with paragraph (f) of FAR clause 52.222-40.
 - (viii) 52.222-50, Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g)).
 - (ix) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. App. 1241 and 10 U.S.C. 2631), if flow down is required in accordance with paragraph (d) of FAR clause 52.247-64.

- (2) While not required, the Contractor may flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.
- (d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

(End of Clause)

[M779]

I-50 FAR 52.247-1 Commercial Bill of Lading Notations (Feb 2006)

When the Contracting Officer authorizes supplies to be shipped on a commercial bill of lading and the Contractor will be reimbursed these transportation costs as direct allowable costs, the Contractor shall ensure before shipment is made that the commercial shipping documents are annotated with either of the following notations, as appropriate:

- (a) If the Government is shown as the consignor or the consignee, the annotation shall be:

Transportation is for the *Department of Energy* and the actual total transportation charges paid to the carrier(s) by the consignor or consignee are assignable to, and shall be reimbursed by, the Government.

- (b) If the Government is not shown as the consignor or the consignee, the annotation shall be:

Transportation is for the *Department of Energy* and the actual total transportation charges paid to the carrier(s) by the consignor or consignee shall be reimbursed by the Government, pursuant to cost-reimbursement contract No. DE-AC05-76RL01830. This may be confirmed by contacting the U.S. Department of Energy; Pacific Northwest Site Office; P.O. Box 350, K9-42; Richland, Washington, 99352.

[M490]

(End of Clause)

I-51 FAR 52.247-63 -- Preference for U.S.-Flag Air Carriers (Jun 2003)

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

“International air transportation” means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.

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

“U.S.-flag air carrier” means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

- (b) Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires that all Federal agencies and Government contractors and subcontractors use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.
- (c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.
- (d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

Statement of Unavailability of U.S.-Flag Air Carriers

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons (see section 47.403 of the Federal Acquisition Regulation):

[State reasons]:

(End of statement)

- (e) The Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

(End of Clause)

I-52 FAR 52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006)

- (a) Except as provided in paragraph (e) of this clause, the Cargo Preference Act of 1954 (46 U.S.C. Appx 1241(b)) requires that Federal departments and agencies shall transport in privately owned U.S.-flag commercial vessels at least 50 percent of the gross tonnage of equipment, materials, or commodities that may be transported in ocean vessels (computed separately for dry bulk carriers, dry cargo

liners, and tankers). Such transportation shall be accomplished when any equipment, materials, or commodities, located within or outside the United States, that may be transported by ocean vessel are --

- (1) Acquired for a U.S. Government agency account;
 - (2) Furnished to, or for the account of, any foreign nation without provision for reimbursement;
 - (3) Furnished for the account of a foreign nation in connection with which the United States advances funds or credits, or guarantees the convertibility of foreign currencies; or
 - (4) Acquired with advance of funds, loans, or guaranties made by or on behalf of the United States.
- (b) The Contractor shall use privately owned U.S.-flag commercial vessels to ship at least 50 percent of the gross tonnage involved under this contract (computed separately for dry bulk carriers, dry cargo liners, and tankers) whenever shipping any equipment, materials, or commodities under the conditions set forth in paragraph (a) above, to the extent that such vessels are available at rates that are fair and reasonable for privately owned U.S.-flag commercial vessels.
- (c)
- (1) The Contractor shall submit one legible copy of a rated on-board ocean bill of lading for each shipment to both --
 - (i) The Contracting Officer, and
 - (ii) The:

Office of Cargo Preference
Maritime Administration (MAR-590)
400 Seventh Street, SW
Washington, DC 20590

Subcontractor bills of lading shall be submitted through the Prime Contractor.
 - (2) The Contractor shall furnish these bill of lading copies
 - (i) within 20 working days of the date of loading for shipments originating in the United States, or

- (ii) within 30 working days for shipments originating outside the United States. Each bill of lading copy shall contain the following information:
 - (A) Sponsoring U.S. Government agency.
 - (B) Name of vessel.
 - (C) Vessel flag of registry.
 - (D) Date of loading.
 - (E) Port of loading.
 - (F) Port of final discharge.
 - (G) Description of commodity.
 - (H) Gross weight in pounds and cubic feet if available.
 - (I) Total ocean freight revenue in U.S. dollars.

- (d) The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts or purchase orders under this contract, except those described in paragraph (e)(4).

- (e) The requirement in paragraph (a) does not apply to --
 - (1) Cargoes carried in vessels or as required or authorized by law or treaty;
 - (2) Ocean transportation between foreign countries of supplies purchased with foreign currencies made available, or derived from funds that are made available, under the Foreign Assistance Act of 1961 (22 U.S.C. 2353);
 - (3) Shipments of classified supplies when the classification prohibits the use of non-Government vessels; and
 - (4) Subcontracts or purchase orders for the acquisition of commercial items unless—
 - (i) This contract is—
 - (A) A contract or agreement for ocean transportation services; or
 - (B) A construction contract; or
 - (ii) The supplies being transported are—
 - (A) Items the Contractor is reselling or distributing to the Government without adding value. (Generally, the Contractor does not add value to the items when it subcontracts items for f.o.b. destination shipment); or

- (B) Shipped in direct support of U.S.military—
 - (1) Contingency operations:
 - (2) Exercises; or
 - (3) Forces deployed in connection with United Nations or North Atlantic Treaty Organization humanitarian or peacekeeping operations.

- (f) Guidance regarding fair and reasonable rates for privately owned U.S.-flag commercial vessels may be obtained from the:

Office of Costs and Rates
Maritime Administration
400 Seventh Street, SW
Washington, DC 20590
Phone: 202-366-2324.
[M490]

(End of Clause)

I-53 FAR 52.247-67 Submission of Transportation Documents for Audit (Feb 2006)

- (a) The Contractor shall submit to the address identified below, for prepayment audit, transportation documents on which the United States will assume freight charges that were paid –
 - (1) By the Contractor under a cost-reimbursement contract; and
 - (2) By a first-tier subcontractor under a cost-reimbursement subcontract thereunder.

- (b) Cost-reimbursement Contractors shall only submit for audit those bills of lading with freight shipment charges exceeding \$100. Bills under \$100 shall be retained on-site by the Contractor and made available for on-site audits. This exception only applies to freight shipment bills and is not intended to apply to bills and invoices for any other transportation services.

- (c) Contractors shall submit the above referenced transportation documents to—

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

(End of Clause)

[M779]

I-54 FAR 52.249-6 Termination (Cost-Reimbursement) (May 2004) (Modified by DEAR 970.4905-1 (Dec 2000))

- (a) The Government may terminate performance of work under this contract in whole or, from time to time, in part, if --
- (1) The Contracting Officer determines that a termination is in the Government's interest; or
 - (2) The Contractor defaults in performing this contract and fails to cure the default within 10 days (unless extended by the Contracting Officer) after receiving a notice specifying the default. "Default" includes failure to make progress in the work so as to endanger performance.
- (b) The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying whether termination is for default of the Contractor or for convenience of the Government, the extent of termination, and the effective date. If, after termination for default, it is determined that the Contractor was not in default or that the Contractor's failure to perform or to make progress in performance is due to causes beyond the control and without the fault or negligence of the Contractor as set forth in the Excusable Delays clause, the rights and obligations of the parties will be the same as if the termination was for the convenience of the Government.
- (c) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:
- (1) Stop work as specified in the notice.
 - (2) Place no further subcontracts or orders (referred to as subcontracts in this clause), except as necessary to complete the continued portion of the contract.
 - (3) Terminate all subcontracts to the extent they relate to the work terminated.
 - (4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts terminated, in which case the Government shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.
 - (5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts, the cost of which

would be reimbursable in whole or in part, under this contract; approval or ratification will be final for purposes of this clause.

- (6) Transfer title (if not already transferred) and, as directed by the Contracting Officer, deliver to the Government --
 - (i) The fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated;
 - (ii) The completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the Government; and
 - (iii) The jigs, dies, fixtures, and other special tools and tooling acquired or manufactured for this contract, the cost of which the Contractor has been or will be reimbursed under this contract.
- (7) Complete performance of the work not terminated.
- (8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Government has or may acquire an interest.
- (9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (c)(6) of this clause; provided, however, that the Contractor
 - (i) is not required to extend credit to any purchaser and
 - (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer.

The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Government under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.
- (d) The Contractor shall submit complete termination inventory schedules no later than 120 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 120-day period.

- (e) After expiration of the plant clearance period as defined in Subpart 49.001 of the Federal Acquisition Regulation, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove those items or enter into an agreement for their storage. Within 15 days, the Government will accept the items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and shall correct the list, as necessary, before final settlement.
- (f) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than 1 year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 1-year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after 1 year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and shall pay the amount determined.
- (g) Subject to paragraph (f) of this clause, the Contractor and the Contracting Officer may agree on the whole or any part of the amount to be paid (including an allowance for fee) because of the termination. The contract shall be amended, and the Contractor paid the agreed amount.
- (h) If the Contractor and the Contracting Officer fail to agree in whole or in part on the amount of costs and/or fee to be paid because of the termination of work, the Contracting Officer shall determine, on the basis of information available, the amount, if any, due the Contractor, and shall pay that amount, which shall include the following:
- (1) All costs reimbursable under this contract, not previously paid, for the performance of this contract before the effective date of the termination, and those costs that may continue for a reasonable time with the approval of or as directed by the Contracting Officer; however, the Contractor shall discontinue those costs as rapidly as practicable.
 - (2) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subparagraph (h)(1) of this clause.
 - (3) The reasonable costs of settlement of the work terminated, including --

- (i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;
 - (ii) The termination and settlement of subcontracts (excluding the amounts of such settlements); and
 - (iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory. If the termination is for default, no amounts for the preparation of the Contractor's termination settlement proposal may be included.
- (4) A portion of the fee payable under the contract, determined as follows:
- (i) If the contract is terminated for the convenience of the Government, the settlement shall include a percentage of the fee equal to the percentage of completion of work contemplated under the contract, but excluding subcontract effort included in subcontractors' termination proposals, less previous payments for fee.
 - (ii) If the contract is terminated for default, the total fee payable shall be such proportionate part of the fee as the total number of articles (or amount of services) delivered to and accepted by the Government is to the total number of articles (or amount of services) of a like kind required by the contract.
- (5) If the settlement includes only fee, it will be determined under subparagraph (h)(4) of this clause.
- (i) The cost principles and procedures in Part 31 of the Federal Acquisition Regulation as supplemented in subpart 970.31 of the Department of Energy Acquisition Regulation, in effect on the date of this contract, shall govern all costs claimed, agreed to, or determined under this clause.
 - (j) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraph (f), (h), or (l) of this clause, except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (f) and failed to request a time extension, there is no right of appeal. If the Contracting Officer has made a determination of the amount due under paragraph (f), (h) or (l) of this clause, the Government shall pay the Contractor --
 - (1) The amount determined by the Contracting Officer if there is no right of appeal or if no timely appeal has been taken; or

- (2) The amount finally determined on an appeal.
- (k) In arriving at the amount due the Contractor under this clause, there shall be deducted --
 - (1) All unliquidated advance or other payments to the Contractor, under the terminated portion of this contract;
 - (2) Any claim which the Government has against the Contractor under this contract; and
 - (3) The agreed price for, or the proceeds of sale of materials, supplies, or other things acquired by the Contractor or sold under this clause and not recovered by or credited to the Government.
- (l) The Contractor and Contracting Officer must agree to any equitable adjustment in fee for the continued portion of the contract when there is a partial termination. The Contracting Officer shall amend the contract to reflect the agreement.
- (m)
 - (1) The Government may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.
 - (2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the Government upon demand, together with interest computed at the rate established by the Secretary of the Treasury under 50 U.S.C. App. 1215(b)(2). Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.
- (n) The provisions of this clause relating to fee are inapplicable if this contract does not include a fee.

[M432]

(End of Clause)

I-55 FAR 52.249-14 Excusable Delays (Apr 1984)

(a) Except for defaults of Subcontractors at any tier, the Contractor shall not be in default because of any failure to perform this Contract under its terms if the failure arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of these causes are

- (1) acts of God or of the public enemy,
- (2) acts of the Government in either its sovereign or contractual capacity,
- (3) fires,
- (4) floods,
- (5) epidemics,
- (6) quarantine restrictions,
- (7) strikes,
- (8) freight embargoes, and
- (9) unusually severe weather.

In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. "Default" includes failure to make progress in the work so as to endanger performance.

(b) If the failure to perform is caused by the failure of a subcontractor at any tier to perform or make progress, and if the cause of the failure was beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be deemed to be in default, unless --

- (1) The subcontracted supplies or services were obtainable from other sources;
- (2) The Contracting Officer ordered the Contractor in writing to purchase these supplies or services from the other source; and
- (3) The Contractor failed to comply reasonably with this order.

(c) Upon request of the Contractor, the Contracting Officer shall ascertain the facts and extent of the failure. If the Contracting Officer determines that any failure to perform results from one or more of the causes above, the delivery schedule shall be revised, subject to the rights of the Government under the termination clause of this Contract.

(End of Clause)

I-55A FAR 52.250-1 Indemnification Under Public Law 85-804- Alternate I (APR 1984)

a) "Contractor's principal officials," as used in the clause, means directors, officers, managers, superintendents, or other representatives supervising or directing-

- (1) All or substantially all of the Contractor's business;
 - (2) All or substantially all of the Contractor's operations at anyone plant or separate location in which this contract is being performed; or
 - (3) A separate and complete major industrial operation in connection with the performance of this contract.
- b) Under Public Law 85-804 (50 U.S.C. §1431-1435) and Executive Order 10789, as amended, and regardless of any other provisions of this contract, the Government shall, subject to the limitations contained in the other paragraphs of this clause, indemnify the Contractor against-
- (1) Claims (including reasonable expenses of litigation or settlement) by third persons (including employees of the Contractor) for death; personal injury; or loss of use, loss of, or damage to property;
 - (2) Loss of use, loss of, or damage to Contractor property, excluding loss of profit; and
 - (3) Loss of use, loss of, damage to Government property, excluding loss of profit.
- c) This indemnification applies only to the extent that the claim, loss, or damage (1) arises out of or results from a risk defined in this contract as unusually hazardous or nuclear and (2) is not compensated for by insurance or otherwise. Any such claim, loss, or damage, to the extent that it is within the deductible amounts of the Contractor's insurance, is not covered under this clause. If insurance coverage or other financial protection in effect on the date the approving official authorizes use of this clause is reduced, the Government's liability under this clause shall not increase as a result.
- d) When the claim, loss, or damage is cause by willful misconduct or lack of good faith on the part of any of the Contractor's principal officials, the Contractor shall not be indemnified for-
- (1) Government claims against the Contractor (other than those arising through subrogation); or
 - (2) Loss or damage affecting the Contractor's property.
- e) With the Contracting Officer's prior written approval, the Contractor may, in any subcontract under this contract, indemnify the subcontractor against any risk defined in this contract as unusually hazardous or nuclear. This indemnification shall provide, between the Contractor and the subcontractor, the same rights and

duties, and the same provisions for notice, furnishing of evidence or proof, and Government settlement or defense of claims as this clause provides. The Contracting Officer may also approve indemnification of subcontractors at any lower tier, under the same terms and conditions. The Government shall indemnify the Contractor against liability to subcontractors incurred under subcontract provisions approved by the Contracting Officer.

- f) The rights and obligations of the parties under this clause shall survive this contract's termination, expiration, or completion. The Government shall make no payment under this clause unless the agency head determines that the amount is just and reasonable. The Government may pay the Contractor or subcontractors, or may directly pay parties to whom the Contractor or subcontractors may be liable.

- g) The Contractor shall-
 - (1) Promptly notify the Contracting Officer of any claim or action against, or any loss by, the Contractor or any subcontractors that may be reasonably expected to involve indemnification under this clause;
 - (2) Immediately furnish to the Government copies of all pertinent papers the Contractor receives;
 - (3) Furnish evidence or proof of any claim, loss, or damage covered by this clause in the manner and form the Government requires; and
 - (4) Comply with the Government's directions and execute any authorizations required in connection with settlement or defense of claims or actions.

- h) The Government may direct, control, or assist in settling or defending any claim or action that may involve indemnification under this clause.

- i) ***The cost of insurance (including self-insurance programs) covering a risk defined in this contract as unusually hazardous or nuclear shall not be reimbursed except to the extent that the Contracting Officer has required or approved this insurance. The Government's obligations under this clause are-***
 - (1) ***Excepted from the release required under this contract's clause relating to Allowable cost; and***
 - (2) ***Not affected by this contract's Obligation of Funds clause.***

(End of clause)

[M515]

The Contracting Officer may issue the Contractor an authorization to use Government supply sources in the performance of this contract. Title to all property acquired by the Contractor under such an authorization shall vest in the Government unless otherwise specified in the contract. Such property shall not be considered to be "Government-furnished property," as distinguished from "Government property." The provisions of the clause entitled "Government Property," at 52.245-1, shall apply to all property acquired under such authorization.

(End of Clause)

[M779]

I-57 FAR 52.251-2 Interagency Fleet Management System Vehicles and Related Services (Jan 1991)

The Contracting Officer may issue the Contractor an authorization to obtain interagency fleet management system (IFMS) vehicles and related services for use in the performance of this Contract. The use, service, and maintenance of interagency fleet management system vehicles and the use of related services by the Contractor shall be in accordance with 41 CFR 101-39 and 41 CFR 101-38.301-1.

(End of Clause)

I-58 FAR 52.252-6 Authorized Deviations in Clauses (Apr 1984)

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

(End of Clause)

I-59 FAR 52.253-1 Computer Generated Forms (Jan 1991)

- (a) Any data required to be submitted on a Standard or Optional Form prescribed by the Federal Acquisition Regulation (FAR) may be submitted on a computer generated version of the form, provided there is no change to the name, content, or sequence of the data elements on the form, and provided the form carries the Standard or Optional Form number and edition date.
- (b) Unless prohibited by agency regulations, any data required to be submitted on an agency unique form prescribed by an agency supplement to the FAR may be submitted on a computer generated version of the form provided there is no change to the name, content, or sequence of the data elements on the form and provided the form carries the agency form number and edition date.

- (c) If the Contractor submits a computer generated version of a form that is different than the required form, then the rights and obligations of the Parties will be determined based on the content of the required form.

(End of Clause)

I-60 DEAR 952.203-70 Whistleblower Protection for Contractor Employees (Dec 2000)

- (a) The Contractor shall comply with the requirements of "DOE Contractor Employee Protection Program" at 10 CFR part 708 for work performed on behalf of DOE directly related to activities at DOE-owned or-leased sites.
- (b) The Contractor shall insert or have inserted the substance of this clause, including this paragraph (b), in subcontracts at all tiers, for subcontracts involving work performed on behalf of DOE directly related to activities at DOE-owned or leased sites.

(End of Clause)

I-61 DEAR 952.204-2 Security (Mar 2011)

- (a) *Responsibility.* It is the Contractor's duty to protect all classified information, special nuclear material, and other DOE property. The Contractor shall, in accordance with DOE security regulations and requirements, be responsible for protecting all classified information and all classified matter (including documents, material and special nuclear material) which are in the Contractor's possession in connection with the performance of work under this contract against sabotage, espionage, loss or theft. Except as otherwise expressly provided in this contract, the Contractor shall, upon completion or termination of this contract, transmit to DOE any classified matter or special nuclear material in the possession of the Contractor or any person under the Contractor's control in connection with performance of this contract. If retention by the Contractor of any classified matter is required after the completion or termination of the contract, the Contractor shall identify the items and classification levels and categories of matter proposed for retention, the reasons for the retention, and the proposed period of retention. If the retention is approved by the Contracting Officer, the security provisions of the contract shall continue to be applicable to the classified matter retained. Special nuclear material shall not be retained after the completion or termination of the contract.
- (b) *Regulations.* The Contractor agrees to comply with all security regulations and contract requirements of DOE as incorporated into the contract.
- (c) *Definition of Classified Information.* The term *Classified Information* means information that is classified as Restricted Data or Formerly Restricted Data under the Atomic Energy Act of 1954, or information determined to require protection against unauthorized disclosure under Executive Order 12958, *Classified National*

Security Information, as amended, or prior executive orders, which is identified as *National Security Information*.

- (d) *Definition of Restricted Data.* The term *Restricted Data* means all data concerning design, manufacture, or utilization of atomic weapons; production of special nuclear material; or use of special nuclear material in the production of energy, but excluding data declassified or removed from the Restricted Data category pursuant to 42 U.S.C. 2162 [Section 142, as amended, of the Atomic Energy Act of 1954].
- (e) *Definition of Formerly Restricted Data.* The term "*Formerly Restricted Data*" means information removed from the Restricted Data category based on a joint determination by DOE or its predecessor agencies and the Department of Defense that the information: (1) relates primarily to the military utilization of atomic weapons; and (2) can be adequately protected as National Security Information. However, such information is subject to the same restrictions on transmission to other countries or regional defense organizations that apply to Restricted Data.
- (f) *Definition of National Security Information.* The term "*National Security Information*" means information that has been determined, pursuant to Executive Order 12958, Classified National Security Information, as amended, or any predecessor order, to require protection against unauthorized disclosure, and that is marked to indicate its classified status when in documentary form.
- (g) *Definition of Special Nuclear Material.* The term "*special nuclear material*" means: (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which, pursuant to 42 U.S.C. 2071 [section 51 as amended, of the Atomic Energy Act of 1954] has been determined to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.
- (h) *Access authorizations of personnel.*
 - (1) The Contractor shall not permit any individual to have access to any classified information or special nuclear material, except in accordance with the Atomic Energy Act of 1954, and the DOE's regulations and contract requirements applicable to the particular level and category of classified information or particular category of special nuclear material to which access is required.
 - (2) The Contractor must conduct a thorough review, as defined at 48 CFR 904.401, of an uncleared applicant or uncleared employee, and must test the individual for illegal drugs, prior to selecting the individual for a position requiring a DOE access authorization.

- (i) A review must: verify an uncleared applicant's or uncleared employee's educational background, including any high school diploma obtained within the past five years, and degrees or diplomas granted by an institution of higher learning; contact listed employers for the last three years and listed personal references; conduct local law enforcement checks when such checks are not prohibited by state or local law or regulation and when the uncleared applicant or uncleared employee resides in the jurisdiction where the Contractor is located; and conduct a credit check and other checks as appropriate.
- (ii) Contractor reviews are not required for an applicant for DOE access authorization who possesses a current access authorization from DOE or another Federal agency, or whose access authorization may be reapproved without a federal background investigation pursuant to Executive Order 12968, Access to Classified Information (August 4, 1995), Sections 3.3(c) and (d).
- (iii) In collecting and using this information to make a determination as to whether it is appropriate to select an uncleared applicant or uncleared employee to a position requiring an access authorization, the Contractor must comply with all applicable laws, regulations, and Executive Orders, including those: (a) governing the processing and privacy of an individual's information, such as the Fair Credit Reporting Act, Americans with Disabilities Act (ADA), and Health Insurance Portability and Accountability Act; and (b) prohibiting discrimination in employment, such as under the ADA, Title VII and the Age Discrimination in Employment Act, including with respect to pre- and post-offer of employment disability related questioning.
- (iv) In addition to a review, each candidate for a DOE access authorization must be tested to demonstrate the absence of any illegal drug, as defined in 10 CFR Part 707.4. All positions requiring access authorizations are deemed *testing designated positions* in accordance with 10 CFR Part 707. All employees possessing access authorizations are subject to applicant, random or for cause testing for use of illegal drugs. DOE will not process candidates for a DOE access authorization unless their tests confirm the absence from their system of any illegal drug.
- (v) When an uncleared applicant or uncleared employee receives an offer of employment for a position that requires a DOE access authorization, the Contractor shall not place that individual in such a position prior to the individual's receipt of a DOE access authorization, unless an approval has been obtained from the head

of the cognizant local security office. If the individual is hired and placed in the position prior to receiving an access authorization, the uncleared employee may not be afforded access to classified information or matter or special nuclear material (in categories requiring access authorization) until an access authorization has been granted.

- (vi) The Contractor must furnish to the head of the cognizant local DOE Security Office, in writing, the following information concerning each uncleared applicant or uncleared employee who is selected for a position requiring an access authorization:
 - A. The date(s) each Review was conducted;
 - B. Each entity that provided information concerning the individual;
 - C. A certification that the review was conducted in accordance with all applicable laws, regulations, and Executive Orders, including those governing the processing and privacy of an individual's information collected during the review;
 - D. A certification that all information collected during the review was reviewed and evaluated in accordance with the Contractor's personnel policies; and
 - E. The results of the test for illegal drugs.
- (i) *Criminal liability.* It is understood that disclosure of any classified information relating to the work or services ordered hereunder to any person not entitled to receive it, or failure to protect any classified information, special nuclear material, or other Government property that may come to the Contractor or any person under the Contractor's control in connection with work under this contract, may subject the Contractor, its agents, employees, or Subcontractors to criminal liability under the laws of the United States (see the Atomic Energy Act of 1954, 42 U.S.C. 2011 et seq.; 18 U.S.C. 793 and 794).
- (j) *Foreign Ownership, Control, or Influence.*
 - (1) The Contractor shall immediately provide the cognizant security office written notice of any change in the extent and nature of foreign ownership, control or influence over the Contractor which would affect any answer to the questions presented in the Standard Form (SF) 328, *Certificate Pertaining to Foreign Interests*, executed prior to award of this contract. In addition, any notice of changes in ownership or control which are required to be reported to the Securities and Exchange Commission, the

Federal Trade Commission, or the Department of Justice, shall also be furnished concurrently to the Contracting Officer.

- (2) If a Contractor has changes involving foreign ownership, control, or influence, DOE must determine whether the changes will pose an undue risk to the common defense and security. In making this determination, DOE will consider proposals made by the Contractor to avoid or mitigate foreign influences.
 - (3) If the cognizant security office at any time determines that the Contractor is, or is potentially, subject to foreign ownership, control, or influence, the Contractor shall comply with such instructions as the Contracting Officer shall provide in writing to protect any classified information or special nuclear material.
 - (4) The Contracting Officer may terminate this contract for default either if the Contractor fails to meet obligations imposed by this clause or if the Contractor creates a foreign ownership, control, or influence situation in order to avoid performance or a termination for default. The Contracting Officer may terminate this contract for convenience if the Contractor becomes subject to foreign ownership, control, or influence and for reasons other than avoidance of performance of the contract, cannot, or chooses not to, avoid or mitigate the foreign ownership, control, or influence problem.
- (k) *Employment announcements.* When placing announcements seeking applicants for positions requiring access authorizations, the Contractor shall include in the written vacancy announcement, a notification to prospective applicants that reviews, and tests for the absence of any illegal drug as defined in 10 CFR 707.4, will be conducted by the employer and a background investigation by the Federal government may be required to obtain an access authorization prior to employment, and that subsequent reinvestigations may be required. If the position is covered by the Counterintelligence Evaluation Program regulations at 10 CFR 709, the announcement should also alert applicants that successful completion of a counterintelligence evaluation may include a counterintelligence-scope polygraph examination.
- (l) *Flow down to subcontracts.* The Contractor agrees to insert terms that conform substantially to the language of this clause, including this paragraph, in all subcontracts under its contract that will require Subcontractor employees to possess access authorizations. Additionally, the Contractor must require such Subcontractors to have an existing DOD or DOE facility clearance or submit a completed SF 328, *Certificate Pertaining to Foreign Interests*, as required in DEAR 952.204-73, Facility Clearance, and obtain a foreign ownership, control and influence determination and facility clearance prior to award of a subcontract. Information to be provided by a Subcontractor pursuant to this clause may be

submitted directly to the Contracting Officer. For purposes of this clause, Subcontractor means any Subcontractor at any tier and the term "Contracting Officer" means the DOE Contracting Officer. When this clause is included in a subcontract, the term "Contractor" shall mean Subcontractor and the term "contract" shall mean subcontract.

(End of clause)

[M779]

I-62 DEAR 952.204-70 Classification/Declassification (Sep 1997)

In the performance of work under this Contract, the Contractor or subcontractor shall comply with all provisions of the Department of Energy's regulations; and mandatory DOE directives which apply to work involving the classification and declassification of information, documents, or material. In this section, "information" means facts, data, or knowledge itself; "document" means the physical medium on or in which information is recorded; and "material" means a product or substance which contains or reveals information, regardless of its physical form or characteristics. Classified information is "Restricted Data" and "Formerly Restricted Data" (classified under the Atomic Energy Act of 1954, as amended) and "National Security Information" (classified under Executive Order 12958 or prior Executive Orders). The original decision to classify or declassify information is considered an inherently Governmental function. For this reason, only Government personnel may serve as original classifiers, i.e., Federal Government Original Classifiers. Other personnel (Government or Contractor) may serve as derivative classifiers which involves making classification decisions based upon classification guidance which reflect decisions made by Federal Government Original Classifiers. [M600]

The Contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a Federal Government or a Contractor Derivative Classifier in accordance with classification regulations including DOE directives and classification/declassification guidance furnished to the Contractor by the Department of Energy to determine whether it contains classified information prior to dissemination. For information which is not addressed in classification/declassification guidance, but whose sensitivity appears to warrant classification, the Contractor or subcontractor shall ensure that such information is reviewed by a Federal Government Original Classifier.

In addition, the Contractor or subcontractor shall ensure that existing classified documents (containing either Restricted Data or Formerly Restricted Data or National Security Information) which are in its possession or under its control are periodically reviewed by a Federal Government or Contractor Derivative Declassifier in accordance with classification regulations, DOE directives and classification/declassification guidance furnished to the Contractor by the Department of Energy to determine if the documents are no longer appropriately classified. Priorities for declassification review of classified documents shall be based on the degree of public and researcher interest and the likelihood of declassification upon review. Documents which no longer contain classified information are to be declassified. Declassified documents then shall be

reviewed to determine if they are publicly releasable. Documents which are declassified and determined to be publicly releasable are to be made available to the public in order to maximize the public's access to as much Government information as possible while minimizing security costs.

The Contractor or subcontractor shall insert this clause in any subcontract which involves or may involve access to classified information.

(End of Clause)

I-63 DEAR 952.204-75 Public Affairs (Dec 2000)

- (a) The Contractor must cooperate with the Department in releasing unclassified information to the public and news media regarding DOE policies, programs, and activities relating to its effort under the Contract. The responsibilities under this clause must be accomplished through coordination with the Contracting Officer and appropriate DOE public affairs personnel in accordance with procedures defined by the Contracting Officer.
- (b) The Contractor is responsible for the development, planning, and coordination of proactive approaches for the timely dissemination of unclassified information regarding DOE activities onsite and offsite, including, but not limited to, operations and programs. Proactive public affairs programs may utilize a variety of communication media, including public workshops, meetings or hearings, open houses, newsletters, press releases, conferences, audio/visual presentations, speeches, forums, tours, and other appropriate stakeholder interactions.
- (c) The Contractor's internal procedures must ensure that all releases of information to the public and news media are coordinated through, and approved by, a management official at an appropriate level within the Contractor's organization.
- (d) The Contractor must comply with DOE procedures for obtaining advance clearances on oral, written, and audio/visual informational material prepared for public dissemination or use.
- (e) Unless prohibited by law, and in accordance with procedures defined by the Contracting Officer, the Contractor must notify the Contracting Officer and appropriate DOE public affairs personnel of communications or contacts with Members of Congress relating to the effort performed under the Contract.
- (f) In accordance with procedures defined by the Contracting Officer, the Contractor must notify the Contracting Officer and appropriate DOE public affairs personnel of activities or situations that may attract regional or national news media attention and of non-routine inquiries from national news media relating to the effort performed under the Contract.

- (g) In releases of information to the public and news media, the Contractor must fully and accurately identify the Contractor's relationship to the Department and fully and accurately credit the Department for its role in funding programs and projects resulting in scientific, technical, and other achievements.

(End of Clause)

I-64 DEAR 952.208-7 Tagging of Leased Vehicles (Apr 1984)

- (a) DOE intends to use U.S. Government license tags.
- (b) While it is the intention that vehicles leased hereunder shall operate on Federal tags, the DOE reserves the right to utilize State tags if necessary to accomplish its mission. Should State tags be required, the Contractor shall furnish the DOE the documentation required by the State to acquire such tags.

(End of Clause)

**I-65 DEAR 952-209-72 – Organizational Conflicts of Interest (Aug 2009)
Alternate 1 (Aug 2009)**

- (a) Purpose. The purpose of this clause is to ensure that the Contractor (1) is not biased because of its financial, contractual, organizational, or other interests which relate to the work under this contract, and (2) does not obtain any unfair competitive advantage over other parties by virtue of its performance of this contract.
- (b) Scope. The restrictions described herein shall apply to performance or participation by the Contractor and any of its affiliates or their successors in interest (hereinafter collectively referred to as "Contractor") in the activities covered by this clause as a prime Contractor, subcontractor, cosponsor, joint venturer, consultant, or in any similar capacity. For the purpose of this clause, affiliation occurs when a business concern is controlled by or has the power to control another or when a third party has the power to control both.

(1) Use of Contractor's Work Product.

- (i) The Contractor shall be ineligible to participate in any capacity in Department contracts, subcontracts, or proposals therefore (solicited and unsolicited) which stem directly from the Contractor's performance of work under this contract for a period of (Contracting Officer see 48 CFR 909.507-2 and enter specific term) years after the completion of this contract. Furthermore, unless so directed in writing by the Contracting Officer, the Contractor shall not perform any advisory and assistance services work under this contract on any of its products or services or the products or services of another firm if the Contractor is or has been substantially involved in their development or marketing. Nothing

in this subparagraph shall preclude the Contractor from competing for follow-on contracts for advisory and assistance services.

- (ii) If, under this contract, the Contractor prepares a complete or essentially complete statement of work or specifications to be used in competitive acquisitions, the Contractor shall be ineligible to perform or participate in any capacity in any contractual effort which is based on such statement of work or specifications. The Contractor shall not incorporate its products or services in such statement of work or specifications unless so directed in writing by the Contracting Officer, in which case the restriction in this subparagraph shall not apply.
 - (iii) Nothing in this paragraph shall preclude the Contractor from offering or selling its standard and commercial items to the Government.
- (2) Access to and use of information.
- (i) If the Contractor, in the performance of this contract, obtains access to information, such as Department plans, policies, reports, studies, financial plans, internal data protected by the Privacy Act of 1974 (5 U.S.C. 552a), or data which has not been released or otherwise made available to the public, the Contractor agrees that without prior written approval of the Contracting Officer it shall not—
 - (A) use such information for any private purpose unless the information has been released or otherwise made available to the public;
 - (B) compete for work for the Department based on such information for a period of six (6) months after either the completion of this contract or until such information is released or otherwise made available to the public, whichever is first;
 - (C) submit an unsolicited proposal to the Government which is based on such information until one year after such information is released or otherwise made available to the public; and
 - (D) release such information unless such information has previously been released or otherwise made available to the public by the Department.

- (ii) In addition, the Contractor agrees that to the extent it receives or is given access to proprietary data, data protected by the Privacy Act of 1974 (5 U.S.C. 552a), or other confidential or privileged technical, business, or financial information under this contract, it shall treat such information in accordance with any restrictions imposed on such information.
 - (iii) The Contractor may use technical data it first produces under this contract for its private purposes consistent with paragraphs (b)(2)(i) (A) and (D) of this clause and the patent, rights in data, and security provisions of this contract.
- (c) Disclosure after award.
 - (1) The Contractor agrees that, if changes, including additions, to the facts disclosed by it prior to award of this contract, occur during the performance of this contract, it shall make an immediate and full disclosure of such changes in writing to the Contracting Officer. Such disclosure may include a description of any action which the Contractor has taken or proposes to take to avoid, neutralize, or mitigate any resulting conflict of interest. The Department may, however, terminate the contract for convenience if it deems such termination to be in the best interest of the Government.
 - (2) In the event that the Contractor was aware of facts required to be disclosed or the existence of an actual or potential organizational conflict of interest and did not disclose such facts or such conflict of interest to the Contracting Officer, DOE may terminate this contract for default.
- (d) Remedies. For breach of any of the above restrictions or for nondisclosure or misrepresentation of any facts required to be disclosed concerning this contract, including the existence of an actual or potential organizational conflict of interest at the time of or after award, the Government may terminate the contract for default, disqualify the Contractor from subsequent related contractual efforts, and pursue such other remedies as may be permitted by law or this contract.
- (e) Waiver. Requests for waiver under this clause shall be directed in writing to the Contracting Officer and shall include a full description of the requested waiver and the reasons in support thereof. If it is determined to be in the best interests of the Government, the Contracting Officer may grant such a waiver in writing.
- (f) ***Subcontracts.***
 - (1) ***The Contractor shall include a clause, substantially similar to this clause, including this paragraph (f), in subcontracts expected to exceed the simplified acquisition threshold determined in accordance with 48***

CFR part 13 and involving the performance of advisory and assistance services as that term is defined at 48 CFR 2.101. The terms "contract," "Contractor," and "Contracting Officer" shall be appropriately modified to preserve the Government's rights.

- (2) *Prior to the award under this contract of any such subcontracts for advisory and assistance services, the Contractor shall obtain from the proposed subcontractor or consultant the disclosure required by 48 CFR 909.507-1, and shall determine in writing whether the interests disclosed present an actual or significant potential for an organizational conflict of interest. Where an actual or significant potential organizational conflict of interest is identified, the Contractor shall take actions to avoid, neutralize, or mitigate the organizational conflict to the satisfaction of the Contractor. If the conflict cannot be avoided or neutralized, the Contractor must obtain the approval of the DOE Contracting Officer prior to entering into the subcontract.*

(End of clause)

[M779]

I-66 DEAR 952.211-71 Priorities and Allocations (Atomic Energy) (Apr 2008)

The Contractor shall follow the provisions of Defense Priorities and Allocations System (DPAS) regulation (15 CFR Part 700) in obtaining controlled materials and other products and materials needed to fill this contract.

(End of Clause)

[M779]

I-67 RESERVED [M779]

I-68 DEAR 952.215-70 Key Personnel (Dec 2000)

- (a) The personnel listed below are considered essential to the work being performed under this Contract. Before removing, replacing, or diverting any of the listed or specified personnel, the Contractor must:
- (1) Notify the Contracting Officer reasonably in advance;
 - (2) Submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on this Contract; and
 - (3) Obtain the Contracting Officer's written approval. Notwithstanding the foregoing, if the Contractor deems immediate removal or suspension of any member of its management team is necessary to fulfill its obligation to maintain satisfactory standards of employee competency, conduct, and integrity under the clause at 48 CFR 970.5203-3, Contractor's Organization, the Contractor may remove or suspend such person at once,

although the Contractor must notify Contracting Officer prior to or concurrently with such action.

- (b) The list of personnel may, with the consent of the contracting Parties, be amended from time to time during the course of the Contract to add or delete personnel.

- (1) Michael Kluse, Laboratory Director;
- (2) Steven F. Ashby, Deputy Director for S&T;
- (3) Jud W. Virden, Associate Laboratory Director, Energy and Environment;
- (4) Douglas Ray, Associate Laboratory Director, Fundamental and Computational Sciences;
- (5) Anthony J. Peurrung, Associate Laboratory Director, National Security;
- (6) Michael H. Schlender, Associate Laboratory Director, Operational Systems, and Chief Operations Officer;
- (7) Paula Linnen, Associate Laboratory Director, Organizational Development Systems;
- (8) Martin D. Conger, Associate Laboratory Director, Business Systems, and Chief Financial Officer;
- (9) Cameron M. Andersen, Director, Environment, Health, Safety, & Security Division; and
- (10) Larry E. Maples, Director, Facilities and Operations Division.

[M873]

(End of Clause)

I-69 DEAR 952.217-70 Acquisition of Real Property (Apr 1984)

- (a) Notwithstanding any other provision of the Contract, the prior approval of the Contracting Officer shall be obtained when, in performance of this Contract, the Contractor acquires or proposes to acquire use of real property by:
- (1) Purchase, on the Government's behalf or in the Contractor's own name, with title eventually vesting in the Government.
 - (2) Lease, and the Government assumes liability for, or will otherwise pay for the obligation under the lease as a reimbursable Contract cost.
 - (3) Acquisition of temporary interest through easement, license or permit, and the Government funds the entire cost of the temporary interest.
- (b) Justification of and execution of any real property acquisitions shall be in accordance and compliance with directions provided by the Contracting Officer.
- (c) The substance of this clause, including this paragraph (c), shall be included in any subcontract occasioned by this Contract under which property described in paragraph (a) of this clause shall be acquired.

(End of Clause)

I-70 DEAR 952.223-75 Preservation of Individual Occupational Radiation Exposure Records (Apr 1984)

Individual occupational radiation exposure records generated in the performance of work under this Contract shall be subject to inspection by DOE and shall be preserved by the Contractor until disposal is authorized by DOE or at the option of the Contractor delivered to DOE upon completion or termination of the Contract. If the Contractor exercises the foregoing option, title to such records shall vest in DOE upon delivery.

(End of Clause)

I-71 RESERVED [M779]

I-72 DEAR 952.226-74 Displaced Employee Hiring Preference (Jun 1997)

(a) Definition.

Eligible employee means a current or former employee of a Contractor or subcontractor employed at a Department of Energy Defense Nuclear Facility

- (1) whose position of employment has been, or will be, involuntarily terminated (except if terminated for cause),
- (2) who has also met the eligibility criteria contained in the Department of Energy guidance for Contractor work force restructuring, as may be amended or supplemented from time to time, and
- (3) who is qualified for a particular job vacancy with the Department or one of its Contractors with respect to work under its Contract with the Department at the time the particular position is available.

(b) Consistent with Department of Energy guidance for Contractor work force restructuring, as may be amended or supplemented from time to time, the Contractor agrees that it will provide a preference in hiring to an eligible employee to the extent practicable for work performed under this Contract.

(c) The requirements of this clause shall be included in subcontracts at any tier (except for subcontracts for commercial items pursuant to 41 U.S.C. 403) expected to exceed \$500,000.

(End of Clause)

I-73 DEAR 952.247-70 Foreign Travel (Jun 2010)

Contractor foreign travel shall be conducted pursuant to the requirements contained in Department of Energy (DOE) Order 551.1C, or its successor, Official Foreign Travel, or its successor in effect at the time of award.

(End of Clause)

[M779]

I-74 DEAR 952.250-70 Nuclear Hazards Indemnity Agreement (Jun 1996)

- (a) *Authority.* This clause is incorporated into this Contract pursuant to the authority contained in subsection 170d. of the Atomic Energy Act of 1954, as amended (hereinafter called the Act.)
- (b) *Definitions.* The definitions set out in the Act shall apply to this clause.
- (c) *Financial protection.* Except as hereafter permitted or required in writing by DOE, the Contractor will not be required to provide or maintain, and will not provide or maintain at Government expense, any form of financial protection to cover public liability, as described in paragraph (d)(2) below. DOE may, however, at any time require in writing that the Contractor provide and maintain financial protection of such a type and in such amount as DOE shall determine to be appropriate to cover such public liability, provided that the costs of such financial protection are reimbursed to the Contractor by DOE.
- (d)
- (1) *Indemnification.* To the extent that the Contractor and other persons indemnified are not compensated by any financial protection permitted or required by DOE, DOE will indemnify the Contractor and other persons indemnified against
- (i) claims for public liability as described in subparagraph (d)(2) of this clause; and
- (ii) such legal costs of the Contractor and other persons indemnified as are approved by DOE, provided that DOE's liability, including such legal costs, shall not exceed the amount set forth in section 170e.(1)(B) of the Act in the aggregate for each nuclear incident or precautionary evacuation occurring within the United States or \$100 million in the aggregate for each nuclear incident occurring outside the United States, irrespective of the number of persons indemnified in connection with this Contract.
- (2) The public liability referred to in subparagraph (d)(1) of this clause is public liability as defined in the Act which
- (i) arises out of or in connection with the activities under this Contract, including transportation; and
- (ii) arises out of or results from a nuclear incident or precautionary evacuation, as those terms are defined in the Act.
- (e)

- (1) *Waiver of Defenses.* In the event of a nuclear incident, as defined in the Act, arising out of nuclear waste activities, as defined in the Act, the Contractor, on behalf of itself and other persons indemnified, agrees to waive any issue or defense as to charitable or Governmental immunity.
- (2) In the event of an extraordinary nuclear occurrence which:
 - (i) Arises out of, results from, or occurs in the course of the construction, possession, or operation of a production or utilization facility; or
 - (ii) Arises out of, results from, or occurs in the course of transportation of source material, by-product material, or special nuclear material to or from a production or utilization facility; or
 - (iii) Arises out of or results from the possession, operation, or use by the Contractor or a subcontractor of a device utilizing special nuclear material or by-product material, during the course of the contract activity; or
 - (iv) Arises out of, results from, or occurs in the course of nuclear waste activities, the Contractor, on behalf of itself and other persons indemnified, agrees to waive:
 - (A) Any issue or defense as to the conduct of the claimant (including the conduct of persons through whom the claimant derives its cause of action) or fault of persons indemnified, including, but not limited to:
 1. Negligence;
 2. Contributory negligence;
 3. Assumption of risk; or
 4. Unforeseeable intervening causes, whether involving the conduct of a third person or an act of God;
 - (B) Any issue or defense as to charitable or Governmental immunity; and
 - (C) Any issue or defense based on any statute of limitations, if suit is instituted within 3 years from the date on which the claimant first knew, or reasonably could have known, of his injury or change and the cause thereof. The waiver of any

such issue or defense shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action. The waiver shall be judicially enforceable in accordance with its terms by the claimant against the person indemnified.

- (v) The term *extraordinary nuclear occurrence* means an event which DOE has determined to be an extraordinary nuclear occurrence as defined in the Act. A determination of whether or not there has been an extraordinary nuclear occurrence will be made in accordance with the procedures in 10 CFR part 840.
 - (vi) For the purposes of that determination, "offsite" as that term is used in 10 CFR part 840 means away from "the Contract location" which phrase means any DOE facility, installation, or site at which contractual activity under this Contract is being carried on, and any Contractor-owned or controlled facility, installation, or site at which the Contractor is engaged in the performance of contractual activity under this Contract.
- (3) The waivers set forth above:
- (i) Shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action;
 - (ii) Shall be judicially enforceable in accordance with its terms by the claimant against the person indemnified;
 - (iii) Shall not preclude a defense based upon a failure to take reasonable steps to mitigate damages;
 - (iv) Shall not apply to injury or damage to a claimant or to a claimant's property which is intentionally sustained by the claimant or which results from a nuclear incident intentionally and wrongfully caused by the claimant;
 - (v) Shall not apply to injury to a claimant who is employed at the site of and in connection with the activity where the extraordinary nuclear occurrence takes place, if benefits therefor are either payable or required to be provided under any workmen's compensation or occupational disease law;
 - (vi) Shall not apply to any claim resulting from a nuclear incident occurring outside the United States;

- (vii) Shall be effective only with respect to those obligations set forth in this clause and in insurance policies, contracts or other proof of financial protection; and
- (viii) Shall not apply to, or prejudice the prosecution or defense of, any claim or portion of claim which is not within the protection afforded under
 - (A) the limit of liability provisions under subsection 170e. of the Act, and
 - (B) the terms of this agreement and the terms of insurance policies, contracts, or other proof of financial protection.
- (f) *Notification and litigation of claims.* The Contractor shall give immediate written notice to DOE of any known action or claim filed or made against the Contractor or other person indemnified for public liability as defined in paragraph (d)(2). Except as otherwise directed by DOE, the Contractor shall furnish promptly to DOE, copies of all pertinent papers received by the Contractor or filed with respect to such actions or claims. DOE shall have the right to, and may collaborate with, the Contractor and any other person indemnified in the settlement or defense of any action or claim and shall have the right to
 - (1) require the prior approval of DOE for the payment of any claim that DOE may be required to indemnify hereunder; and
 - (2) appear through the Attorney General on behalf of the Contractor or other person indemnified in any action brought upon any claim that DOE may be required to indemnify hereunder, take charge of such action, and settle or defend any such action. If the settlement or defense of any such action or claim is undertaken by DOE, the Contractor or other person indemnified shall furnish all reasonable assistance in effecting a settlement or asserting a defense.
- (g) *Continuity of DOE obligations.* The obligations of DOE under this clause shall not be affected by any failure on the part of the Contractor to fulfill its obligation under this Contract and shall be unaffected by the death, disability, or termination of existence of the Contractor, or by the completion, termination or expiration of this Contract.
- (h) *Effect of other clauses.* The provisions of this clause shall not be limited in any way by, and shall be interpreted without reference to, any other clause of this Contract, including the clause entitled Contract Disputes, provided, however, that this clause shall be subject to the clauses entitled Covenant Against Contingent Fees, and Accounts, records, and inspection, and any provisions that are later

added to this Contract as required by applicable Federal law, including statutes, executive orders and regulations, to be included in Nuclear Hazards Indemnity Agreements.

- (i) *Civil penalties.* Reserved.
- (j) *Criminal penalties.* Any individual director, officer, or employee of the Contractor or of its subcontractors and suppliers who are indemnified under the provisions of this clause are subject to criminal penalties, pursuant to 223(c) of the Act, for knowing and willful violation of the Atomic Energy Act of 1954, as amended, and applicable DOE nuclear safety-related rules, regulations or orders which violation results in, or, if undetected, would have resulted in a nuclear incident.
- (k) *Inclusion in subcontracts.* The Contractor shall insert this clause in any subcontract which may involve the risk of public liability, as that term is defined in the Act and further described in paragraph (d)(2) above. However, this clause shall not be included in subcontracts in which the subcontractor is subject to Nuclear Regulatory Commission (NRC) financial protection requirements under section 170b. of the Act or NRC agreements of indemnification under section 170c. or k. of the Act for the activities under the subcontract.
- (l) *Effective date.* This indemnity agreement shall be applicable with respect to nuclear incidents occurring on or after August 20, 1988.
(End of Clause)

I-74A DEAR 952.250-70 Nuclear Hazards Indemnity Agreement (Oct 2005) (AL 2005-15)

- (a) *Authority.* This clause is incorporated into this contract pursuant to the authority contained in subsection 170d. of the Atomic Energy Act of 1954, as amended (hereinafter called the Act.)
- (b) *Definitions.* The definitions set out in the Act shall apply to this clause.
- (c) *Financial protection.* Except as hereafter permitted or required in writing by DOE, the contractor will not be required to provide or maintain, and will not provide or maintain at Government expense, any form of financial protection to cover public liability, as described in paragraph (d)(2) below. DOE may, however, at any time require in writing that the contractor provide and maintain financial protection of such a type and in such amount as DOE shall determine to be appropriate to cover such public liability, provided that the costs of such financial protection are reimbursed to the contractor by DOE.
- (d)

- (1) *Indemnification.* To the extent that the contractor and other persons indemnified are not compensated by any financial protection permitted or required by DOE, DOE will indemnify the contractor and other persons indemnified against (i) claims for public liability as described in subparagraph (d)(2) of this clause; and (ii) such legal costs of the contractor and other persons indemnified as are approved by DOE, provided that DOE's liability, including such legal costs, shall not exceed the amount set forth in section 170d. of the Act, as that amount may be increased in accordance with section 170t., in the aggregate for each nuclear incident or precautionary evacuation occurring within the United States or \$500 million in the aggregate for each nuclear incident occurring outside the United States, irrespective of the number of persons indemnified in connection with this contract.
 - (2) The public liability referred to in subparagraph (d)(1) of this clause is public liability as defined in the Act which (i) arises out of or in connection with the activities under this contract, including transportation; and (ii) arises out of or results from a nuclear incident or precautionary evacuation, as those terms are defined in the Act.
- (e)
- (1) *Waiver of Defenses.* In the event of a nuclear incident, as defined in the Act, arising out of nuclear waste activities, as defined in the Act, the contractor, on behalf of itself and other persons indemnified, agrees to waive any issue or defense as to charitable or governmental immunity.
 - (2) In the event of an extraordinary nuclear occurrence which:
 - (i) Arises out of, results from, or occurs in the course of the construction, possession, or operation of a production or utilization facility; or
 - (ii) Arises out of, results from, or occurs in the course of transportation of source material, by-product material, or special nuclear material to or from a production or utilization facility; or
 - (iii) Arises out of or results from the possession, operation, or use by the contractor or a subcontractor of a device utilizing special nuclear material or by-product material, during the course of the contract activity; or
 - (iv) Arises out of, results from, or occurs in the course of nuclear waste activities, the contractor, on behalf of itself and other persons indemnified, agrees to waive:

- (A) Any issue or defense as to the conduct of the claimant (including the conduct of persons through whom the claimant derives its cause of action) or fault of persons indemnified, including, but not limited to:
 - 1. Negligence;
 - 2. Contributory negligence;
 - 3. Assumption of risk; or
 - 4. Unforeseeable intervening causes, whether involving the conduct of a third person or an act of God;
 - (B) Any issue or defense as to charitable or governmental immunity; and
 - (C) Any issue or defense based on any statute of limitations, if suit is instituted within 3 years from the date on which the claimant first knew, or reasonably could have known, of his injury or change and the cause thereof. The waiver of any such issue or defense shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action. The waiver shall be judicially enforceable in accordance with its terms by the claimant against the person indemnified.
- (v) The term *extraordinary nuclear occurrence* means an event which DOE has determined to be an extraordinary nuclear occurrence as defined in the Act. A determination of whether or not there has been an extraordinary nuclear occurrence will be made in accordance with the procedures in 10 CFR part 840.
- (vi) For the purposes of that determination, "offsite" as that term is used in 10 CFR part 840 means away from "the contract location" which phrase means any DOE facility, installation, or site at which contractual activity under this contract is being carried on, and any contractor-owned or controlled facility, installation, or site at which the contractor is engaged in the performance of contractual activity under this contract.
- (3) The waivers set forth above:

- (i) Shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action;
 - (ii) Shall be judicially enforceable in accordance with its terms by the claimant against the person indemnified;
 - (iii) Shall not preclude a defense based upon a failure to take reasonable steps to mitigate damages;
 - (iv) Shall not apply to injury or damage to a claimant or to a claimant's property which is intentionally sustained by the claimant or which results from a nuclear incident intentionally and wrongfully caused by the claimant;
 - (v) Shall not apply to injury to a claimant who is employed at the site of and in connection with the activity where the extraordinary nuclear occurrence takes place, if benefits therefor are either payable or required to be provided under any workmen's compensation or occupational disease law;
 - (vi) Shall not apply to any claim resulting from a nuclear incident occurring outside the United States;
 - (vii) Shall be effective only with respect to those obligations set forth in this clause and in insurance policies, contracts or other proof of financial protection; and
 - (viii) Shall not apply to, or prejudice the prosecution or defense of, any claim or portion of claim which is not within the protection afforded under (A) the limit of liability provisions under subsection 170e. of the Act, and (B) the terms of this agreement and the terms of insurance policies, contracts, or other proof of financial protection.
- (f) *Notification and litigation of claims.* The contractor shall give immediate written notice to DOE of any known action or claim filed or made against the contractor or other person indemnified for public liability as defined in paragraph (d)(2). Except as otherwise directed by DOE, the contractor shall furnish promptly to DOE, copies of all pertinent papers received by the contractor or filed with respect to such actions or claims. DOE shall have the right to, and may collaborate with, the contractor and any other person indemnified in the settlement or defense of any action or claim and shall have the right to (1) require the prior approval of DOE for the payment of any claim that DOE may be required to indemnify hereunder; and (2) appear through the Attorney General on behalf of the contractor or other person indemnified in any action brought upon

any claim that DOE may be required to indemnify hereunder, take charge of such action, and settle or defend any such action. If the settlement or defense of any such action or claim is undertaken by DOE, the contractor or other person indemnified shall furnish all reasonable assistance in effecting a settlement or asserting a defense.

- (g) *Continuity of DOE obligations.* The obligations of DOE under this clause shall not be affected by any failure on the part of the contractor to fulfill its obligation under this contract and shall be unaffected by the death, disability, or termination of existence of the contractor, or by the completion, termination or expiration of this contract.
- (h) *Effect of other clauses.* The provisions of this clause shall not be limited in any way by, and shall be interpreted without reference to, any other clause of this contract, including the clause entitled Contract Disputes, provided, however, that this clause shall be subject to the clauses entitled Covenant Against Contingent Fees, and Accounts, records, and inspection, and any provisions that are later added to this contract as required by applicable Federal law, including statutes, executive orders and regulations, to be included in Nuclear Hazards Indemnity Agreements.
- (i) *Civil penalties.* The contractor and its subcontractors and suppliers who are indemnified under the provisions of this clause are subject to civil penalties, pursuant to section 234A of the Act, for violations of applicable DOE nuclear-safety related rules, regulations, or orders. If the contractor is a not-for-profit contractor, as defined by section 234Ad.(2), the total amount of civil penalties paid shall not exceed the total amount of fees paid within any 1-year period (as determined by the Secretary) under this contract.
- (j) *Criminal penalties.* Any individual director, officer, or employee of the contractor or of its subcontractors and suppliers who are indemnified under the provisions of this clause are subject to criminal penalties, pursuant to section 223(c) of the Act, for knowing and willful violation of the Atomic Energy Act of 1954, as amended, and applicable DOE nuclear safety-related rules, regulations or orders which violation results in, or, if undetected, would have resulted in a nuclear incident.
- (k) *Inclusion in subcontracts.* The contractor shall insert this clause in any subcontract which may involve the risk of public liability, as that term is defined in the Act and further described in paragraph (d)(2) above. However, this clause shall not be included in subcontracts in which the subcontractor is subject to Nuclear Regulatory Commission (NRC) financial protection requirements under section 170b. of the Act or NRC agreements of indemnification under section 170c. or k. of the Act for the activities under the subcontract.
- (l) *Effective Date.* This contract was in effect prior to August 8, 2005 and contains the clause at DEAR 952.250-70 (JUNE 1996) or prior version. The indemnity of

paragraph (d)(1) is limited to the indemnity provided by the Price-Anderson Amendments Act of 1988 for any nuclear incident to which the indemnity applies that occurred before August 8, 2005. The indemnity of paragraph (d)(1) of this clause applies to any nuclear incident that occurred on or after August 8, 2005. The Contractor's liability for violations of the Atomic Energy Act of 1954 under this contract is that in effect prior to August 8, 2005.

[M432]

(End of Clause)

I-75 DEAR 952.251-70 Contractor Employee Travel Discounts (Aug 2009)

- (a) The Contractor shall take advantage of travel discounts offered to Federal Contractor employee travelers by AMTRAK, hotels, motels, or car rental companies, when use of such discounts would result in lower overall trip costs and the discounted services are reasonably available. Vendors providing these services may require the Contractor employee to furnish them a letter of identification signed by the authorized Contracting Officer.
- (b) Contracted airlines. Contractors are not eligible for GSA contract city pair fares.
- (c) Discount rail service. AMTRAK voluntarily offers discounts to Federal travelers on official business and sometimes extends those discounts to Federal contractor employees.
- (d) Hotels/motels. Many lodging providers extend their discount rates for Federal employees to Federal contractor employees.
- (e) Car rentals. Surface Deployment and Distribution Command (SDDC) of the Department of Defense negotiates rate agreements with car rental companies that are available to Federal travelers on official business. Some car rental companies extend those discounts to Federal contractor employees.
- (f) Obtaining travel discounts.
 - (1) To determine which vendors offer discounts to Government contractors, the Contractor may review commercial publications such as the Official Airline guides Official Traveler, Innovata, or National Telecommunications. The Contractor may also obtain this information from GSA contract Travel Management Centers or the Department of Defense's Commercial Travel Offices.
 - (2) The vendor providing the service may require the Government contractor to furnish a letter signed by the Contracting Officer. The following illustrates a standard letter of identification.

OFFICIAL AGENCY LETTERHEAD

TO: Participating Vendor

SUBJECT: OFFICIAL TRAVEL OF GOVERNMENT CONTRACTOR

(FULL NAME OF TRAVELER), the bearer of this letter is an employee of (COMPANY NAME) which has a contract with this agency under Government contract (CONTRACT NUMBER). During the period of the contract (GIVE DATES), AND WITH THE APPROVAL OF THE CONTRACT VENDOR, the employee is eligible and authorized to use available travel discount rates in accordance with Government contracts and/or agreements. Government Contract City Pair fares are not available to Contractors.

SIGNATURE, Title and telephone number of Contracting Officer

(End of clause)

[M779]

I-76 DEAR 970.5203-1 Management Controls (Jun 2007)

(a)

- (1) The Contractor shall be responsible for maintaining, as an integral part of its organization, effective systems of management controls for both administrative and programmatic functions. Management controls comprise the plan of organization, methods, and procedures adopted including consideration of outsourcing of functions by management to reasonably ensure that: the mission and functions assigned to the Contractor are properly executed; efficient and effective operations are promoted; resources are safeguarded against waste, loss, mismanagement, unauthorized use, or misappropriation; all encumbrances and costs that are incurred under the Contract and fees that are earned are in compliance with applicable clauses and other current terms, conditions, and intended purposes; all collections accruing to the Contractor in connection with the work under this Contract, expenditures, and all other transactions and assets are properly recorded, managed, and reported; and financial, statistical, and other reports necessary to maintain accountability and managerial control are accurate, reliable, and timely.
- (2) The systems of controls employed by the Contractor shall be documented and satisfactory to DOE.
- (3) Such systems shall be an integral part of the Contractor's management functions, including defining specific roles and responsibilities for each level of management, and holding employees accountable for the adequacy of the management systems and controls in their areas of assigned responsibility.
- (4) The Contractor shall, as part of the internal audit program required

elsewhere in this Contract, periodically review the management systems and controls employed in programs and administrative areas to ensure that they are adequate to provide reasonable assurance that the objectives of the systems are being accomplished and that these systems and controls are working effectively. Annually, or at other intervals directed by the Contracting Officer, the Contractor shall supply to the Contracting Officer copies of the reports reflecting the status of recommendations resulting from management audits performed by its internal audit activity and any other audit organization. This requirement may be satisfied in part by the reports required under paragraph (i) of 48 CFR 970.5232-3, Accounts, Records, and Inspection.

- (b) The Contractor shall be responsible for maintaining, as a part of its operational responsibilities, a baseline quality assurance program that implements documented performance, quality standards, and control and assessment techniques.

[M600]

(End of Clause)

I-77 DEAR 970.5203-2 Performance Improvement and Collaboration (May 2006)

- (a) The contractor agrees that it shall affirmatively identify, evaluate, and institute practices, where appropriate, that will improve performance in the areas of environmental and health, safety, scientific and technical, security, business and administrative, and any other areas of performance in the management and operation of the contract. This may entail the alteration of existing practices or the institution of new procedures to more effectively or efficiently perform any aspect of contract performance or reduce overall cost of operation under the contract. Such improvements may result from changes in organization, outsourcing decisions, simplification of systems while retaining necessary controls, or any other approaches consistent with the statement of work and performance measures of this contract.
- (b) The contractor agrees to work collaboratively with the Department, all other management and operating, DOE major facilities management contractors and affiliated contractors which manage or operate DOE sites or facilities for the following purposes: (i) to exchange information generally, (ii) to evaluate concepts that may be of benefit in resolving common issues, in confronting common problems, or in reducing costs of operations, and (iii) to otherwise identify and implement DOE-complex-wide management improvements discussed in paragraph (a). In doing so, it shall also affirmatively provide information relating to its management improvements to such contractors, including lessons learned, subject to security considerations and the protection of data proprietary to third parties.
- (c) The contractor may consult with the contracting officer in those instances in which improvements being considered pursuant to paragraph (a) involve the

cooperation of the DOE. The contractor may request the assistance of the contracting officer in the communication of the success of improvements to other management and operating contractors in accordance with paragraph (b) of this clause.

- (d) The contractor shall notify the contracting officer and seek approval where necessary to fulfill its obligations under the contract. Compliance with this clause in no way alters the obligations of the Contractor under any other provision of this contract.

[M490]

(End of Clause)

I-78 DEAR 970.5203-3 – Contractor's Organization (Dec 2000)

- (a) Organization chart. As promptly as possible after the execution of this contract, the Contractor shall furnish to the Contracting Officer a chart showing the names, duties, and organization of key personnel (see 48 CFR 952.215-70) to be employed in connection with the work, and shall furnish supplemental information to reflect any changes as they occur.
- (b) Supervisory representative of Contractor. Unless otherwise directed by the Contracting Officer, a competent full-time resident supervisory representative of the Contractor satisfactory to the Contracting Officer shall be in charge of the work at the site, and any work off-site, at all times.
- (c) Control of employees. The Contractor shall be responsible for maintaining satisfactory standards of employee competency, conduct, and integrity and shall be responsible for taking such disciplinary action with respect to its employees as may be necessary. In the event the Contractor fails to remove any employee from the contract work whom DOE deems incompetent, careless, or insubordinate, or whose continued employment on the work is deemed by DOE to be inimical to the Department's mission, the Contracting Officer may require, with the approval of the Secretary of Energy, the Contractor to remove the employee from work under the contract. This includes the right to direct the Contractor to remove its most senior key person from work under the contract for serious contract performance deficiencies.
- (d) Standards and procedures. The Contractor shall establish such standards and procedures as are necessary to implement the requirements set forth in 48 CFR 970.0371. Such standards and procedures shall be subject to the approval of the Contracting Officer.

(End of Clause)

[M779]

I-79 DEAR 970.5204-1 Counterintelligence (Dec 2010)

- (a) The Contractor shall take all reasonable precautions in the work under this contract to protect DOE programs, facilities, technology, personnel, unclassified sensitive information and classified matter from foreign intelligence threats and activities conducted for governmental or industrial purposes, in accordance with DOE Order 475.1, Counterintelligence Program; or its successor, Executive Order 12333, U.S. Intelligence Activities; and other pertinent national and Departmental Counterintelligence requirements.
- (b) The Contractor shall appoint a qualified employee(s) to function as the Contractor Counterintelligence Officer. The Contractor Counterintelligence Officer will be responsible for conducting defensive Counterintelligence briefings and debriefings of employees traveling to foreign countries or interacting with foreign nationals; providing thoroughly documented written reports relative to targeting, suspicious activity and other matters of Counterintelligence interest; immediately reporting targeting, suspicious activity and other Counterintelligence concerns to the DOE Headquarters Counterintelligence Division; and providing assistance to other elements of the U.S. Intelligence Community as stated in the aforementioned Executive Order, the DOE Counterintelligence Order, and other pertinent national and Departmental Counterintelligence requirements.

(End of Clause)

[M779]

I-80 DEAR 970.5204-2 Laws, Regulations, and DOE Directives (Dec 2000)

- (a) In performing work under this Contract, the Contractor shall comply with the requirements of applicable Federal, State, and local laws and regulations (including DOE regulations), unless relief has been granted in writing by the appropriate regulatory agency. A List of Applicable Laws and regulations (List A) may be appended to this Contract for information purposes. Omission of any applicable law or regulation from List A does not affect the obligation of the Contractor to comply with such law or regulation pursuant to this paragraph.
- (b) In performing work under this Contract, the Contractor shall comply with the requirements of those Department of Energy directives, or parts thereof, identified in the List of Applicable Directives (List B) appended to this Contract. Except as otherwise provided for in paragraph (d) of this clause, the Contracting Officer may, from time to time and at any time, revise List B by unilateral modification to the Contract to add, modify, or delete specific requirements. Prior to revising List B, the Contracting Officer shall notify the Contractor in writing of the Department's intent to revise List B and provide the Contractor with the opportunity to assess the effect of the Contractor's compliance with the revised list on Contract cost and funding, technical performance, and schedule; and identify any potential inconsistencies between the revised list and the other terms and conditions of the Contract. Within 30 days after receipt of the Contracting Officer's notice, the Contractor shall advise the Contracting Officer in writing of

- the potential impact of the Contractor's compliance with the revised list. Based on the information provided by the Contractor and any other information available, the Contracting Officer shall decide whether to revise List B and so advise the Contractor not later than 30 days prior to the effective date of the revision of List B. The Contractor and the Contracting Officer shall identify and, if appropriate, agree to any changes to other Contract terms and conditions, including cost and schedule, associated with the revision of List B pursuant to the clause of this Contract entitled, "Changes."
- (c) Environmental, safety, and health (ES&H) requirements appropriate for work conducted under this Contract may be determined by a DOE approved process to evaluate the work and the associated hazards and identify an appropriately tailored set of standards, practices, and controls, such as a tailoring process included in a DOE approved Safety Management System implemented under the clause entitled "Integration of Environment, Safety, and Health into Work Planning and Execution." When such a process is used, the set of tailored (ES&H) requirements, as approved by DOE pursuant to the process, shall be incorporated into List B as Contract requirements with full force and effect. These requirements shall supersede, in whole or in part, the contractual environmental, safety, and health requirements previously made applicable to the Contract by List B. If the tailored set of requirements identifies an alternative requirement varying from an ES&H requirement of an applicable law or regulation, the Contractor shall request an exemption or other appropriate regulatory relief specified in the regulation.
- (d) Except as otherwise directed by the Contracting Officer, the Contractor shall procure all necessary permits or licenses required for the performance of work under this Contract.
- (e) Regardless of the performer of the work, the Contractor is responsible for compliance with the requirements of this clause. The Contractor is responsible for flowing down the requirements of this clause to subcontracts at any tier to the extent necessary to ensure the Contractor's compliance with the requirements.

[M600]

(End of Clause)

I-81 DEAR 970.5204-3 Access to and Ownership of Records (July 2005)

- (a) Government-owned records. Except as provided in paragraph (b) of this clause, all records acquired or generated by the contractor in its performance of this contract shall be the property of the Government and shall be delivered to the Government or otherwise disposed of by the contractor either as the contracting officer may from time to time direct during the progress of the work or, in any event, as the contracting officer shall direct upon completion or termination of the contract.
- (b) Contractor-owned records. The following records are considered the property of the contractor and are not within the scope of paragraph (a) of this clause. [The

contracting officer shall identify which of the following categories of records will be included in the clause.]

- (1) Employment-related records (such as worker's compensation files; employee relations records, records on salary and employee benefits; drug testing records, labor negotiation records; records on ethics, employee concerns; records generated during the course of responding to allegations of research misconduct; records generated during other employee related investigations conducted under an expectation of confidentiality; employee assistance program records; and personnel and medical/health-related records and similar files), and non-employee patient medical/health-related records, except for those records described by the contract as being maintained in Privacy Act systems of records.
 - (2) Confidential contractor financial information, and correspondence between the contractor and other segments of the contractor located away from the DOE facility (i.e., the contractor's corporate headquarters);
 - (3) Records relating to any procurement action by the contractor, except for records that under 48 CFR 970.5232-3, Accounts, Records, and Inspection, are described as the property of the Government; and
 - (4) Legal records, including legal opinions, litigation files, and documents covered by the attorney-client and attorney work product privileges; and
 - (5) The following categories of records maintained pursuant to the technology transfer clause of this contract:
 - (i) Executed license agreements, including exhibits or appendices containing information on royalties, royalty rates, other financial information, or commercialization plans, and all related documents, notes and correspondence.
 - (ii) The contractor's protected Cooperative Research and Development Agreement (CRADA) information and appendices to a CRADA that contain licensing terms and conditions, or royalty or royalty rate information.
 - (iii) Patent, copyright, mask work, and trademark application files and related contractor invention disclosures, documents and correspondence, where the contractor has elected rights or has permission to assert rights and has not relinquished such rights or turned such rights over to the Government.
- (c) Contract completion or termination. In the event of completion or termination of this contract, copies of any of the contractor-owned records identified in

- paragraph (b) of this clause, upon the request of the Government, shall be delivered to DOE or its designees, including successor contractors. Upon delivery, title to such records shall vest in DOE or its designees, and such records shall be protected in accordance with applicable federal laws (including the Privacy Act), as appropriate.
- (d) Inspection, copying, and audit of records. All records acquired or generated by the contractor under this contract in the possession of the contractor, including those described at paragraph (b) of this clause, shall be subject to inspection, copying, and audit by the Government or its designees at all reasonable times, and the contractor shall afford the Government or its designees reasonable facilities for such inspection, copying, and audit; provided, however, that upon request by the contracting officer, the contractor shall deliver such records to a location specified by the contracting officer for inspection, copying, and audit. The Government or its designees shall use such records in accordance with applicable federal laws (including the Privacy Act), as appropriate.
- (e) Applicability. Paragraphs (b), (c), and (d) of this clause apply to all records without regard to the date or origination of such records.
- (f) Records retention standards. Special records retention standards, described at DOE Order 200.1, Information Management Program (version in effect on effective date of contract), are applicable for the classes of records described therein, whether or not the records are owned by the Government or the contractor. In addition, the contractor shall retain individual radiation exposure records generated in the performance of work under this contract until DOE authorizes disposal. The Government may waive application of these record retention schedules, if, upon termination or completion of the contract, the Government exercises its right under paragraph (c) of this clause to obtain copies and delivery of records described in paragraphs (a) and (b) of this clause.
- (g) Subcontracts. The contractor shall include the requirements of this clause in all subcontracts that are of a cost-reimbursement type if any of the following factors is present:
- (1) The value of the subcontract is greater than \$2 million (unless specifically waived by the contracting officer);
 - (2) The contracting officer determines that the subcontract is, or involves, a critical task related to the contract; or
 - (3) The subcontract includes 48 CFR 970.5223-1, Integration of Environment, Safety, and Health into Work Planning and Execution, or similar clause.
- [M490]**

(End of Clause)

I-82 DEAR 970.5208-1 Printing (Dec 2000)

- (a) To the extent that duplicating or printing services may be required in the performance of this Contract, the Contractor shall provide or secure such services in accordance with the Government Printing and Binding Regulations, Title 44 of the U.S. Code, and DOE Directives relative thereto.
- (b) The term "Printing" includes the following processes: Composition, platemaking, presswork, binding, microform publishing, or the end items produced by such processes. Provided, however, that performance of a requirement under this Contract involving the duplication of less than 5,000 copies of a single page, or no more than 25,000 units in the aggregate of multiple pages, will not be deemed to be printing.
- (c) Printing services not obtained in compliance with this guidance shall result in the cost of such printing being disallowed.
- (d) The Contractor shall include the substance of this clause in all subcontracts hereunder which require printing (as that term is defined in Title I of the U.S. Government Printing and Binding Regulations).

(End of Clause)

I-82A DEAR 970.5211-1 Work Authorization (MAY 2007)

- (a) Work authorization proposal. Prior to the start of each fiscal year, the Contracting Officer or designee shall provide the Contractor with program execution guidance in sufficient detail to enable the Contractor to develop an estimated cost, scope, and schedule. In addition, the Contracting Officer may unilaterally assign work. The Contractor shall submit to the Contracting Officer or other designated official, a detailed description of work, a budget of estimated costs, and a schedule of performance for the work it recommends be undertaken during that upcoming fiscal year.
- (b) Cost estimates. The Contractor and the Contracting Officer shall establish a budget of estimated costs, description of work, and schedule of performance for each work assignment. If agreement cannot be reached as to scope, schedule, and estimated cost, the Contracting Officer may issue a unilateral work authorization, pursuant to this clause. The work authorization, whether issued bilaterally or unilaterally shall become part of the contract. No activities shall be authorized or costs incurred prior to Contracting Officer issuance of a work authorization or direction concerning continuation of activities of the contract.
- (c) Performance. The Contractor shall perform work as specified in the work authorization, consistent with the terms and conditions of this contract.

- (d) **Modification.** The Contracting Officer may at any time, without notice, issue changes to work authorizations within the overall scope of the contract. A proposal for adjustment in estimated costs and schedule for performance of work, recognizing work made unnecessary as a result, along with new work, shall be submitted by the Contractor in accordance with paragraph (a) of this clause. Resolution shall be in accordance with paragraph (b) of this clause.
- (e) **Increase in estimated cost.** The Contractor shall notify the Contracting Officer immediately whenever the cost incurred, plus the projected cost to complete work is projected to differ (plus or minus) from the estimate by 10 percent. The Contractor shall submit a proposal for modification in accordance with paragraph (a) of this clause. Resolution shall be in accordance with paragraph (b) of this clause.
- (f) **Expenditure of funds and incurrence of costs.** The expenditure of monies by the Contractor in the performance of all authorized work shall be governed by the "Obligation of Funds" or equivalent clause of the contract.
- (g) **Responsibility to achieve environment, safety, health, and security compliance.** Notwithstanding other provisions of the contract, the Contractor may, in the event of an emergency, take that corrective action necessary to sustain operations consistent with applicable environmental, safety, health, and security statutes, regulations, and procedures. If such action is taken, the Contractor shall notify the Contracting Officer within 24 hours of initiation and, within 30 days, submit a proposal for adjustment in estimated costs and schedule established in accordance with paragraphs (a) and (b) of this clause.

[M707]

(End of Clause)

I-83 DEAR 970.5215-1 Total Available Fee: Base Fee Amount and Performance Fee Amount (Dec 2000) Alternate II (Dec 2000) Alternate IV (DEC 2000)

- (a) **Total available fee.** Total available fee, consisting of a base fee amount (which is zero) and a performance fee amount (consisting of an incentive fee component for objective performance requirements, an award fee component for subjective performance requirements, or both) determined in accordance with the provisions of this clause, is available for payment in accordance with the clause of this Contract entitled, "Payments and advances."
- (b) **Fee Negotiations.** Prior to the beginning of each fiscal year under this Contract, or other appropriate period as mutually agreed upon and, if exceeding one year, approved by the Senior Procurement Executive, or designee, the Contracting Officer and Contractor shall enter into negotiation of the requirements for the year or appropriate period, including the evaluation areas and individual requirements subject to incentives, the total available fee, and the allocation of fee. The Contracting Officer shall modify this Contract at the conclusion of each negotiation to reflect the negotiated requirements, evaluation areas and individual

requirements subject to incentives, the total available fee, and the allocation of fee. In the event the Parties fail to agree on the requirements, the evaluation areas and individual requirements subject to incentives, the total available fee, or the allocation of fee, a unilateral determination will be made by the Contracting Officer. The total available fee amount shall be allocated to a twelve month cycle composed of one or more evaluation periods, or such longer period as may be mutually agreed to between the Parties and approved by the Senior Procurement Executive, or designee.

- (c) Determination of Total Available Fee Amount Earned.
- (1) The Government shall, at the conclusion of each specified evaluation period, evaluate the Contractor's performance of all requirements, including performance based incentives completed during the period, and determine the total available fee amount earned. At the Contracting Officer's discretion, evaluation of incentivized performance may occur at the scheduled completion of specific incentivized requirements.
 - (2) The DOE Operations/Field/Site Office Manager, or designee, will be the Manager of the DOE Pacific Northwest Site Office. The Contractor agrees that the determination as to the total available fee earned is a unilateral determination made by the DOE Operations/Field Office Manager, or designee.
 - (3) The evaluation of Contractor performance shall be in accordance with the Performance Evaluation and Measurement Plan(s) described in subparagraph (d) of this clause unless otherwise set forth in the Contract. The Contractor shall be promptly advised in writing of the fee determination, and the basis of the fee determination. In the event that the Contractor's performance is considered to be less than the level of performance set forth in the Statement of Work, as amended to include the current Work Authorization Directive or similar document, for any Contract requirement, it will be considered by the DOE Operations/Field Office Manager, or designee, who may at his/her discretion adjust the fee determination to reflect such performance. Any such adjustment shall be in accordance with the clause entitled, "Conditional Payment of Fee, Profit, or Incentives" if contained in the Contract.
 - (4) ***Award fee not earned during the evaluation period shall not be allocated to future evaluation periods.***
- (d) Performance Evaluation and Measurement Plan(s). To the extent not set forth elsewhere in the Contract:
- (1) The Government shall establish a Performance Evaluation and Measurement Plan(s) upon which the determination of the total available

fee amount earned shall be based. The Performance Evaluation and Measurement Plan(s) will address all of the requirements of Contract performance specified in the Contract directly or by reference. A copy of the Performance Evaluation and Measurement Plan(s) shall be provided to the Contractor:

- (i) prior to the start of an evaluation period if the requirements, evaluation areas, specific incentives, amount of fee, and allocation of fee to such evaluation areas and specific incentives have been mutually agreed to by the Parties; or
 - (ii) not later than thirty days prior to the scheduled start date of the evaluation period, if the requirements, evaluation areas, specific incentives, amount of fee, and allocation of fee to such evaluation areas and specific incentives have been unilaterally established by the Contracting Officer.
- (2) The Performance Evaluation and Measurement Plan(s) will set forth the criteria upon which the Contractor will be evaluated relating to any technical, schedule, management, and/or cost objectives selected for evaluation. Such criteria should be objective, but may also include subjective criteria. The Plan(s) shall also set forth the method by which the total available fee amount will be allocated and the amount earned determined.
- (3) The Performance Evaluation and Measurement Plan(s) may, consistent with the Contract statement of work, be revised during the period of performance. The Contracting Officer shall notify the Contractor:
- (i) of such unilateral changes at least ninety calendar days prior to the end of the affected evaluation period and at least thirty calendar days prior to the effective date of the change;
 - (ii) of such bilateral changes at least sixty calendar days prior to the end of the affected evaluation period; or
 - (iii) if such change, whether unilateral or bilateral, is urgent and high priority, at least thirty calendar days prior to the end of the evaluation period.
- (e) Schedule for total available fee amount earned determinations. The DOE Operations/Field Office Manager, or designee, shall issue the final total available fee amount earned determination in accordance with: the schedule set forth in the Performance Evaluation and Measurement Plan(s); or as otherwise set forth in this Contract. However, a determination must be made within sixty calendar days after the receipt by the Contracting Officer of the Contractor's self-assessment, if

one is required or permitted by paragraph (f) of this clause, or seventy calendar days after the end of the evaluation period, whichever is later, or a longer period if the Contractor and Contracting Officer agree. If the Contracting Officer evaluates the Contractor's performance of specific requirements on their completion, the payment of any earned fee amount must be made within seventy calendar days (or such other time period as mutually agreed to between the Contracting Officer and the Contractor) after such completion. If the determination is delayed beyond that date, the Contractor shall be entitled to interest on the determined total available fee amount earned at the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (*41 U.S.C. 611*) that is in effect on the payment date. This rate is referred to as the "Renegotiation Board Interest Rate," and is published in the Federal Register semiannually on or about January 1 and July 1. The interest on any late total available fee amount earned determination will accrue daily and be compounded in 30-day increments inclusive from the first day after the schedule determination date through the actual date the determination is issued. That is, interest accrued at the end of any 30-day period will be added to the determined amount of fee earned and be subject to interest if not paid in the succeeding 30-day period.

- (f) ***Contractor self-assessment. Following each evaluation period, the Contractor may submit a self-assessment, provided such assessment is submitted within 30 calendar days after the end of the period. This self-assessment shall address both the strengths and weaknesses of the Contractor's performance during the evaluation period. Where deficiencies in performance are noted, the Contractor shall describe the actions planned or taken to correct such deficiencies and avoid their recurrence. The DOE Operations/Field Office Manager, or designee, will review the Contractor's self-assessment, if submitted, as part of its independent evaluation of the Contractor's management during the period. A self-assessment, in and of itself may not be the only basis for the award fee determination. [M528]***

(End of Clause)

I-84 DEAR 970.5215-3 – Conditional Payment of Fee, Profit, and Other Incentives – Facility Management Contracts (Aug 2009) Alt II (Aug 2009)

- (a) General.
- (1) The payment of earned fee, fixed fee, profit, or share of cost savings under this contract is dependent upon—
- (i) The Contractor's or Contractor employees' compliance with the terms and conditions of this contract relating to environment, safety and health (ES&H), which includes worker safety and health (WS&H), including performance under an approved Integrated Safety Management System (ISMS); and

- (ii) The Contractor's or Contractor employees' compliance with the terms and conditions of this contract relating to the safeguarding of Restricted Data and other classified information.
 - (2) The ES&H performance requirements of this contract are set forth in its ES&H terms and conditions, including the DOE approved contractor ISMS or similar document. Financial incentives for timely mission accomplishment or cost effectiveness shall never compromise or impede full and effective implementation of the ISMS and full ES&H compliance.
 - (3) The performance requirements of this contract relating to the safeguarding of Restricted Data and other classified information are set forth in the clauses of this contract entitled, "Security" and "Laws, Regulations, and DOE Directives," as well as in other terms and conditions.
 - (4) If the Contractor does not meet the performance requirements of this contract relating to ES&H or to the safeguarding of Restricted Data and other classified information during any performance evaluation period established under the contract pursuant to the clause of this contract entitled, "Total Available Fee: Base Fee Amount and Performance Fee Amount," otherwise earned fee, fixed fee, profit or share of cost savings may be unilaterally reduced by the contracting officer.
- (b) Reduction Amount.
- (1) The amount of earned fee, fixed fee, profit, or share of cost savings that may be unilaterally reduced will be determined by the severity of the performance failure pursuant to the degrees specified in paragraphs (c) and (d) of this clause.
 - (2) If a reduction of earned fee, fixed fee, profit, or share of cost savings is warranted, unless mitigating factors apply, such reduction shall not be less than 26% nor greater than 100% of the amount of earned fee, fixed fee, profit, or the Contractor's share of cost savings for a first degree performance failure, not less than 11% nor greater than 25% for a second degree performance failure, and up to 10% for a third degree performance failure.
 - (3) In determining the amount of the reduction and the applicability of mitigating factors, the contracting officer must consider the Contractor's overall performance in meeting the ES&H or security requirements of the contract. Such consideration must include performance against any site specific performance criteria/requirements that provide additional definition, guidance for the amount of reduction, or guidance for the applicability of mitigating factors. In all cases, the contracting officer must consider mitigating factors that may warrant a reduction below the

applicable range (see 48 CFR 970.1504-1-2). The mitigating factors include, but are not limited to, the following ((v), (vi), (vii) and (viii) apply to ES&H only).

- (i) Degree of control the Contractor had over the event or incident.
- (ii) Efforts the Contractor had made to anticipate and mitigate the possibility of the event in advance.
- (iii) Contractor self-identification and response to the event to mitigate impacts and recurrence.
- (iv) General status (trend and absolute performance) of: ES&H and compliance in related areas;

or of safeguarding Restricted Data and other classified information and compliance in related areas.
- (v) Contractor demonstration to the Contracting Officer's satisfaction that the principles of industrial ES&H standards are routinely practiced (e.g., Voluntary Protection Program, ISO 14000).
- (vi) Event caused by "Good Samaritan" act by the Contractor (e.g., offsite emergency response).
- (vii) Contractor demonstration that a performance measurement system is routinely used to improve and maintain ES&H performance (including effective resource allocation) and to support DOE corporate decision-making (e.g., policy, ES&H programs).
- (viii) Contractor demonstration that an Operating Experience and Feedback Program is functioning that demonstrably affects continuous improvement in ES&H by use of lessons-learned and best practices inter- and intra-DOE sites.

(4)

- (i) The amount of fee, fixed fee, profit, or share of cost savings that is otherwise earned by a contractor during an evaluation period may be reduced in accordance with this clause if it is determined that a performance failure warranting a reduction under this clause occurs within the evaluation period.
- (ii) The amount of reduction under this clause, in combination with any reduction made under any other clause in the contract, shall not exceed the amount of fee, fixed fee, profit, or the Contractor's

share of cost savings that is otherwise earned during the evaluation period.

- (iii) For the purposes of this clause, earned fee, fixed fee, profit, or share of cost savings for the evaluation period shall mean the amount determined by the Contracting Officer or fee determination official as otherwise payable based on the Contractor's performance during the evaluation period. Where the contract provides for financial incentives that extend beyond a single evaluation period, this amount shall also include: any provisional amounts determined otherwise payable in the evaluation period; and, if provisional payments are not provided for, the allocable amount of any incentive determined otherwise payable at the conclusion of a subsequent evaluation period. The allocable amount shall be the total amount of the earned incentive divided by the number of evaluation periods over which it was earned.
- (iv) The Government will effect the reduction as soon as practicable after the end of the evaluation period in which the performance failure occurs. If the Government is not aware of the failure, it will effect the reduction as soon as practical after becoming aware. For any portion of the reduction requiring an allocation the Government will effect the reduction at the end of the evaluation period in which it determines the total amount earned under the incentive. If at any time a reduction causes the sum of the payments the Contractor has received for fee, fixed fee, profit, or share of cost savings to exceed the sum of fee, fixed fee, profit, or share of cost savings the Contractor has earned (provisionally or otherwise), the Contractor shall immediately return the excess to the Government. (What the Contractor "has earned" reflects any reduction made under this or any other clause of the contract.)
- (v) At the end of the contract—
 - (A) The Government will pay the Contractor the amount by which the sum of fee, fixed fee, profit, or share of cost savings the Contractor has earned exceeds the sum of the payments the Contractor has received; or
 - (B) The Contractor shall return to the Government the amount by which the sum of the payments the Contractor has received exceeds the sum of fee, fixed fee, profit, or share of cost savings the Contractor has earned. (What the Contractor "has earned" reflects any reduction made under this or any other clause of the contract.)

- (c) Environment, Safety and Health (ES&H). Performance failures occur if the Contractor does not comply with the contract's ES&H terms and conditions, including the DOE approved Contractor ISMS. The degrees of performance failure under which reductions of earned or fixed fee, profit, or share of cost savings will be determined are:
- (1) First Degree: Performance failures that are most adverse to ES&H. Failure to develop and obtain required DOE approval of an ISMS is considered first degree. The Government will perform necessary review of the ISMS in a timely manner and will not unreasonably withhold approval of the Contractor's ISMS. The following performance failures or performance failures of similar import will be considered first degree.
 - (i) Type A accident (defined in DOE Order 225.1A).
 - (ii) Two Second Degree performance failures during an evaluation period.
 - (2) Second Degree: Performance failures that are significantly adverse to ES&H. They include failures to comply with an approved ISMS that result in an actual injury, exposure, or exceedence that occurred or nearly occurred but had minor practical long-term health consequences. They also include breakdowns of the Safety Management System. The following performance failures or performance failures of similar import will be considered second degree:
 - (i) Type B accident (defined in DOE Order 225.1A).
 - (ii) Non-compliance with an approved ISMS that results in a near miss of a Type A or B accident. A near miss is a situation in which an inappropriate action occurs, or a necessary action is omitted, but does not result in an adverse effect.
 - (iii) Failure to mitigate or notify DOE of an imminent danger situation after discovery, where such notification is a requirement of the contract.
 - (3) Third Degree: Performance failures that reflect a lack of focus on improving ES&H. They include failures to comply with an approved ISMS that result in potential breakdown of the System. The following performance failures or performance failures of similar import will be considered third degree:
 - (i) Failure to implement effective corrective actions to address deficiencies/non-compliances documented through: external (e.g., Federal) oversight and/or reported per DOE Order 231.1-2

requirements; or internal oversight of DOE Order 440.1A requirements.

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

classified as Top Secret, any classification level of information in a SAP, information identified as SCI, or high risk nuclear weapons-related data.

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

serious incidents. The following are examples of performance failures or performance failures of similar import that will be considered third degree:

- (i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating risk of, loss, compromise, or unauthorized disclosure of Restricted Data or other information classified as Confidential.
 - (ii) Failure to promptly report alleged or suspected violations of laws, regulations, or directives pertaining to the safeguarding of Restricted Data or other classified information.
 - (iii) Failure to identify or timely execute corrective actions to mitigate or eliminate identified vulnerabilities and reduce residual risk relating to the protection of Restricted Data or other classified information in accordance with the Contractor's Safeguards and Security Plan or other security plan, as applicable.
 - (iv) Contractor actions that result in performance failures which unto themselves pose minor risk, but when viewed in the aggregate indicate degradation in the integrity of the Contractor's safeguards and security management system relating to the protection of Restricted Data and other classified information.
- (e) ***Minimum requirements for specified level of performance.***
- (1) ***At a minimum the Contractor must perform the following—***
 - (i) ***The requirements with specific incentives which do not require the achievement of cost efficiencies in order to be performed at the level of performance set forth in the Statement of Work, Work Authorization Directive, or similar document unless an otherwise minimum level of performance has been established in the specific incentive;***
 - (ii) ***All of the performance requirements directly related to requirements specifically incentivized which do not require the achievement of cost efficiencies in order to be performed at a level of performance such that the overall performance of these related requirements is at an acceptable level; and***
 - (iii) ***All other requirements at a level of performance such that the total performance of the contract is not jeopardized.***
 - (2) ***The evaluation of the Contractor's achievement of the level of performance shall be unilaterally determined by the Government. To the***

extent that the Contractor fails to achieve the minimum performance levels specified in the Statement of Work, Work Authorization Directive, or similar document, during the performance evaluation period, the DOE Operations/Field Office Manager, or designee, may reduce any otherwise earned fee, fixed fee, profit, or shared net savings for the performance evaluation period. Such reduction shall not result in the total of earned fee, fixed fee, profit, or shared net savings being less than 25% of the total available fee amount. Such 25% shall include base fee, if any.

(f) Minimum requirements for cost performance.

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

(End of Clause)

[M779]

I-84A DEAR 970.5217-1 Work for Others Program (Non-DOE Funded Work) (Jan 2005)

- (a) Authority to Perform Work for Others.** Pursuant to the Economy Act of 1932, as amended (31 U.S.C. 1535), and the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*) or other applicable authority, the Contractor may perform work for non-DOE entities (sponsors) on a fully reimbursable basis in accordance with this clause.
- (b) Contractor's Implementation.** The Contractor must draft, implement, and maintain formal policies, practices, and procedures in accordance with this clause, which must be submitted to the Contracting Officer for review and approval.
- (c) Conditions of Participation in Work for Others Program.** The Contractor:

- (1) Must not perform Work for Others activities that would place it in direct competition with the domestic private sector;
- (2) Must not respond to a request for proposals or any other solicitation from another Federal agency or non-Federal organization that involves direct comparative competition, either as an offeror, team member, or subcontractor to an offeror; however, the Contractor may, following notification to the Contracting Officer, respond to Broad Agency Announcements, Financial Assistance solicitations, and similar solicitations from another Federal Agency or non-Federal organizations when the selection is based on merit or peer review, the work involves basic or applied research to further advance scientific knowledge or understanding, and a response does not result in direct, comparative competition;
- (3) Must not commence work on any Work for Others activity until a Work for Others proposal package has been approved by the DOE Contracting Officer or designated representative;
- (4) Must not incur project costs until receipt of DOE notification that a budgetary resource is available for the project, except as provided in 48 CFR 970.5232-6;
- (5) Must ensure that all costs associated with the performance of the work, including specifically all DOE direct costs and applicable surcharges, are included in any Work for Others proposal;
- (6) Must maintain records for the accumulation of costs and the billing of such work to ensure that DOE's appropriated funds are not used in support of Work for Others activities and to provide an accounting of the expenditures to DOE and the sponsor upon request;
- (7) Must perform all Work for Others projects in accordance with the standards, policies, and procedures that apply to performance under this contract, including but not limited to environmental, safety and health, security, safeguards and classification procedures, and human and animal research regulations;
- (8) May subcontract portion(s) of a Work for Others project; however, the Contractor must select the subcontractor and the work to be subcontracted. Any subcontracted work must be in direct support of the DOE contractor's performance as defined in the DOE approved work for others proposal package; and,
- (9) Must maintain a summary listing of project information for each active Work for Others project, consisting of:

- (i) Sponsoring agency;
 - (ii) Total estimated costs;
 - (iii) Project title and description;
 - (iv) Project point of contact; and,
 - (v) Estimated start and completion dates.
- (d) Negotiation and Execution of Work for Others Agreement.
- (1) When delegated authority by the Contracting Officer, the Contractor may negotiate the terms and conditions that will govern the performance of a specific Work for Others project. Such terms and conditions must be consistent with the terms, conditions, and requirements of the Contractor's contract with DOE. The Contractor may use DOE-approved contract terms and conditions as delineated in DOE Manual 481.1-1A or terms and conditions previously approved by the responsible Contracting Officer or authorized designee for agreements with non-Federal entities. The Contractor must not hold itself out as representing DOE when negotiating the proposed Work for Others agreement.
 - (2) The Contractor must submit all Work for Others agreements to the DOE Contracting Officer for DOE review and approval. The Contractor may not execute any proposed agreement until it has received notice of DOE approval.
- (e) Preparation of Project Proposals. When the Contractor proposes to perform Work for Others activities pursuant to this clause, it may assist the project sponsor in the preparation of project proposal packages including the preparation of cost estimates.
- (f) Work for Others Appraisals. DOE may conduct periodic appraisals of the Contractor's compliance with its Work for Others Program policies, practices and procedures. The Contractor must provide facilities and other support in conjunction with such appraisals as directed by the Contracting Officer or authorized designee.
- (g) Annual Work for Others Report. The Contractor must provide assistance as required by the Contracting Officer or authorized designee in the preparation of a DOE Annual Summary Report of Work for Others Activities under the contract.
- [M432]**

(End of Clause)

I-85 DEAR 970.5222-1 Collective Bargaining Agreements Management and Operating Contracts (Dec 2000)

When negotiating collective bargaining agreements applicable to the work force under this Contract, the Contractor shall use its best efforts to ensure such agreements contain provisions designed to assure continuity of services. All such agreements entered into during the Contract period of performance should provide that grievances and disputes involving the interpretation or application of the agreement will be settled without resorting to strike, lockout, or other interruption of normal operations. For this purpose, each collective bargaining agreement should provide an effective grievance procedure with arbitration as its final step, unless the Parties mutually agree upon some other method of assuring continuity of operations. As part of such agreements, management and labor should agree to cooperate fully with the Federal Mediation and Conciliation Service. The Contractor shall include the substance of this clause in any subcontracts for protective services or other services performed on the DOE-owned site, which will affect the continuity of operation of the facility.

(End of Clause)

I-86 DEAR 970.5222-2 Overtime Management (Dec 2000)

- (a) The Contractor shall maintain adequate internal controls to ensure that employee overtime is authorized only if cost effective and necessary to ensure performance of work under this Contract.
- (b) The Contractor shall notify the Contracting Officer when in any given year it is likely that overtime usage as a percentage of payroll may exceed 4%.
- (c) The Contracting Officer may require the submission, for approval, of a formal annual overtime control plan whenever Contractor overtime usage as a percentage of payroll has exceeded, or is likely to exceed, 4%, or if the Contracting Officer otherwise deems overtime expenditures excessive. The plan shall include, at a minimum:
 - (1) An overtime premium fund (maximum dollar amount);
 - (2) Specific controls for casual overtime for non-exempt employees;
 - (3) Specific parameters for allowability of exempt overtime;
 - (4) An evaluation of alternatives to the use of overtime; and
 - (5) Submission of a semi-annual report that includes for exempt and non-exempt employees:
 - (i) Total cost of overtime;

- (ii) Total cost of straight time;
- (iii) Overtime cost as a percentage of straight-time cost;
- (iv) Total overtime hours;
- (v) Total straight-time hours; and
- (vi) Overtime hours as a percentage of straight-time hours.

(End of Clause)

I-87 DEAR 970.5223-1 Integration of Environment, Safety, and Health into Work Planning and Execution (Dec 2000)

- (a) For the purposes of this clause,
 - (1) Safety encompasses environment, safety and health, including pollution prevention and waste minimization; and
 - (2) Employees include subcontractor employees.
- (b) In performing work under this Contract, the Contractor shall perform work safely, in a manner that ensures adequate protection for employees, the public, and the environment, and shall be accountable for the safe performance of work. The Contractor shall exercise a degree of care commensurate with the work and the associated hazards. The Contractor shall ensure that management of environment, safety and health (ES&H) functions and activities becomes an integral but visible part of the Contractor's work planning and execution processes. The Contractor shall, in the performance of work, ensure that:
 - (1) Line management is responsible for the protection of employees, the public, and the environment. Line management includes those Contractor and subcontractor employees managing or supervising employees performing work.
 - (2) Clear and unambiguous lines of authority and responsibility for ensuring (ES&H) are established and maintained at all organizational levels.
 - (3) Personnel possess the experience, knowledge, skills, and abilities that are necessary to discharge their responsibilities.
 - (4) Resources are effectively allocated to address ES&H, programmatic, and operational considerations. Protecting employees, the public, and the environment is a priority whenever activities are planned and performed.
 - (5) Before work is performed, the associated hazards are evaluated and an agreed-upon set of ES&H standards and requirements are established

which, if properly implemented, provide adequate assurance that employees, the public, and the environment are protected from adverse consequences.

- (6) Administrative and engineering controls to prevent and mitigate hazards are tailored to the work being performed and associated hazards. Emphasis should be on designing the work and/or controls to reduce or eliminate the hazards and to prevent accidents and unplanned releases and exposures.
 - (7) The conditions and requirements to be satisfied for operations to be initiated and conducted are established and agreed-upon by DOE and the Contractor. These agreed-upon conditions and requirements are requirements of the Contract and binding upon the Contractor. The extent of documentation and level of authority for agreement shall be tailored to the complexity and hazards associated with the work and shall be established in a Safety Management System.
- (c) The Contractor shall manage and perform work in accordance with a documented Safety Management System (System) that fulfills all conditions in paragraph (b) of this clause at a minimum. Documentation of the System shall describe how the Contractor will:
- (1) Define the scope of work;
 - (2) Identify and analyze hazards associated with the work;
 - (3) Develop and implement hazard controls;
 - (4) Perform work within controls; and
 - (5) Provide feedback on adequacy of controls and continue to improve safety management.
- (d) The System shall describe how the Contractor will establish, document, and implement safety performance objectives, performance measures, and commitments in response to DOE program and budget execution guidance while maintaining the integrity of the System. The System shall also describe how the Contractor will measure system effectiveness.
- (e) The Contractor shall submit to the Contracting Officer documentation of its System for review and approval. Dates for submittal, discussions, and revisions to the System will be established by the Contracting Officer. Guidance on the preparation, content, review, and approval of the System will be provided by the Contracting Officer. On an annual basis, the Contractor shall review and update, for DOE approval, its safety performance objectives, performance measures, and commitments consistent with and in response to DOE's program and budget

execution guidance and direction. Resources shall be identified and allocated to meet the safety objectives and performance commitments as well as maintain the integrity of the entire System. Accordingly, the System shall be integrated with the Contractor's business processes for work planning, budgeting, authorization, execution, and change control.

- (f) The Contractor shall comply with, and assist the Department of Energy in complying with, ES&H requirements of all applicable laws and regulations, and applicable directives identified in the clause of this Contract entitled "Laws, Regulations, and DOE Directives." The Contractor shall cooperate with Federal and non-Federal agencies having jurisdiction over ES&H matters under this Contract.
- (g) The Contractor shall promptly evaluate and resolve any noncompliance with applicable ES&H requirements and the System. If the Contractor fails to provide resolution or if, at any time, the Contractor's acts or failure to act causes substantial harm or an imminent danger to the environment or health and safety of employees or the public, the Contracting Officer may issue an order stopping work in whole or in part. Any stop work order issued by a Contracting Officer under this clause (or issued by the Contractor to a subcontractor in accordance with paragraph (i) of this clause) shall be without prejudice to any other legal or contractual rights of the Government. In the event that the Contracting Officer issues a stop work order, an order authorizing the resumption of the work may be issued at the discretion of the Contracting Officer. The Contractor shall not be entitled to an extension of time or additional fee or damages by reason of, or in connection with, any work stoppage ordered in accordance with this clause.
- (h) Regardless of the performer of the work, the Contractor is responsible for compliance with the ES&H requirements applicable to this Contract. The Contractor is responsible for flowing down the ES&H requirements applicable to this Contract to subcontracts at any tier to the extent necessary to ensure the Contractor's compliance with the requirements.
- (i) The Contractor shall include a clause substantially the same as this clause in subcontracts involving complex or hazardous work on site at a DOE-owned or-leased facility. Such subcontracts shall provide for the right to stop work under the conditions described in paragraph (g) of this clause. Depending on the complexity and hazards associated with the work, the Contractor may choose not to require the subcontractor to submit a Safety Management System for the Contractor's review and approval.

(End of Clause)

I-88 RESERVED [M779]

I-89 DEAR 970.5223-4 – Workplace Substance Abuse Programs at DOE Sites (Dec 2010)

- (a) Program Implementation. The Contractor shall, consistent with 10 CFR part 707, Workplace Substance Abuse Programs at DOE Sites, incorporated herein by reference with full force and effect, develop, implement, and maintain a workplace substance abuse program.
- (b) Remedies. In addition to any other remedies available to the Government, the Contractor's failure to comply with the requirements of 10 CFR part 707 or to perform in a manner consistent with its approved program may render the Contractor subject to: the suspension of contract payments, or, where applicable, a reduction in award fee; termination for default; and suspension or debarment.
- (c) *Subcontracts.*
 - (1) The Contractor agrees to notify the Contracting Officer reasonably in advance of, but not later than 30 days prior to, the award of any subcontract the Contractor believes may be subject to the requirements of 10 CFR part 707, unless the Contracting Officer agrees to a different date.
 - (2) The DOE Prime Contractor shall require all subcontracts subject to the provisions of 10 CFR part 707 to agree to develop and implement a workplace substance abuse program that complies with the requirements of 10 CFR part 707, Workplace Substance Abuse Programs at DOE Sites, as a condition for award of the subcontract. The DOE Prime Contractor shall review and approve each subcontractor's program, and shall periodically monitor each subcontractor's implementation of the program for effectiveness and compliance with 10 CFR part 707.
 - (3) The Contractor agrees to include, and require the inclusion of, the requirements of this clause in all subcontracts, at any tier, that are subject to the provisions of 10 CFR part 707.

(End of Clause)

[M779]

I-90 DEAR 970.5226-1 – Diversity Plan (Dec 2000)

The Contractor shall submit a Diversity Plan to the Contracting Officer for approval within 90 days after the effective date of this contract (or contract modification, if appropriate). The Contractor shall submit an update to its Plan annually or with its annual fee proposal. Guidance for preparation of a Diversity Plan is provided in the Appendix. The Plan shall include innovative strategies for increasing opportunities to fully use the talents and capabilities of a diverse work force. The Plan shall address, at a minimum, the

Contractor's approach for promoting diversity through (1) the Contractor's work force, (2) educational outreach, (3) community involvement and outreach, (4) subcontracting, (5) economic development (including technology transfer), and (6) the prevention of profiling based on race or national origin.

(End of Clause)

[M779]

I-91 DEAR 970.5226-2 Workforce Restructuring under Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Dec 2000)

- (a) Consistent with the objectives of Section 3161 of the National Defense Authorization Act for Fiscal Year 1993, *42 U.S.C. 7274h*, in instances where the Department of Energy has determined that a change in workforce at a Department of Energy Defense Nuclear Facility is necessary, the Contractor agrees to (1) comply with the Department of Energy Workforce Restructuring Plan for the facility, if applicable, and (2) use its best efforts to accomplish workforce restructuring or displacement so as to mitigate social and economic impacts.
- (b) The requirements of this clause shall be included in subcontracts at any tier (except subcontracts for commercial items pursuant to *41 U.S.C. 403*) expected to exceed \$500,000.

(End of Clause)

I-92 DEAR 970.5226-3 Community Commitment (Dec 2000)

It is the policy of the DOE to be a constructive partner in the geographic region in which DOE conducts its business. The basic elements of this policy include: (1) Recognizing the diverse interests of the region and its stakeholders, (2) engaging regional stakeholders in issues and concerns of mutual interest, and (3) recognizing that giving back to the community is a worthwhile business practice. Accordingly, the Contractor agrees that its business operations and performance under the Contract will be consistent with the intent of the policy and elements set forth above.

(End of Clause)

I-93 DEAR 970.5227-2 – Rights in Data – Technology Transfer (Dec 2000) (Class Deviation Jul 2006) Acquisition Letter 2006-10

- (a) *Definitions.*
- (1) Computer data bases, as used in this clause, means a collection of data in a form capable of, and for the purpose of, being stored in, processed, and operated on by a computer. The term does not include computer software.
- (2) Computer software, as used in this clause, means (i) computer programs which are data comprising a series of instructions, rules, routines, or statements, regardless of the media in which recorded, that allow or cause a computer to perform a specific operation or series of operations and (ii)

data comprising source code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable the computer program to be produced, created, or compiled. The term does not include computer data bases.

- (3) Data, as used in this clause, means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term "data" does not include data incidental to the administration of this contract, such as financial, administrative, cost and pricing, or management information.
- (4) Limited rights data, as used in this clause, means data, other than computer software, developed at private expense that embody trade secrets or are commercial or financial and confidential or privileged. The Government's rights to use, duplicate, or disclose limited rights data are as set forth in the Limited Rights Notice of paragraph (h) of this clause.
- (5) Restricted computer software, as used in this clause, means computer software developed at private expense and that is a trade secret; is commercial or financial and is confidential or privileged; or is published copyrighted computer software, including minor modifications of any such computer software. The Government's rights to use, duplicate, or disclose restricted computer software are as set forth in the Restricted Rights Notice of subparagraph (i) of this clause.
- (6) Technical data, as used in this clause, means recorded data, regardless of form or characteristic, that are of a scientific or technical nature. Technical data does not include computer software, but does include manuals and instructional materials and technical data formatted as a computer data base.
- (7) Unlimited rights, as used in this clause, means the rights of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, including by electronic means, and perform publicly and display publicly, in any manner, including by electronic means, and for any purpose whatsoever, and to have or permit others to do so.
- (8) Open Source Software, as used in this clause, means computer software that is distributed under a license in which the user is granted the rights to use, copy, modify, prepare derivative works and distribute, in source code or other format, the software, in original or modified form and derivative works thereof, without having to make royalty payments. The Contractor's right to distribute computer software first produced in the performance of this Contract as Open Source Software is as set forth in paragraph (f).

(b) *Allocation of Rights.*

- (1) The Government shall have:
 - (i) Ownership of all technical data and computer software first produced in the performance of this contract
 - (ii) Unlimited rights in technical data and computer software specifically used in the performance of this Contract, except as provided herein regarding copyright, limited rights data, or restricted computer software, and except for data subject to the withholding provisions for protected Cooperative Research and Development Agreement (CRADA) information in accordance with Technology Transfer actions under this Contract, or other data specifically protected by statute for a period of time or, where, approved by DOE, appropriate instances of the DOE Work for Others Program;
 - (iii) The right to inspect technical data and computer software first produced or specifically used in the performance of this Contract at all reasonable times. The Contractor shall make available all necessary facilities to allow DOE personnel to perform such inspection;
 - (iv) The right to have all technical data and computer software first produced or specifically used in the performance of this Contract delivered to the Government or otherwise disposed of by the Contractor, either as the contracting officer may from time to time direct during the progress of the work or in any event as the contracting officer shall direct upon completion or termination of this Contract. The Contractor agrees to leave a copy of such data at the facility or plant to which such data relate, and to make available for access or to deliver to the Government such data upon request by the contracting officer. If such data are limited rights data or restricted computer software. the rights of the Government in such data shall be governed solely by the provisions of paragraph (h) of this clause ("Rights in Limited Rights Data") or paragraph (i) of this clause ("Rights in Restricted Computer Software"); and (v) The right to remove, cancel, correct, or ignore any markings not authorized by the terms of this Contract on any data furnished hereunder if, in response to a written inquiry by DOE concerning the propriety of the markings, the Contractor fails to respond thereto within 60 days or fails to substantiate the propriety of the markings. In either case DOE will notify the Contractor of the action taken.

- (2) The Contractor shall have:
 - (i) The right to withhold limited rights data and restricted computer software unless otherwise provided in provisions of this clause;
 - (ii) The right to use for its private purposes, subject to patent, security or other provisions of this Contract, data it first produces in the performance of this Contract, except for data in DOE's Uranium Enrichment Technology, including diffusion, centrifuge, and atomic vapor laser isotope separation, provided the data requirements of this Contract have been met as of the date of the private use of such data; and
 - (iii) The right to assert copyright subsisting in scientific and technical articles as provided in paragraph (d) of this clause and the right to request permission to assert copyright subsisting in works other than scientific and technical articles as provided in paragraph (e) of this clause.
 - (3) The Contractor agrees that for limited rights data or restricted computer software or other technical business or financial data in the form of recorded information which it receives from, or is given access to by DOE or a third party, including a DOE contractor or subcontractor, and for technical data or computer software it first produces under this Contract which is authorized to be marked by DOE, the Contractor shall treat such data in accordance with any restrictive legend contained thereon.
- (c) *Copyright (General).*
- (1) The Contractor agrees not to mark, register, or otherwise assert copyright in any data in a published or unpublished work, other than as set forth in paragraphs (d) and (e) of this clause.
 - (2) Except for material to which the Contractor has obtained the right to assert copyright in accordance with either paragraph (d) or (e) of this clause, the Contractor agrees not to include in the data delivered under this Contract any material copyrighted by the Contractor and not to knowingly include any material copyrighted by others without first granting or obtaining at no cost a license therein for the benefit of the Government of the same scope as set forth in paragraph (d) of this clause. If the Contractor believes that such copyrighted material for which the license cannot be obtained must be included in the data to be delivered, rather than merely incorporated therein by reference, the Contractor shall obtain the written authorization of the contracting officer to include such material in the data prior to its delivery.

(d) *Copyrighted Works (Scientific and Technical Articles).*

(1) The Contractor shall have the right to assert, without prior approval of the contracting officer, copyright subsisting in scientific and technical articles composed under this contract or based on or containing data first produced in the performance of this Contract, and published in academic, technical or professional journals, symposia, proceedings, or similar works. When assertion of copyright is made, the Contractor shall affix the applicable copyright notice of [17 U.S.C. 401](#) or 402 and acknowledgment of Government sponsorship (including contract number) on the data when such data are delivered to the Government as well as when the data are published or deposited for registration as a published work in the U.S. Copyright Office. The Contractor grants to the Government, and others acting on its behalf, a nonexclusive, paid-up, irrevocable, world-wide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government.

(2) The contractor shall mark each scientific or technical article first produced or composed under this Contract and submitted for journal publication or similar means of dissemination with a notice, similar in all material respects to the following, on the front reflecting the Government's non-exclusive, paid-up, irrevocable, world-wide license in the copyright.

Notice: This manuscript has been authored by Battelle Memorial Institute under Contract No. DE-AC05-76RL01830 with the U.S. Department of Energy. The United States Government retains and the publisher, by accepting the article for publication, acknowledges that the United States Government retains a non-exclusive, paid-up, irrevocable, world-wide license to publish or reproduce the published form of this manuscript, or allow others to do so, for United States Government purposes.

(End of Notice)

(3) The title to the copyright of the original of unclassified graduate theses and the original of related unclassified scientific papers vest in the author thereof, subject to the right of DOE to retain duplicates of such documents and to use such documents for any purpose whatsoever without any claim on the part of the author or the contractor for additional compensation.

(e) *Copyrighted Works (Other Than Scientific and Technical Articles and Data Produced under a CRADA).*

The Contractor may obtain permission to assert copyright subsisting in technical data and computer software first produced by the Contractor in performance of this

Contract, where the Contractor can show that commercialization would be enhanced by such copyright protection, subject to the following:

- (1) Contractor Request to Assert Copyright.
 - (i) For data other than scientific and technical articles and data produced under a CRADA, the Contractor shall submit in writing to Patent Counsel its request to assert copyright in data first produced in the performance of this Contract pursuant to this clause. The right of the Contractor to copyright data first produced under a CRADA is as described in the individual CRADA. Each request by the Contractor must include:
 - (A) The identity of the data (including any computer program) for which the Contractor requests permission to assert copyright, as well as an abstract which is descriptive of the data and is suitable for dissemination purposes,
 - (B) The program under which it was funded,
 - (C) Whether, to the best knowledge of the Contractor, the data is subject to an international treaty or agreement,
 - (D) Whether the data is subject to export control,
 - (E) A statement that the Contractor plans to commercialize the data in compliance with the clause of this contract entitled, "Technology Transfer Mission," within five (5) years after obtaining permission to assert copyright or, on a case-by-case basis, a specified longer period where the Contractor can demonstrate that the ability to commercialize effectively is dependent upon such longer period, and
 - (F) For data other than computer software, a statement explaining why the assertion of copyright is necessary to enhance commercialization and is consistent with DOE's dissemination responsibilities.
 - (ii) For data that is developed using other funding courses in addition to DOE funding, the permission to assert copyright in accordance with this clause must also be obtained by the Contractor from all other funding sources prior to the Contractor's request to Patent Counsel. The request shall include the Contractor's certification or other documentation acceptable to Patent Counsel demonstrating such permission has been obtained.

- (iii) Permission for the Contractor to assert copyright in excepted categories of data as determined by DOE will be expressly withheld. Such excepted categories include data whose release
- (A) would be detrimental to national security, i.e., involve classified information or data or sensitive information under Section 148 of the Atomic Energy Act of 1954, as amended, or are subject to export control for nonproliferation and other nuclear-related national security purposes,
 - (B) would not enhance the appropriate transfer or dissemination and commercialization of such data,
 - (C) would have a negative impact on U.S. industrial competitiveness,
 - (D) would prevent DOE from meeting its obligations under treaties and international agreements, or
 - (E) would be detrimental to one or more of DOE's programs.

Additional excepted categories may be added by the Assistant General Counsel for Technology Transfer and Intellectual Property. Where data are determined to be under export control restriction, the Contractor may obtain permission to assert copyright subject to the provisions of this clause for purposes of limited commercialization in a manner that complies with export control statutes and applicable regulations. In addition, notwithstanding any other provision of this Contract, all data developed with Naval Reactors' funding and those data that are classified fall within excepted categories. The rights of the Contractor in data are subject to the disposition of data rights in the treaties and international agreements identified under this Contract as well as those additional treaties and international agreements which DOE may from time to time identify by unilateral amendment to the Contract; such amendment listing added treaties and international agreements is effective only for data which is developed after the date such treaty or international agreement is added to this Contract. Also, the Contractor will not be permitted to assert copyright in data in the form of various technical reports generated by the Contractor under the Contract without first obtaining the advanced written permission of the contracting officer.

- (2) DOE Review and Response to Contractor's Request. The Patent Counsel shall use its best efforts to respond in writing within 90 days of receipt of a complete request by the Contractor to assert copyright in technical data and computer software pursuant to this clause. Such response shall either give or withhold DOE's permission for the Contractor to assert copyright or advise the Contractor that DOE needs additional time to respond, and the reasons therefor.
- (3) Permission for Contractor to Assert Copyright.
 - (i) For computer software, the Contractor shall furnish to the DOE designated, centralized software distribution and control point, the Energy Science and Technology Software Center, at the time permission to assert copyright is given under paragraph (e)(2) of this clause:
 - (A) An abstract describing the software suitable for publication,
 - (B) the source code for each software program, and
 - (C) the object code and at least the minimum support documentation needed by a technically competent user to understand and use the software. The Patent Counsel, for good cause shown by the Contractor, may allow the minimum support documentation to be delivered within 60 days after permission to assert copyright is given or at such time the minimum support documentation becomes available. The Contractor acknowledges that the DOE designated software distribution and control point may provide a technical description of the software in an announcement identifying its availability from the copyright holder.
 - (ii) Unless otherwise directed by the contracting officer, for data other than computer software to which the Contractor has received permission to assert copyright under paragraph (e)(2) of this clause above, the Contractor shall within sixty (60) days of obtaining such permission furnish to DOE's Office of Scientific and Technical Information (OSTI) a copy of such data as well as an abstract of the data suitable for dissemination purposes. The Contractor acknowledges that OSTI may provide an abstract of the data in an announcement to DOE, its contractors and to the public identifying its availability from the copyright holder.
 - (iii) For a five year period or such other specified period as specifically approved by Patent Counsel beginning on the date the Contractor

is given permission to assert copyright in data, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable worldwide license in such copyrighted data to reproduce, prepare derivative works and perform publicly and display publicly, by or on behalf of the Government. Upon request, the initial period may be extended after DOE approval. The DOE approval will be based on the standard that the work is still commercially available and the market demand is being met.

- (iv) After the period approved by Patent Counsel for application of the limited Government license described in paragraph (e)(3)(iii) of this clause, or if, prior to the end of such period(s), the Contractor abandons commercialization activities pertaining to the data to which the Contractor has been given permission to assert copyright, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable worldwide license in such copyrighted data to reproduce, distribute copies to the public, prepare derivative works, perform publicly and display publicly, and to permit others to do so.
- (v) Whenever the Contractor asserts copyright in data pursuant to the paragraph (e), the Contractor shall affix the applicable copyright notice of [17 U.S.C. 401](#) or 402 on the copyrighted data and also an acknowledgment of the Government sponsorship and license rights of paragraphs (e)(3) (iii) and (iv) of this clause. Such action shall be taken when the data are delivered to the Government, published, licensed or deposited for registration as a published work in the U.S. Copyright Office. The acknowledgment of Government sponsorship and license rights shall be as follows:

Notice: These data were produced by Battelle Memorial Institute under Contract No. DE-AC05-76RL01830 with the Department of Energy. For (period approved by DOE Patent Counsel) from (date permission to assert copyright was obtained), the Government is granted for itself and others acting on its behalf a nonexclusive, paid-up, irrevocable worldwide license in this data to reproduce, prepare derivative works, and perform publicly and display publicly, by or on behalf of the Government. There is provision for the possible extension of the term of this license. Subsequent to that period or any extension granted, the Government is granted for itself and others acting on its behalf a nonexclusive, paid-up, irrevocable worldwide license in this data to reproduce, prepare derivative works, distribute copies to the public, perform publicly and display publicly, and to permit others to do so. The specific term of the license can be identified by inquiry made to Contractor

or DOE. NEITHER THE UNITED STATES NOR THE UNITED STATES DEPARTMENT OF ENERGY, NOR ANY OF THEIR EMPLOYEES, MAKES ANY WARRANTY, EXPRESS OR IMPLIED, OR ASSUMES ANY LEGAL LIABILITY OR RESPONSIBILITY FOR THE ACCURACY, COMPLETENESS, OR USEFULNESS OF ANY DATA, APPARATUS, PRODUCT, OR PROCESS DISCLOSED, OR REPRESENTS THAT ITS USE WOULD NOT INFRINGE PRIVATELY OWNED RIGHTS.

(End of Notice)

- (vi) With respect to any data to which the Contractor has received permission to assert copyright, the DOE has the right, during the five (5) year or specified longer period approved by Patent Counsel as provided for in paragraph (e) of this clause, to request the Contractor to grant a nonexclusive, partially exclusive or exclusive license in any field of use to a responsible applicant(s) upon terms that are reasonable under the circumstances, and if the Contractor refuses such request, to grant such license itself, if the DOE determines that the Contractor has not made a satisfactory demonstration that either it or its licensee(s) is actively pursuing commercialization of the data as set forth in subparagraph (e)(1)(A) of this clause. Before licensing under this subparagraph (vi), DOE shall furnish the Contractor a written request for the Contractor to grant the stated license, and the Contractor shall be allowed thirty (30) days (or such longer period as may be authorized by the contracting officer for good cause shown in writing by the Contractor) after such notice to show cause why the license should not be granted. The Contractor shall have the right to appeal the decision of the DOE to grant the stated license to the Invention Licensing Appeal Board as set forth in [10 CFR 781.65](#) -- "Appeals."
- (vii) No costs shall be allowable for maintenance of copyrighted data, primarily for the benefit of the Contractor and/or a licensee which exceeds DOE Program needs, except as expressly provided in writing by the contracting officer. The Contractor may use its net royalty income to effect such maintenance costs.
- (viii) At any time the Contractor abandons commercialization activities for data for which the Contractor has received permission to assert copyright in accordance with this clause, it shall advise OSTI and Patent Counsel and upon request assign the copyright to the Government so that the Government can distribute the data to the public.

- (4) The following notice may be placed on computer software prior to any publication and prior to the Contractor's obtaining permission from the Department of Energy to assert copyright in the computer software pursuant to paragraph (c)(3) of this section.

Notice: This computer software was prepared by Battelle Memorial Institute, hereinafter the Contractor, under Contract DE-AC05-76RL01830 with the Department of Energy (DOE). All rights in the computer software are reserved by DOE on behalf of the United States Government and the Contractor as provided in the Contract. You are authorized to use this computer software for Governmental purposes but it is not to be released or distributed to the public. NEITHER THE GOVERNMENT NOR THE CONTRACTOR MAKES ANY WARRANTY, EXPRESS OR IMPLIED, OR ASSUMES ANY LIABILITY FOR THE USE OF THIS SOFTWARE. This notice including this sentence must appear on any copies of this computer software.

(End of Notice)

- (5) A similar notice can be used for data, other than computer software, upon approval of DOE Patent Counsel.

(f) Open Source Software

The Contractor may release computer software first produced by the Contractor in the performance of this Contract under an open source software license. Such software shall hereinafter be referred to as Open Source Software or OSS, subject to the following:

(1) Obtain Program Approval

- (i) The Contractor shall ensure that the DOE Program or Programs that have provided funding (Funding Source) to develop the software have approved the distribution of the software as OSS. The funding Program(s) may provide blanket approval for all software developed with funding from that Program. However, OSS release for any one such software shall be subject to approval by all other funding Programs which provide a substantial portion of the funds for the software, if any. If approval from the funding Program(s) is not practicable, DOE Patent Counsel may provide approval instead. For software jointly developed under a CRADA or User Facility, authorization from the CRADA Participant(s) or User Facility User(s), as applicable, shall be additionally obtained for OSS release.***

- (ii) *If the software is developed with funding from a federal government agency or agencies other than DOE, then authorization from all the funding source(s) shall be obtained for OSS release, if practicable. Such federal government agency(ies) may provide blanket approval for all software developed with funding from that agency. However, OSS release of any one of such software shall be subject to approval by all other funding sources for the software, if any. If majority approval from such federal government agency(s) is not practicable, DOE Patent Counsel may provide approval instead.*
- (2) *Assert Copyright in the OSS. Once the Contractor has obtained Funding Source approval in accordance with subparagraph (1) of this section, copyright in the software to be distributed as OSS, may be asserted by the Contractor, or, for OSS developed under a CRADA or User Facility, either by the Contractor, CRADA Participant, or User FacilityUser, as applicable, which precludes marking such OSS as Protected Information.*
- (3) *Form DOE F 241.4 for OSS to ESTSC. The Contractor must submit the form DOE F 241.4 (or the current form as may be required by DOE) to DOE's Energy Science and Technology Software Center (ESTSC) at the Office of Scientific and Technical Information (OSTI). The Contractor shall provide the unique URL on the form for ESTSC to distribute.*
- (4) *OSS Record. The Contractor must maintain a record, available for inspection by DOE, of software distributed as OSS. The record shall contain the following information:*

 - (i) *name of the computer software (or other identifier),*
 - (ii) *an abstract with description or purpose of the software,*
 - (iii) *evidence of the funding Program's or source's approval,*
 - (iv) *the planned or actual OSS location on the Contractor's webpage or other publicly available location (see subparagraph (5) below);*
 - (v) *any names, logos or other identifying marks used in connection with the OSS, whether or not registered;*
 - (vi) *the type of OSS license used; and*
 - (vii) *release version of the software for Oss containing derivative works.*

Upon request of Patent Counsel, the Contractor shall periodically provide Patent Counsel a copy of the record.

- (5) Provide Public Access to the OSS. The Contractor shall ensure that the OSS is publicly accessible as an open source via the Contractor's website, Open Source Bulletin Boards operated by third parties, DOE, or other industry standard means.*
- (6) Select an OSS License. Each OSS will be distributed pursuant to an OSS license. The Contractor may choose among industry standard OSS licenses or create its own set of Contractor standard licenses. To assist the Contractor, the DOE Assistant General Counsel for Technology Transfer and Intellectual Property may periodically issue guidance on OSS licenses. Each Contractor created OSS license, must contain, at a minimum, the following provisions:*

 - (i) A disclaimer or equivalent that disclaims the Government's and Contractor's liability for licensees; and third parties' use of the software; and*
 - (ii) A grant of permission for licensee to distribute OSS containing the licensee's derivative works subject to trademark restrictions (see subparagraph (10) below). This provision might allow the licensee and third parties to commercialize their derivative works or might request that the licensee's derivative works be forwarded to the Contractor for incorporation into future OSS versions.*
- (7) Collection of administrative costs is permissible. However, the Contractor may not collect a royalty or other fee in excess of a good faith amount for cost recovery from any licensee for the Contractor's OSS.*
- (8) Relationship to other Required Clauses in the Contract. OSS distributed in accordance with this section shall not be subject to the requirements relating to indemnification of the Contractor or Federal Government, U.S. Competitiveness and U.S. Preference as set forth in paragraphs (g) and (h) of the clause within this contract entitled Technology Transfer Mission (DEAR 970.5227-3). The requirement for Contractor to request permission to assert copyright for the purpose of engaging in licensing software for royalties as set forth elsewhere in this clause is not modified by this section.*
- (9) Performance of Periodic Export Control Reviews by the Contractor. The Contractor is required to follow its Export Control review procedures before designating any software as OSS. If the Contractor is*

integrating the original OSS with other copyrightable works created by the Contractor or third parties, the Contractor may need to perform periodic export control reviews of the derivative versions.

- (10) *Determine if Trademark Protection for the OSS is Appropriate. DOE Programs and Contractors have established trademarks on some of their computer software. Therefore, the Contractor should determine whether the OSS is already protected by use of an existing trademark. If the OSS is not so protected, then the Program or the Contractor may want to seek trademark protection. If the OSS is protected by a trademark, the OSS license should state that the derivative works of the licensee or other third party may not be distributed using the proprietary trademark without appropriate prior approval.*
- (11) *Government License. For all OSS, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable worldwide license in data copyrighted in accordance with paragraph (f)(2) of this clause to reproduce, distribute copies to the public, prepare derivative works, perform publicly and display publicly, and to permit others to do so.*
- (12) *Availability of Original OSS. The object code and source code of the original OSS developed by the Contractor shall be available to any third party who requests such from the Contractor for so long as such OSS is publicly available. If the Contractor ceases to make the software publicly available, then the Contractor shall submit to ESTSC the object code and source code of the latest version of the OSS developed by the Contractor in addition to a revised DOE F 241.4 form (which includes an abstract) and the Contractor shall direct any inquiries from third parties seeking to obtain the original OSS to ESTSC.*
- (g) *Subcontracting.*
- (1) Unless otherwise directed by the contracting officer, the Contractor agrees to use in subcontracts in which technical data or computer software is expected to be produced or in subcontracts for supplies that contain a requirement for production or delivery of data in accordance with the policy and procedures of 48 CFR Subpart 27.4 as supplemented by [48 CFR 927.401](#) through [927.409](#), the clause entitled, "Rights in Data -- General" at [48 CFR 52.227-14](#) modified in accordance with 927.409(a) and including Alternate V. Alternates II through IV of that clause may be included as appropriate with the prior approval of DOE Patent Counsel, and the Contractor shall not acquire rights in a subcontractor's limited rights data or restricted computer software, except through the use of Alternates II or III, respectively, without the prior approval of DOE Patent Counsel. The clause at [48 CFR 52.227-16](#), Additional Data Requirements,

shall be included in subcontracts in accordance with [48 CFR 927.409\(h\)](#). The Contractor shall use instead the Rights in Data -- Facilities clause at [48 CFR 970.5227-1](#) in subcontracts, including subcontracts for related support services, involving the design or operation of any plants or facilities or specially designed equipment for such plants or facilities that are managed or operated under its contract with DOE.

- (2) It is the responsibility of the Contractor to obtain from its subcontractors technical data and computer software and rights therein, on behalf of the Government, necessary to fulfill the Contractor's obligations to the Government with respect to such data. In the event of refusal by a subcontractor to accept a clause affording the Government such rights, the Contractor shall:
 - (i) Promptly submit written notice to the contracting officer setting forth reasons or the subcontractor's refusal and other pertinent information which may expedite disposition of the matter, and
 - (ii) Not proceed with the subcontract without the written authorization of the contracting officer.
- (3) Neither the Contractor nor higher-tier subcontractors shall use their power to award subcontracts as economic leverage to acquire rights in a subcontractor's limited rights data and restricted computer software for their private use.

(h) *Rights in Limited Rights Data.*

Except as may be otherwise specified in this Contract as data which are not subject to this paragraph, the Contractor agrees to and does hereby grant to the Government an irrevocable nonexclusive, paid-up license by or for the Government, in any limited rights data of the Contractor specifically used in the performance of this Contract, provided, however, that to the extent that any limited rights data when furnished or delivered is specifically identified by the Contractor at the time of initial delivery to the Government or a representative of the Government, such data shall not be used within or outside the Government except as provided in the "Limited Rights Notice" set forth below. All such limited rights data shall be marked with the following "Limited Rights Notice:"

Limited Rights Notice

These data contain "limited rights data," furnished under Contract No. DE-AC05-76RL01830 with the United States Department of Energy which may be duplicated and used by the Government with the express limitations that the "limited rights data" may not be disclosed outside the Government or be used for

purposes of manufacture without prior permission of the Contractor, except that further disclosure or use may be made solely for the following purposes:

- (a) Use (except for manufacture) by support services contractors within the scope of their contracts;
- (b) This "limited rights data" may be disclosed for evaluation purposes under the restriction that the "limited rights data" be retained in confidence and not be further disclosed;
- (c) This "limited rights data" may be disclosed to other contractors participating in the Government's program of which this Contract is a part for information or use (except for manufacture) in connection with the work performed under their contracts and under the restriction that the "limited rights data" be retained in confidence and not be further disclosed;
- (d) This "limited rights data" may be used by the Government or others on its behalf for emergency repair or overhaul work under the restriction that the "limited rights data" be retained in confidence and not be further disclosed; and
- (e) Release to a foreign government, or instrumentality thereof, as the interests of the United States Government may require, for information or evaluation, or for emergency repair or overhaul work by such government.

This Notice shall be marked on any reproduction of this data in whole or in part.

(End of Notice)

(i) *Rights in Restricted Computer Software.*

- (1) Except as may be otherwise specified in this Contract as data which are not subject to this paragraph, the Contractor agrees to and does hereby grant to the Government an irrevocable, nonexclusive, paid-up, license by or for the Government, in any restricted computer software of the Contractor specifically used in the performance of this Contract; provided, however, that to the extent that any restricted computer software when furnished or delivered is specifically identified by the Contractor at the time of initial delivery to the Government or a representative of the Government, such data shall not be used within or outside the Government except as provided in the "Restricted Rights Notice" set forth below. All such restricted computer software shall be marked with the following "Restricted Rights Notice:"

Restricted Rights Notice -- Long Form

- (a) This computer software is submitted with restricted rights under Department of Energy Contract No. DE-AC05-76RL01830 . It may not be used, reproduced, or disclosed by the Government except as provided in paragraph (b) of this notice.
- (b) This computer software may be:
 - (1) Used or copied for use in or with the computer or computers for which it was acquired, including use at any Government installation to which such computer or computers may be transferred;
 - (2) Used, copied for use, in a backup or replacement computer if any computer for which it was acquired is inoperative or is replaced;
 - (3) Reproduced for safekeeping (archives) or backup purposes;
 - (4) Modified, adapted, or combined with other computer software, provided that only the portions of the derivative software consisting of the restricted computer software are to be made subject to the same restricted rights; and
 - (5) Disclosed to and reproduced for use by contractors under a service contract (of the type defined in [48 CFR 37.101](#)) in accordance with subparagraphs (b)(1) through (4) of this Notice, provided the Government makes such disclosure or reproduction subject to these restricted rights.
- (c) Notwithstanding the foregoing, if this computer software has been published under copyright, it is licensed to the Government, without disclosure prohibitions, with the rights set forth in the restricted rights notice above.
- (d) This Notice shall be marked on any reproduction of this computer software, in whole or in part.

(End of Notice)

- (2) Where it is impractical to include the Restricted Rights Notice on restricted computer software, the following short-form Notice may be used in lieu thereof:

Restricted Rights Notice -- Short Form

Use, reproduction, or disclosure is subject to restrictions set forth in the Long Form Notice of DOE Contract No. DE-AC05-76RL01830 with Battelle Memorial Institute.

(End of Notice)

- (3) If the software is embedded, or if it is commercially impractical to mark it with human readable text, then the symbol R and the clause date (mo/yr) in brackets or a box, a [R-mo/yr], may be used. This will be read to mean restricted computer software, subject to the rights of the Government as described in the Long Form Notice, in effect as of the date indicated next to the symbol. The symbol shall not be used to mark human readable material. In the event this Contract contains any variation to the rights in the Long Form Notice, then the contract number must also be cited.
- (4) If restricted computer software is delivered with the copyright notice of [17 U.S.C. 401](#), the software will be presumed to be published copyrighted computer software licensed to the Government without disclosure prohibitions and with unlimited rights, unless the Contractor includes the following statement with such copyright notice "Unpublished -- rights reserved under the Copyright Laws of the United States."

(j) *Relationship to Patents.*

Nothing contained in this clause creates or is intended to imply a license to the Government in any patent or is intended to be construed as affecting the scope of any licenses or other rights otherwise granted to the Government under any patent. [M453]

(End of Clause)

I-94 DEAR 970.5227-3 – Technology Transfer Mission (Aug 2002) (Class Deviation Jul 2006) Acquisition Letter 2006-10, Alternate I (Aug 2002)

This clause has as its purpose implementation of the National Competitiveness Technology Transfer Act of 1989 (Sections 3131, 3132, 3133, and 3157 of Pub. L. 101-189 and as amended by Pub. L. 103-160, Sections 3134 and 3160). The Contractor shall conduct technology transfer activities with a purpose of providing benefit from Federal research to U.S. industrial competitiveness.

(a) *Authority.*

- (1) In order to ensure the full use of the results of research and development efforts of, and the capabilities of, the Laboratory, technology transfer, including Cooperative Research and Development Agreements (CRADAs), is established as a mission of the Laboratory consistent with the policy, principles and purposes of Sections 11(a)(1) and 12(g) of the Stevenson-Wydler Technology Innovation Act of 1980, as amended

[U.S.C. 3710a](#)); Section 3132(b) of Pub. L. 101-189, Sections 3134 and 3160 of Pub. L. 103-160, and of Chapter 38 of the Patent Laws ([35 U.S.C. 200 et seq.](#)); Section 152 of the Atomic Energy Act of 1954, as amended ([42 U.S.C. 2182](#)); Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 ([42 U.S.C. 5908](#)); and Executive Order 12591 of April 10, 1987.

- (2) In pursuing the technology transfer mission, the Contractor is authorized to conduct activities including but not limited to: identifying and protecting Intellectual Property made, created or acquired at or by the Laboratory; negotiating licensing agreements and assignments for Intellectual Property made, created or acquired at or by the Laboratory that the Contractor controls or owns; bailments; negotiating all aspects of and entering into CRADAs; providing technical consulting and personnel exchanges; conducting science education activities and reimbursable Work for Others (WFO); providing information exchanges; and making available laboratory or weapon production user facilities. It is fully expected that the Contractor shall use all of the mechanisms available to it to accomplish this technology transfer mission, including, but not limited to, CRADAs, user facilities, WFO, science education activities, consulting, personnel exchanges, assignments, and licensing in accordance with this clause.
- (b) *Definitions.*
- (1) Contractor's Laboratory Director means the individual who has supervision over all or substantially all of the Contractor's operations at the Laboratory.
 - (2) Intellectual Property means patents, trademarks, copyrights, mask works, protected CRADA information, and other forms of comparable property rights protected by Federal Law and other foreign counterparts.
 - (3) Cooperative Research and Development Agreement (CRADA) means any agreement entered into between the Contractor as operator of the Laboratory, and one or more parties including at least one non-Federal party under which the Government, through its laboratory, provides personnel, services, facilities, equipment, intellectual property, or other resources with or without reimbursement (but not funds to non-Federal parties) and the non-Federal parties provide funds, personnel, services, facilities, equipment, intellectual property, or other resources toward the conduct of specified research or development efforts which are consistent with the missions of the Laboratory; except that such term does not include a procurement contract, grant, or cooperative agreement as those terms are used in sections 6303, 6304, and 6305 of Title 31 of the United States Code.

- (4) Joint Work Statement (JWS) means a proposal for a CRADA prepared by the Contractor, signed by the Contractor's Laboratory Director or designee which describes the following:
 - (i) Purpose;
 - (ii) Scope of Work which delineates the rights and responsibilities of the Government, the Contractor and Third Parties, one of which must be a non-Federal party;
 - (iii) Schedule for the work; and
 - (iv) Cost and resource contributions of the parties associated with the work and the schedule.
- (5) Assignment means any agreement by which the Contractor transfers ownership of Laboratory Intellectual Property, subject to the Government's retained rights.
- (6) Laboratory Biological Materials means biological materials capable of replication or reproduction, such as plasmids, deoxyribonucleic acid molecules, ribonucleic acid molecules, living organisms of any sort and their progeny, including viruses, prokaryote and eukaryote cell lines, transgenic plants and animals, and any derivatives or modifications thereof or products produced through their use or associated biological products, made under this contract by Laboratory employees or through the use of Laboratory research facilities.
- (7) Laboratory Tangible Research Product means tangible material results of research which
 - (i) are provided to permit replication, reproduction, evaluation or confirmation of the research effort, or to evaluate its potential commercial utility;
 - (ii) are not materials generally commercially available; and
 - (iii) were made under this contract by Laboratory employees or through the use of Laboratory research facilities.
- (8) Bailment means any agreement in which the Contractor permits the commercial or non-commercial transfer of custody, access or use of Laboratory Biological Materials or Laboratory Tangible Research Product for a specified purpose of technology transfer or research and

development, including without limitation evaluation, and without transferring ownership to the bailee.

- (9) ***Privately funded technology transfer means the prosecuting, maintaining, licensing, and marketing of inventions which are not owned by the Government (and not related to CRADAs) when such activities are conducted entirely without the use of Government funds.***
- (c) *Allowable Costs.*
- (1) The Contractor shall establish and carry out its technology transfer efforts through appropriate organizational elements consistent with the requirements for an Office of Research and Technology Applications (ORTA) pursuant to paragraphs (b) and (c) of Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980, as amended ([15 U.S.C. 3710](#)). The costs associated with the conduct of technology transfer through the ORTA including activities associated with obtaining, maintaining, licensing, and assigning Intellectual Property rights, increasing the potential for the transfer of technology, and the widespread notice of technology transfer opportunities, shall be deemed allowable provided that such costs meet the other requirements of the allowable costs provisions of this Contract. In addition to any separately designated funds, these costs in any fiscal year shall not exceed an amount equal to 0.5 percent of the operating funds included in the Federal research and development budget (including Work For Others) of the Laboratory for that fiscal year without written approval of the contracting officer.
- (2) The Contractor's participation in litigation to enforce or defend Intellectual Property claims incurred in its technology transfer efforts shall be as provided in the clause entitled "Insurance -- Litigation and Claims" of this contract.
- (d) *Conflicts of Interest -- Technology Transfer.*

The Contractor shall have implementing procedures that seek to avoid employee and organizational conflicts of interest, or the appearance of conflicts of interest, in the conduct of its technology transfer activities. These procedures shall apply to other persons participating in Laboratory research or related technology transfer activities. Such implementing procedures shall be provided to the contracting officer for review and approval within sixty (60) days after execution of this contract. The contracting officer shall have thirty (30) days thereafter to approve or require specific changes to such procedures. Such implementing procedures shall include procedures to:

- (1) Inform employees of and require conformance with standards of conduct and integrity in connection with research involving nonfederal sponsors

and for CRADA activity in accordance with the provisions of paragraph (n)(5) of this clause;

- (2) Review and approve employee activities so as to avoid conflicts of interest arising from commercial utilization activities relating to Contractor-developed Intellectual Property;
 - (3) Conduct work performed using royalties so as to avoid interference with or adverse effects on ongoing DOE projects and programs;
 - (4) Conduct activities relating to commercial utilization of Contractor-developed Intellectual Property so as to avoid interference with or adverse effects on user facility or WFO activities of the Contractor;
 - (5) Conduct DOE-funded projects and programs so as to avoid the appearance of conflicts of interest or actual conflicts of interest with non-Government funded work;
 - (6) Notify the contracting officer with respect to any new work to be performed or proposed to be performed under the Contract for DOE or other Federal agencies where the new work or proposal involves Intellectual Property in which the Contractor has obtained or intends to request or elect title;
 - (7) Except as provided elsewhere in this Contract, obtain the approval of the contracting officer for any licensing of or assignment of title to Intellectual Property rights by the Contractor to any business or corporate affiliate of the Contractor;
 - (8) Obtain the approval of the contracting officer prior to any assignment, exclusive licensing, or option for exclusive licensing, of Intellectual Property to any individual who has been a Laboratory employee within the previous two years or to the company in which the individual is a principal;
 - (9) Notify non-Federal sponsors of WFO activities, or non-Federal users of user facilities, of any relevant Intellectual Property interest of the Contractor prior to execution of WFOs or user agreements; and
 - (10) Notify DOE prior to the Contractor's evaluating a technical proposal for funding by a third party or a DOE Program, when the subject matter of the proposal involves an elected or waived subject invention under this contract or one in which the Contractor intends to elect to retain title under this contract.
- (e) *Fairness of Opportunity.*

In conducting its technology transfer activities, the Contractor shall prepare procedures and take all reasonable measures to ensure widespread notice of availability of technologies suited for transfer and opportunities for exclusive licensing and joint research arrangements. The requirement to widely disseminate the availability of technology transfer opportunities does not apply to a specific application originated outside of the Laboratory and by entities other than the Contractor.

- (f) *U.S. Industrial Competitiveness for Licensing and Assignments of Intellectual Property.*
- (1) In the interest of enhancing U.S. Industrial Competitiveness in its licensing and assignments of Intellectual Property, the Contractor shall give preference in such a manner as to enhance the accrual of economic and technological benefits to the U.S. domestic economy. The Contractor shall consider the following factors in all of its decisions involving licensing and assignment of Laboratory intellectual property where the Laboratory obtains rights during the course of the Contractor's operation of the Laboratory under this contract:
- (i) whether any resulting design and development will be performed in the United States and whether resulting products, embodying parts, including components thereof, will be substantially manufactured in the United States; or
- (ii)
- (A) whether a proposed licensee or an assignee has a business unit located in the United States and whether significant economic and technical benefits will flow to the United States as a result of the license or assignment agreement;
- (B) in licensing or assigning any entity subject to the control of a foreign company or government, whether such foreign government permits United States agencies, organizations or other persons to enter into cooperative research and development agreements and licensing agreements, and has policies to protect United States Intellectual Property rights; and
- (C) *if the proposed licensee, assignee, or parent of either type of entity is subject to the control of a foreign company or government, the Contractor, with the assistance of the Contracting Officer, in considering the factors set forth in paragraph (B) herein, may rely upon the following*

information; (1) U.S. Trade Representative Inventory of Foreign Trade Barriers, (2) U.S. Trade Representative Special 301 Report, and, (3) such other relevant information available to the contracting officer. The Contractor should review the U.S. Trade Representative web site at: <<http://www.ustr.gov>> for the most current versions of these reports and other relevant information. The Contractor is encouraged to utilize other available resources, as necessary, to allow for a complete and informed decision.

- (2) If the Contractor determines that neither of the conditions in paragraphs (f)(1)(i) or (ii) of this clause is likely to be fulfilled, the Contractor, prior to entering into such an agreement, must obtain the approval of the contracting officer. The contracting officer shall act on any such requests for approval within thirty (30) days.
- (3) The Contractor agrees to be bound by the provisions of [35 U.S.C. 204](#) (Preference for United States industry).

(g) *Indemnity -- Product Liability.*

In entering into written technology transfer agreements, including but not limited to, research and development agreements, licenses, assignments and CRADAs, the Contractor agrees to include in such agreements a requirement that the U.S. Government and the Contractor, except for any negligent acts or omissions of the Contractor, be indemnified for all damages, costs, and expenses, including attorneys' fees, arising from personal injury or property damage occurring as a result of the making, using or selling of a product, process or service by or on behalf of the Participant, its assignees or licensees which was derived from the work performed under the agreement. The Contractor shall identify and obtain the approval of the contracting officer for any proposed exceptions to this requirement such as where State or local law expressly prohibit the Participant from providing indemnification or where the research results will be placed in the public domain.

(h) *Disposition of Income.*

- (1) Royalties or other income earned or retained by the Contractor as a result of performance of authorized technology transfer activities herein shall be used by the Contractor for scientific research, development, technology transfer, and education at the Laboratory, consistent with the research and development mission and objectives of the Laboratory and subject to Section 12(b)(5) of the Stevenson-Wydler Technology Innovation Act of 1980, as amended ([15 U.S.C. 3710a](#)(b)(5)) and Chapter 38 of the Patent Laws ([35 U.S.C. 200](#) et seq.) as amended through the effective date of this

contract award or modification. If the net amounts of such royalties and income received from patent licensing after payment of patenting costs, licensing costs, payments to inventors and other expenses incidental to the administration of Subject Inventions during any fiscal year exceed 5 percent of the Laboratory's budget for that fiscal year, 75 percent of such excess amounts shall be paid to the Treasury of the United States, and the remaining amount of such excess shall be used by the Contractor for the purposes as described above in this paragraph. Any inventions arising out of such scientific research and development activities shall be deemed to be Subject Inventions under the Contract.

- (2) The Contractor shall include as a part of its annual Laboratory Institutional Plan or other such annual document a plan setting out those uses to which royalties and other income received as a result of performance of authorized technology transfer activities herein will be applied at the Laboratory, and at the end of the year, provide a separate accounting for how the funds were actually used. Under no circumstances shall these royalties and income be used for an illegal augmentation of funds furnished by the U.S. Government.
 - (3) The Contractor shall establish subject to the approval of the contracting officer a policy for making awards or sharing of royalties with Contractor employees, other coinventors and coauthors, including Federal employee coinventors when deemed appropriate by the contracting officer.
- (i) *Transfer to Successor Contractor.*

In the event of termination or upon the expiration of this Contract, any unexpended balance of income received for use at the Laboratory shall be transferred, at the contracting officer's request, to a successor contractor, or in the absence of a successor contractor, to such other entity as designated by the contracting officer. The Contractor shall transfer title, as one package, to the extent the Contractor retains title, in all patents and patent applications, licenses, accounts containing royalty revenues from such license agreements, including equity positions in third party entities, and other Intellectual Property rights which arose at the Laboratory, to the successor contractor or to the Government as directed by the contracting officer.

- (j) *Technology Transfer Affecting the National Security.*
- (1) The Contractor shall notify and obtain the approval of the contracting officer, prior to entering into any technology transfer arrangement, when such technology or any part of such technology is classified or sensitive under Section 148 of the Atomic Energy Act ([42 U.S.C. 2168](#)). Such notification shall include sufficient information to enable DOE to determine the extent that commercialization of such technology would

enhance or diminish security interests of the United States, or diminish communications within DOE's nuclear weapon production complex. DOE shall use its best efforts to complete its determination within sixty (60) days of the Contractor's notification, and provision of any supporting information, and DOE shall promptly notify the Contractor as to whether the technology is transferable.

- (2) The Contractor shall include in all of its technology transfer agreements with third parties, including, but not limited to, CRADAs, licensing agreements and assignments, notice to such third parties that the export of goods and/or Technical Data from the United States may require some form of export control license or other authority from the U.S. Government and that failure to obtain such export control license may result in criminal liability under U.S. laws.
- (3) For other than fundamental research as defined in National Security Decision Directive 189, the Contractor is responsible to conduct internal export control reviews and assure that technology is transferred in accordance with applicable law.

(k) *Records.*

The Contractor shall maintain records of its technology transfer activities in a manner and to the extent satisfactory to the DOE and specifically including, but not limited to, the licensing agreements, assignments and the records required to implement the requirements of paragraphs (e), (f), and (h) of this clause and shall provide reports to the contracting officer to enable DOE to maintain the reporting requirements of Section 12(c)(6) of the Stevenson-Wydler Technology Innovation Act of 1980, as amended ([15 U.S.C. 3710a\(c\)\(6\)](#)). Such reports shall be made annually in a format to be agreed upon between the Contractor and DOE and in such a format which will serve to adequately inform DOE of the Contractor's technology transfer activities while protecting any data not subject to disclosure under the Rights in Technical Data clause and paragraph (n) of this clause. Such records shall be made available in accordance with the clauses of this Contract pertaining to inspection, audit and examination of records.

(l) *Reports to Congress.*

To facilitate DOE's reporting to Congress, the Contractor is required to submit annually to DOE a technology transfer plan for conducting its technology transfer function for the upcoming year, including plans for securing Intellectual Property rights in Laboratory innovations with commercial promise and plans for managing such innovations so as to benefit the competitiveness of United States industry. This plan shall be provided to the contracting officer on or before October 1st of each year.

(m) *Oversight and Appraisal.*

The Contractor is responsible for developing and implementing effective internal controls for all technology transfer activities consistent with the audit and record requirements of this Contract. Laboratory Contractor performance in implementing the technology transfer mission and the effectiveness of the Contractor's procedures will be evaluated by the contracting officer as part of the annual appraisal process, with input from the cognizant Secretarial Officer or program office.

(n) *Technology Transfer through Cooperative Research and Development Agreements.*

Upon approval of the contracting officer and as provided in a DOE approved Joint Work Statement (JWS), the Laboratory Director, or designee, may enter into CRADAs on behalf of the DOE subject to the requirements set forth in this paragraph.

(1) *Review and Approval of CRADAs.*

- (i) Except as otherwise directed in writing by the contracting officer, each JWS shall be submitted to the contracting officer for approval. The Contractor's Laboratory Director or designee shall provide a program mission impact statement and shall include an impact statement regarding related Intellectual Property rights known by the Contractor to be owned by the Government to assist the contracting officer in the approval determination.
- (ii) The Contractor shall also include (specific to the proposed CRADA), a statement of compliance with the Fairness of Opportunity requirements of paragraph (e) of this clause.
- (iii) Within thirty (30) days after submission of a JWS or proposed CRADA, the contracting officer shall approve, disapprove or request modification to the JWS or CRADA. The contracting officer shall provide a written explanation to the Contractor's Laboratory Director or designee of any disapproval or requirement for modification of a JWS or proposed CRADA.
- (iv) Except as otherwise directed in writing by the contracting officer, the Contractor shall not enter into, or begin work under, a CRADA until approval of the CRADA has been granted by the contracting officer. The Contractor may submit its proposed CRADA to the contracting officer at the time of submitting its proposed JWS or any time thereafter.

- (2) *Selection of Participants.* The Contractor's Laboratory Director or designee in deciding what CRADA to enter into shall:
- (i) Give special consideration to small business firms, and consortia involving small business firms;
 - (ii) Give preference to business units located in the United States which agree that products or processes embodying Intellectual Property will be substantially manufactured or practiced in the United States and, in the case of any industrial organization or other person subject to the control of a foreign company or government, take into consideration whether or not such foreign government permits United States agencies, organizations, or other persons to enter into cooperative research and development agreements and licensing agreements;
 - (iii) Provide Fairness of Opportunity in accordance with the requirements of paragraph (e) of this clause; and
 - (iv) Give consideration to the Conflicts of Interest requirements of paragraph (d) of this clause.
- (3) *Withholding of Data.*
- (i) Data that is first produced as a result of research and development activities conducted under a CRADA and that would be a trade secret or commercial or financial data that would be privileged or confidential, if such data had been obtained from a non-Federal third party, may be protected from disclosure under the Freedom of Information Act as provided in the Stevenson-Wydler Technology Innovation Act of 1980, as amended ([15 U.S.C. 3710a\(c\)\(7\)](#)) for a period as agreed in the CRADA of up to five (5) years from the time the data is first produced. The DOE shall cooperate with the Contractor in protecting such data.
 - (ii) Unless otherwise expressly approved by the contracting officer in advance for a specific CRADA, the Contractor agrees, at the request of the contracting officer, to transmit such data to other DOE facilities for use by DOE or its Contractors by or on behalf of the Government. When data protected pursuant to paragraph (n)(3)(i) of this clause is so transferred, the Contractor shall clearly mark the data with a legend setting out the restrictions against private use and further dissemination, along with the expiration date of such restrictions.

- (iii) In addition to its authority to license Intellectual Property, the Contractor may enter into licensing agreements with third parties for data developed by the Contractor under a CRADA subject to other provisions of this Contract. However, the Contractor shall neither use the protection against dissemination nor the licensing of data as an alternative to the submittal of invention disclosures which include data protected pursuant to paragraph (n)(3)(i) of this clause.
- (4) *Work for Others and User Facility Programs.*
- (i) Work for Others (WFO) and User Facility Agreements (UFAs) are not CRADAs and will be available for use by the Contractor in addition to CRADAs for achieving utilization of employee expertise and unique facilities for maximizing technology transfer. The Contractor agrees to inform prospective CRADA participants, which are intending to substantially pay full cost recovery for the effort under a proposed CRADA, of the availability of alternative forms of agreements, i.e., WFO and UFA, and of the Class Patent Waiver provisions associated therewith.
 - (ii) Where the Contractor believes that the transfer of technology to the U.S. domestic economy will benefit from, or other equity considerations dictate, an arrangement other than the Class Waiver of patent rights to the sponsor in WFO and UFAs, a request may be made to the contracting officer for an exception to the Class Waivers.
 - (iii) Rights to inventions made under agreements other than funding agreements with third parties shall be governed by the appropriate provisions incorporated, with DOE approval, in such agreements, and the provisions in such agreements take precedence over any disposition of rights contained in this Contract. Disposition of rights under any such agreement shall be in accordance with any DOE class waiver (including Work for Others and User Class Waivers) or individually negotiated waiver which applies to the agreement.
- (5) *Conflicts of Interest.*
- (i) Except as provided in paragraph (n)(5)(iii) of this clause, the Contractor shall assure that no employee of the Contractor shall have a substantial role (including an advisory role) in the preparation, negotiation, or approval of a CRADA, if, to such employee's knowledge:

- (A) Such employee, or the spouse, child, parent, sibling, or partner of such employee, or an organization (other than the Contractor) in which such employee serves as an officer, director, trustee, partner, or employee –
 - (1) holds financial interest in any entity, other than the Contractor, that has a substantial interest in the preparation, negotiation, or approval of the CRADA;
 - (2) receives a gift or gratuity from any entity, other than the Contractor, that has a substantial interest in the preparation, negotiation, or approval of the CRADA; or
 - (B) A financial interest in any entity, other than the Contractor, that has a substantial interest in the preparation, negotiation, or approval of the CRADA, is held by any person or organization with whom such employee is negotiating or has any arrangement concerning prospective employment.
- (ii) The Contractor shall require that each employee of the Contractor who has a substantial role (including an advisory role) in the preparation, negotiation, or approval of a CRADA certify through the Contractor to the contracting officer that the circumstances described in paragraph (n)(5)(i) of this clause do not apply to that employee.
 - (iii) The requirements of paragraphs (n)(5)(i) and (n)(5)(ii) of this clause shall not apply in a case where the contracting officer is advised by the Contractor in advance of the participation of an employee described in those paragraphs in the preparation, negotiation or approval of a CRADA of the nature of and extent of any financial interest described in paragraph (n)(5)(i) of this clause, and the contracting officer determines that such financial interest is not so substantial as to be considered likely to affect the integrity of the Contractor employee's participation in the process of preparing, negotiating, or approving the CRADA.
- (o) *Technology Transfer in Other Cost-Sharing Agreements.*

In conducting research and development activities in cost-shared agreements not covered by paragraph (n) of this clause, the Contractor, with prior written permission of the contracting officer, may provide for the withholding of data

produced thereunder in accordance with the applicable provisions of paragraph (n)(3) of this clause.

(p) *Technology Partnership Ombudsman.*

- (1) The Contractor agrees to establish a position to be known as "Technology Partnership Ombudsman," to help resolve complaints from outside organizations regarding the policies and actions of the contractor with respect to technology partnerships (including CRADAs), patents owned by the contractor for inventions made at the laboratory, and technology licensing.
- (2) The Ombudsman shall be a senior official of the Contractor's laboratory staff, who is not involved in day-to-day technology partnerships, patents or technology licensing, or, if appointed from outside the laboratory or facility, shall function as such senior official.
- (3) The duties of the Technology Partnership Ombudsman shall include:
 - (i) Serving as the focal point for assisting the public and industry in resolving complaints and disputes with the laboratory or facility regarding technology partnerships, patents, and technology licensing;
 - (ii) Promoting the use of collaborative alternative dispute resolution techniques such as mediation to facilitate the speedy and low cost resolution of complaints and disputes, when appropriate; and
 - (iii) Submitting a quarterly report, in a format provided by DOE, to the Secretary of Energy, the Administrator for Nuclear Security, the Director of the DOE Office of Dispute Resolution, and the Contracting Officer concerning the number and nature of complaints and disputes raised, along with the Ombudsman's assessment of their resolution, consistent with the protection of confidential and sensitive information.

(q) *Inapplicability of Provisions to Privately Funded Technology Transfer Activities.*

Nothing in paragraphs (c) Allowable Costs, (e) Fairness of Opportunity, (f) U.S. Industrial Competitiveness, (g) Indemnity -- Product Liability, (h) Disposition of Income, and (i) Transfer to Successor Contractor of this clause are intended to apply to the contractor's privately funded technology transfer activities if such privately funded activities are addressed elsewhere in the contract.

[M453]

(End of Clause)

I-95 DEAR 970.5227-4 Authorization and Consent (Aug 2002)

- (a) The Government authorizes and consents to all use and manufacture of any invention described in and covered by a United States patent in the performance of this Contract or any subcontract at any tier.
- (b) If the Contractor is sued for copyright infringement or anticipates the filing of such a lawsuit, the Contractor may request authorization and consent to copy a copyrighted work from the Contracting Officer. Programmatic necessity is a major consideration for DOE in determining whether to grant such request.
- (c)
 - (1) The Contractor agrees to include, and require inclusion of, the Authorization and Consent clause at 52.227-1, without Alternate 1, but suitably modified to identify the Parties, in all subcontracts expected to exceed \$100,000 at any tier for supplies or services, including construction, architect-engineer services, and materials, supplies, models, samples, and design or testing services.
 - (2) The Contractor agrees to include, and require inclusion of, paragraph (a) of this Authorization and Consent clause, suitably modified to identify the Parties, in all subcontracts at any tier for research and development activities expected to exceed \$100,000.
 - (3) Omission of an authorization and consent clause from any subcontract, including those valued less than \$100,000 does not affect this authorization and consent.

(End of Clause)

I-96 DEAR 970.5227-5 Notice and Assistance Regarding Patent and Copyright Infringement (Aug 2002)

- (a) The Contractor shall report to the Contracting Officer promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this Contract of which the Contractor has knowledge.
- (b) If any person files a claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this Contract or out of the use of any supplies furnished or work or services performed hereunder, the Contractor shall furnish to the Government, when requested by the Contracting Officer, all evidence and information in possession of the Contractor pertaining to such suit or claim. Except where the Contractor has agreed to indemnify the Government, the Contractor shall furnish such evidence and information at the expense of the Government.

- (c) The Contractor agrees to include, and require inclusion of, this clause suitably modified to identify the Parties, in all subcontracts at any tier expected to exceed \$100,000.

(End of Clause)

I-97 DEAR 970.5227-6 Patent Indemnity-Subcontracts (Dec 2000)

Except as otherwise authorized by the Contracting Officer, the Contractor shall obtain indemnification of the Government and its officers, agents, and employees against liability, including costs, for infringement of any United States patent (except a patent issued upon an application that is now or may hereafter be withheld from issue pursuant to a secrecy order by the Government) from Contractor's subcontractors for any Contract work subcontracted in accordance with FAR 48 CFR 52.227-3.

(End of Clause)

I-98 DEAR 970.5227-8 Refund of Royalties (Aug 2002)

- (a) During performance of this Contract, if any royalties are proposed to be charged to the Government as costs under this Contract, the Contractor agrees to submit for approval of the Contracting Officer, prior to the execution of any license, the following information relating to each separate item of royalty:
- (1) Name and address of licensor;
 - (2) Patent numbers, patent application serial numbers, or other basis on which the royalty is payable;
 - (3) Brief description, including any part or model numbers of each contract item or component on which the royalty is payable;
 - (4) Percentage or dollar rate of royalty per unit;
 - (5) Unit price of contract item;
 - (6) Number of units;
 - (8) Total dollar amount of royalties; and
 - (9) A copy of the proposed license agreement.
- (b) If specifically requested by the Contracting Officer, the Contractor shall furnish a copy of any license agreement entered into prior to the effective date of this clause and an identification of applicable claims of specific patents or other basis upon which royalties are payable.
- (c) The term "royalties" as used in this clause refers to any costs or charges in the nature of royalties, license fees, patent or license amortization costs, or the like,

for the use of or for rights in patents and patent applications that are used in the performance of this Contract or any subcontract hereunder.

- (d) The Contractor shall furnish to the Contracting Officer, annually upon request, a statement of royalties paid or required to be paid in connection with performing this Contract and subcontracts hereunder.
- (e) For royalty payments under licenses entered into after the effective date of this Contract, costs incurred for royalties proposed under this paragraph shall be allowable only to the extent that such royalties are approved by the Contracting Officer. If the Contracting Officer determines that existing or proposed royalty payments are inappropriate, any payments subsequent to such determination shall be allowable only to the extent approved by the Contracting Officer.
- (f) Regardless of prior DOE approval of any individual payments or royalties, DOE may contest at any time the enforceability, validity, scope of, or title to a patent for which the Contractor makes a royalty or other payment.
- (g) If at any time within 3 years after final payment under this Contract, the Contractor for any reason is relieved in whole or in part from the payment of any royalties to which this clause applies, the Contractor shall promptly notify the Contracting Office of that fact and shall promptly reimburse the Government for any refunds received or royalties paid after having received notice of such relief.
- (h) The Contractor agrees to include, and require inclusion of, this clause, including this paragraph (h), suitably modified to identify the Parties in any subcontract at any tier in which the amount of royalties reported during negotiation of the subcontract exceeds \$250.

(End of Clause)

I-99 DEAR 970.5227-10 Patent Rights-Management and Operating Contracts, Nonprofit Organization or Small Business Firm Contractor (Aug 2002)

- (a) Definitions.
 - (1) DOE licensing regulations means the Department of Energy patent licensing regulations at 10 CFR Part 781.
 - (2) Exceptional circumstance subject invention means any subject invention in a technical field or related to a task determined by the Department of Energy to be subject to an exceptional circumstance under *35 U.S.C. 202(a)(ii)* and in accordance with 37 CFR 401.3(e).
 - (3) Invention means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (*7 U.S.C. 2321 et seq.*).

- (4) Made when used in relation to any invention means the conception or first actual reduction to practice of such invention.
 - (5) Nonprofit organization means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (*26 U.S.C. 501(c)*) and exempt from taxation under section 501(a) of the Internal Revenue Code (*26 U.S.C. 501(a)*) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.
 - (6) Patent Counsel means the Department of Energy (DOE) Patent Counsel assisting the DOE contracting activity.
 - (7) Practical application means to manufacture, in the case of a composition or product; to practice, in the case of a process or method; or to operate, in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.
 - (8) Small business firm means a small business concern as defined at section 2 of Pub. L. 85-536 (*15 U.S.C. 632*) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in Government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, are used.
 - (9) Subject Invention means any invention of the Contractor conceived or first actually reduced to practice in the performance of work under this Contract, provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, *7 U.S.C. 2401(d)*) shall also occur during the period of Contract performance.
- (b) Allocation of Principal Rights.
- (1) Retention of title by the Contractor. Except for exceptional circumstance subject inventions, the Contractor may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and *35 U.S.C. 203*. With respect to any subject invention in which the Contractor retains title, the Federal Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

- (2) Exceptional circumstance subject inventions. Except to the extent that rights are retained by the Contractor in a determination of exceptional circumstances or granted to a Contractor through a determination of greater rights in accordance with subparagraph (b)(4) of this clause, the Contractor does not have a right to retain title to any exceptional circumstance subject inventions and agrees to assign to the Government the entire right, title, and interest, throughout the world, in and to any exceptional circumstance subject inventions.
- (i) Inventions within or relating to the following fields of technology are exceptional circumstance subject inventions:
- (A) uranium enrichment technology;
 - (B) storage and disposal of civilian high-level nuclear waste and spent fuel technology; and
 - (C) national security technologies classified or sensitive under Section 148 of the Atomic Energy Act (*42 U.S.C. 2168*).
- (ii) Inventions made under any agreement, contract or subcontract related to the following are exceptional circumstance subject inventions:
- (A) DOE Steel Initiative and Metals Initiative;
 - (B) U.S. Advanced Battery Consortium;
 - (C) any funding agreement which is funded in part by the Electric Power Research Institute (EPRI) or the Gas Research Institute (GRI); and
 - (D) Solid State Energy Conversion Alliance (SECA), if the Contractor is a participant in the "Core Technology Program". [M440]
- (iii) DOE reserves the right to unilaterally amend this Contract to modify, by deletion or insertion, technical fields, tasks, or other classifications for the purpose of determining DOE exceptional circumstance subject inventions.
- (3) Treaties and international agreements. Any rights acquired by the Contractor in subject inventions are subject to any disposition of right, title, or interest in or to subject inventions provided for in treaties or international agreements identified at Appendix [Insert Reference] to this Contract. DOE reserves the right to unilaterally amend this Contract to

identify specific treaties or international agreements entered into or to be entered into by the Government after the effective date of this Contract and to effectuate those license or other rights which are necessary for the Government to meet its obligations to foreign Governments, their nationals and international organizations [*81060] under such treaties or international agreements with respect to subject inventions made after the date of the amendment.

- (4) Contractor request for greater rights in exceptional circumstance subject inventions. The Contractor may request rights greater than allowed by the exceptional circumstance determination in an exceptional circumstance subject invention by submitting such a request in writing to Patent Counsel at the time the exceptional circumstance subject invention is disclosed to DOE or within eight (8) months after conception or first actual reduction to practice of the exceptional circumstance subject invention, whichever occurs first, unless a longer period is authorized in writing by the Patent Counsel for good cause shown in writing by the Contractor. DOE may, in its discretion, grant or refuse to grant such a request by the Contractor.
- (5) Contractor employee-inventor rights. If the Contractor does not elect to retain title to a subject invention or does not request greater rights in an exceptional circumstance subject invention, a Contractor employee-inventor, after consultation with the Contractor and with written authorization from the Contractor in accordance with 10 CFR 784.9(b)(4), may request greater rights, including title, in the subject invention or the exceptional circumstance invention from DOE, and DOE may, in its discretion, grant or refuse to grant such a request by the Contractor employee-inventor.
- (6) Government assignment of rights in Government employees' subject inventions. If a Government employee is a joint inventor of a subject invention or of an exceptional circumstance subject invention to which the Contractor has rights, the Government may assign or refuse to assign to the Contractor any rights in the subject invention or exceptional circumstance subject invention acquired by the Government from the Government employee, in accordance with 48 CFR 27.304-1(d). The rights assigned to the Contractor are subject to any provision of this clause that is applicable to subject inventions in which the Contractor retains title, including reservation by the Government of a nonexclusive, nontransferable, irrevocable, paid-up license, except that the Contractor shall file its initial patent application claiming the subject invention or exceptional circumstance invention within one (1) year after the assignment of such rights. The Contractor shall share royalties collected for the manufacture, use or sale of the subject invention with the Government employee.

- (c) Subject Invention Disclosure, Election of Title and Filing of Patent Application by Contractor.
- (1) Subject invention disclosure. The Contractor will disclose each subject invention to the Patent Counsel within two months after the inventor discloses it in writing to Contractor personnel responsible for patent matters. The disclosure to the agency shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s) and all sources of funding by B&R code for the invention. It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. The disclosure shall include a written statement as to whether the invention falls within an exceptional circumstance field. DOE will make a determination and advise the Contractor within 30 days of receipt of an invention disclosure as to whether the invention is an exceptional circumstance subject invention. In addition, after disclosure to the Patent Counsel, the Contractor will promptly notify the agency of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Contractor. The Contractor shall obtain approval from Patent Counsel prior to any release or publication of information concerning any nonelectable subject invention such as an exceptional circumstance subject invention or any subject invention related to a treaty or international agreement.
 - (2) Election by the Contractor. Except as provided in paragraph (b)(2) of this clause, the Contractor will elect in writing whether or not to retain title to any such invention by notifying the Federal agency within two years of disclosure to the Federal agency. However, in any case where publication, on sale or public use has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the agency to a date that is no more than 60 days prior to the end of the statutory period.
 - (3) Filing of patent applications by the Contractor. The Contractor will file its initial patent application on a subject invention to which it elects to retain title within one year after election of title or, if earlier, or prior to the end of any 1-year statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The Contractor will file patent applications in additional countries or international patent offices within either ten months of the corresponding initial patent application or six months from the date permission is granted

by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

- (4) Contractor's request for an extension of time. Requests for an extension of the time for disclosure, election, and filing under subparagraphs (c)(1), (2) and (3) may, at the discretion of Patent Counsel, be granted.
 - (5) Publication Approval. During the course of the work under this Contract, the Contractor or its employees may desire to release or publish information regarding scientific or technical developments conceived or first actually reduced to practice in the course of or under this Contract. In order that public disclosure of such information will not adversely affect the patent interest of DOE or the Contractor, approval for release or publication shall be secured from the Contractor personnel responsible for patent matters prior to any such release or publication. Where DOE's approval of publication is requested, DOE's response to such requests for approval shall normally be provided within 90 days except in circumstances in which a domestic patent application must be filed in order to protect foreign rights. In the case involving foreign patent rights, DOE shall be granted an additional 180 days with which to respond to the request for approval, unless extended by mutual agreement.
- (d) Conditions When the Government May Obtain Title.

The Contractor will convey to the DOE, upon written request, title to any subject invention-

- (1) If the Contractor fails to disclose or elect title to the subject invention within the times specified in paragraph (c) of this clause, or elects not to retain title; provided, that DOE may only request title within sixty (60) days after learning of the failure of the Contractor to disclose or to elect within the specified times.
- (2) In those countries in which the Contractor fails to file a patent application within the times specified in subparagraph (c) of this clause; provided, however, that if the Contractor has filed a patent application in a country after the times specified in subparagraph (c) above, but prior to its receipt of the written request of the DOE, the Contractor shall continue to retain title in that country.
- (3) In any country in which the Contractor decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in a reexamination or opposition proceeding on, a patent on a subject invention.

- (4) If the Contractor requests that DOE acquire title or rights from the Contractor in a subject invention to which the Contractor had initially retained title or rights, or in an exceptional circumstance subject invention to which the Contractor was granted greater rights, DOE may acquire such title or rights from the Contractor, or DOE may decide against acquiring such title or rights from the Contractor, at DOE's sole discretion.
- (e) Minimum Rights of the Contractor and Protection of the Contractor's Right to File.
 - (1) Request for a Contractor license. The Contractor may request the right to reserve a revocable, nonexclusive, royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the Contractor fails to disclose the invention within the times specified in paragraph (c) of this clause. DOE may grant or refuse to grant such a request by the Contractor. When DOE approves such reservation, the Contractor's license will normally extend to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a party and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of DOE except when transferred to the successor of that part of the Contractor's business to which the invention pertains.
 - (2) Revocation or modification of a Contractor license. The Contractor's domestic license may be revoked or modified by DOE to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR Part 404 and DOE licensing regulations at 10 CFR Part 781. This license will not be revoked in the field of use or the geographical areas in which the Contractor has achieved practical application and continues to make the benefits of the subject invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of DOE to the extent the Contractor, its licensees, or the domestic subsidiaries or affiliates have failed to achieve practical application of the subject invention in that foreign country.
 - (3) Notice of revocation or modification of a Contractor license. Before revocation or modification of the license, DOE will furnish the Contractor a written notice of its intention to revoke or modify the license, and the Contractor will be allowed thirty days (or such other time as may be authorized by DOE for good cause shown by the Contractor) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal, in accordance with applicable regulations in 37 CFR part 404 and DOE licensing regulations at 10 CFR

part 781 concerning the licensing of Government owned inventions, any decision concerning the revocation or modification of the license.

- (f) Contractor Action to Protect the Government's Interest.
- (1) Execution of delivery of title or license instruments. The Contractor agrees to execute or to have executed, and promptly deliver to the Patent Counsel all instruments necessary to accomplish the following actions:
 - (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the Contractor elects to retain title, and
 - (ii) convey title to DOE when requested under subparagraphs (b) or paragraph (d) of this clause and to enable the Government to obtain patent protection throughout the world in that subject invention.
 - (2) Contractor employee agreements. The Contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to Contractor personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor, each subject invention made under this Contract in order that the Contractor can comply with the disclosure provisions of paragraph (c) of this clause, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by subparagraph (c)(1) of this clause. The Contractor shall instruct such employees, through employee agreements or other suitable educational programs, on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.
 - (3) Notification of discontinuation of patent protection. The Contractor will notify the Patent Counsel of any decision not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than thirty days before the expiration of the response period required by the relevant patent office.
 - (4) Notification of Government rights. The Contractor agrees to include, within the specification of any United States patent applications and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with Government support under (identify the contract) awarded by (identify the Federal agency). The Government has certain rights in the invention."

- (5) Invention Identification Procedures. The Contractor shall establish and maintain active and effective procedures to ensure that subject inventions are promptly identified and timely disclosed and shall submit a written description of such procedures to the Contracting Officer so that the Contracting Officer may evaluate and determine their effectiveness.
- (6) Invention Filing Documentation. If the Contractor files a domestic or foreign patent application claiming a subject invention, the Contractor shall promptly submit to Patent Counsel, upon request, the following information and documents:
 - (i) the filing date, serial number, title, and a copy of the patent application (including an English-language version if filed in a language other than English);
 - (ii) an executed and approved instrument fully confirmatory of all Government rights in the subject invention; and
 - (iii) the patent number, issue date, and a copy of any issued patent claiming the subject invention.
- (7) Duplication and disclosure of documents. The Government may duplicate and disclose subject invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this clause; provided, however, that any such duplication or disclosure by the Government is subject to the confidentiality provision at *35 U.S.C. 205* and *37 CFR Part 40*.
- (g) Subcontracts.
 - (1) Subcontractor subject inventions. The Contractor shall not obtain rights in the subcontractor's subject inventions as part of the consideration for awarding a subcontract.
 - (2) Inclusion of patent rights clause-non-profit organization or small business firm subcontractors. Unless otherwise authorized or directed by the Contracting Officer, the Contractor shall include the patent rights clause at *48 CFR 952.227-11*, suitably modified to identify the Parties, in all subcontracts, at any tier, for experimental, developmental, demonstration or research work to be performed by a small business firm or domestic nonprofit organization, except subcontracts which are subject to exceptional circumstances in accordance with *35 U.S.C. 202* and subparagraph (b)(2) of this clause. The subcontractor retains all rights provided for the Contractor in the patent rights clause at *48 CFR 952.227-11*.

- (3) Inclusion of patent rights clause-Subcontractors other than non-profit organizations and small business firms. Except for the subcontracts described in subparagraph (g)(2) of this clause, the Contractor shall include the patent rights clause at 48 CFR 952.227-13, suitably modified to identify the Parties, in any contract for experimental, developmental, demonstration or research work. For subcontracts subject to exceptional circumstances, the Contractor must consult with DOE patent counsel with respect to the appropriate patent clause.
- (4) DOE and Subcontractor contract. With respect to subcontracts at any tier, DOE, the Subcontractor, and the Contractor agree that the mutual obligations of the Parties created by this clause constitute a contract between the Subcontractor and DOE with respect to the matters covered by the clause; provided, however, that nothing in this paragraph is intended to confer any jurisdiction under the Contract Disputes Act in connection with proceedings under paragraph (j) of this clause.
- (5) Subcontractor refusal to accept terms of patent clause. If a prospective Subcontractor refuses to accept the terms of a patent rights clause, the Contractor shall promptly submit a written notice to the Contracting Officer stating the Subcontractor's reasons for such a refusal, including any relevant information for expediting disposition of the matter, and the Contractor shall not proceed with the subcontract without the written authorization of the Contracting Officer.
- (6) Notification of award of subcontract. Upon the award of any subcontract at any tier containing a patent rights clause, the Contractor shall promptly notify the Contracting Officer in writing and identify the Subcontractor, the applicable patent rights clause, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Contracting Officer, the Contractor shall furnish a copy of a subcontract.
- (7) Identification of Subcontractor subject inventions. If the Contractor in the performance of this contract becomes aware of a subject invention made under a subcontract, the Contractor shall promptly notify Patent Counsel and identify the subject invention.
- (h) Reporting on Utilization of Subject Inventions. The Contractor agrees to submit to DOE on request, periodic reports, no more frequently than annually, on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and such other data and information as DOE may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by DOE in connection with any

march-in proceeding undertaken by DOE in accordance with paragraph (j) of this clause. As required by 35 U.S.C. 202(c)(5), DOE agrees it will not disclose such information to persons outside the Government without permission of the Contractor.

- (i) Preference for United States Industry. Notwithstanding any other provision of this clause, the Contractor agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any product embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by DOE upon a showing by the Contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.
- (j) March-in Rights. The Contractor agrees that, with respect to any subject invention in which it has acquired title, DOE has the right in accordance with the procedures in 37 CFR 401.6 and any DOE supplemental regulations to require the Contractor, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and, if the Contractor, assignee or exclusive licensee refuses such a request, DOE has the right to grant such a license itself if DOE determines that-
 - (1) Such action is necessary because the Contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;
 - (2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee, or their licensees;
 - (3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Contractor, assignee, or licensees; or
 - (4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived, or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.
- (k) Special Provisions for Contracts With Nonprofit Organizations. If the Contractor is a nonprofit organization, it agrees that-

- (1) DOE approval of assignment of rights. Rights to a subject invention in the United States may not be assigned by the Contractor without the approval of DOE, except where such assignment is made to an organization which has as one of its primary functions the management of inventions; provided, that such assignee will be subject to the same provisions of this clause as the Contractor.
 - (2) Small business firm licensees. It will make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business firms, and that it will give a preference to a small business firm when licensing a subject invention if the Contractor determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; provided, that the Contractor is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the Contractor. However, the Contractor agrees that the Secretary of Commerce may review the Contractor's licensing program and decisions regarding small business firm applicants, and the Contractor will negotiate changes to its licensing policies, procedures, or practices with the Secretary of Commerce when that Secretary's review discloses that the Contractor could take reasonable steps to more effectively implement the requirements of this subparagraph (k)(2).
 - (3) Contractor licensing of subject inventions. To the extent that it provides the most effective technology transfer, licensing of subject inventions shall be administered by Contractor employees on location at the facility.
- (l) Communications. The Contractor shall direct any notification, disclosure or request provided for in this clause to the Patent Counsel assisting the DOE contracting activity.
- (m) Reports.
- (1) Interim reports. Upon DOE's request, the Contractor shall submit to DOE, no more frequently than annually, a list of subject inventions disclosed to DOE during a specified period, or a statement that no subject inventions were made during the specified period; and a list of subcontracts containing a patent clause and awarded by the Contractor during a specified period, or a statement that no such subcontracts were awarded during the specified period.
 - (2) Final reports. Upon DOE's request, the Contractor shall submit to DOE, prior to closeout of the Contract, a list of all subject inventions disclosed during the performance period of the Contract, or a statement that no

subject inventions were made during the Contract performance period; and a list of all subcontracts containing a patent clause and awarded by the Contractor during the Contract performance period, or a statement that no such subcontracts were awarded during the Contract performance period.

- (n) Examination of Records Relating to Subject Inventions.
- (1) Contractor compliance. Until the expiration of three (3) years after final payment under this Contract, the Contracting Officer or any authorized representative may examine any books (including Laboratory notebooks), records, documents, and other supporting data of the Contractor, which the Contracting Officer or authorized representative deems reasonably pertinent to the discovery or identification of subject inventions, including exceptional circumstance subject inventions, or to determine Contractor compliance with any requirement of this clause.
 - (2) Unreported inventions. If the Contracting Officer is aware of an invention that is not disclosed by the Contractor to DOE, and the Contracting Officer believes the unreported invention may be a subject invention, including exceptional circumstance subject inventions, DOE may require the Contractor to submit to DOE a disclosure of the invention for a determination of ownership rights.
 - (3) Confidentiality. Any examination of records under this paragraph is subject to appropriate conditions to protect the confidentiality of the information involved.
 - (4) Power of inspection. With respect to a subject invention for which the Contractor has responsibility for patent prosecution, the Contractor shall furnish the Government, upon request by DOE, an irrevocable power to inspect and make copies of a prosecution file for any patent application claiming the subject invention.
- (o) Facilities License. In addition to the rights of the Parties with respect to inventions or discoveries conceived or first actually reduced to practice in the course of or under this Contract, the Contractor agrees to and does hereby grant to the Government an irrevocable, nonexclusive, paid-up license in and to any inventions or discoveries regardless of when conceived or actually reduced to practice or acquired by the Contractor at any time through completion of this Contract and which are incorporated or embodied in the construction of the facility or which are utilized in the operation of the facility or which cover articles, materials, or product manufactured at the facility (1) to practice or have practiced by or for the Government at the facility, and (2) to transfer such license with the transfer of that facility. Notwithstanding the acceptance or exercise by the Government of these rights, the Government may contest at any time the

- enforceability, validity or scope of, or title to, any rights or patents herein licensed.
- (p) Atomic Energy.
- (1) Pecuniary awards. No claim for pecuniary award of compensation under the provisions of the Atomic Energy Act of 1954, as amended, may be asserted with respect to any invention or discovery made or conceived in the course of or under this Contract.
 - (2) Patent agreements. Except as otherwise authorized in writing by the Contracting Officer, the Contractor shall obtain patent agreements to effectuate the provisions of subparagraph (p)(1) of this clause from all persons who perform any part of the work under this Contract, except nontechnical personnel, such as clerical employees and manual laborers.
- (q) Classified Inventions.
- (1) Approval for filing a foreign patent application. The Contractor shall not file or cause to be filed an application or registration for a patent disclosing a subject invention related to classified subject matter in any country other than the United States without first obtaining the written approval of the Contracting Officer.
 - (2) Transmission of classified subject matter. If in accordance with this clause the Contractor files a patent application in the United States disclosing a subject invention that is classified for reasons of security, the Contractor shall observe all applicable security regulations covering the transmission of classified subject matter. If the Contractor transmits a patent application disclosing a classified subject invention to the United States Patent and Trademark Office (USPTO), the Contractor shall submit a separate letter to the USPTO identifying the contract or contracts by agency and agreement number that require security classification markings to be placed on the patent application.
 - (3) Inclusion of clause in subcontracts. The Contractor agrees to include the substance of this clause in subcontracts at any tier that cover or are likely to cover subject matter classified for reasons of security.
- (r) Patent Functions. Upon the written request of the Contracting Officer or Patent Counsel, the Contractor agrees to make reasonable efforts to support DOE in accomplishing patent-related functions for work arising out of the Contract, including, but not limited to, the prosecution of patent applications, and the determination of questions of novelty, patentability, and inventorship.

- (s) Educational Awards Subject to *35 U.S.C. 212*. The Contractor shall notify the Contracting Officer prior to the placement of any person subject to *35 U.S.C. 212* in an area of technology or task (1) related to exceptional circumstance technology or (2) which is subject to treaties or international agreements as set forth in paragraph (b)(3) of this clause or agreements other than funding agreements. The Contracting Officer may disapprove of any such placement.
- (t) Annual Appraisal by Patent Counsel. Patent Counsel may conduct an annual appraisal to evaluate the Contractor's effectiveness in identifying and protecting subject inventions in accordance with DOE policy.

(End of Clause)

I-100 DEAR 970.5228-1 – Insurance – Litigation and Claims (Aug 2009)

- (a) The Contractor may, with the prior written authorization of the Contracting Officer, and shall, upon the request of the Government, initiate litigation against third parties, including proceedings before administrative agencies, in connection with this contract. The Contractor shall proceed with such litigation in good faith and as directed from time to time by the Contracting Officer.
- (b) The Contractor shall give the Contracting Officer immediate notice in writing of any legal proceeding, including any proceeding before an administrative agency, filed against the Contractor arising out of the performance of this contract. Except as otherwise directed by the Contracting Officer, in writing, the Contractor shall furnish immediately to the Contracting Officer copies of all pertinent papers received by the Contractor with respect to such action. The Contractor, with the prior written authorization of the Contracting Officer, shall proceed with such litigation in good faith and as directed from time to time by the Contracting Officer.
- (c)
 - (1) Except as provided in paragraph (c)(2) of this clause, the Contractor shall procure and maintain such bonds and insurance as required by law or approved in writing by the Contracting Officer.
 - (2) The Contractor may, with the approval of the Contracting Officer, maintain a self-insurance program; provided that, with respect to workers' compensation, the Contractor is qualified pursuant to statutory authority.
 - (3) All bonds and insurance required by this clause shall be in a form and amount and for those periods as the Contracting Officer may require or approve and with sureties and insurers approved by the Contracting Officer.
- (d) The Contractor agrees to submit for the contracting officer's approval, to the extent and in the manner required by the Contracting Officer, any other bonds and

insurance that are maintained by the Contractor in connection with the performance of this contract and for which the Contractor seeks reimbursement. If an insurance cost (whether a premium for commercial insurance or related to self-insurance) includes a portion covering costs made unallowable elsewhere in the contract, and the share of the cost for coverage for the unallowable cost is determinable, the portion of the cost that is otherwise an allowable cost under this contract is reimbursable to the extent determined by the Contracting Officer.

- (e) Except as provided in subparagraphs (g) and (h) of this clause, or specifically disallowed elsewhere in this contract, the Contractor shall be reimbursed-
 - (1) For that portion of the reasonable cost of bonds and insurance allocable to this contract required in accordance with contract terms or approved under this clause; and
 - (2) For liabilities (and reasonable expenses incidental to such liabilities, including litigation costs) to third persons not compensated by insurance or otherwise without regard to and as an exception to the clause of this contract entitled "Obligation of Funds."

[67 FR 14871, Mar. 28, 2002]

- (f) The Government's liability under paragraph (e) of this clause is subject to the availability of appropriated funds. Nothing in this contract shall be construed as implying that the Congress will, at a later date, appropriate funds sufficient to meet deficiencies.
- (g) Notwithstanding any other provision of this contract, the Contractor shall not be reimbursed for liabilities (and expenses incidental to such liabilities, including litigation costs, counsel fees, judgment and settlements)—
 - (1) Which are otherwise unallowable by law or the provisions of this contract; or
 - (2) For which the Contractor has failed to insure or to maintain insurance as required by law, this contract, or by the written direction of the Contracting Officer.
- (h) In addition to the cost reimbursement limitations contained in 48 CFR Part 31, as supplemented by 48 CFR 970.31, and notwithstanding any other provision of this contract, the Contractor's liabilities to third persons, including employees but excluding costs incidental to worker's compensation actions, (and any expenses incidental to such liabilities, including litigation costs, counsel fees, judgments and settlements) shall not be reimbursed if such liabilities were caused by Contractor managerial personnel's—

[67 FR 14871, Mar. 28, 2002]

- (1) Willful misconduct;
 - (2) Lack of good faith; or
 - (3) Failure to exercise prudent business judgment, which means failure to act in the same manner as a prudent person in the conduct of competitive business; or, in the case of a non-profit educational institution, failure to act in the manner that a prudent person would under the circumstances prevailing at the time the decision to incur the cost is made.
- (i) The burden of proof shall be upon the Contractor to establish that costs covered by paragraph (h) of this clause are allowable and reasonable if, after an initial review of the facts, the Contracting Officer challenges a specific cost or informs the Contractor that there is reason to believe that the cost results from willful misconduct, lack of good faith, or failure to exercise prudent business judgment by contractor managerial personnel.
- (j)
- (1) All litigation costs, including counsel fees, judgments and settlements shall be differentiated and accounted for by the Contractor so as to be separately identifiable. If the Contracting Officer provisionally disallows such costs, then the Contractor may not use funds advanced by DOE under the contract to finance the litigation.
 - (2) Punitive damages are not allowable unless the act or failure to act which gave rise to the liability resulted from compliance with specific terms and conditions of the contract or written instructions from the Contracting Officer.
 - (3) The portion of the cost of insurance obtained by the Contractor that is allocable to coverage of liabilities referred to in paragraph (g)(1) of this clause is not allowable.
 - (4) The term "contractor's managerial personnel" is defined in clause paragraph (j) of 48 CFR 970.5245-1.

[67 FR 14871, Mar. 28, 2002]

- (k) The Contractor may at its own expense and not as an allowable cost procure for its own protection insurance to compensate the Contractor for any unallowable or non-reimbursable costs incurred in connection with contract performance.

- (1) If any suit or action is filed or any claim is made against the Contractor, the cost and expense of which may be reimbursable to the Contractor under this contract, and the risk of which is then uninsured or is insured for less than the amount claimed, the Contractor shall—
 - (1) Immediately notify the Contracting Officer and promptly furnish copies of all pertinent papers received;
 - (2) Authorize Department representatives to collaborate with: in-house or DOE-approved outside counsel in settling or defending the claim; or counsel for the insurance carrier in settling or defending the claim if the amount of the liability claimed exceeds the amount of coverage, unless precluded by the terms of the insurance contract; and
 - (3) Authorize Department representatives to settle the claim or to defend or represent the Contractor in and/or to take charge of any litigation, if required by the Department, if the liability is not insured or covered by bond. In any action against more than one Department Contractor, the Department may require the Contractor to be represented by common counsel. Counsel for the Contractor may, at the Contractor's own expense, be associated with the Department representatives in any such claim or litigation.

(End of Clause)

[M779]

I-101 DEAR 970.5229-1 State and Local Taxes (Dec 2000)

- (a) The Contractor agrees to notify the Contracting Officer of any State or local tax, fee, or charge levied or purported to be levied on or collected from the Contractor with respect to the Contract work, any transaction thereunder, or property in the custody or control of the Contractor and constituting an allowable item of cost if due and payable, but which the Contractor has reason to believe, or the Contracting Officer has advised the Contractor, is or may be inapplicable or invalid; and the Contractor further agrees to refrain from paying any such tax, fee, or charge unless authorized in writing by the Contracting Officer. Any State or local tax, fee, or charge paid with the approval of the Contracting Officer or on the basis of advice from the Contracting Officer that such tax, fee, or charge is applicable and valid, and which would otherwise be an allowable item of cost, shall not be disallowed as an item of cost by reason of any subsequent ruling or determination that such tax, fee, or charge was in fact inapplicable or invalid.
- (b) The Contractor agrees to take such action as may be required or approved by the Contracting Officer to cause any State or local tax, fee, or charge which would be an allowable cost to be paid under protest; and to take such action as may be required or approved by the Contracting Officer to seek recovery of any payments made, including assignment to the Government or its designee of all rights to an

abatement or refund thereof, and granting permission for the Government to join with the Contractor in any proceedings for the recovery thereof or to sue for recovery in the name of the Contractor. If the Contracting Officer directs the Contractor to institute litigation to enjoin the collection of or to recover payment of any such tax, fee, or charge referred to above, or if a claim or suit is filed against the Contractor for a tax, fee, or charge it has refrained from paying in accordance with this clause, the procedures and requirements of the clause entitled "Insurance-Litigation and Claims" shall apply and the costs and expenses incurred by the Contractor shall be allowable items of costs, as provided in this Contract, together with the amount of any judgment rendered against the Contractor.

- (c) The Government shall hold the Contractor harmless from penalties and interest incurred through compliance with this clause. All recoveries or credits in respect of the foregoing taxes, fees, and charges (including interest) shall inure to and be for the sole benefit of the Government.

(End of Clause)

I-102 DEAR 970.5231-4 Preexisting Conditions (Dec 2000) Alternate I (Dec 2000)

- (a) *Any liability, obligation, loss, damage, claim (including without limitation, a claim involving strict or absolute liability), action, suit, civil fine or penalty, cost, expense or disbursement, which may be incurred or imposed, or asserted by any party and arising out of any condition, act or failure to act which occurred before October 1, 1998, in conjunction with the management and operation of the Pacific Northwest National Laboratory, shall be deemed incurred under Contract No. DE-AC06-76RL01830, Modification M198, dated October 14, 1992.*

- (b) The obligations of the Department of Energy under this clause are subject to the availability of appropriated funds.

(End of Clause)

I-103 DEAR 970.5232-1 Reduction or Suspension of Advance, Partial, or Progress Payments (Dec 2000)

- (a) The Contracting Officer may reduce or suspend further advance, partial, or progress payments to the Contractor upon a written determination by the Senior Procurement Executive that substantial evidence exists that the Contractor's request for advance, partial, or progress payment is based on fraud.

- (b) The Contractor shall be afforded a reasonable opportunity to respond in writing.

(End of Clause)

I-104 DEAR 970.5232-2 – Payments and Advances (Dec 2000) Alternate II (Dec 2000) Alternate III (Dec 2000)

- (a) *Payment of Total available fee: Base Fee and Performance Fee. The base fee amount, if any, is payable in equal monthly installments. Total available fee amount earned is payable following the Government's Determination of Total Available Fee Amount Earned in accordance with the clause of this contract entitled "Total Available Fee: Base Fee Amount and Performance Fee Amount." Base fee amount and total available fee amount earned payments shall be made by direct payment or withdrawn from funds advanced or available under this contract, as determined by the Contracting Officer. The Contracting Officer may offset against any such fee payment the amounts owed to the Government by the Contractor, including any amounts owed for disallowed costs under this contract. No base fee amount or total available fee amount earned payment may be withdrawn against the payments cleared financing arrangement without the prior written approval of the Contracting Officer. [M779]*
- (1) **RESERVED [M779]**
 - (2) **RESERVED [M528]**
 - (3) **RESERVED [M779]**
- (b) Payments on Account of Allowable Costs. The Contracting Officer and the Contractor shall agree as to the extent to which payment for allowable costs or payments for other items specifically approved in writing by the Contracting Officer (for example, negotiated fixed amounts) shall be made from advances of Government funds. When pension contributions are paid by the Contractor to the retirement fund less frequently than quarterly, accrued costs therefore shall be excluded from costs for payment purposes until such costs are paid. If pension contribution are paid on a quarterly or more frequent basis, accrual therefore may be included in costs for payment purposes, provided that they are paid to the fund within 30 days after the close of the period covered. If payments are not made to the fund within such 30-day period, pension contribution costs shall be excluded from cost for payment purposes until payment has been made.
- (c) Special financial institution account-use. All advances of Government funds shall be withdrawn pursuant to a payments cleared financing arrangement prescribed by DOE in favor of the financial institution or, at the option of the Government, shall be made by direct payment or other payment mechanism to the Contractor, and shall be deposited only in the special financial institution account referred to in the Special Financial Institution Account Agreement, which is incorporated into this contract as Appendix-. No part of the funds in the special financial

institution account shall be commingled with any funds of the Contractor or used for a purpose other than that of making payments for costs allowable and, if applicable, fees earned under this contract, negotiated fixed amounts, or payments for other items specifically approved in writing by the Contracting Officer. If the Contracting Officer determines that the balance of such special financial institution account exceeds the Contractor's current needs, the Contractor shall promptly make such disposition of the excess as the Contracting Officer may direct.

- (d) Title to funds advanced. Title to the unexpended balance of any funds advanced and of any special financial institution account established pursuant to this clause shall remain in the Government and be superior to any claim or lien of the financial institution of deposit or others. It is understood that an advance to the Contractor hereunder is not a loan to the Contractor, and will not require the payment of interest by the Contractor, and that the Contractor acquires no right, title or interest in or to such advance other than the right to make expenditures therefrom, as provided in this clause.
- (e) Financial settlement. The Government shall promptly pay to the Contractor the unpaid balance of allowable costs (or other items specifically approved in writing by the Contracting Officer) and fee upon termination of the work, expiration of the term of the contract, or completion of the work and its acceptance by the Government after—
 - (1) Compliance by the Contractor with DOE's patent clearance requirements, and
 - (2) The furnishing by the Contractor of—
 - (i) An assignment of the Contractor's rights to any refunds, rebates, allowances, accounts receivable, collections accruing to the Contractor in connection with the work under this contract, or other credits applicable to allowable costs under the contract;
 - (ii) A closing financial statement;
 - (iii) The accounting for Government-owned property required by the clause entitled "Property"; and
 - (iv) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this Contract subject only to the following exceptions—

- (A) Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible to exact statement by the Contractor;
 - (B) Claims, together with reasonable expenses incidental thereto, based upon liabilities of the Contractor to third parties arising out of the performance of this contract; provided that such claims are not known to the Contractor on the date of the execution of the release; and provided further that the Contractor gives notice of such claims in writing to the Contracting Officer promptly, but not more than one (1) year after the Contractor's right of action first accrues. In addition, the Contractor shall provide prompt notice to the Contracting Officer of all potential claims under this clause, whether in litigation or not (see also Contract Clause, 48 CFR 970.5228-1, "Insurance— Litigation and Claims");
 - (C) Claims for reimbursement of costs (other than expenses of the Contractor by reason of any indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this Contract relating to patents; and
 - (D) Claims recognizable under the clause entitled, Nuclear Hazards Indemnity Agreement.
- (3) In arriving at the amount due the Contractor under this clause, there shall be deducted—
- (i) Any claim which the Government may have against the Contractor in connection with this Contract, and
 - (ii) Deductions due under the terms of this Contract, and not otherwise recovered by or credited to the Government. The unliquidated balance of the special financial institution account may be applied to the amount due and any balance shall be returned to the Government forthwith.
- (f) Claims. Claims for credit against funds advanced for payment shall be accompanied by such supporting documents and justification as the Contracting Officer shall prescribe.
- (g) Discounts. The Contractor shall take and afford the Government the advantage of all known and available cash and trade discounts, rebates, allowances, credits,

salvage, and commissions unless the Contracting Officer finds that action is not in the best interest of the Government.

- (h) Collections. All collections accruing to the Contractor in connection with the work under this contract, except for the Contractor's fee and royalties or other income accruing to the Contractor from technology transfer activities in accordance with this contract, shall be Government property and shall be processed and accounted for in accordance with applicable requirements imposed by the Contracting Officer pursuant to the Laws, regulations, and DOE directives clause of this contract and, to the extent consistent with those requirements, shall be deposited in the special financial institution account or otherwise made available for payment of allowable costs under this contract, unless otherwise directed by the Contracting Officer.
- (i) Direct payment of charges. The Government reserves the right, upon ten days written notice from the Contracting Officer to the Contractor, to pay directly to the persons concerned, all amounts due which otherwise would be allowable under this contract. Any payment so made shall discharge the Government of all liability to the Contractor therefore.
- (j) Determining allowable costs. The Contracting Officer shall determine allowable costs in accordance with the Federal Acquisition Regulation subpart 31.2 and the Department of Energy Acquisition Regulation subpart 48 CFR 970.31 in effect on the date of this contract and other provisions of this contract.
- (k) ***Review and approval of costs incurred. The Contractor shall prepare and submit annually as of September 30, a "Statement of Costs Incurred and Claimed" (Cost Statement) for the total of net expenditures accrued (i.e., net costs incurred) for the period covered by the Cost Statement. The Contractor shall certify the Cost Statement subject to the penalty provisions for unallowable costs as stated in sections 306(b) and (i) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256), as amended. DOE, after audit and appropriate adjustment, will approve such Cost Statement. This approval by DOE will constitute an acknowledgment by DOE that the net costs incurred are allowable under the contract and that they have been recorded in the accounts maintained by the Contractor in accordance with DOE accounting policies, but will not relieve the Contractor of responsibility for DOE's assets in its care, for appropriate subsequent adjustments, or for errors later becoming known to DOE.***

(End of Clause)

I-105 DEAR 970.5232-3 – Accounts, Records, and Inspection (Dec 2010)

- (a) Accounts. The Contractor shall maintain a separate and distinct set of accounts, records, documents, and other evidence showing and supporting: all allowable costs incurred; collections accruing to the Contractor in connection with the work

- under this contract, other applicable credits, negotiated fixed amounts, and fee accruals under this contract; and the receipt, use, and disposition of all Government property coming into the possession of the Contractor under this contract. The system of accounts employed by the Contractor shall be satisfactory to DOE and in accordance with generally accepted accounting principles consistently applied.
- (b) Inspection and audit of accounts and records. All books of account and records relating to this contract shall be subject to inspection and audit by DOE or its designees in accordance with the provisions of Clause, Access to and ownership of records, at all reasonable times, before and during the period of retention provided for in paragraph (d) of this clause, and the Contractor shall afford DOE proper facilities for such inspection and audit.
 - (c) Audit of subcontractors' records. The Contractor also agrees, with respect to any subcontracts (including fixed-price or unit-price subcontracts or purchase orders) where, under the terms of the subcontract, costs incurred are a factor in determining the amount payable to the subcontractor of any tier, to either conduct an audit of the subcontractor's costs or arrange for such an audit to be performed by the cognizant government audit agency through the Contracting Officer.
 - (d) Disposition of records. Except as agreed upon by the Government and the Contractor, all financial and cost reports, books of account and supporting documents, system files, data bases, and other data evidencing costs allowable, collections accruing to the Contractor in connection with the work under this contract, other applicable credits, and fee accruals under this contract, shall be the property of the Government, and shall be delivered to the Government or otherwise disposed of by the Contractor either as the Contracting Officer may from time to time direct during the progress of the work or, in any event, as the Contracting Officer shall direct upon completion or termination of this contract and final audit of accounts hereunder. Except as otherwise provided in this contract, including provisions of Clause 970.5204-3, Access to and Ownership of Records, all other records in the possession of the Contractor relating to this contract shall be preserved by the Contractor for a period of three years after final payment under this contract or otherwise disposed of in such manner as may be agreed upon by the Government and the Contractor.
 - (e) Reports. The Contractor shall furnish such progress reports and schedules, financial and cost reports, and other reports concerning the work under this contract as the Contracting Officer may from time to time require.
 - (f) Inspections. The DOE shall have the right to inspect the work and activities of the Contractor under this contract at such time and in such manner as it shall deem appropriate.

- (g) Subcontracts. The Contractor further agrees to require the inclusion of provisions similar to those in paragraphs (a) through (g) and paragraph (h) of this clause in all subcontracts (including fixed-price or unit-price subcontracts or purchase orders) of any tier entered into hereunder where, under the terms of the subcontract, costs incurred are a factor in determining the amount payable to the subcontractor.
- (h) 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 or subcontractor's directly pertinent records involving transactions related to this contract or a subcontract hereunder and to interview any 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.
 - (3) Nothing in this contract shall be deemed to preclude an audit by the Government Accountability Office of any transaction under this contract.
- (i) Internal audit. The Contractor agrees to design and maintain an internal audit plan and an internal audit organization.
 - (1) Upon contract award, the exercise of any contract option, or the extension of the contract, the Contractor must submit to the Contracting Officer for approval an Internal Audit Implementation Design to include the overall strategy for internal audits. The Audit Implementation Design must describe—
 - (i) The internal audit organization's placement within the contractor's organization and its reporting requirements;
 - (ii) The audit organization's size and the experience and educational standards of its staff;
 - (iii) The audit organization's relationship to the corporate entities of the Contractor;
 - (iv) The standards to be used in conducting the internal audits;
 - (v) The overall internal audit strategy of this contract, considering particularly the method of auditing costs incurred in the performance of the contract;

- (vi) The intended use of external audit resources;
 - (vii) The plan for audit of subcontracts, both pre-award and post-award; and
 - (viii) The schedule for peer review of internal audits by other contractor internal audit organizations, or other independent third party audit entities approved by the DOE Contracting Officer.
- (2) By each January 31 of the contract performance period, the Contractor must submit an annual audit report, providing a summary of the audit activities undertaken during the previous fiscal year. That report shall reflect the results of the internal audits during the previous fiscal year and the actions to be taken to resolve weaknesses identified in the contractor's system of business, financial, or management controls.
- (3) By each June 30 of the contract performance period, the Contractor must submit to the Contracting Officer an annual audit plan for the activities to be undertaken by the internal audit organization during the next fiscal year that is designed to test the costs incurred and contractor management systems described in the internal audit design.
- (4) The Contracting Officer may require revisions to documents submitted under paragraphs (i)(1), (i)(2), and (i)(3) of this clause, including the design plan for the internal audits, the annual report, and the annual internal audits.
- (j) Remedies. If at any time during contract performance, the Contracting Officer determines that unallowable costs were claimed by the Contractor to the extent of making the contractor's management controls suspect, or the contractor's management systems that validate costs incurred and claimed suspect, the Contracting Officer may, in his or her sole discretion, require the Contractor to cease using the special financial institution account in whole or with regard to specified accounts, requiring reimbursable costs to be claimed by periodic vouchering. In addition, the Contracting Officer, where he or she deems it appropriate, may: Impose a penalty under 48 CFR 970.5242-1, Penalties for Unallowable Costs; require a refund; reduce the contractor's otherwise earned fee; and take such other action as authorized in law, regulation, or this contract.

(End of Clause)

[M779]

I-106 DEAR 970.5232-4 Obligation of Funds (Dec 2000)

- (a) Obligation of funds. The amount presently obligated by the Government with respect to this Contract is specified in Section B, clause entitled "Obligated Funds". Such amount may be increased unilaterally by DOE by written notice to

- the Contractor and may be increased or decreased by written agreement of the Parties (whether or not by formal modification of this Contract). Estimated collections from others for work and services to be performed under this Contract are not included in the amount presently obligated. Such collections, to the extent actually received by the Contractor, shall be processed and accounted for in accordance with applicable requirements imposed by the Contracting Officer pursuant to the Laws, regulations, and DOE directives clause of this Contract. Nothing in this paragraph is to be construed as authorizing the Contractor to exceed limitations stated in financial plans established by DOE and furnished to the Contractor from time to time under this Contract.
- (b) Limitation on payment by the Government. Except as otherwise provided in this Contract and except for costs which may be incurred by the Contractor pursuant to the Termination clause of this Contract or costs of claims allowable under the Contract occurring after completion or termination and not released by the Contractor at the time of financial settlement of the Contract in accordance with the clause entitled "Payments and Advances," payment by the Government under this Contract on account of allowable costs shall not, in the aggregate, exceed the amount obligated with respect to this Contract, less the Contractor's fee and any negotiated fixed amount. Unless expressly negated in this Contract, payment on account of those costs excepted in the preceding sentence which are in excess of the amount obligated with respect to this Contract shall be subject to the availability of:
- (1) collections accruing to the Contractor in connection with the work under this Contract and processed and accounted for in accordance with applicable requirements imposed by the Contracting Officer pursuant to the Laws, regulations, and DOE directives clause of this Contract, and
 - (2) other funds which DOE may legally use for such purpose, provided DOE will use its best efforts to obtain the appropriation of funds for this purpose if not otherwise available.
- (c) Notices-Contractor excused from further performance. The Contractor shall notify DOE in writing whenever the unexpended balance of available funds (including collections available under paragraph (a) of this clause), plus the Contractor's best estimate of collections to be received and available during the 45-day period hereinafter specified, is in the Contractor's best judgment sufficient to continue Contract operations at the programmed rate for only 45 days and to cover the Contractor's unpaid fee and any negotiated fixed amounts, and outstanding encumbrances and liabilities on account of costs allowable under the Contract at the end of such period. Whenever the unexpended balance of available funds (including collections available under paragraph (a) of this clause), less the amount of the Contractor's fee then earned but not paid and any negotiated fixed amounts, is in the Contractor's best judgment sufficient only to liquidate outstanding encumbrances and liabilities on account of costs allowable under this

Contract, the Contractor shall immediately notify DOE and shall make no further encumbrances or expenditures (except to liquidate existing encumbrances and liabilities), and, unless the Parties otherwise agree, the Contractor shall be excused from further performance (except such performance as may become necessary in connection with termination by the Government) and the performance of all work hereunder will be deemed to have been terminated for the convenience of the Government in accordance with the provisions of the Termination clause of this Contract.

- (d) Financial plans; cost and encumbrance limitations. In addition to the limitations provided for elsewhere in this Contract, DOE may, through financial plans, such as Approved Funding Programs, or other directives issued to the Contractor, establish controls on the costs to be incurred and encumbrances to be made in the performance of the Contract work. Such plans and directives may be amended or supplemented from time to time by DOE. The Contractor agrees
- (1) to comply with the specific limitations (ceilings) on costs and encumbrances set forth in such plans and directives,
 - (2) to comply with other requirements of such plans and directives, and
 - (3) to notify DOE promptly, in writing, whenever it has reason to believe that any limitation on costs and encumbrances will be exceeded or substantially underrun.
- (e) Government's right to terminate not affected. The giving of any notice under this clause shall not be construed to waive or impair any right of the Government to terminate the Contract under the provisions of the Termination clause of this Contract.

(End of Clause)

I-107 DEAR 970.5232-5 Liability with Respect to Cost Accounting Standards (Dec 2000)

- (a) The Contractor is not liable to the Government for increased costs or interest resulting from its failure to comply with the clauses of this Contract entitled, "Cost Accounting Standards," and "Administration of Cost Accounting Standards," if its failure to comply with the clauses is caused by the Contractor's compliance with published DOE financial management policies and procedures or other requirements established by the Department's Chief Financial Officer or Procurement Executive.
- (b) The Contractor is not liable to the Government for increased costs or interest resulting from its Subcontractors' failure to comply with the clauses at FAR 52.230-2, "Cost Accounting Standards," and FAR 52.230-6, "Administration of Cost Accounting Standards," if the Contractor includes in each covered subcontract a clause making the Subcontractor liable to the Government for

increased costs or interest resulting from the Subcontractor's failure to comply with the clauses; and the Contractor seeks the subcontract price adjustment and cooperates with the Government in the Government's attempts to recover from the Subcontractor.

(End of Clause)

I-108 DEAR 970.5232-6 Work for Others Funding Authorization (Dec 2000)

Any uncollectible receivables resulting from the Contractor utilizing Contractor corporate funding for reimbursable work shall be the responsibility of the Contractor, and the United States Government shall have no liability to the Contractor for the Contractor's uncollected receivables. The Contractor is permitted to provide advance payment utilizing Contractor corporate funds for reimbursable work to be performed by the Contractor for a non-Federal entity in instances where advance payment from that entity is required under the Laws, regulations, and DOE directives clause of this Contract and such advance cannot be obtained. The Contractor is also permitted to provide advance payment utilizing Contractor corporate funds to continue reimbursable work to be performed by the Contractor for a Federal entity when the term or the funds on a Federal interagency agreement required under the Laws, regulations, and DOE directives clause of this Contract have elapsed. The Contractor's utilization of Contractor corporate funds does not relieve the Contractor of its responsibility to comply with all requirements for Work for Others applicable to this Contract.

(End of Clause)

I-109 DEAR 970.5232-7 Financial Management System (Dec 2000)

The Contractor shall maintain and administer a financial management system that is suitable to provide proper accounting in accordance with DOE requirements for assets, liabilities, collections accruing to the Contractor in connection with the work under this Contract, expenditures, costs, and encumbrances; permits the preparation of accounts and accurate, reliable financial and statistical reports; and assures that accountability for the assets can be maintained. The Contractor shall submit to DOE for written approval an annual plan for new financial management systems and/or subsystems and major enhancements and/or upgrades to the currently existing financial systems and/or subsystems. The Contractor shall notify DOE thirty (30) days in advance of any planned implementation of any substantial deviation from this plan and, as requested by the Contracting Officer, shall submit any such deviation to DOE for written approval before implementation.

(End of Clause)

I-110 DEAR 970.5232-8 Integrated Accounting (Dec 2000)

Integrated accounting procedures are required for use under this Contract. The Contractor's financial management system shall include an integrated accounting system that is linked to DOE's accounts through the use of reciprocal accounts and that has electronic capability to transmit monthly and year-end self-balancing trial balances to the Department's Primary Accounting System for reporting financial activity under this

Contract in accordance with requirements imposed by the Contracting Officer pursuant to the Laws, regulations, and DOE directives clause of this Contract.

(End of Clause)

I-111 DEAR 970.5235-1 – Federally Funded Research and Development Center Sponsoring Agreement (Dec 2010)

- (a) Pursuant to 48 CFR 35.017-1, this contract constitutes the sponsoring agreement between the Department of Energy (DOE) and the Contractor, which establishes the relationship for the operation of a Department of Energy sponsored Federally Funded Research and Development Center (FFRDC).
- (b) In the operation of this FFRDC, the Contractor may be provided access beyond that which is common to the normal contractual relationship, to Government and supplier data, including sensitive and proprietary data, and to Government employees and facilities needed to discharge its responsibilities efficiently and effectively. Because of this special relationship, it is essential that the FFRDC be operated in the public interest with objectivity and independence, be free from organizational conflicts of interest, and have full disclosure of its affairs to the Department of Energy.
- (c) Unless otherwise provided by the contract, the Contractor may accept work from a nonsponsor (as defined in 48 CFR 35.017) in accordance with the requirements and limitations of the clause 48 CFR 970.5217-1, Work for Others Program.
- (d) As an FFRDC, the Contractor shall not use its privileged information or access to government facilities to compete with the private sector. Specific guidance on restricted activities is contained in DOE Order 481.1, Work for Others (Non-Department of Energy Funded Work), or its successor.

(End of Clause)

[M779]

I-112 DEAR 970.5236-1 Government Facility Subcontract Approval (Dec 2000)

Upon request of the Contracting Officer and acceptance thereof by the Contractor, the Contractor shall procure, by subcontract, the construction of new facilities or the alteration or repair of Government-owned facilities at the plant. Any subcontract entered into under this paragraph shall be subject to the written approval of the Contracting Officer and shall contain the provisions relative to labor and wages required by law to be included in contracts for the construction, alteration, and/or repair, including painting and decorating, of a public building or public work.

(End of Clause)

I-113 DEAR 970.5242-1 – Penalties for Unallowable Costs (Aug 2009)

- (a) Contractors which include unallowable cost in a submission for settlement for cost incurred, may be subject to penalties.
- (b) If, during the review of a submission for settlement of cost incurred, the Contracting Officer determines that the submission contains an expressly unallowable cost or a cost determined to be unallowable prior to the submission, the Contracting Officer shall assess a penalty.
- (c) Unallowable costs are either expressly unallowable or determined unallowable.
 - (1) An expressly unallowable cost is a particular item or type of cost which, under the express provisions of an applicable law, regulation, or this contract, is specifically named and stated to be unallowable.
 - (2) A cost determined unallowable is one which, for that Contractor—
 - (i) Was subject to a Contracting Officer's final decision and not appealed;
 - (ii) The Civilian Board of Contract Appeals or a court has previously ruled as unallowable; or
 - (iii) Was mutually agreed to be unallowable.
- (d) If the Contracting Officer determines that a cost submitted by the Contractor in its submission for settlement of cost incurred is—
 - (1) Expressly unallowable, then the Contracting Officer shall assess a penalty in an amount equal to the disallowed cost allocated to this contract plus interest on the paid portion of the disallowed cost. Interest shall be computed from the date of overpayment to the date of repayment using the interest rate specified by the Secretary of the Treasury pursuant to Pub. L. 92-41 (85 Stat. 97); or
 - (2) Determined unallowable, then the Contracting Officer shall assess a penalty in an amount equal to two times the amount of the disallowed cost allocated to this contract.
- (e) The Contracting Officer may waive the penalty provisions when—
 - (1) The Contractor withdraws the submission before the formal initiation of an audit of the submission and submits a revised submission;

- (2) The amount of the unallowable costs allocated to covered contracts is \$10,000 or less; or
- (3) The Contractor demonstrates to the Contracting Officer's satisfaction that—
 - (i) It has established appropriate policies, personnel training, and an internal control and review system that provides assurances that unallowable costs subject to penalties are precluded from the Contractor's submission for settlement of costs; and
 - (ii) The unallowable costs subject to the penalty were inadvertently incorporated into the submission.

(End of Clause)

[M779]

I-114 DEAR 970.5243-1 Changes (Dec 2000)

- (a) Changes and adjustment of fee. The Contracting Officer may at any time and without notice to the sureties, if any, issue written directions within the general scope of this Contract requiring additional work or directing the omission of, or variation in, work covered by this Contract. If any such direction results in a material change in the amount or character of the work described in the "Statement of Work," an equitable adjustment of the fee, if any, shall be made in accordance with the agreement of the Parties and the Contract shall be modified in writing accordingly. Any claim by the Contractor for an adjustment under this clause must be asserted in writing within 30 days from the date of receipt by the Contractor of the notification of change; provided, however, that the Contracting Officer, if it is determined that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this Contract. A failure to agree on an equitable adjustment under this clause shall be deemed to be a dispute within the meaning of the clause entitled "Disputes."
- (b) Work to continue. Nothing contained in this clause shall excuse the Contractor from proceeding with the prosecution of the work in accordance with the requirements of any direction hereunder.

(End of Clause)

I-115 DEAR 970.5244-1 – Contractor's Purchasing System (Class Deviation Policy Flash 2011-98, Aug 2011)

- (a) *General.* The Contractor shall develop, implement, and maintain formal policies, practices, and procedures to be used in the award of subcontracts consistent with this clause and 48 CFR subpart 970.44. The Contractor's purchasing system and methods shall be fully documented, consistently applied, and acceptable to the Department of Energy (DOE) in accordance with 48 CFR 970.4401-1. The Contractor shall maintain file documentation which is appropriate to the value of

the purchase and is adequate to establish the propriety of the transaction and the price paid. The Contractor's purchasing performance will be evaluated against such performance criteria and measures as may be set forth elsewhere in this contract. DOE reserves the right at any time to require that the Contractor submit for approval any or all purchases under this contract. The Contractor shall not purchase any item or service, the purchase of which is expressly prohibited by the written direction of DOE, and shall use such special and directed sources as may be expressly required by the DOE Contracting Officer. DOE will conduct periodic appraisals of the Contractor's management of all facets of the purchasing function, including the Contractor's compliance with its approved system and methods. Such appraisals will be performed through the conduct of Contractor Purchasing System Reviews in accordance with 48 CFR subpart 44.3, or, when approved by the Contracting Officer, through the Contractor's participation in the conduct of the Balanced Scorecard performance measurement and performance management system. The Contractor's approved purchasing system and methods shall include the requirements set forth in paragraphs (b) through (y) of this clause.

- (b) *Acquisition of utility services.* Utility services shall be acquired in accordance with the requirements of subpart 970.41.
- (c) *Acquisition of Real Property.* Real property shall be acquired in accordance with 48 CFR subpart 917.74.
- (d) *Advance Notice of Proposed Subcontract Awards.* Advance notice shall be provided in accordance with 48 CFR 970.4401-3.
- (e) *Audit of Subcontractors.*
 - (1) The Contractor shall provide for—
 - (i) Periodic post-award audit of cost-reimbursement subcontractors at all tiers; and
 - (ii) Audits, where necessary, to provide a valid basis for pre-award or cost or price analysis.
 - (2) Responsibility for determining the costs allowable under each cost-reimbursement subcontract remains with the contractor or next higher-tier subcontractor. The Contractor shall provide, in appropriate cases, for the timely involvement of the Contractor and the DOE Contracting Officer in resolution of subcontract cost allowability.
 - (3) Where audits of subcontractors at any tier are required, arrangements may be made to have the cognizant Federal agency perform the audit of the subcontract. These arrangements shall be made administratively between DOE and the other agency involved and shall provide for the cognizant

agency to audit in an appropriate manner in light of the magnitude and nature of the subcontract. In no case, however, shall these arrangements preclude determination by the DOE Contracting Officer of the allowability or unallowability of subcontractor costs claimed for reimbursement by the Contractor.

- (4) Allowable costs for cost reimbursable subcontracts are to be determined in accordance with the cost principles of 48 CFR part 31, appropriate for the type of organization to which the subcontract is to be awarded, as supplemented by 48 CFR part 931. Allowable costs in the purchase or transfer from contractor-affiliated sources shall be determined in accordance with 48 CFR 970.4402-3 and 48 CFR 31.205-26(e).
- (f) *Bonds and Insurance.*
- (1) The Contractor shall require performance bonds in penal amounts as set forth in 48 CFR 28.102-2(a) for all fixed-priced and unit-priced construction subcontracts in excess of \$100,000. The Contractor shall consider the use of performance bonds in fixed-price non-construction subcontracts, where appropriate.
 - (2) For fixed-price, unit-priced and cost reimbursement construction subcontracts in excess of \$100,000, a payment bond shall be obtained on Standard Form 25A modified to name the Contractor as well as the United States of America as obligees. The penal amounts shall be determined in accordance with 48 CFR 28.102-2(b).
 - (3) For fixed-price, unit-priced and cost-reimbursement construction subcontracts greater than \$25,000, but not greater than \$100,000, the Contractor shall select two or more of the payment protections at 48 CFR 28.102-1(b), giving particular consideration to the inclusion of an irrevocable letter of credit as one of the selected alternatives.
 - (4) A subcontractor may have more than one acceptable surety in both construction and other subcontracts, provided that in no case will the liability of any one surety exceed the maximum penal sum for which it is qualified for any one obligation. For subcontracts other than construction, a co-surety (two or more sureties together) may reinsure amounts in excess of their individual capacity, with each surety having the required underwriting capacity that appears on the list of acceptable corporate sureties.
- (g) *Buy American.* The Contractor shall comply with the provisions of the Buy American Act as reflected in 48 CFR 52.225-1 and 48 CFR 52.225-9. The Contractor shall forward determinations of non-availability of individual items to the DOE Contracting Officer for approval. Items in excess of **\$500,000** require

the prior concurrence of the Head of Contracting Activity. If, however, the Contractor has an approved purchasing system, the Head of the Contracting Activity may authorize the Contractor to make determinations of non-availability for individual items valued at **\$500,000** or less. [M813]

- (h) *Construction and Architect-Engineer Subcontracts.*
- (1) *Independent Estimates.* A detailed, independent estimate of costs shall be prepared for all construction work to be subcontracted.
 - (2) *Specifications.* Specifications for construction shall be prepared in accordance with the DOE publication entitled "General Design Criteria Manual."
 - (3) *Prevention of Conflict of Interest.*
 - (i) The Contractor shall not award a subcontract for construction to the architect-engineer firm or an affiliate that prepared the design. This prohibition does not preclude the award of a "turnkey" subcontract so long as the subcontractor assumes all liability for defects in design and construction and consequential damages.
 - (ii) The Contractor shall not award both a cost-reimbursement subcontract and a fixed-price subcontract for construction or architect-engineer services or any combination thereof to the same firm where those subcontracts will be performed at the same site.
 - (iii) The Contractor shall not employ the construction subcontractor or an affiliate to inspect the firm's work. The contractor shall assure that the working relationships of the construction subcontractor and the subcontractor inspecting its work and the authority of the inspector are clearly defined.
- (i) *Contractor-Affiliated Sources.* Equipment, materials, supplies, or services from a contractor-affiliated source shall be purchased or transferred in accordance with 48 CFR 970.4402-3.
- (j) *Contractor-Subcontractor Relationship.* The obligations of the Contractor under paragraph (a) of this clause, including the development of the purchasing system and methods, and purchases made pursuant thereto, shall not relieve the Contractor of any obligation under this contract (including, among other things, the obligation to properly supervise, administer, and coordinate the work of subcontractors). Subcontracts shall be in the name of the Contractor, and shall not bind or purport to bind the Government.

- (k) *Government Property.* Identification, inspection, maintenance, protection, and disposition of Government Property shall conform with the policies and principles of 48 CFR part 45, 48 CFR part 945, the Federal Property Management Regulations, 41 CFR chapter 101, the DOE Property Management Regulations, 41 CFR chapter 109, and their contracts.
- (l) *Indemnification.* Except for Price-Anderson Nuclear Hazards Indemnity, no subcontractor may be indemnified except with the prior approval of the Senior Procurement Executive.
- (m) *Leasing of Motor Vehicles.* Contractors shall comply with 48 CFR subpart 8.11 and 48 CFR subpart 908.11.
- (n) [Reserved]
- [71 FR 16241, Mar. 31, 2006]
- (o) *Management, Acquisition and Use of Information Resources.* Requirements for automatic data processing resources and telecommunications facilities, services, and equipment, shall be reviewed and approved in accordance with applicable DOE Orders and regulations regarding information resources.
- (p) *Priorities, Allocations and Allotments.* Priorities, allocations and allotments shall be extended to appropriate subcontracts in accordance with the clause or clauses of this contract dealing with priorities and allocations.
- (q) *Purchase of Special Items.* Purchase of the following items shall be in accordance with the following provisions of 48 CFR subpart 8.5, 48 CFR subpart 908.71, Federal Management Regulation 41 CFR part 102, and the Federal Property Management Regulation 41 CFR chapter 101:
- (1) Motor vehicles—48 CFR 908.7101
 - (2) Aircraft—48 CFR 908.7102
 - (3) Security Cabinets—48 CFR 908.7106
 - (4) Alcohol—48 CFR 908.7107
 - (5) Helium—48 CFR subpart 8.5
 - (6) Fuels and packaged petroleum products—48 CFR 908.7109
 - (7) Coal—48 CFR 908.7110
 - (8) Arms and Ammunition—48 CFR 908.7111

- (9) Heavy Water—48 CFR 908.7121(a)
- (10) Precious Metals—48 CFR 908.7121(b)
- (11) Lithium—48 CFR 908.7121(c)
- (12) Products and services of the blind and severely handicapped—41 CFR 101-26.701

- (r) *Purchase versus Lease Determinations.* Contractors shall determine whether required equipment and property should be purchased or leased, and establish appropriate thresholds for application of lease versus purchase determinations. Such determinations shall be made—
 - (1) At time of original acquisition;
 - (2) When lease renewals are being considered; and
 - (3) At other times as circumstances warrant.

- (s) *Quality Assurance.* Contractors shall provide no less protection for the Government in its subcontracts than is provided in the prime contract.

- (t) *Setoff of Assigned Subcontractor Proceeds.* Where a subcontractor has been permitted to assign payments to a financial institution, the assignment shall treat any right of setoff in accordance with 48 CFR 932.803.

- (u) *Strategic and Critical Materials.* The Contractor may use strategic and critical materials in the National Defense Stockpile.

- (v) *Termination.* When subcontracts are terminated as a result of the termination of all or a portion of this contract, the Contractor shall settle with subcontractors in conformity with the policies and principles relating to settlement of prime contracts in 48 CFR subparts 49.1, 49.2 and 49.3. When subcontracts are terminated for reasons other than termination of this contract, the Contractor shall settle such subcontracts in general conformity with the policies and principles in 48 CFR subparts 49.1, 49.2, 49.3 and 49.4. Each such termination shall be documented and consistent with the terms of this contract. Terminations which require approval by the Government shall be supported by accounting data and other information as may be directed by the Contracting Officer.

- (w) *Unclassified Controlled Nuclear Information.* Subcontracts involving unclassified uncontrolled nuclear information shall be treated in accordance with 10 CFR part 1017.

- (x) *Subcontract Flowdown Requirements.* In addition to terms and conditions that are included in the prime contract which direct application of such terms and conditions in appropriate subcontracts, the Contractor shall include the following clauses in subcontracts, as applicable:
- (1) Davis-Bacon clauses prescribed in 48 CFR 22.407.
 - (2) Foreign Travel clause prescribed in 48 CFR 952.247-70.
 - (3) Counterintelligence clause prescribed in 48 CFR 970.0404-4(a).
 - (4) Service Contract Act clauses prescribed in 48 CFR 22.1006.
 - (5) State and local taxes clause prescribed in 48 CFR 970.2904-1.
 - (6) Cost or pricing data clauses prescribed in 48 CFR 970.1504-3-1(b).
- (y) *Legal Services.* Contractor purchases of litigation and other legal services are subject to the requirements in 10 CFR part 719 and the requirements of this clause.

(End of Clause)

[M779]

I-116 DEAR 970.5245-1 Property (Dec 2000) Alternate I (Dec 2000)

- (a) Furnishing of Government property. The Government reserves the right to furnish any property or services required for the performance of the work under this Contract.
- (b) Title to property. Except as otherwise provided by the Contracting Officer, title to all materials, equipment, supplies, and tangible personal property of every kind and description purchased by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this Contract, shall pass directly from the vendor to the Government. The Government reserves the right to inspect, and to accept or reject, any item of such property. The Contractor shall make such disposition of rejected items as the Contracting Officer shall direct. Title to other property, the cost of which is reimbursable to the Contractor under this Contract, shall pass to and vest in the Government upon (1) issuance for use of such property in the performance of this Contract, or (2) commencement of processing or use of such property in the performance of this Contract, or (3) reimbursement of the cost thereof by the Government, whichever first occurs. Property furnished by the Government and property purchased or furnished by the Contractor, title to which vests in the Government, under this paragraph are hereinafter referred to as Government property. Title to Government property shall not be affected by the incorporation of the property into or the attachment of it to any property not owned by the Government, nor shall such Government

- property or any part thereof, be or become a fixture or lose its identity as personality by reason of affixation to any realty.
- (c) Identification. To the extent directed by the Contracting Officer, the Contractor shall identify Government property coming into the Contractor's possession or custody, by marking and segregating in such a way, satisfactory to the Contracting Officer, as shall indicate its ownership by the Government.
 - (d) Disposition. The Contractor shall make such disposition of Government property which has come into the possession or custody of the Contractor under this Contract as the Contracting Officer may direct during the progress of the work or upon completion or termination of this Contract. The Contractor may, upon such terms and conditions as the Contracting Officer may approve, sell, or exchange such property, or acquire such property at a price agreed upon by the Contracting Officer and the Contractor as the fair value thereof. The amount received by the Contractor as the result of any disposition, or the agreed fair value of any such property acquired by the Contractor, shall be applied in reduction of costs allowable under this Contract or shall be otherwise credited to account to the Government, as the Contracting Officer may direct. Upon completion of the work or the termination of this Contract, the Contractor shall render an accounting, as prescribed by the Contracting Officer, of all Government property which had come into the possession or custody of the Contractor under this Contract.
 - (e) Protection of Government property-management of high-risk property and classified materials.
 - (1) The Contractor shall take all reasonable precautions, and such other actions as may be directed by the Contracting Officer, or in the absence of such direction, in accordance with sound business practice, to safeguard and protect Government property in the Contractor's possession or custody.
 - (2) In addition, the Contractor shall ensure that adequate safeguards are in place, and adhered to, for the handling, control and disposition of high-risk property and classified materials throughout the life cycle of the property and materials consistent with the policies, practices and procedures for property management contained in the Federal Property Management regulations (41 CFR chapter 101), the Department of Energy Property Management regulations (41 CFR chapter 109), and other applicable regulations.
 - (3) High-risk property is property, the loss, destruction, damage to, or the unintended or premature transfer of which could pose risks to the public, the environment, or the national security interests of the United States. High-risk property includes proliferation sensitive, nuclear related dual use, export controlled, chemically or radioactively contaminated,

hazardous, and specially designed and prepared property, including property on the militarily critical technologies list.

- (f) Risk of loss of Government property.
 - (1)
 - (i) The Contractor shall not be liable for the loss or destruction of, or damage to, Government property unless such loss, destruction, or damage was caused by any of the following:
 - (A) Willful misconduct or lack of good faith on the part of the Contractor's managerial personnel;
 - (B) Failure of the Contractor's managerial personnel to take all reasonable steps to comply with any appropriate written direction of the Contracting Officer to safeguard such property under paragraph (e) of this clause; or
 - (C) Failure of Contractor managerial personnel to establish, administer, or properly maintain an approved property management system in accordance with paragraph (i)(1) of this clause.
 - (ii) If, after an initial review of the facts, the Contracting Officer informs the Contractor that there is reason to believe that the loss, destruction of, or damage to the Government property results from conduct falling within one of the categories set forth above, the burden of proof shall be upon the Contractor to show that the Contractor should not be required to compensate the Government for the loss, destruction, or damage.
 - (2) In the event that the Contractor is determined liable for the loss, destruction or damage to Government property in accordance with (f)(1) of this clause, the Contractor's compensation to the Government shall be determined as follows:
 - (i) For damaged property, the compensation shall be the cost of repairing such damaged property, plus any costs incurred for temporary replacement of the damaged property. However, the value of repair costs shall not exceed the fair market value of the damaged property. If a fair market value of the property does not exist, the Contracting Officer shall determine the value of such property, consistent with all relevant facts and circumstances.

- (ii) For destroyed or lost property, the compensation shall be the fair market value of such property at the time of such loss or destruction, plus any costs incurred for temporary replacement and costs associated with the disposition of destroyed property. If a fair market value of the property does not exist, the Contracting Officer shall determine the value of such property, consistent with all relevant facts and circumstances.
- (3) The portion of the cost of insurance obtained by the Contractor that is allocable to coverage of risks of loss referred to in paragraph (f)(1) of this clause is not allowable.
- (g) Steps to be taken in event of loss. In the event of any damage, destruction, or loss to Government property in the possession or custody of the Contractor with a value above the threshold set out in the Contractor's approved property management system, the Contractor:
 - (1) Shall immediately inform the Contracting Officer of the occasion and extent thereof,
 - (2) Shall take all reasonable steps to protect the property remaining, and
 - (3) Shall repair or replace the damaged, destroyed, or lost property in accordance with the written direction of the Contracting Officer. The Contractor shall take no action prejudicial to the right of the Government to recover therefore, and shall furnish to the Government, on request, all reasonable assistance in obtaining recovery.
- (h) Government property for Government use only. Government property shall be used only for the performance of this Contract. **[M881]**
- (i) Property Management.
 - (1) Property Management System.
 - (i) The Contractor shall establish, administer, and properly maintain an approved property management system of accounting for and control, utilization, maintenance, repair, protection, preservation, and disposition of Government property in its possession under the Contract. The Contractor's property management system shall be submitted to the Contracting Officer for approval and shall be maintained and administered in accordance with sound business practice, applicable Federal Property Management regulations and Department of Energy Property Management regulations, and such directives or instructions which the Contracting Officer may from time to time prescribe.

- (ii) In order for a property management system to be approved, it must provide for:
 - (A) Comprehensive coverage of property from the requirement identification, through its life cycle, to final disposition;
 - (B) Employee personal responsibility and accountability for Government-owned property;
 - (C) Full integration with the Contractor's other administrative and financial systems; and
 - (D) A method for continuously improving property management practices through the identification of best practices established by "best in class" performers.
 - (iii) Approval of the Contractor's property management system shall be contingent upon the completion of the baseline inventory as provided in subparagraph (i)(2) of this clause.
- (2) Property Inventory.
- (i) Unless otherwise directed by the Contracting Officer, the Contractor shall within six months after execution of the Contract provide a baseline inventory covering all items of Government property.
 - (ii) If the Contractor is succeeding another Contractor in the performance of this Contract, the Contractor shall conduct a joint reconciliation of the property inventory with the predecessor Contractor. The Contractor agrees to participate in a joint reconciliation of the property inventory at the completion of this Contract. This information will be used to provide a baseline for the succeeding contract as well as information for closeout of the predecessor contract.
- (j) ***The term "contractor's managerial personnel" as used in this clause means the Contractor's directors, officers and any of its managers, superintendents, or other equivalent representatives who have supervision or direction of all or substantially all of—***
- (1) The Contractor's business; or***
 - (2) The Contractor's operations at any one facility or separate location at which this contract is being performed; or***

(3) The Contractor's Government property system and/or a Major System Acquisition or Major Project as defined in DOE Order 4700.1 (Version in effect on effective date of contract).

[M779]

- (k) The Contractor shall include this clause in all cost reimbursable subcontracts.
(End of Clause)

I-200 FAR 52.203-15 – Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Mar 2009)

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

[A508]

(End of Clause)

I-201 FAR 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.

[A508]

(End of Clause)

The following clause is only applicable to projects funded by the Recovery Act:

I-202 FAR 52.225-21 – Required Use of American Iron, Steel, and Other Manufactured 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 a 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.

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

(b) Domestic preference.

- (1) This clause implements—

- (i) Section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act) (Pub. L. 111-5), 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 (41 U.S.C. 10a-10d) by providing a preference for unmanufactured domestic construction material.
- (2) The Contractor shall use only domestic construction material in performing this contract, except as provided in paragraph (b)(3) and (b)(4) of this clause.
- (3) This requirement does not apply to the construction material or components listed by the Government as follows: NONE
- (4) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(3) of this clause if the Government determines that—
- (i) The cost of domestic construction material would be unreasonable.
 - (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 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 quantities and 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 section 1605 of the Recovery Act or the Buy American Act applies, use of foreign construction material is noncompliant with section 1605 of the American Recovery and Reinvestment Act or the Buy American Act.

- (d) Data. To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Construction Materials 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.]

[A508]
(End of Clause)

**Part III – List of Documents,
Exhibits, And Other Attachments**

Section J

List of Attachments

**Part III – List of Documents,
Exhibits, And Other Attachments**

Section J

List of Attachments

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**Part III – List of Documents,
Exhibits, And Other Attachments**

Section J

Appendix A

Advance Understandings on Human Resources

Introduction

This Advance Understanding (AU) is intended to document the principles and measures for assessment of the Contractor's Human Resource Management (CHRM) programs and Other Items of Allowable Cost not specifically addressed in H-30 of this Contract. PNNL CHRM policies, practices, and plans are located in the PNNL Standards-Based Management System. Any changes to SBMS CHRM policies, practices, and/or plans covered in an advance understanding that increase costs shall require written approval by the DOE Contracting Officer. PNNL CHRM programs will comply with the Federal Acquisition Regulation (FAR) cost principles and FAR contract clauses, as supplemented by the Department of Energy Acquisition Regulation (DEAR), for all HR programs, including but not limited to Compensation, Health and Welfare Benefits, Pension Plans, Savings Plans, Training and Development, Professional Society Memberships, Staff Association, Employee and Labor Relations, Diversity/Equal Employment Opportunity/Affirmative Action, Recruitment and Relocation. The Contractor shall use effective management review procedures and internal controls to assure compliance with the FAR and DEAR. The Contractor shall ensure appropriate systems are in place for change control to any such SBMS CHRM policies, practices, and/or plans

Either party may request that this AU be revised and the parties hereto agree to give consideration in good faith to any such request. Revisions to this AU shall be accomplished by executing an AU modification as approved by the DOE Contracting Officer. Any prior Contracting Officer reimbursement determination referenced in this section must be in writing.

The Contractor, or designated representative, shall promptly furnish all reports and information required or otherwise indicated in this Advance Understanding to the Contracting Officer. The Contractor recognizes that the Contracting Officer or designated representative may make other data requests from time to time and the Contractor agrees to cooperate in meeting requests.

It is understood that no provision of this Appendix can affect any right guaranteed to a bargaining unit employee by the terms of a Collective Bargaining Agreement.

I. CHRM Program Assessment Performance Measures

Performance measures include, but are not limited to the following:

A. Employee Welfare Benefit Measures

1. Relative Benefit Value (ben-val) process standards
 - a. The Contractor shall determine a list of no less than 15 participants to be a part of the comparator group. The comparator group is defined as companies of comparable size, industry, market, and region. The Contracting Officer shall approve the list prior to the performance of the ben-val measure.

- b. The Contractor shall measure all major non-statutory benefit plans offered by the Contractor, including qualified defined benefit and defined contribution retirement and capital accumulation plans, and death, disability, health, and paid time-off welfare benefit programs.
 - c. Relative benefit values must be actuarially calculated by a national consulting firm with expertise in relative benefit value calculations.
2. Per Capita employee benefit cost comparison process standards
- a. The Contractor at its option may provide a proposal for establishing an alternative cost study in lieu of the Chamber of Commerce (CoC) Annual Employee Benefits Cost Survey for review and approval to the Contracting Officer.
 - b. This proposal must at a minimum identify the organization to perform the study, the proposed study methodology, and must be a broad-based national survey that includes comparators of like size, industry, market.
 - c. The Contracting Officer shall respond to this request within 90 calendar days with an approval, rejection, or request for additional information, or to inform the Contractor that DOE requires an extension for the review (not to exceed the original review period).
 - d. If the Contractor does not submit a proposal in accordance with this clause, or if the proposal is rejected by the Contracting Officer, the Contractor will use the CoC Annual Employee Benefits Cost Survey for the cost study.
3. Retirement income replacement ratios- An actuarial measure that may be used by the DOE or Contractor that compares (with other mutually agreed to and Contracting Officer approved databases and/or broad based surveys by professional actuarial consulting firms) the value of Contractor retirement benefit programs measured as a percentage of final pay replaced by Contractor provided defined benefit, defined contribution and retiree medical benefits combined with Social Security Benefits.

II. Other items

A. Incentive Compensation

1. The Contractor may submit a proposal for establishing an incentive compensation plan to the Contracting Officer for review and approval for a determination of cost reimbursement under this Contract. The proposal must contain: a description of the performance management

system and “line of sight” to the DOE mission and Contract statement of work at all levels and be consistent with established performance measurement approaches; the incentive compensation plan design, funding methodology, and linkage to Contract performance measures; and the design must contain a policy for a specific Passover rate, i.e., percent of participants who will not receive an incentive and pay at risk.

2. The Contracting Officer shall respond to this request within 90 calendar days with an approval, rejection, or request for additional information, or to inform the Contractor that DOE requires an extension for the review (not to exceed the original review period).

B. Pension.

The Contractor may submit a proposal for establishing pension/service reciprocity within Battelle managed Office of Science Laboratories to the Contracting Officer for review and approval of allowability under this Contract. The Contracting Officer shall respond to this request within 180 calendar days with an approval, rejection, or request for additional information, or to inform the Contractor that DOE requires an extension for the review (not to exceed the original review period).

C. Dependent Care.

Any agreement between contractors and dependent care (program) provider organizations must ensure that contractors and the DOE are held harmless from liability.

1. Property damage liability and bodily injury liability insurance policies must be retained by the dependent care (program) provider organization in an amount appropriate for services provided. The contractors must also be insured under these policies.
2. Agreements between the contractors and dependent care (program) provider organizations must ensure that the provider organizations operate, maintain, and upgrade any proposed workplace dependent care facility in compliance with federal, state, and local policies, regulations, and requirements for environment, safety and health.

Contract Number: DE-AC05-76RL01830

Modification M705

**Part III – List of Documents,
Exhibits, And Other Attachments**

Section J

Appendix B

**Special Financial Institution Account(s) Agreement
For Use with the Payments Cleared Financing Arrangement**

Part III, Section J, Appendix B

**SPECIAL FINANCIAL INSTITUTION ACCOUNT AGREEMENT
FOR USE WITH THE PAYMENTS CLEARED FINANCING ARRANGEMENT**

Agreement entered into this, 1st day of July, 2010, between the UNITED STATES OF AMERICA, represented by the Department of Energy (hereinafter referred to as "DOE"), and Battelle Memorial Institute, corporation/legal entity existing under the laws of the State of Ohio (hereinafter referred to as "Battelle"), and U.S. Bank, a financial institution corporation existing under the laws of the State of Washington located at Richland, Washington (hereinafter referred to as "U.S. Bank").

I. RECITALS

1. On the effective date of December 30, 1964, DOE and Battelle entered into Agreement (s) No. DE-AC05-76RLO1830, or a supplemental agreement thereto, providing for the transfer of Government funds on a payments-cleared basis.
2. DOE requires that amounts transferred to Battelle be deposited in a special demand deposit account(s) at a financial institution covered by the Department of the Treasury – approved Government deposit insurance organizations that are identified in TFM 6-9000. These special demand deposits must be kept separate from Battelle's general or other funds, and the parties are agreeable to so depositing said amounts with U.S. Bank.
3. The special deposit account(s) shall be designated:
 - a. Battelle Memorial Institute, PNW Division – Contract
 - b. Battelle Memorial Institute, PNW Division - Salary
 - c. Battelle Memorial Institute, PNW Division - Controlled Disbursement Contract
 - d. Battelle Memorial Institute, PNW Division - Controlled Disbursement Salary

II. COVENANTS

In consideration of the foregoing, and for other good and valuable considerations, it is agreed that:

1. The government shall have a title to the credit balance in said account(s) to secure the repayment of all funds transferred to Battelle, and said title shall be superior to any lien, title, or claim of U.S. Bank or others with respect to such accounts.

2. U. S. Bank shall be bound by the provisions of said Agreement between DOE and Battelle relating to the transfer of funds into the and withdrawal of funds from the above special demand deposit account(s), which are hereby incorporated into this Agreement by reference, but U.S. Bank shall not be responsible for the application of funds properly withdrawn from said Account(s).

After receipt by U.S. Bank of written directions from the DOE Contracting Officer, or from the duly authorized representative of the DOE Contracting Officer, U.S. Bank shall act thereon and shall be under no liability to any party hereto for any action taken in accordance with the said written directions. Any written directions received by U.S. Bank from DOE upon DOE stationery and purporting to be signed by, or signed at the written direction of DOE may, insofar as the rights, duties, and liabilities of U.S. Bank are concerned, shall be considered as having been properly issued and filed with U.S. Bank by DOE.

3. DOE, Battelle, or its authorized representatives, shall have access to financial records maintained by U.S. Bank with respect to such special demand deposit account(s) at all reasonable times and for all reasonable purposes, including, but without limitation to, the inspection or copying of financial records and any or all memoranda, checks, payment requests, correspondence, or documents pertaining thereto. Such financial records shall be preserved by U.S. Bank for a period of six (6) years after the final payment under the Agreement.
4. In the event of the service of any writ of attachment, levy of execution, or commencement of garnishment proceedings with respect to the special demand deposit account(s), the Financial Institution shall promptly notify DOE.

U.S. Department of Energy
Oak Ridge Financial Service Center
P.O. Box 2001, FM-71
Oak Ridge, Tennessee 37831-8771
Fax: (865) 574-5374

5. DOE shall authorize funds that shall remain available to the extent that obligations have been incurred in good faith there under by Battelle to U.S. Bank for the benefit of the special demand deposit account(s). U.S. Bank agrees to honor upon presentation for payment all payments issued by Battelle and to restrict all withdrawals against the funds authorized to an amount sufficient to maintain the average daily balance in the special demand deposit account in a net positive and as close to zero as administratively possible.

U.S. Bank agrees to service the account in this manner based on the requirements and specifications contained in RFP 20051031, effective January 3, 2006. U.S. Bank agrees that per-item costs, detailed in the form "Schedule of Financial Institution Processing Charges" contained in U. S. Bank's proposal dated March 16, 2006, will remain constant during the term of this Agreement. U.S. Bank shall calculate the monthly fees based on services rendered and invoice Battelle. Battelle shall issue a check or automated clearing house authorization transfer to U.S. Bank in payment thereof.
6. U.S. Bank shall post collateral, acceptable in accordance with 31 CFR 202 with the Federal Reserve Bank in an amount equal to the net balances in all of the accounts included in this Agreement, less the Department of the Treasury-approved deposit insurance.
7. This Agreement, with all its provisions and covenants, shall be in effect for a term beginning on the 1st day of July 2010, and extending through June 30, 2011, with an option to extend for an additional five, one year option periods, unless earlier terminated as provided in this Agreement.
8. DOE, Battelle, or U.S. Bank may terminate this Agreement at any time within the Agreement period upon submitting written notification to the other parties 90 days prior to the desired termination date. The specific provisions for operating the account during this 90-day period are contained in Covenant 11.
9. DOE or Battelle may terminate this Agreement at any time upon 30 days' written notice to U.S. Bank if DOE or Battelle, or both parties, find that U.S. Bank has failed to substantially perform its obligations in a manner that precludes administering the program in an effective and efficient manner or that precludes the effective utilization of the Government's cash resources.
10. Notwithstanding the provisions of Covenants 8 and 9, in the event that the Contract referenced in Recital 1 between DOE and Battelle is not renewed or is terminated, this Agreement between DOE, Battelle, and U.S. Bank shall be terminated automatically upon the delivery of written notice to U.S. Bank.

11. In the event of termination, U.S. Bank agrees to retain Battelle's special demand deposit account(s) for an additional 90-day period to clear outstanding payment items.

This Agreement shall continue in effect for the 90-day additional period, with the exception of the following:

1. Term Agreement (Covenant 7)
2. Termination of Agreement (Covenants 8 and 9)

All terms and conditions of the aforesaid proposal submitted by U.S. Bank that are not inconsistent with this 90-day additional term shall remain in effect for this period.

U.S. Bank has submitted the forms entitled "Technical Representations and Certifications," and "Schedule of Financial Institution Processing Charges." These forms have been accepted by Battelle and the DOE and are incorporated herein with the document entitled "Attachment 1 - Financial Institution's Information on Payments Cleared Financing Arrangement" as an integral part of this Agreement.

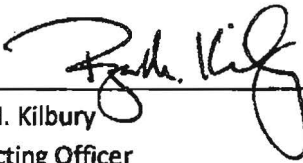
III. U.S. Bank TREASURY MANAGEMENT TERMS AND CONDITIONS SUPPLEMENT ELECTRONIC DEPOSIT SERVICES, the following processes are included:

- Begin using the collected balance to calculate daily draws;
- Discontinue the practice of overdrawing the bank account to offset positive balances in an attempt to maintain a lower average daily balance; and
- Discontinue the practice of rounding daily draws to the nearest thousand and begin calculating the exact amount needed to cover disbursements.

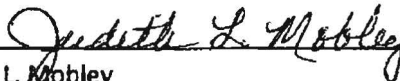
IV. SIGNATURES

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

FOR U.S DEPARTMENT OF ENERGY

Signature: 
Name: Ryan M. Kilbury
Title: Contracting Officer
Date: 6-21-10

FOR THE CONTRACTOR BATTTELLE MEMORIAL INSTITUTE

Signature: 
Name: Judith L. Mobley
Title: Assistant Treasurer
Date: 5-20-10

FOR U.S. BANK N.A.

Signature: 
Name: Gail Heinselman
Title: Vice President, Government Services
Date: 5-27-2010

NOTE

The contractor, if a corporation, shall cause the following Certificate to be executed under its corporate seal, provided that the same officer shall not execute both the Agreement and the Certificate.

CERTIFICATE

I, Gwen Von Holten, certify that I am the Treasurer of the corporation named herein; that Judith L. Mobley, who signed this Agreement on behalf of Battelle, was then Assistant Treasurer of said corporation; and that said Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.



(Corporate Seal) (Signature)

Attachment 1

Financial Institution's Information on Payments Cleared Financing Arrangement



Government Banking

Schedule of Financial Institution Processing Charges

Service	Contractor's Projected Monthly Quantity	Per Item Cost	Total
Account Maintenance	14 Accounts	@ 8.00	\$112.00
Controlled Disbursement Account Maintenance	6 Accounts	@ 75.00	\$ 450.00
Controlled Disbursement Per Item Charge	4000	@ 0.09	\$ 360.00
Deposited Checks-On Us	150	@ 0.05	\$ 7.50
Deposited Checks-Local	300	@ 0.055	\$ 16.50
Deposited Checks-Regional	425	@ 0.055	\$ 23.37
Deposited Check-Returned (Includes fax)	3	@ 3.25	\$ 9.75
Other Services charges for Checks Deposited or Account Maintenance			
Deposits - Paper		@ 0.20	\$
Deposits - Electronic		@ 0.20	\$
		@	\$
Processing Fee for deposited foreign currency checks	3	@ 0.50	\$ 1.50
Processing Fee for generating Draft in foreign currency	3	@ 15.00	\$ 45.00
Cash Deposited Per \$ 100.00		@ 0.07	\$
Other Services charges for processing cash transactions			
		@	\$
		@	\$
		@	\$
Incoming Federal (Domestic) Wire	80	@ 5.00	\$ 400.00
Incoming International Wire	5	@ 10.00	\$ 50.00
Outgoing Federal (Domestic) Wire Client Initiated Internet	230	@ 7.50	\$ 1,725.00
Outgoing International Wire Client Initiated-Internet	150	@ 15.00	\$ 2,250.00
Outgoing or Incoming Federal Wire Daily Treasury Drawdown	80	@ 7.50	\$ 600.00



Government Banking

Federal or International Wire Investigation of Client Issued Wire	5	@ 25.00	\$ 125.00
Bank Issuance of Amendment for Client Issued International or Federal Wire	2	@ 7.50	\$ 15.00
Other services charges for processing Federal or International Wires			
		@	\$
		@	\$
		@	\$
Book Transfers (bank initiated account to account transfers)	30	@ 1.00	\$ 30.00
Other services charges for processing bank Internal Debit or Credits			
		@	\$
		@	\$
		@	\$
Stop Payments Client Initiated-Internet	15	@ 9.00	\$ 135.00
Per Change Order Charge		@ 2.00	\$
Rolled Coin Ordered Per \$ Roll		@ 0.08	\$
Currency Order Per \$ 100.00		@ 0.08	\$
ACH Monthly Maintenance	3	@ 25.00	\$ 75.00
ACH Originated	38000	@ 0.10	\$ 3,800.00
ACH Originated-Addenda Rec	200	@ 0.02	\$ 4.00
ACH Received Item	110	@ 0.15	\$ 16.50
ACH Transmission Charge	50	@ 5.00	\$ 250.00
ACH Item Adjustment Request	5	@ 3.00	\$ 15.00
ACH Delete Item Request	2	@ 3.00	\$ 6.00
ACH Notice of Change Internet Report Advice/Fax	40	@ 2.50	\$ 100.00
ACH Return Item Internet Report Advice/Fax	20	@ 2.50	\$ 50.00
ACH Block-Mthly Maint Per Acct	4	@ 6.00	\$ 24.00



Other services for processing ACH			
		@	\$
		@	\$
		@	\$
Checks Cleared	3000	@ 0.10	\$ 300.00
Check Sorting	3000	@ 0.02	\$ 60.00
Monthly Maintenance Charge for Imaging - by Account	6	@ 25.00	\$ 150.00
Check Image -CD Rom Per CD	6	@ 5.00	\$ 30.00
Check Image - Per Item	3000	@ 0.07	\$ 210.00
Copy of Check Request	3	@ 0.50	\$ 1.50
Account Reconciliation	per account	@ 75.00	\$
Process Maintenance - Full	Per account		
Full Positive Pay Maintenance	10	@ 45.00	\$ 450.00
Positive Pay Per Item	3000	@ 0.04	\$ 120.00
Positive Pay Exception Report	2	@ no charge	\$ 0.00
Reverse Positive Pay Per Item	3000	@ 0.01	\$ 30.00
Output File – Daily		@ 5.00	\$
Lockbox Monthly Maintenance	2	@ 75.00	\$ 150.00
Lockbox per Item Charge	90	@ 0.25	\$ 22.50
Other Services(charges) Lockbox			
Photocopies		@ 0.10	\$
Exception Items		@ 0.22	\$
Data Key Stroke		@ 0.01	\$
Mail Out – Per Item		@ 0.06	
Previous Day Composite Report	1 per day/acct First	@ 10.00	\$ 10.00
Previous Day Composite Report	1 per day/acct Next	@ 10.00	\$ 130.00
BAI Items	4000	@ 0.05	\$ 200.00
Wire Transfer Detail Report	1 per day per acct	@ no charge	\$

U.S. BANK TREASURY MANAGEMENT TERMS AND CONDITIONS SUPPLEMENT**ELECTRONIC DEPOSIT SERVICES**

This Supplement amends and forms a part of the U.S. Bank Treasury Management Service Agreement and the U.S. Bank Treasury Management Services Terms and Conditions. U.S. Bank's Electronic Deposit Services provides Customer with the option to make electronic deposits using the ECLD Services or the OSED services, described below. Customer agrees that the Electronic Deposit Services shall be governed by this Supplement and other relevant sections of the U.S. Bank Treasury Management Services Terms and Conditions.

1. Service Options

Customer may select one of the following processing options as part of the Electronic Deposit Services:

- a. Check Image/Substitute Check Collection.** Customer captures checks or check information received from its Payor Customers into Check Images and/or MICR Data, and transmits Check Images and/or MICR Data to Bank for deposit and collection. Bank will seek to collect such Check Images through the check collection system by presenting or exchanging Check Images, and/or using the Check Image and/or MICR Data to create a Substitute Check, a Demand Draft or a PIL for collection.
- b. ACH Processing and Check Image/ Substitute Check Collection.** Customer captures checks or check information received from its Payor Customers into Check Images and/or MICR data and ACH Entry information, and transmits the same to Bank for processing or deposit. Customer checks that are eligible to be used as source documents to originate ARC Entries or POP Entries are processed through the ACH system. The remaining checks are sent for collection as Check Images, Substitute Checks, Demand Drafts or PILs, as described above in the Check Image/Substitute Check Collection service option.
- c. ACH Processing and Paper Check Collection.** Customer captures checks or check information received from its Payor Customers into Check Images and/or MICR Data and ACH Entry information, and transmits the same to Bank for processing. Customer checks that are eligible to be used as source documents are processed as ARC Entries or POP Entries. Customer deposits all other original paper checks with Bank for collection.

2. Definitions

- a. "ACH Entry"** means an ARC or POP debit entry originated to debit funds from a Payor Customer's account at a financial institution in accordance with the Operating Rules of the National Automated Clearing House Association ("NACHA").
- b. "Check Image"** means an electronic image of an original paper check or an electronic image of a Substitute Check that is created by Customer, Bank or another bank or depository institution in the check collection system.
- c. "Customer System"** means the computer hardware and software located at Customer's site that is used by Customer to prepare Electronic Deposits and to access the OSED Services or ECLD services. For OSED Services, the Customer System shall comprise of a scanner and other hardware and software, all of which may be supplied by Bank.
- d. "ECLD System"** means Bank's Electronic Cash Letter Deposit computer systems and databases that Customer may access in order to obtain the ECLD services.

- e. **"ECLD services"** means the Electronic Cash Letter Deposit services that allow organizations that receive check remittance payments by mail or dropbox to deposit all payments electronically at Bank, as further described in the User Manual.
- f. **"Electronic Deposit"** means electronic information (including Check Images, MICR Data, dollar amount or ACH Entry information), obtained from capturing information from an original paper check and related remittance documentation, that is transmitted to Bank for deposit, processing and collection.
- g. **"Electronic Deposit Services"** means the ECLD services or OSED Services as described in this Agreement.
- h. **"MICR Data"** means information from the Magnetic Ink Character Recognition stylized printing on the bottom of checks comprising of routing, transit, account and check serial numbers.
- i. **"OSED System"** means Bank's On-Site Electronic Deposit Service computer systems and databases that Customer may access in order to obtain the OSED Services.
- j. **"OSED Services"** means the On-Site Electronic Deposit Services that allows organizations that receive check remittance payments by mail or in a walk-up or dropbox environment to deposit all payments electronically at Bank, as further described in the User Manual.
- k. **"Payor Customers"** means clients and/or customers of Customer that submit original paper checks or check information to Customer for payment obligations owed to Customer.
- l. **"Photo-In-Lieu Instrument" or "PIL"** means a photocopy of an original paper check, other than a Substitute Check, created from a Check Image.
- m. **"Remotely-Created Demand Draft" or "Demand Draft"** means a paper item, other than a Substitute Check or PIL, that (i) is drawn on a Payor Customer account, (ii) does not bear the signature of the Payor Customer, and (iii) is authorized by the Payor Customer to be issued in the amount for which the item is drawn.
- n. **"Substitute Check"** means a paper check document that meets the definition of a "substitute check" in the Check Collection for the 21st Century Act as implemented by Regulation CC of the Federal Reserve Board.
- o. **"Transaction Data"** means any information obtained from Payor Customer's checks, Check Images, remittance slips or information entered by Customer into the Customer System, including without limitation MICR Data, check amount, Payor Customer address or check number.

3. Customer Authorizations and Notifications

Customer shall adhere to any and all applicable clearinghouse, local, state, or federal laws, rules or regulations, including but not limited to, obtaining all necessary consents and authorizations from, and/or providing all necessary disclosures and notifications to, its Payor Customers concerning the creation and use of the Payor Customers' checks or any other use of Transaction Data by Customer or Bank, and the conversion of Payor Customers' checks or check information to ACH Entries, Demand Drafts and/or Check Images (including subsequent Substitute Checks or PILs created from such Check Images). Customer is responsible for ascertaining the content, method, and frequency of any required authorizations and notifications.

4. Determination of Items Eligible for Electronic Deposit

a. Only original paper checks that qualify as a source document may be converted to an ARC Entry or POP Entry under NACHA Rules. Customer is responsible for maintaining current information in the OSED System or ECLD System on those Payor Customers that have opted-out of ARC Entry conversion. If Customer has selected a processing option that uses ACH Entries to collect payments from Payor Customers, Bank will apply certain automated internal edits and screens to the MICR Data and/or Check Images submitted by Customer to determine whether the original paper check is a source document that qualifies for conversion to an ACH Entry.

Customer acknowledges and agrees that Customer is the Originator of such ACH Entries under NACHA Rules regardless of whether Customer or Bank initiates the ACH Entry into the payment system. Bank shall have no liability to Customer or any other person in the event that a Payor Customer's check or check information is processed or converted by Bank to an ACH Entry, Check Image, Substitute Check, Demand Draft or PIL, and such check or check information was not eligible for any reason for processing as, or conversion to, such an item.

b. Only a draft, payable on demand, and drawn on or payable through or at an office of a bank, is eligible for deposit as a Check Image. Without limiting the generality of the preceding sentence, the following items are not eligible for deposit as Check Images under the Electronic Deposit Services, and Customer must deposit these original paper checks with Bank for collection: (i) checks, including travelers checks, that are drawn on banks located outside of the United States, (ii) checks payable in a medium other than U.S. dollars, (iii) non-cash items (as defined under Section 229.2(u) of Federal Reserve's Regulation CC), (iv) promissory notes and similar obligations, such as savings bonds, and (v) any other class of checks or drafts as identified by Bank to Customer from time to time.

5. Capture of Checks and Check Information

a. Depending on the parameters and product options selected by Customer, Customer shall be responsible for accurately capturing an image of each paper check, the MICR Data and the correct dollar amount of the check into the Customer System. In the event the condition of a paper check precludes a complete automated read, Customer shall be responsible for visually inspecting the check and repairing the MICR Data, if necessary. Customer shall be responsible for the inspection of all Check Images to ensure the legibility of the Check Image (including without limitation the dollar amount and signature of the drawer), for the repair of any MICR Data, and for ensuring that any and all information on a paper check is accurately captured and legible in the resulting Check Image and/or MICR Data and otherwise complies with any Check Image or MICR Data quality standards Bank may provide to Customer from time to time.

Customer acknowledges that current image technology may not capture all security features (e.g. watermarks) contained in the original paper checks, and agrees to assume any and all losses resulting from claims based on security features that do not survive the image process.

b. Customer further acknowledges that Bank does not verify the accuracy, legibility or quality of the Check Image or MICR Data prior to processing an Electronic Deposit. Bank may in its sole discretion alter or amend MICR Data submitted in an Electronic Deposit in accordance with general banking and check collection practices, but Bank shall have no obligation to effect a repair or other alteration to the MICR Data.

c. Bank shall not be liable to Customer for failure to process an Electronic Deposit, or any error that results in processing or collecting an Electronic Deposit, for which Customer has not provided Bank with full and correct MICR Data and dollar amount from the original paper check, for which Customer has not provided an accurate and legible image of the original paper check, or which would violate these Terms and Conditions, the User Manuals or any other agreement between Customer and Bank.

6. Upload of Electronic Deposit to Bank

a. Customer shall upload the Electronic Deposit transmission (containing one or more Electronic Deposits) to Bank prior to the daily cut-off time established by Bank from time to time. Any Electronic Deposit transmission received by Bank after its daily cut-off time shall be deemed to have been received by Bank at the opening of its next banking day. Performance of the Electronic Deposit Services may be affected by external factors such as communication networks latency. Customer is responsible for the transmission of the Electronic Deposit until the OSED

System or the ECLD System reports a successful acknowledgement of receipt of the transmission.

b. An Electronic Deposit is received when the entire Electronic Deposit transmission in which that Electronic Deposit is contained is received by Bank in accordance with Section 6a. If only a portion of that Electronic Deposit transmission is received by Bank for any reason, including without limitation a failure during the transmission to Bank, the Electronic Deposit transmission is deemed to have been not received by Bank with respect to any Electronic Deposit contained in that Electronic Deposit transmission (including any Check Image contained in the portion of that Electronic Deposit transmission that was received).

c. Bank will process Electronic Deposit transmission received from Customer either via ACH Processing, or via Check Image/Substitute Check Collection, according to the parameters and product options selected by Customer.

7. Collection of Check Images and MICR Data

Bank may in its sole discretion determine the manner in which Bank will seek to collect a Check Image and/or MICR Data deposited by Customer. Without limiting the generality of the preceding sentence, Bank may, at its option: (i) present or transfer the Check Image or MICR Data to the paying bank, a Federal Reserve Bank, image exchange network, or other collecting bank; (ii) create a Substitute Check, a Demand Draft or a PIL from the Check Image and/or MICR Data and collect such item, or (iii) request that Customer provide to Bank the original paper check from which the Check Image and/or MICR Data was created and then collect the original paper check.

8. Returns

a. Customer agrees that Bank may charge the account of Customer for any and all returned items and ACH Entries, including a returned Check Image, a returned Substitute Check or a returned Demand Draft or PIL that relates to the original paper check.

b. Bank will provide Customer with a report of Check Images, paper items and ACH Entries that are returned. If Bank receives a Check Image as a return, Bank may provide Customer with: (i) a report of returned Check Images, (ii) an image file of returned Check Images, or (iii) Substitute Checks or other copies created from the returned Check Images. Bank is not obligated to produce a Substitute Check from a returned Check Image.

c. If Customer elects to have its returned paper items directed to another financial institution or entity apart from Bank, Bank shall not be liable for any late returned items. Customer shall indemnify and hold Bank harmless from and against, any liability, loss or damage (including attorneys' fees and other costs incurred in connection therewith) relating to or arising out of any late returned item, including those claimed or incurred under Regulation CC of the Board of Governors of the Federal Reserve System ("Regulation CC") or for any breach of warranty claim.

9. Representation of Returned Electronic Deposit

a. If Customer identifies to Bank a returned ARC Entry as being returned because the original paper check was ineligible as a source document for the ARC Entry, Bank shall use reasonable efforts to collect the check related to the ARC Entry by creating, in Bank's sole discretion, a Substitute Check, a Demand Draft or a PIL from the image of the related original paper check. Customer represents and warrants to Bank that Customer has obtained all necessary and appropriate authorizations from its Payor Customers for Bank to create, and present for payment to Payor Customer's financial institution, any such Substitute Check, Demand Draft or PIL.

b. In the event Bank in its sole discretion determines that it requires the original paper check for representment, in order to collect a returned Check Image, ACH Entry, Substitute Check, Demand Draft or PIL, Customer shall be responsible for providing to Bank the original paper check, or if the original paper check has been destroyed, for obtaining a replacement check from the Payor Customer.

c. If Customer elects to use Bank's ACH staged return process, Customer shall be solely responsible for transactions that are reinitiated based on staged returns and shall comply with all applicable laws, rules and regulations governing such transactions, including but not limited to the NACHA Rules and Regulation E.

10. Storage of Check Images

Bank shall store Check Images, MICR Data and ACH Entry information on the OSED System or ECLD System, and shall make Check Images, MICR Data or ACH Entry information available to Customer according to the User Manuals and fee schedule. If Customer terminates the Electronic Deposit Services, Customer may purchase CDs or an FTP transmission which includes the Check Images, MICR Data or ACH Entry information processed through the Electronic Deposit Services at the price outlined in the fee schedule.

11. Substitute Check Received for Deposit

Bank reserves the right to reject the deposit (as an Electronic Deposit or otherwise) of a Substitute Check that was created by another financial institution, Customer, Payor Customers or any other person.

12. No Authorization to Create Substitute Checks

Customer agrees that Customer and any of its agents may not use the Check Images created by, or stored in, the OSED System or ECLD System to print a Substitute Check for any reason.

13. Retention and Destruction of Original Paper Checks

Customer shall comply with all requirements under the NACHA rules to destroy original paper checks that are source documents for ACH Entries. For original paper checks that were imaged and were not used as source documents for ACH Entries, Customer may determine how long to hold such original paper checks prior to destruction. At Bank's request, Customer shall provide the original paper check to Bank if the original paper check has not been destroyed by Customer and Bank needs the original paper check to process a payment or resolve a dispute arising from an Electronic Deposit.

14. Remittance Documentation

For OSED Services, Customer may use Customer System to scan and read remittance documents associated with check payment. Bank disclaims any and all responsibility and/or liability associated with this use of the Customer System.

15. Representations and Warranties

With respect to each Check Image or Electronic Deposit that Customer transmits to Bank, Customer is deemed to make to Bank any representation or warranty that Bank makes, under

applicable law, clearinghouse rule, Federal Reserve Operating Circular, bi-lateral agreement or otherwise, to any person (including without limitation a collecting bank, a Federal Reserve Bank, a Receiving Depository Financial Institution, a paying bank, a returning bank, the drawee, the drawer, any endorser, or any other transferee) when Bank transfers, presents or originates the Electronic Deposit or Check Image, or a Substitute Check, Demand Draft, PIL, or ACH Entry created from that Check Image or MICR Data.

16. Customer Responsibility

With respect to each Check Image or Electronic Deposit that Customer transmits to Bank, Customer shall indemnify and hold Bank harmless from and against any and all claims, demands, damages, losses, liabilities, penalties and expenses (including, without limitation, reasonable attorney fees and court costs at trial or on appeal) arising directly or indirectly: (a) from Customer's breach of a representation or warranty as set forth in Section 15, (b) as a result of any act or omission of Customer in the capturing, creation or transmission of the Check Image or Electronic Deposit, including without limitation the encoding of the MICR Data from the original paper check; (c) from any duplicate, fraudulent or unauthorized check, Check Image, Substitute Check, Demand Draft, PIL or ACH Entry; or (d) from any other act or omission arising out of Bank's action or inaction taken pursuant to any request by Customer or pursuant to this Agreement. This Section 16 shall survive termination of the Agreement.

17. Limited Use

Customer may use the Electronic Deposit Services, the User Manual, and the OSED System or ECLD System for business use for as long as Bank in its sole discretion provides the Electronic Deposit Services to Customer. Customer shall return to Bank any Customer System software upon termination of the OSED Services.

18. Rules Applicable to Collection of Checks

Customer acknowledges and agrees that a Check Image, Substitute Check, Demand Draft or PIL may in the sole discretion of Bank be collected through one or more check clearinghouses, one or more Federal Reserve Banks, or an agreement with another depository institution. In such cases, the Check Image, Substitute Check, Demand Draft or PIL is subject to the rules of that clearinghouse, Federal Reserve Bank, or depository institution agreement.

19. Accuracy and Timeliness of Electronic Deposit Services

Bank will use reasonable efforts to provide the Electronic Deposit Services in a prompt fashion, but shall not be liable for temporary failure to provide the Electronic Deposit Services in a timely manner. In such event, Customer shall be responsible for carrying out banking business through alternative channels. Bank shall not be liable for any inaccurate or incomplete information with respect to transactions which have not been completely processed or posted to Bank's deposit or payments system prior to being made available pursuant to the Electronic Deposit Services. Information with respect to all transactions is provided solely for Customer's convenience, and Customer shall have no recourse to Bank as to use of such information.

20. User Manual

Bank will provide Customer with a user manual ("User Manual") in paper or electronic format that will set forth the OSED Services' or ECLD services' policies and procedures with which Customer agrees to comply. Bank may, without prior notification, make amendments to any User Manual. Bank owns or has obtained all proprietary rights to the User Manual and Customer agrees not to duplicate, distribute or otherwise copy the User Manual without Bank's prior written consent. The User Manual will at all times remain the property of Bank, and Bank reserves the right to request Customer to return all printed copies of the User Manual within thirty (30) days of termination of the Electronic Deposit Services.

21. Security Procedures

Customer shall comply with all security procedures for the Electronic Deposit Services that are established by Bank or set forth in the User Manuals. Customer is solely responsible for (i) maintaining its own internal security procedures, (ii) safeguarding the security and confidentiality of Transaction Data, Check Images and other information that is either stored on the Customer System, OSED System or ECLD System, or downloaded to Customer's other computer/data systems, and (iii) preventing errors or unauthorized access to the Customer System, or the OSED System or ECLD System.

**PART III – List of Documents,
Exhibits and Other Attachments**

Section J

Appendix C

Subcontracting Plan for Socioeconomic Programs

**Pacific Northwest National Laboratory
Subcontracting Plan
Fiscal Year 2012**

Socioeconomic Programs

Battelle's policy pledges a strong commitment to involving small and socioeconomically disadvantaged business concerns in the operation of the Pacific Northwest National Laboratory. Battelle supports the socioeconomic objectives of the U.S. Government and recognizes that diversity in subcontracting provides a vital link to the local community, strengthens the economy, and represents best business practices.

In keeping with the above policy, Battelle and the U.S. Department of Energy (DOE) have established the following Subcontracting Plan (this Plan). This Plan shall remain in effect from October 1, 2002, for the entire Contract period associated with this Contract. However, annual goals shall be negotiated and established by written agreement between the Contracting Officer and Battelle and shall be incorporated into this Plan by letter and will not require a Contract modification.

I. Goals

- A. Based on an estimated average annual fiscal year budget of 1,007,566,000 and an adjusted procurement volume of \$312,842,000, Battelle's goals for Fiscal Year 2012 are to –
 1. Award 52 percent to Small Business concerns, estimated at \$162,677,840.
 2. Award 5 percent to Small Disadvantaged Business concerns, estimated at \$15,642,100.
 3. Award 5 percent to Women-Owned Small Business concerns, estimated at \$15,642,100.
 4. Award 3 percent to HUBZone Small Business concerns, estimated at \$9,385,260.
 5. Award 3 percent to Veteran-Owned Small Business concerns, estimated at \$9,385,260.
 6. Award 3 percent to Service-Disabled Veteran-Owned Small Business concerns, estimated at \$9,385,260.
- B. Goals must be realistic to present the proper challenge to staff who are ultimately responsible for goal achievement. The percentage goals in A. above, based on past performance and future projections, will present such a challenge.
- C. These goals are accumulated based on subcontracts and purchase orders placed and do not include other indirect costs. They will include all dollars awarded under Contract DE-AC05-76RL01830 with the exception of those dollars awarded to other Battelle Inter-laboratory Authorizations or to other Battelle-owned entities and to firms outside the U.S.A.
- D. The principal products and services to be obtained in support of this Plan are those generally associated with an extremely diverse research and development environment. The business concerns in this Plan will generally supply a major portion of the goods and services listed in Table A.

TABLE A

Subcontracted Effort	SB	SDB	WOSB	HUB Zone	VO	SDVO
Electrical material and supplies	X	X	X	X	X	
Pumps, gauges and valves	X			X		
Computer equipment and supplies	X	X	X	X	X	X
Tooling	X					
Aluminum and other metals	X					
Laboratory supplies	X	X	X			
Reproduction supplies	X	X	X			
Office supplies	X	X	X			
Chemicals	X	X	X		X	
Tools of all types	X					
Electrical equipment and parts	X				X	
Construction services and materials	X	X	X		X	
Custodial equipment and supplies	X					
Fuels and lubricants	X				X	
Plastic products	X	X		X		
Industrial hardware	X	X				X
Translating Services	X		X		X	X
Technical support	X		X		X	

II. Battelle Subcontracting Plan Administrator

Battelle's Small Business Program Manager, Kerry Bass, is responsible to the PNNL Contracts Manager and will administer this Subcontracting Plan. Any change in the name of the Small Business Program Manager will be communicated without delay to the Contracting Officer. Responsibilities of the Small Business Liaison include:

- Serve as Battelle's interface with small and socioeconomically-disadvantaged businesses.
- Maintain and keep current listings of small and socioeconomically-disadvantaged businesses.
- Participate as Battelle representative in small business trade fairs, specifically directed toward offering opportunities for participants to do business with Battelle.
- Attend DOE-sponsored Small Business Program Manager Meetings and participate in the annual DOE Small Business Conference.
- Participate in trade associations, business development organizations, and conferences to locate and identify small and socioeconomically-disadvantaged business sources.
- Counsel and discuss subcontracting opportunities with potential small and socioeconomically-disadvantaged business firms and arrange appropriate assistance to these firms as required and practicable.
- Provide statistics to Battelle management on progress toward established goals and recognition of significant Contract Specialist performance in this area.
- Hold periodic training and other meetings with the appropriate acquisition staff on the Socioeconomic Programs.
- Conduct periodic meetings and otherwise communicate with Battelle organizational components covering Battelle's Socioeconomic Programs.
- Support Small Business Administration (SBA) activities as requested.

III. Administration of Battelle's Subcontracting Plan

Battelle staff is committed to offering a fair and equitable opportunity for small and socioeconomically disadvantaged business concerns, to compete for the goods and services required to support our ongoing research.

Battelle responds either verbally or in writing to each request received from firms that desire an opportunity to compete for purchase order/subcontract business.

A computerized listing of small and socioeconomically-disadvantaged business concerns is maintained by the Small Business Program Manager.

The Small Business Program Manager may participate in the screening of purchase requisitions and may add suggested small and socioeconomically-disadvantaged businesses as potential sources for Contracts Specialist consideration.

Staff members are encouraged to use the Small Business Dynamic Search database established and maintained by the SBA for locating small and socioeconomically-disadvantaged businesses.

Staff will post all written, competitive solicitations >\$100,000 on PNNL's website to maximize exposure to small and socioeconomically-disadvantaged businesses, unless the acquisition is for: 1. construction services <\$500,000 using the "Short Notice Acquisition Process" which is reserved for small businesses, 2. work performed, or delivery will occur, in a foreign country, or 3. work performed under a classified or "Confidential Foreign Government Information – Modified Handling Authorized (C/FGI-MOD)" projects. When appropriate, procurements may be synopsisized in the Federal Business Opportunities (FedBizOpps) in an effort to locate additional qualified small and socioeconomically-disadvantaged business concerns for participation.

IV. Flow-Down Requirements to Battelle's Subcontractors

Each purchase order/subcontract action \$150,000 and above placed in furtherance of Prime Contract DE-AC06-76RL01830 will include the clause: "Utilization of Small Business Concerns."

Lower-Tier Subcontracting Plans from large business concerns are each reviewed and approved by Battelle's Small Business Program Manager. Contact is established with the Lower-Tier Subcontractors Plan Administrator to offer assistance in identifying potential small and socioeconomically-disadvantaged sources and establish semi-annual reporting requirements.

Battelle's Procurement Policies Manual contains instructions to staff to include in all solicitations for negotiated procurements amounting to \$650,000 (\$1,500,000 for construction), or more, and which will offer subcontracting opportunities, the requirement to develop and adopt a Small Business Subcontracting Plan as required by Battelle's operating contract.

V. Periodic Reporting and Cooperating with DOE and SBA

Battelle will submit such periodic reports, as may be required by DOE or the SBA, in order to determine the extent of compliance with this Subcontracting Plan.

Battelle will cooperate in any studies or surveys conducted by DOE or SBA, by furnishing requested available statistical data.

Battelle will submit the Individual Subcontracting Report (ISR) and Summary Subcontract Report (SSR) in accordance with the instructions provided by DOE and the Electronic Subcontracting Reporting System. Further, Battelle will ensure that its subcontractors agree to electronically submit their ISR and SSR.

VI. Maintaining Records

Computerized reports are used to track progress toward achievement of goals. These reports are used to prepare monthly and quarterly reports (more frequent if requested) summarizing activity and progress related to compliance with the Subcontracting Plan.

In support of this Plan, Battelle will maintain the following records:

- Source lists (*e.g.*, Dynamic Small Business Search, VetBiz Search, etc.), guides and other data that identify small and socioeconomically-disadvantaged business concerns
- Organizations contacted to locate small and socioeconomically-disadvantaged business concerns.
- Records on each subcontract solicitation resulting in an award of more than \$150,000, indicating whether small and socioeconomically-disadvantaged businesses were solicited and, if not, why not, and, if applicable, the reason award was not made to a small business concern.
- Records of any outreach efforts and contacts with trade associations, business development organizations, and conferences and trade fairs to locate small and socioeconomically-disadvantaged sources.
- Records of internal guidance and encouragement provided to buyers through (1) workshops, seminars, training, etc., and (2) monitoring performance to evaluate compliance with the program's requirements.
- On a contract-by-contract basis, records to support award data submitted by the offeror to Battelle, including the name, address, and business size of each subcontractor.

**PART III – List of Documents,
Exhibits and Other Attachments**

Section J

Appendix D

List of Applicable DOE Directives & External Requirements

**SECTION J
APPENDIX D
LIST OF APPLICABLE DOE DIRECTIVES & EXTERNAL REQUIREMENTS**

DOE DIRECTIVES	
DIRECTIVE NO.	DIRECTIVE TITLE
CRD O 130.1	BUDGET FORMULATION
CRD M 140.1-1B	INTERFACE WITH THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD
CRD O 142.2A	VOLUNTARY OFFER SAFEGUARDS AGREEMENT AND ADDITIONAL PROTOCOL WITH THE INTERNATIONAL ATOMIC ENERGY AGENCY
CRD O 142.3A	UNCLASSIFIED FOREIGN VISITS AND ASSIGNMENTS PROGRAM
CRD O 150.1	CONTINUITY OF PROGRAMS
CRD O 151.1C	COMPREHENSIVE EMERGENCY MANAGEMENT SYSTEM
CRD O 200.1A	INFORMATION TECHNOLOGY MANAGEMENT
CRD M 200.1-1	CHAPTER 9 PUBLIC KEY CRYPTOGRAPHY AND KEY MANAGEMENT
CRD O 205.1B	DEPARTMENT OF ENERGY CYBER SECURITY PROGRAM
CRD M 205.1-3	TELECOMMUNICATIONS SECURITY MANUAL
CRD N 206.4	PERSONAL IDENTITY VERIFICATION
CRD O 210.2A	DOE CORPORATE OPERATING EXPERIENCE PROGRAM
CRD O 221.1A	REPORTING FRAUD, WASTE, AND ABUSE TO THE OFFICE OF INSPECTOR GENERAL
CRD O 221.2A	COOPERATION WITH THE OFFICE OF INSPECTOR GENERAL
CRD O 225.1B	ACCIDENT INVESTIGATIONS
CRD O 227.1	INDEPENDENT OVERSIGHT PROGRAM
CRD O 231.1B	ENVIRONMENT, SAFETY AND HEALTH REPORTING
CRD O 232.2	OCCURRENCE REPORTING AND PROCESSING OF OPERATIONS INFORMATION
CRD O 241.1B	SCIENTIFIC AND TECHNICAL INFORMATION MANAGEMENT
CRD O 243.1A	RECORDS MANAGEMENT PROGRAM
CRD O 243.2	VITAL RECORDS (except exclusion 3c)
CRD O 252.1A	TECHNICAL STANDARDS PROGRAM
CRD O 313.1	MANAGEMENT AND FUNDING OF THE DEPARTMENT'S OVERSEAS PRESENCE
CRD O 350.1, Chg. 3	CONTRACTOR HUMAN RESOURCE MANAGEMENT PROGRAMS
CRD O 350.2B	USE OF MANAGEMENT AND OPERATING OR OTHER FACILITY MANAGEMENT CONTRACTOR EMPLOYEES FOR SERVICES TO DOE IN THE WASHINGTON, D.C., AREA
CRD O 410.2	MANAGEMENT OF NUCLEAR MATERIALS
CRD O 413.1B	INTERNAL CONTROL PROGRAM
CRD O 413.2B, Chg. 1	LABORATORY DIRECTED RESEARCH AND DEVELOPMENT
CRD O 413.3B	PROGRAM AND PROJECT MANAGEMENT FOR THE ACQUISITION OF CAPITAL ASSETS
CRD O 414.1D	QUALITY ASSURANCE
CRD O 420.1B, Chg. 1	FACILITY SAFETY
CRD O 420.2C	SAFETY OF ACCELERATOR FACILITIES
CRD O 422.1	CONDUCT OF OPERATIONS
CRD O 425.1D	VERIFICATION OF READINESS TO STARTUP OR RESTART NUCLEAR FACILITIES

DOE DIRECTIVES	
DIRECTIVE NO.	DIRECTIVE TITLE
CRD O 426.2	PERSONNEL SELECTION, TRAINING, QUALIFICATION, AND CERTIFICATION REQUIREMENTS FOR DOE NUCLEAR FACILITIES
CRD O 430.1B, Chg. 2	REAL PROPERTY AND ASSET MANAGEMENT
CRD O 433.1B	MAINTENANCE MANAGEMENT PROGRAM FOR DOE NUCLEAR FACILITIES
CRD O 435.1, Chg. 1*	RADIOACTIVE WASTE MANAGEMENT
DOE M 435.1-1, Chg. 1	RADIOACTIVE WASTE MANAGEMENT MANUAL
CRD O 440.2C, Chg. 1	AVIATION MANAGEMENT AND SAFETY
CRD M 441.1-1	NUCLEAR MATERIAL PACKAGING MANUAL
CRD O 442.2	DIFFERING PROFESSIONAL OPINIONS FOR TECHNICAL ISSUES INVOLVING ENVIRONMENT, SAFETY AND HEALTH
CRD O 443.1B	PROTECTION OF HUMAN SUBJECTS
CRD O 452.8	CONTROL OF NUCLEAR WEAPON DATA
CRD O 456.1	THE SAFE HANDLING OF UNBOUND ENGINEERED NANOPARTICLES
CRD O 458.1, Chg. 2**	RADIATION PROTECTION OF THE PUBLIC AND THE ENVIRONMENT
CRD O 460.1C	PACKAGING AND TRANSPORTATION SAFETY
CRD M 460.2-1A	RADIOACTIVE MATERIAL TRANSPORTATION PRACTICES MANUAL
CRD O 460.2A	DEPARTMENTAL MATERIALS TRANSPORTATION AND PACKAGING MANAGEMENT
CRD O 461.1B	PACKAGING AND TRANSFER FOR OFFSITE SHIPMENT OF MATERIALS OF NATIONAL SECURITY INTEREST
DOE O 470.3B	GRADED SECURITY PROTECTION (GPS) POLICY
CRD O 470.4B	SAFEGUARDS AND SECURITY PROGRAM
CRD O 471.1B	IDENTIFICATION AND PROTECTION OF UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION
CRD O 471.3, Chg. 1	IDENTIFYING AND PROTECTING OFFICIAL USE ONLY INFORMATION
CRD M 471.3-1, Chg. 1	MANUAL FOR IDENTIFYING AND PROTECTING OFFICIAL USE ONLY INFORMATION
CRD O 471.5	SPECIAL ACCESS PROGRAMS
CRD O 471.6	INFORMATION SECURITY
CRD O 472.2	PERSONNEL SECURITY
CRD O 473.3	PROTECTION PROGRAM OPERATIONS
CRD O 474.2, Admin Chg.1	NUCLEAR MATERIAL CONTROL AND ACCOUNTABILITY
CRD O 475.1	COUNTERINTELLIGENCE PROGRAM
CRD O 475.2A	IDENTIFYING CLASSIFIED INFORMATION
CRD O 483.1	DOE COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS
CRD O 484.1, Chg. 1	REIMBURSABLE WORK FOR THE DEPARTMENT OF HOMELAND SECURITY
CRD O 522.1	PRICING OF DEPARTMENTAL MATERIALS AND SERVICES
CRD O 534.1B	ACCOUNTING
CRD O 551.1D	OFFICIAL FOREIGN TRAVEL
CRD O 580.1A	DEPARTMENT OF ENERGY PERSONAL PROPERTY MANAGEMENT PROGRAM
DOE O 1450.4	CONSENSUAL LISTENING-IN TO OR RECORDING TELEPHONE/RADIO CONVERSATIONS

DOE DIRECTIVES	
DIRECTIVE NO.	DIRECTIVE TITLE
DOE O 5639.8A	SECURITY OF FOREIGN INTELLIGENCE INFORMATION AND SENSITIVE COMPARTMENTED INFORMATION FACILITIES
DOE-0223	RL EMERGENCY IMPLEMENTING PROCEDURES – APPLICABLE TO PNNL-MANAGED FACILITIES AND ACTIVITIES ON THE HANFORD SITE
DOE/RL-94-02, Rev. 4	HANFORD EMERGENCY MANAGEMENT PLAN– APPLICABLE TO PNNL-MANAGED FACILITIES AND ACTIVITIES ON THE HANFORD SITE
DOE/RL-2001-36	HANFORD SITE TRANSPORTATION SAFETY DOCUMENT, REV.1-B

- * The Contractor shall submit a plan to implement CRD O 435.1, Chg 1 “Radioactive Waste Management” no-later-than 30 calendar days after the effective date of the modification to extend the contract. The Contractor shall continue to comply with DOE O 5820.2A “Radioactive Waste Management” until implementation of CRD 435.1, Chg 1.
- ** The Contractor’s responsibility to implement CRD O 458.1, Chg. 1 “Radiation Protection of the Public and the Environment” is limited to paragraphs 2.d., 2.g., and 2.k.

APPENDIX E
STANDARDS OF PERFORMANCE-BASED FEE

FY 2013
BATTELLE PERFORMANCE EVALUATION AND MEASUREMENT PLAN
FOR
MANAGEMENT AND OPERATIONS OF THE
PACIFIC NORTHWEST NATIONAL LABORATORY

APPENDIX E
STANDARDS OF PERFORMANCE-BASED FEE

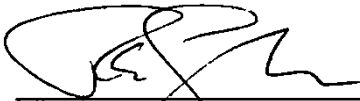
FY 2013

BATTELLE PERFORMANCE EVALUATION AND MEASUREMENT PLAN

FOR

MANAGEMENT AND OPERATIONS OF THE

PACIFIC NORTHWEST NATIONAL LABORATORY



Roger E. Snyder, Manager
Pacific Northwest Site Office

12/19/12
Date

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INTRODUCTION

This document, the Performance Evaluation and Measurement Plan (PEMP), primarily serves as DOE's Quality Assurance/Surveillance Plan (QASP) for the evaluation of Battelle Memorial Institute's (hereafter referred to as "the Contractor") performance regarding the management and operations of the Pacific Northwest National Laboratory (hereafter referred to as "the Laboratory") for the evaluation period from October 1, 2012, through September 30, 2013. The performance evaluation provides a standard by which to determine whether the Contractor is managerially and operationally in control of the Laboratory and is meeting the mission requirement and performance expectations/objectives of the Department as stipulated within this contract.

This document also describes the distribution of the total available performance-based fee and the methodology for determining the amount of fee earned by the Contractor as stipulated within the clauses entitled, "Determining Total Available Performance Fee and Fee Earned," "Conditional Payment of Fee, Profit, or Incentives," and "Total Available Fee: Base Fee Amount and Performance Fee Amount." In partnership with the Contractor and other key customers, the Department of Energy (DOE) Headquarters (HQ) and the Site Office have defined the measurement basis that serves as the Contractor's performance-based evaluation and fee determination.

The Performance Goals (hereafter referred to as Goals), Performance Objectives (hereafter referred to as Objectives) and set of notable outcomes discussed herein were developed in accordance with contract expectations set forth within the contract. The notable outcomes for meeting the Objectives set forth within this plan have been developed in coordination with HQ program offices as appropriate. Except as otherwise provided for within the contract, the evaluation and fee determination will rest solely on the Contractor's performance within the Performance Goals and Objectives set forth within this plan.

The overall performance against each Objective of this performance plan, to include the evaluation of notable outcomes, shall be evaluated jointly by the appropriate HQ office, major customer and/or the Site Office as appropriate. This cooperative review methodology will ensure that the overall evaluation of the Contractor results in a consolidated DOE position taking into account specific notable outcomes as well as all additional information available to the evaluating office. The Site Office shall work closely with each HQ program office or major customer throughout the year in evaluating the Contractor's performance and will provide observations regarding programs and projects as well as other management and operation activities conducted by the Contractor throughout the year.

Section I provides information on how the performance rating (grade) for the Contractor, as well as how the performance-based incentives fee earned (if any) will be determined. As applicable, also provides information on the award term eligibility requirements.

Section II provides the detailed information concerning each Goal, their corresponding Objectives, and notable outcomes identified, along with the weightings assigned to each Goal and Objective and a table for calculating the final grade for each Goal.

In accordance with the Contract Clause entitled "Determining Total Available Performance Fee and Fee Earned", the annual total available performance fees for FY 2013 shall be \$11,900,000.

I. DETERMINING THE CONTRACTOR'S PERFORMANCE RATING, PERFORMANCE-BASED FEE AND AWARD TERM ELIGIBILITY

The FY 2013 Contractor performance grades for each Goal will be determined based on the weighted sum of the individual scores earned for each of the Objectives described within this document for Science and

Technology (S&T) and for Management and Operations (M&O). Each Goal is composed of two or more weighted Objectives. Additionally, a set of notable outcomes has been identified to highlight key aspects/areas of performance deserving special attention by the Contractor for the upcoming fiscal year. Each notable outcome is linked to one or more Objectives, and failure to meet expectations against any notable outcome will result in a grade less than B+ for that Objective(s) (i.e., if the contractor fails to meet expectations against a notable outcome tied to an Objective under Goal 1.0, 2.0, or 3.0, the SC program office that assigned the notable outcome shall award a grade less than “B+” for the Objective(s) to which the notable outcome is linked; and if the contractor fails to meet expectations against a notable outcome tied to an Objective under Goal 4.0, 5.0, 6.0, 7.0 or 8.0, SC shall award a grade less than “B+” for the Objective(s) to which the notable outcome is linked). Performance above expectations against a notable outcome will be considered in the context of the Contractor’s entire performance with respect to the relevant Objective. The following section describes SC’s methodology for determining the Contractor’s grades at the Objective level.

Performance Evaluation Methodology:

The purpose of this section is to establish a methodology to develop grades at the Objective level. Each evaluating office shall provide a proposed grade and corresponding numerical score for each Objective (see Figure 1 for SC’s scale). Each evaluation will measure the degree of effectiveness and performance of the Contractor in meeting the corresponding Objectives.

Final Grade	A+	A	A-	B+	B	B-	C+	C	C-	D	F
Total Score	4.3-4.1	4.0-3.8	3.7-3.5	3.4-3.1	3.0-2.8	2.7-2.5	2.4-2.1	2.0-1.8	1.7-1.1	1.0-0.8	0.7-0

Figure 1. FY 2013 Contractor Letter Grade Scale

For the three S&T Goals (1.0 – 3.0) the Contractor shall be evaluated against the defined levels of performance provided for each Objective under the S&T Goals. The Contractor performance under Goal 4.0 will also be evaluated using the defined levels of performance described for the three Objectives under Goal 4.0. The descriptions for these defined levels of performance are included in Section II.

It is the DOE’s expectation that the Contractor provides for and maintains management and operational (M&O) systems that efficiently and effectively support the current mission(s) of the Laboratory and assure the Laboratory’s ability to deliver against DOE’s future needs. In evaluating the Contractor’s performance DOE shall assess the degree of effectiveness and performance in meeting each of the Objectives provided under each of the Goals. For the four M&O Goals (5.0 – 8.0) DOE will rely on a combination of the information through the Contractor’s own assurance systems, the ability of the Contractor to demonstrate the validity of this information, and DOE’s own independent assessment of the Contractor’s performance across the spectrum of its responsibilities. The latter might include, but is not limited to operational awareness (daily oversight) activities; formal assessments conducted; “For Cause” reviews (if any); and other outside agency reviews (OIG, GAO, DCAA, etc.).

The mission of the Laboratory is to deliver the science and technology needed to support Departmental missions and other sponsor’s needs. Operational performance at the Laboratory meets DOE’s expectations (defined as the grade of B+) for each Objective if the Contractor is performing at a level that fully supports the Laboratory’s current and future science and technology mission(s). Performance that has, or has the potential to, 1) adversely impact the delivery of the current and/or future DOE/Laboratory mission(s), 2) adversely impact the DOE and or the Laboratory’s reputation, or 3) does not provide the competent people, necessary facilities and robust systems necessary to ensure sustainable performance, shall be graded below expectations as defined in Figure 3, below.

The Department sets our expectations high, and expects performance at that level to optimize the efficient and effective operation of the Laboratory. Thus, the Department does not expect routine Contractor performance above expectations against the M&O Goals (5.0 – 8.0). Performance that might merit grades above B+ would need to reflect a Contractor’s significant contributions to the management and operations at the system of Laboratories, or recognition by external, independent entities as exemplary performance.

Definitions for the grading scale for the Goal 5.0 – 8.0 Objectives are provided in Figure I-1, below:

Letter Grade	Numerical Grade	Definition
A+	4.3-4.1	Significantly exceeds expectations of performance against all aspects of the Objective in question. The Contractor’s systems function at a level that fully supports the Laboratory’s current and future science and technology mission(s). Performance is notable for its significant contributions to the management and operations across the SC system of laboratories, and/or has been recognized by external, independent entities as exemplary.
A	4.0-3.8	Notably exceeds expectations of performance against all aspects of the Objective in question. The Contractor’s systems function at a level that fully supports the Laboratory’s current and future science and technology mission(s). Performance is notable for its contributions to the management and operations across the SC system of laboratories, and/or as been recognized by external, independent entities as exemplary.
A-	3.7-3.5	Exceeds expectations of performance against all aspects of the Objective in question. The Contractor’s systems function at a level that fully supports the Laboratory’s current and future science and technology mission(s).
B+	3.4-3.1	Meets expectations of performance against all aspects of the Objective in question. The Contractor’s systems function at a level that fully supports the Laboratory’s current and future science and technology mission(s). No performance has, or has the potential to, adversely impact 1) the delivery of the current and/or future DOE/Laboratory mission(s), 2) the DOE and/or the Laboratory’s reputation, or does not 3) provide a sustainable performance platform.
B	3.0 -2.8	Just misses meeting expectations of performance against a few aspects of the Objective in question. In a few minor instances, the Contractor’s systems function at a level that does not fully support the Laboratory’s current and future science and technology mission, or provide a sustainable performance platform.
B-	2.7-2.5	Misses meeting expectations of performance against several aspects of the Objective in question. In several areas, the Contractor’s systems function at a level that does not fully support the Laboratory’s current and future science and technology mission, or provide a sustainable performance platform.
C+	2.4-2.1	Misses meeting expectations of performance against many aspects of the Objective in question. In several notable areas, the Contractor’s systems function at a level that does not fully support the Laboratory’s current and future science and technology mission or provide a sustainable performance platform, and/or have affected the reputation of the Laboratory or DOE.
C	2.0-1.8	Significantly misses meeting expectations of performance against many aspects of the Objective in question. In many notable areas, the Contractor’s systems do not support the Laboratory’s current and future science and technology mission, nor provide a sustainable performance platform and may affect the reputation of the Laboratory or DOE.
C-	1.7- 1.1	Significantly misses meeting expectations of performance against most aspects of the Objective in question. In many notable areas, the Contractor’s systems demonstrably hinder the Laboratory’s ability to deliver on current and future science and technology mission, and have harmed the reputation of the Laboratory or DOE.
D	1.0-0.8	Most or all expectations of performance against the Objective in question are missed. Performance failures in this area have affected all parts of the Laboratory; DOE leadership engagement is required to deal with the situation and help the Contractor.

Letter Grade	Numerical Grade	Definition
F	0.7-0	All expectations of performance against the Objective in question are missed. Performance failures in this area are not recoverable by the Contractor or DOE.

Figure I-1. Letter Grade and Numerical Grade Definitions

Calculating Individual Goal Scores and Letter Grades:

Each Objective is assigned the earned numerical score by the evaluating office as stated above. The Goal rating is then computed by multiplying the numerical score by the weight of each Objective within a Goal. These values are then added together to develop an overall numerical score for each Goal. For the purpose of determining the final Goal grade, the raw numerical score for each Goal will be rounded to the nearest tenth of a point using the standard rounding convention discussed below and then compared to Figure 2. A set of tables is provided at the end of each Performance Goal section of this document to assist in the calculation of Objective numerical scores to the Goal grade. No overall rollup grade shall be provided.

As stated above the raw numerical score from each calculation shall be carried through to the next stage of the calculation process. The raw numerical score for S&T and M&O will be rounded to the nearest tenth of a point for purposes of determining fee. A standard rounding convention of x.44 and less rounds down to the nearest tenth (here, x.4), while x.45 and greater rounds up to the nearest tenth (here, x.5).

The eight Performance Goal grades shall be used to create a report card for the laboratory (see Figure 2, below).

Performance Goal	Grade
1.0 Mission Accomplishment	
2.0 Design, Fabrication, Construction and Operations of Research Facilities	
3.0 Science and Technology Program Management	
4.0 Sound and Competent Leadership and Stewardship of the Laboratory	
5.0 Integrated Safety, Health, and Environmental Protection	
6.0 Business Systems	
7.0 Operating, Maintaining, and Renewing Facility and Infrastructure Portfolio	
8.0 Integrated Safeguards and Security Management and Emergency Management Systems	

Figure 2. Laboratory Report Card

Determining the Amount of Performance-Based Fee Earned:

SC uses the following process to determine the amount of performance-based fee earned by the contractor. The S&T score from each evaluator shall be used to determine an initial numerical score for S&T (see Table A, below), and the rollup of the scores for each M&O Performance Goal shall be used to determine an initial numerical M&O score (see Table B, below).

Program	Numerical Score	Weight ¹	Weighted Score	Total Score
ASCR				
BES				
BER				
FES				
HEP				
DHS				
DNN				

EERE				
EM				
IN				
NRC				
OE				
Initial S&T Score				

Table A. Fiscal Year Contractor Evaluation Initial S&T Score Calculation

¹ Weight = Program cost divided by total cost

M&O Performance Goal	Numerical Score	Weight	Weighted Score	
5.0 Integrated Safety, Health, and Environmental Protection				
6.0 Business Systems				
7.0 Operating, Maintaining, and Renewing Facility and Infrastructure Portfolio				
8.0 Integrated Safeguards and Security Management and Emergency Management Systems				
Initial M&O Score				

Table B. Fiscal Year Contractor Evaluation Initial M&O Score Calculation

These initial scores will then be adjusted based on the numerical score for Goal 4.0 (see Table C, below).

	Numerical Score	Weight		
Initial S&T Score		0.75		
Goal 4.0		0.25		
Final S&T Score				
Initial M&O Score		0.75		
Goal 4.0		0.25		
Final M&O Score				

Table C. FY Fiscal Year Final S&T and M&O Score Calculation

The percentage of the available performance-based fee that may be earned by the Contractor shall be determined based on the final score for S&T (see Table C) and then compared to Figure 3, below. The final score for M&O from Table C shall then be utilized to determine the final fee multiplier (see Figure 3), which shall be utilized to determine the overall amount of performance-based fee earned for FY 2013 as calculated within Table D.

Overall Final Score for either S&T or M&O from Table B.	Percent S&T Fee Earned	M&O Fee Multiplier
4.3	100%	100%
4.2		
4.1		
4.0	97%	100%
3.9		

Overall Final Score for either S&T or M&O from Table B.	Percent S&T Fee Earned	M&O Fee Multiplier
3.8		
3.7		
3.6	94%	100%
3.5		
3.4	91%	100%
3.3		
3.2		
3.1		
3.0	88%	95%
2.9		
2.8		
2.7	85%	90%
2.6		
2.5		
2.4	75%	85%
2.3		
2.2		
2.1		
2.0	50%	75%
1.9		
1.8		
1.7	0%	60%
1.6		
1.5		
1.4		
1.3		
1.2		
1.1		
1.0 to 0.8	0%	0%
0.7 to 0.0	0%	0%

Figure 3. Performance-Based Fee Earned Scale

Overall Fee Determination	
Percent S&T Fee Earned	
M&O Fee Multiplier	x
Overall Earned Performance-Based Fee	

Table D. Final Percentage of Performance-Based Fee Earned Determination

The Federal Acquisition Regulations (FAR) requirements for using and administering cost-plus-award-fee contracts were recently modified to provide for a five-level adjectival grading system with associated levels of available fee.¹ SC has addressed the new FAR 16 language by mapping its standard numerical

¹ See Policy Flash 2010-05, *Federal Acquisition Circular 2005-37*.

scores and associated fee determinations to the FAR Adjectival Rating System, as noted in Table 4 on the next page.

Range of Overall Final Score for S&T from Table B.	FAR Adjectival Rating	Maximum Performance-Fee Pool Available to be Earned
3.1 to 4.3	Excellent	100%
2.5 to 3.0	Very Good	88%
2.1 to 2.4	Good	75%
1.8 to 2.0	Satisfactory	50%
0.0 to 1.7	Unsatisfactory	0%

Figure 1. Crosswalk of SC Numerical Scores and the FAR 16 Adjectival Rating System

Adjustment to the Letter Grade and/or Performance-Based Fee Determination:

The lack of performance objectives and notable outcomes in this plan do not diminish the need to comply with minimum contractual requirements. Although the performance-based Goals and their corresponding Objectives shall be the primary means utilized in determining the Contractor’s performance grade and/or amount of performance-based fee earned, the Contracting Officer may unilaterally adjust the rating and/or reduce the otherwise earned fee based on the Contractor’s performance against all contract requirements as set forth in the Prime Contract. While reductions may be based on performance against any contract requirement, specific note should be made to contract clauses which address reduction of fee including, Standards of Contractor Performance Evaluation, DEAR 970.5215-1 – Total Available Fee: Base Fee Amount and Performance Fee Amount, and Conditional Payment of Fee, Profit, and Other Incentives – Facility Management Contracts. Data to support rating and/or fee adjustments may be derived from other sources to include, but not limited to, operational awareness (daily oversight) activities; “For Cause” reviews (if any); and other outside agency reviews (OIG, GAO, DCAA, etc.), as needed.

The adjustment of a grade and/or reduction of otherwise earned fee will be determined by the severity of the performance failure and consideration of mitigating factors. DEAR 970.5215-3 Conditional Payment of Fee, Profit, and Other Incentives – Facility Management Contracts is the mechanism used for reduction of fee as it relates to performance failures related to safeguarding of classified information and to adequate protection of environment, health and safety. Its guidance can also serve as an example for reduction of fee in other areas.

The final Contractor performance-based grades for each Goal and fee earned determination will be

contained within a year-end report, documenting the results from the DOE review. The report will identify areas where performance improvement is necessary and, if required, provide the basis for any performance-based rating and/or fee adjustments made from the otherwise earned rating/fee based on Performance Goal achievements.

II. PERFORMANCE GOALS, OBJECTIVES & NOTABLE OUTCOMES

Background

The current performance-based management approach to oversight within DOE has established a new culture within the Department with emphasis on the customer-supplier partnership between DOE and the laboratory contractors. It has also placed a greater focus on mission performance, best business practices, cost management, and improved contractor accountability. Under the performance-based management system the DOE provides clear direction to the laboratories and develops annual performance plans (such as this one) to assess the contractors performance in meeting that direction in accordance with contract requirements. The DOE policy for implementing performance-based management includes the following guiding principles:

- Performance objectives are established in partnership with affected organizations and are directly aligned to the DOE strategic goals;
- Resource decisions and budget requests are tied to results; and
- Results are used for management information, establishing accountability, and driving long-term improvements.

The performance-based approach focuses the evaluation of the Contractor's performance against these Performance Goals. Progress against these Goals is measured through the use of a set of Objectives. The success of each Objective will be measured based on demonstrated performance by the laboratory, and on a set of notable outcomes that focus laboratory leadership on the specific items that are the most important initiatives and highest risk issues the laboratory must address during the year. These notable outcomes should be objective, measurable, and results-oriented to allow for a definitive determination of whether or not the specific outcome was achieved at the end of the year.

Performance Goals, Objectives, and Notable Outcomes

The following sections describe the Performance Goals, their supporting Objectives, and associated notable outcomes for FY 2013.

GOAL 1.0 Provide for Efficient and Effective Mission Accomplishment

The science and technology programs at the Laboratory produce high-quality, original, and creative results that advance science and technology; demonstrate sustained scientific progress and impact; receive appropriate external recognition of accomplishments; and contribute to overall research and development goals of the Department and its customers.

The weight of this Goal is TBD%.

The Provide for Efficient and Effective Mission Accomplishment Goal measures the overall effectiveness and performance of the Contractor in delivering science and technology results which contribute to and enhance the DOE's mission of protecting our national and economic security by providing world-class scientific research capacity and advancing scientific knowledge by supporting world-class, peer-reviewed scientific results, which are recognized by others.

Each Objective within this Goal is to be assigned the appropriate numerical score by the Office of Science, other cognizant HQ Program Offices, and other customers as identified below. The overall Goal score from each HQ Program Office and/or customer is computed by multiplying numerical scores earned by the weight of each Objective, and summing them (see Table 1.1). The final weights to be utilized for determining weighted scores will be determined following the end of the performance period and will be based on actual cost for FY 2013.

- Office of Advanced Scientific Computing Research (ASCR) (TBD%)
- Office of Biological and Environmental Research (BER) (TBD%)
- Office of Basic Energy Sciences (BES) (TBD%)
- Office of Fusion Energy Sciences (FES) (TBD%)
- Office of High Energy Physics (HEP) (TBD%)
- Department of Homeland Security (DHS) (TBD%)
- Office of Defense Nuclear Nonproliferation (DNN) (TBD%)
- Office of Energy Efficiency and Renewable Energy (EERE) (TBD%)
- Office of Environmental Management (EM) (TBD%)
- Office of Intelligence (IN) (TBD%)
- Nuclear Regulatory Commission (NRC) (TBD%)
- Office of Electricity Delivery and Energy Reliability (OE) (TBD%)

The overall performance score and grade for this Goal will be determined by multiplying the overall score assigned by each of the offices identified above by the weightings identified for each and then summing them (see Table 1.2, below). The overall score earned is then compared to Table 1.3 to determine the overall letter grade for this Goal. The Contractor's success in meeting each Objective shall be determined based on the Contractor's performance as viewed by the Office of Science, other cognizant HQ Program Offices, and other customers for which the Laboratory conducts work. Should one or more of the HQ Program Offices choose not to provide an evaluation for this Goal and its corresponding Objectives the weighting for the remaining HQ Program Offices shall be recalculated based on their percentage of cost for FY 2013 as compared to the total cost for those remaining HQ Program Offices.

Objectives

1.1 Provide Science and Technology Results with Meaningful Impact on the Field

In assessing the performance of the Laboratory against this Objective, the following assessment elements should be considered:

- Performance of the Laboratory with respect to proposed research plans;
- Performance of the Laboratory with respect to community impact and peer review; and
- Performance of the Laboratory with respect to impact to DOE mission needs.

The following is a sampling of factors to be considered in determining the level of performance for the Laboratory against this Objective. The evaluator(s) may consider the following as measured through progress reports, peer reviews, Field Work Proposals (FWPs), Program Office reviews/oversight, etc.

- Impact of publications on the field, as measured primarily by peer review;
- Impact of S&T results on the field, as measured primarily by peer review;
- Impact of S&T results outside the field indicating broader interest;
- Impact of S&T results on DOE or other customer mission(s);

- Successful stewardship of mission-relevant research areas;
- Delivery on proposed S&T plans;
- Significant awards (Nobel Prizes, R&D 100, FLC, etc.);
- Invited talks, citations, making high-quality data available to the scientific community; and
- Development of tools and techniques that become standards or widely-used in the scientific community.

Letter Grade	Definition
A+	<p>In addition to satisfying the conditions for B+</p> <ul style="list-style-type: none"> • There are <i>significant research areas</i> for which the Laboratory has exceeded the expectations of the proposed research plans <i>in significant ways through creative, new, or unconventional methods that allow greater scientific reach than expected.</i> • S&T conducted at the Laboratory <i>has resolved one of the most critical questions in the field, or has changed the way the research community thinks about a particular field through paradigm shifting discoveries that would be considered the most influential discovery of the decade for that field.</i> • S&T conducted at the Laboratory <i>provided major advances that significantly accelerate DOE or other customer mission(s).</i>
A	<p>In addition to satisfying the conditions for B+</p> <ul style="list-style-type: none"> • There are <i>important examples</i> where the Laboratory <i>exceeded the expectations</i> of the proposed research plans <i>in significant ways through creative, new, or unconventional methods that allow greater scientific reach than expected.</i> • <i>All areas</i> of S&T conducted at the Laboratory are of <i>exceptional or outstanding</i> merit and quality. • S&T conducted at the Laboratory <i>has significant positive impact</i> to DOE or other customer missions.
A-	<p>In addition to satisfying the conditions for B+</p> <ul style="list-style-type: none"> • There are <i>important examples</i> where the Laboratory <i>exceeded the expectations</i> of the proposed research plans. • <i>Significant areas</i> of S&T conducted at the Laboratory are of <i>exceptional or outstanding</i> merit and quality. • S&T conducted at the Laboratory <i>significantly impact</i> DOE or other customer missions.
B+	<p>The Laboratory has achieved each of the following objectives:</p> <ul style="list-style-type: none"> • The Laboratory has successfully executed proposed research plans. • S&T conducted at the Laboratory are of <i>high</i> scientific merit and quality • S&T conducted at the Laboratory <i>advance</i> DOE or other customer missions.
B	<ul style="list-style-type: none"> • The Laboratory has successfully executed proposed research plans. • S&T conducted at the Laboratory <i>advance</i> DOE or other customer missions. <p>BUT the Laboratory fails to meet the conditions for B+ for <i>at least one</i> of the following reasons:</p> <ul style="list-style-type: none"> • S&T conducted at the Laboratory are <i>not uniformly of high</i> merit and quality OR <i>some areas of research, previously supported, have become uncompetitive</i> OR <i>the Laboratory does not produce sufficiently competitive proposals to receive program support at a level commensurate with its unique capabilities.</i>
B-	<p>The Laboratory fails to meet the conditions for B+ for <i>at least one</i> of the following reasons:</p> <ul style="list-style-type: none"> • The Laboratory has <i>failed to successfully execute</i> proposed research plans <i>but contingencies were in place such that no funding was or will be terminated.</i> OR S&T conducted at the Laboratory <i>does little to advance</i> DOE or other customer missions. • <i>Significant areas</i> of S&T conducted at the Laboratory are <i>not of high</i> merit and quality OR <i>some areas of research, previously supported, have become uncompetitive</i> OR <i>the Laboratory do not produce sufficiently competitive proposals to receive program support at a level commensurate with its unique capabilities.</i>

Letter Grade	Definition
C	<p>The Laboratory fails to meet the conditions for B+ for <i>at least one</i> of the following reasons:</p> <ul style="list-style-type: none"> • <i>In several significant aspects, the Laboratory failed to deliver on proposed research plans using available resources such that some funding was or will be terminated OR S&T conducted at the Laboratory failed to contribute to DOE or other customer missions</i> • <i>Significant areas of S&T conducted at the Laboratory are of poor merit and quality OR some areas of research, previously supported, have become uncompetitive AND the Laboratory does not produce sufficiently competitive proposals to receive program support at a level commensurate with its unique capabilities.</i>
D	<p>The Laboratory fails to meet the conditions for B+ for <i>at least one</i> of the following reasons:</p> <ul style="list-style-type: none"> • <i>Multiple program elements at the Laboratory failed to deliver on proposed research plans using available resources such that significant funding was or will be terminated.</i> • <i>Multiple significant areas of S&T conducted at the Laboratory are of poor merit and quality OR some areas of research, previously supported, have become uncompetitive AND the Laboratory does not produce sufficiently competitive proposals to receive program support at a level commensurate with its unique capabilities.</i> • <i>S&T conducted at the Laboratory failed to contribute to DOE or other customer missions.</i>
F	<p>The Laboratory fails to meet the conditions for B+ for <i>at least one</i> of the following reasons:</p> <ul style="list-style-type: none"> • <i>Multiple program elements at the Laboratory failed to deliver on proposed research plans using available resources resulting in total termination of funding.</i> • <i>Multiple significant areas of S&T conducted at the Laboratory are of poor merit and quality OR some areas of research, previously supported, have become uncompetitive AND the Laboratory does not produce sufficiently competitive proposals to receive program support at a level commensurate with its unique capabilities OR the Laboratory has been found to have engaged in gross scientific incompetence and/or scientific fraud.</i> • <i>S&T conducted at the Laboratory failed to contribute to DOE or other customer missions.</i>

1.2 Provide Quality Leadership in Science and Technology that Advances Community Goals and DOE Mission Goals.

In assessing the performance of the Laboratory against this Objective, the following assessment elements should be considered:

- Innovativeness / Novelty of research ideas put forward by the Laboratory;
- Extent to which Laboratory staff members take on substantive or formal leadership roles in their community;
- Extent to which Laboratory staff members take on formal leadership roles in DOE and SC activities; and
- Extent to which Laboratory staff members contribute thoughtful and thorough peer reviews and other research assessments as requested by DOE and SC.

The following is a sampling of factors to be considered in determining the level of performance for the Laboratory against this Objective. The evaluator(s) may consider the following as measured through progress reports, peer reviews, Field Work Proposals (FWPs), Program Office reviews/oversight, etc.:

- Willingness to pursue novel approaches and/or demonstration of innovative solutions to problems;
- Willingness to take on high-risk/high payoff/long-term research problems, evidence that previous risky decisions by the PI/research staff have proved to be correct and are paying off;
- The uniqueness and challenge of science pursued, recognition for doing the best work in the field;

- Extent and quality of collaborative efforts;
- Staff members visible in leadership positions in the scientific community;
- Involvement in professional organizations, National Academies panels and workshops,
- Effectiveness in driving the direction and setting the priorities of the community in a research field; and
- Success in competition for resources.

Letter Grade	Definition
A+	<p>In addition to satisfying the conditions for B+, the following conditions hold for ALL Laboratory staff:</p> <ul style="list-style-type: none"> • Laboratory staff members have <i>leadership positions</i> in professional organizations AND <i>in National Academy or equivalent panels to discuss and determine further research directions</i>; • Laboratory staff members have <i>leadership positions</i> in DOE sponsored workshops and strategic planning activities, for example, Laboratory staff members chair or co-chair DOE-sponsored workshops and strategic planning activities. • The Laboratory program consistently produces and submits competitive proposals that challenge convention and open <i>significant new fields</i> for research that are well aligned with DOE mission needs and <i>the Laboratory has a strong recognized role in setting priorities and driving the direction in key research areas and are internationally recognized leaders in the field.</i> • Laboratory staff hold <i>leadership positions</i> in multi-institutional research collaborations.
A	<p>In addition to satisfying the conditions for B+</p> <ul style="list-style-type: none"> • Laboratory staff members have <i>leadership positions</i> in professional organizations AND <i>staff has contributing role in National Academy or equivalent panels to discuss further research directions</i>; • Laboratory staff members have <i>leadership positions</i> in DOE sponsored workshops and strategic planning activities. • The Laboratory program consistently produces and submits competitive proposals that challenge convention and open <i>significant new fields</i> for research that are well aligned with DOE mission needs and <i>the Laboratory has a strong recognized role in setting priorities and driving the direction in key research areas.</i> • Laboratory staff hold <i>leadership positions</i> in multi-institutional research collaborations.
A-	<p>In addition to satisfying the conditions for B+</p> <ul style="list-style-type: none"> • Laboratory staff members have <i>leadership positions</i> in professional organizations OR <i>staff has contributing role in National Academy or equivalent panels to discuss further research directions</i>; • Laboratory staff members have <i>leadership positions</i> in DOE sponsored workshops and strategic planning activities. • The Laboratory program consistently submits competitive proposals that challenge convention and open <i>significant</i> new avenues for research that are well aligned with DOE mission needs. • Laboratory staff hold <i>leadership positions</i> in multi-institutional research collaborations.
B+	<p>The Laboratory has achieved each of the following objectives:</p> <ul style="list-style-type: none"> • Laboratory staff members are <i>active participants</i> in professional organizations, committees, and activities, and take on leadership responsibilities commensurate with experience and expertise. • Laboratory staff members are <i>active participants</i> in DOE sponsored workshops and strategic planning activities. • Laboratory staff members contribute thoughtful and thorough peer review in a timely manner, when requested by DOE. • The Laboratory program consistently provides competitive proposals that challenge convention and open new avenues for research that are well aligned with DOE mission needs. • Laboratory staff are <i>active participants</i> in multi-institutional research collaborations

Letter Grade	Definition
B	<ul style="list-style-type: none"> • Laboratory staff members contribute thoughtful and thorough peer review in a timely manner, when requested by DOE. • The Laboratory program consistently provides competitive proposals that challenge convention and open new avenues for research that are well aligned with DOE mission needs. <p>BUT the Laboratory fails to meet the conditions for B+ for <i>at least one</i> of the following reasons:</p> <ul style="list-style-type: none"> • Although <i>regular participants</i> in professional organizations, committees, and activities, <i>the extent to which staff take on leadership roles falls short of what would be expected, given the level of experience and expertise of the staff.</i> • Although <i>regular participants</i> in DOE sponsored workshops and strategic planning activities, <i>the extent to which staff take on leadership roles falls short of what would be expected, given the level of experience and expertise of the staff.</i> • Although <i>active members of multi-institutional research collaborations</i>, <i>the extent to which staff take on leadership roles falls short of what would be expected, given the level of experience and expertise of the staff.</i>
B-	<ul style="list-style-type: none"> • Laboratory staff members contribute thoughtful and thorough peer review in a timely manner, when requested by DOE. <p>BUT the Laboratory fails to meet the conditions for B+ for <i>at least one</i> of the following reasons:</p> <ul style="list-style-type: none"> • The Laboratory program submits competitive proposals <i>but these either lack innovation or are not well aligned with DOE mission needs.</i> • Laboratory staff are <i>infrequent participants</i> in professional organizations, committees, and activities, and <i>the extent to which staff take on leadership roles falls short of what would be expected, given the level of experience and expertise of the staff.</i> • Laboratory staff are <i>infrequent participants</i> in DOE sponsored workshops and strategic planning activities, and <i>the extent to which staff take on leadership roles falls short of what would be expected, given the level of experience and expertise of the staff.</i> • Although <i>active members of multi-institutional research collaborations</i>, <i>the extent to which staff take on leadership roles falls short of what would be expected, given the level of experience and expertise of the staff.</i>
C	<p>The Laboratory fails to meet the conditions for B+ for <i>at least one</i> of the following reasons:</p> <ul style="list-style-type: none"> • Laboratory staff members <i>do not reliably</i> contribute thoughtful and thorough peer review in a timely manner, when requested by DOE. • <i>Some areas of research, previously supported, are no longer competitive.</i> • Laboratory staff members are <i>infrequent participants</i> in professional organizations, committees, and activities, AND <i>the extent to which staff take on leadership roles falls short of what would be expected, given the level of experience and expertise of the staff.</i> • Laboratory staff members are <i>infrequent participants</i> in DOE sponsored workshops and strategic planning activities, and <i>the extent to which staff take on leadership roles falls short of what would be expected, given the level of experience and expertise of the staff.</i> • Although Laboratory staff members are <i>active members of multi-institutional research collaborations</i>, <i>the extent to which staff take on leadership roles falls short of what would be expected, given the level of experience and expertise of the staff.</i>
D	<p>The Laboratory fails to meet the conditions for B+ because <i>the Laboratory staff are working on problems that are no longer at the forefront of science and are considered mundane.</i></p>
F	<p>Review has found the Laboratory staff to be <i>guilty of gross scientific incompetence and/or scientific fraud.</i></p>

Notable Outcomes

- ***BES: Deliver impactful science for the Energy Frontier Research Center: “Center for Molecular Electrocatalysis,” as measured by the FY 2013 annual reports, highlights, and participation in monthly conference calls. (Objective 1.1)***

Program Office²	Letter Grade	Numerical Score	Weight	Overall Score
Office of Advanced Scientific Research				
1.1 Impact			50%	
1.2 Leadership			50%	
Overall ASCR Total				
Office of Biological and Environmental Research				
1.1 Impact			60%	
1.2 Leadership			40%	
Overall BER Total				
Office of Basic Energy Sciences				
1.1 Impact			50%	
1.2 Leadership			50%	
Overall BES Total				
Office of Fusion Energy Sciences				
1.1 Impact			50%	
1.2 Leadership			50%	
Overall FES Total				
Office of High Energy Physics				
1.1 Impact			50%	
1.2 Leadership			50%	
Overall HEP Total				
Department of Homeland Security				
1.1 Impact			50%	
1.2 Leadership			50%	
Overall DHS Total				
Office of Defense Nuclear Nonproliferation				
1.1 Impact			65%	
1.2 Leadership			35%	
Overall DNN Total				
Office of Energy Efficiency and Renewable Energy				
1.1 Impact			60%	
1.2 Leadership			40%	
Overall EERE Total				
Office of Environmental Management				
1.1 Impact			40%	
1.2 Leadership			60%	
Overall EM Total				
Office of Intelligence				
1.1 Impact			60%	
1.2 Leadership			40%	
Overall IN Total				
Nuclear Regulatory Commission				
1.1 Impact			50%	
1.2 Leadership			50%	
Overall NRC Total				
Office of Electricity Delivery and Energy Reliability				
1.1 Impact			50%	
1.2 Leadership			50%	
Overall OE Total				

² A complete listing of the S&T Goals & Objectives weightings for the SC Programs is provided within Attachment I to this plan.

Table 1.1 – Program Performance Goal 1.0 Score Development

Program Office	Letter Grade	Numerical Score	Funding Weight (cost)	Overall Weighted Score
Office of Advanced Scientific Research			TBD%	
Office of Biological and Environmental Research			TBD%	
Office of Basic Energy Sciences			TBD%	
Office of Fusion Energy Sciences			TBD%	
Office of High Energy Physics			TBD%	
Department of Homeland Security			TBD%	
Office of Defense Nuclear Nonproliferation			TBD%	
Office of Energy Efficiency and Renewable Energy			TBD%	
Office of Environmental Management			TBD%	
Office of Intelligence			TBD%	
Nuclear Regulatory Commission			TBD%	
Office of Electricity Delivery and Energy Reliability			TBD%	
Performance Goal 1.0 Total				

Table 1.2 – Overall Performance Goal 1.0 Score Development³

Total Score	4.3-4.1	4.0-3.8	3.7-3.5	3.4-3.1	3.0-2.8	2.7-2.5	2.4-2.1	2.0-1.8	1.7-1.1	1.0-0.8	0.7-0
Final Grade	A+	A	A-	B+	B	B-	C+	C	C-	D	F

Table 1.3 – Goal 1.0 Final Letter Grade

GOAL 2.0 Provide for Efficient and Effective Design, Fabrication, Construction and Operations of Research Facilities

The Laboratory provides effective and efficient strategic planning; fabrication, construction and/or operations of Laboratory research facilities; and are responsive to the user community.

The weight of this Goal is TBD%.

The Provide for Efficient and Effective Design, Fabrication, Construction and Operations of Research Facilities Goal shall measure the overall effectiveness and performance of the Contractor in planning for and delivering leading-edge specialty research and/or user facilities to ensure the required capabilities are present to meet today’s and tomorrow’s complex challenges. It also measures the Contractor’s innovative operational and programmatic means for implementation of systems that ensures the availability, reliability, and efficiency of these facilities; and the appropriate balance between R&D and user support.

Each Objective within this Goal is to be assigned the appropriate numerical score by the Office of Science Program Office as identified below. The overall Goal score from each Program Office is computed by multiplying numerical scores earned by the weight of each Objective, and summing them (see Table 2.1). Final weights to be utilized for determining weighted scores will be determined following the end of the performance period and will be based on actual cost for FY 2013.

³ The final weights to be utilized for determining weighted scores will be determined following the end of the performance period and will be based on actual cost for FY 2013.

- Office of Biological and Environmental Research (BER) (TBD%)
- Office of High Energy Physics (HEP) (TBD%)

The overall performance score and grade for this Goal will be determined by multiplying the overall score assigned by each of the offices identified above by the weightings identified for each and then summing them (see Table 2.2 below). The overall score earned is then compared to Table 2.3 to determine the overall letter grade for this Goal. Individual Program Office weightings for each of the Objectives identified below are provided within Table 2.1. The Contractor's success in meeting each Objective shall be determined based on the Contractor's performance as viewed by DOE HQ Office of Science's (SC) Program Offices for which the Laboratory conducts work. Should one or more of the HQ Program Offices choose not to provide an evaluation for this Goal and its corresponding Objectives the weighting for the remaining HQ Program Offices shall be recalculated based on their percentage of cost for FY 2013 as compared to the total cost for those remaining HQ Program Offices.

Objectives

2.1 Provide Effective Facility Design(s) as Required to Support Laboratory Programs (i.e., activities leading up to CD-2)

In assessing the performance of the Laboratory against this Objective, the following assessment elements should be considered:

- The Laboratory's delivery of accurate and timely information required to carry out the critical decision and budget formulation process;
- The Laboratory's ability to meet the intent of DOE Order 413.3, Program and Project Management for the Acquisition of Capital Assets;
- The extent to which the Laboratory appropriately assesses risks and contingency needs; and
- The extent to which the Laboratory is effective in its unique management role and partnership with HQ.

The following is a sampling of factors to be considered in determining the level of performance for the Laboratory against this Objective. The evaluator(s) may consider the following as measured through progress reports, peer reviews, Field Work Proposals (FWPs), Program Office reviews/oversight, etc.

- The quality of the scientific justification for proposed facilities resulting from preconceptual R&D;
- The technical quality of conceptual and preliminary designs and the credibility of the associated cost estimates
- The credibility of plans for the full life cycle of proposed facilities including financing options;
- The leveraging of existing facilities and capabilities of the DOE Laboratory complex in plans for proposed facilities; and
- The novelty and potential impact of new technologies embodied in proposed facilities.

Letter Grade	Definition
A+	<p>In addition to satisfying all conditions for B+; the Laboratory <i>exceeds expectations</i> in <i>all</i> of these categories:</p> <ul style="list-style-type: none"> • The Laboratory is recognized by the research community as the leader for making the science case for the acquisition; • The Laboratory takes the initiative to demonstrate and thoroughly document the potential for transformational scientific advancement. • Approaches proposed by the Laboratory are widely regarded as innovative, novel, comprehensive, and potentially cost-effective. • Reviews repeatedly confirm strong potential for scientific discovery in areas that support the Department’s mission, and potential to change a discipline or research area’s direction. • The Laboratory identifies, analyzes and champions novel approaches for acquiring the new capability, including leveraging or extending the capability of existing facilities and financing and these efforts result in significant cost estimate and/or risk reductions without loss or, or while enhancing capability.
A	<p>In addition to satisfying all conditions for B+, <i>all</i> of the following conditions are also met:</p> <ul style="list-style-type: none"> • The Laboratory is recognized by the research community as a leader for making the science case for the acquisition; • The Laboratory takes the initiative to demonstrate the potential for revolutionary scientific advancement working in partnership with HQ • The Laboratory identifies, analyzes, and champions, to HQ and Site office, novel approaches for acquiring the new capability, including leveraging or extending the capability of existing facilities and financing.
A-	<p>In addition to satisfying all conditions for B+, <i>all</i> of the following conditions are also met:</p> <ul style="list-style-type: none"> • The approaches proposed by the Laboratory are widely regarded as innovative, novel, comprehensive, and potentially cost-effective • Reviews repeatedly confirm potential for scientific discovery in areas that support the Department’s mission, and potential to change a discipline or research area’s direction.
B+	<p>The Laboratory has achieved each of the following objectives:</p> <ul style="list-style-type: none"> • The Laboratory displays leadership and commitment in the development of quality analyses, preliminary designs, and related documentation to support the approval of the mission need (CD-0), the alternative selection and cost range (CD-1) and the performance baseline (CD-2). • Documentation requested by the programs is provided in a timely and thorough manner. • The Laboratory keeps DOE apprised of the status, near-term plans and the resolution of problems on a regular basis; anticipates emerging issues that could impact plans and takes the initiative to inform DOE of possible consequences. • The Laboratory solves problems and addresses issues to avoid adverse impacts to the project.
B	The Laboratory fails to meet expectations in one of the areas listed under B+.
B-	The Laboratory fails to meet expectations in several of the areas listed under B+
C	The Laboratory fails to meet the expectations in several of the areas listed under B+ AND the required analyses and documentation developed by the Laboratory are EITHER not innovative, OR reflect a lack of commitment and leadership.
D	The Laboratory fails to meet the expectations in several of the areas listed under B+ AND the Laboratory fails to provide a compelling justification for the acquisition.
F	The Laboratory fails to meet the expectations in several of the areas listed under B+ AND the approaches proposed by the Laboratory are based on fraudulent assumptions; the science case is weak to non-existent, and the business case is seriously flawed.

2.2 Provide for the Effective and Efficient Construction of Facilities and/or Fabrication of Components (execution phase, post CD-2 to CD-4)

In assessing the performance of the Laboratory against this Objective, the following assessment elements should be considered:

- The Laboratory’s adherence to DOE Order 413.3 Project Management for the Acquisition of Capital Assets;
- Successful fabrication of facility components by the Laboratory;
- The Laboratory’s effectiveness in meeting construction schedule and budget;
- The quality of key Laboratory staff overseeing the project(s); and
- The extent to which the Laboratory maintains open, effective, and timely communication with HQ regarding issues and risks.

Letter Grade	Definition
A+	In addition to satisfying all conditions for A, <ul style="list-style-type: none"> • There is high confidence throughout the execution phase that the project will be completed <i>significantly</i> under budget and/or ahead of schedule while meeting or exceeding all performance baselines;
A	In addition to satisfying all conditions for B+, <ul style="list-style-type: none"> • The Laboratory has identified and implemented practices that would allow the project scope to be <i>significantly expanded</i> if such were desirable, without impact on baseline cost or schedule; • The Laboratory <i>always</i> provides <i>exemplary</i> project status reports on time to DOE and takes the initiative to communicate emerging problems or issues. • Reviews identify environment, safety and health practices to be <i>exemplary</i>. • There is high confidence throughout the execution phase that the project will meet its cost/schedule performance baseline;
A-	In addition to satisfying all conditions for B+, <ul style="list-style-type: none"> • The Laboratory has identified practices that would allow for the project scope to be expanded if such were desirable, without impact on baseline cost or schedule; • Problems are identified and corrected by the Laboratory promptly, with no impact on scope, cost or schedule • The Laboratory provides <i>particularly useful</i> project status reports on time to DOE and regularly takes the initiative to communicate emerging problems or issues. • Reviews identify environment, safety and health practices to <i>exceed expectations</i>. • There is high confidence throughout the execution phase that the project will meet its cost/schedule performance baseline;
B+	The Laboratory has achieved each of the following objectives <ul style="list-style-type: none"> • The project meets CD-2 performance measures; • The Laboratory provides sustained leadership and commitment to environment, safety and health; • Reviews regularly recognize the Laboratory for being proactive in the management of the execution phase of the project; • To a large extent, problems are identified and corrected by the Laboratory with little, or no impact on scope, cost or schedule; • DOE is kept informed of project status on a regular basis; reviews regularly indicate project is expected to meet its cost/schedule performance baseline.
B	The Laboratory provides sustained leadership and commitment to environment, safety and health BUT <ul style="list-style-type: none"> • The project fails to meet expectations in <i>one</i> of the remaining areas listed under B+.
B-	The Laboratory provides sustained leadership and commitment to environment, safety and health BUT <ul style="list-style-type: none"> • The project fails to meet expectations in <i>several</i> of the areas listed under B+
C	The Laboratory provides sustained leadership and commitment to environment, safety and health BUT The project fails to meet expectations in <i>several</i> of the areas listed under B+ AND <ul style="list-style-type: none"> • Reviews indicate project remains at risk of breaching its cost/schedule performance baseline; • Reports to DOE can vary in degree of completeness

Letter Grade	Definition
D	The project fails to meet conditions for B+ in at least one of the following areas: <ul style="list-style-type: none"> • Reviews indicate project is likely to breach its cost/schedule performance baseline; • Laboratory commitment to environment, safety and health issues is inadequate; • Reports to DOE are largely incomplete; Laboratory commitment to the project has subsided.
F	The project fails to meet conditions for B+ in at least one of the following areas: <ul style="list-style-type: none"> • Laboratory falsifies data during project execution phase; • Shows disdain for executing the project within minimal standards for environment, safety or health, • Fails to keep DOE informed of project status; • Recent reviews indicate that the project is expected to breach its cost/schedule performance baseline.

2.3 Provide Efficient and Effective Operation of Facilities

In assessing the performance of the Laboratory against this Objective, the following assessment elements should be considered:

- The availability, reliability, performance, and efficiency of Laboratory facility(ies);
- The degree to which the facility is optimally arranged to support the user community;
- The extent to which Laboratory R&D is conducted to develop/expand the capabilities of the facility(ies);
- The Laboratory’s effectiveness in balancing resources between facility R&D and user support; and
- The quality of the process used to allocate facility time to users.

Letter Grade	Definition
A+	In addition to satisfying all conditions for B+; <i>all</i> of the following conditions are also met <ul style="list-style-type: none"> • Performance of the facility <i>exceeds</i> expectations as defined before the start of the year in all of these categories: cost of operations, users served, availability, and capability; • The schedule and the costs associated with the ramp-up to steady state operations are <i>significantly less</i> than planned and are acknowledged to be ‘leadership caliber’ by reviews; • Data on environment, safety, and health continues to be exemplary and widely regarded as among the ‘best in class’ • The Laboratory took extraordinary means to deliver an extraordinary result for the users and the program in the performance/ review period.
A	In addition to satisfying all conditions for B+; <i>all</i> of the following conditions are also met <ul style="list-style-type: none"> • Performance of the facility <i>exceeds</i> expectations as defined before the start of the year in most of these categories: cost of operations, users served, availability, and capability; • The schedule and the costs associated with the ramp-up to steady state operations are <i>less</i> than planned and are acknowledged to be ‘leadership caliber’ by reviews; • Data on environment, safety, and health continues to be <i>exemplary</i> and widely regarded as among the ‘best in class.’
A-	In addition to satisfying all conditions for B+, <i>one</i> of the following conditions is met: <ul style="list-style-type: none"> • Performance of the facility <i>exceeds</i> expectations as defined before the start of the year in any of these categories: cost of operations, users served, availability, and capability; • The schedule and the costs associated with the ramp-up to steady state operations are <i>less</i> than planned and are acknowledged to be among the best by reviews;

Letter Grade	Definition
B+	The Laboratory has achieved each of the following objectives: <ul style="list-style-type: none"> • Performance of the facility <i>meets</i> expectations as defined before the start of the year in all of these categories: cost of operations, users served, availability, capability (for example, beam delivery, luminosity, peak performance, etc), • The schedule and the costs associated with the ramp-up to steady state operations occur as planned; • Data on environment, safety, and health continues to be very good as compared with other projects in the DOE. • User surveys meet program expectations and reflect that the Laboratory is responsive to user needs.
B	The project fails to meet expectations in <i>one</i> of the areas listed under B+.
B-	The project fails to meet expectations in <i>more than one</i> of the areas listed under B+.
C	Performance of the facility fails to meet expectations in <i>many</i> of the areas listed under B+; for example, <ul style="list-style-type: none"> • The cost of operations is unexpectedly high and availability of the facility is unexpectedly low, the number of users is unexpectedly low, capability is well below expectations. • The facility operates at steady state, on cost and on schedule, but the reliability of performance is somewhat below planned values, or the facility operates at steady state, but the associated schedule and costs exceed planned values. • Commitment to environment, safety, and health is satisfactory.
D	Performance of the facility fails to meet expectations in <i>many</i> of the areas listed under B+; for example, <ul style="list-style-type: none"> • The cost of operations is unexpectedly high and availability of the facility is unexpectedly low; capability is well below expectations. • The facility operates somewhat below steady state, on cost and on schedule, and the reliability of performance is somewhat below planned values, or the facility operates at steady state, but the associated schedule and costs exceed planned values. • Commitment to environment, safety, and health is inadequate.
F	<ul style="list-style-type: none"> • The facility fails to operate; the facility operates well below steady state and/or the reliability of the performance is well below planned values. • Laboratory commitment to environment, safety, and health issues is inadequate.

2.4 Utilization of Facility(ies) to Provide Impactful S&T Results and Benefits to External User Communities

In assessing the performance of the Laboratory against this Objective, the following assessment elements should be considered:

- The extent to which the facility is being used to perform influential science;
- The Laboratory’s efforts to take full advantage of the facility to generate impactful S&T results;
- The extent to which the facility is strengthened by a resident Laboratory research community that pushes the envelope of what the facility can do and/or are among the scientific leaders of the community;
- The Laboratory’s ability to appropriately balance access by internal and external user communities; and
- The extent to which there is a healthy program of outreach to the scientific community.

Letter Grade	Definition
A+	In addition to meeting all measures under A, <ul style="list-style-type: none"> • The Laboratory took extraordinary means to deliver an extraordinary result for a new user community.

Letter Grade	Definition
A	In addition to satisfying all conditions for B+; <i>all</i> of the following conditions are met <ul style="list-style-type: none"> An <i>aggressive</i> outreach programs is in place and has been documented as attracting new communities to the facility; Reviews consistently find that the facility capability or scope of research potential <i>significantly</i> exceeds expectations for example, due to newly discovered capabilities or exposure to new research communities; OR Reviews find that multiple disciplines are using the facility in new and novel ways that the facility is being used to pursue influential science.
A-	In addition to satisfying all conditions for B+, all of the following conditions are met <ul style="list-style-type: none"> A <i>strong</i> outreach program is in place; Reviews find that the facility capability or scope of research potential exceeds expectations for example, due to newly discovered capabilities or exposure to new research communities; OR Reviews document how multiple disciplines are using the facility in new and novel ways and/or that the facility is being used to pursue important science.
B+	The Laboratory has achieved each of the following objectives: <ul style="list-style-type: none"> Reviews find / validate that the facility is being used for influential science; The scope of facility capabilities is challenged and broadened by resident users; The Laboratory effectively manages user allocations; The Laboratory effectively maintains the facility to required performance standards (for example, runtime, luminosity, etc) A healthy outreach program is in place.
B	The Laboratory fails to meet expectations in <i>one</i> of the areas listed under B+
B-	The Laboratory fails to meet expectations in <i>several</i> of the areas listed under B+
C	The Laboratory fails to meet expectations in <i>many</i> of the areas listed under B+
D	Reviews find that there are few facility users, few of whom are using the facility in novel ways to produce impactful science; research base is very thin.
F	Laboratory staff does not possess capabilities to operate and/or use the facility adequately.

Notable Outcomes

- *None*

Program Office ⁴	Letter Grade	Numerical Score	Weight	Overall Score
Office of Biological and Environmental Research				
2.1 Provide Effective Facility Design(s)			0%	
2.2 Provide for the Effective and Efficient Construction of Facilities and/or Fabrication of Components			30%	
2.3 Provide Efficient and Effective Operation of Facilities			60%	
2.4 Utilization of Facility(ies) to Provide Impactful S&T Results and Benefits to External User Communities			10%	
Overall BER Total				
Office of High Energy Physics				
2.1 Provide Effective Facility Design(s)			50%	
2.2 Provide for the Effective and Efficient Construction of Facilities and/or Fabrication of Components			50%	
2.3 Provide Efficient and Effective Operation of Facilities			0%	

⁴ A complete listing of the S&T Goals & Objectives weightings for the SC Programs is provided within Attachment I to this plan.

Program Office ⁴	Letter Grade	Numerical Score	Weight	Overall Score
2.4 Utilization of Facility(ies) to Provide Impactful S&T Results and Benefits to External User Communities			0%	
Overall HEP Total				

Table 2.1 – Program Performance Goal 2.0 Score Development

Program Office	Letter Grade	Numerical Score	Funding Weight (cost)	Overall Weighted Score
Office of Biological and Environmental Research			TBD%	
Office of High Energy Physics			TBD%	
Performance Goal 2.0 Total				

Table 2.2 – Overall Performance Goal 2.0 Score Development⁵

Total Score	4.3-4.1	4.0-3.8	3.7-3.5	3.4-3.1	3.0-2.8	2.7-2.5	2.4-2.1	2.0-1.8	1.7-1.1	1.0-0.8	0.7-0
Final Grade	A+	A	A-	B+	B	B-	C+	C	C-	D	F

Table 2.3 – Goal 2.0 Final Letter Grade

GOAL 3.0 Provide Effective and Efficient Science and Technology Program Management

The Laboratory provides effective program vision and leadership; strategic planning and development of initiatives; recruits and retains a quality scientific workforce; and provides outstanding research processes, which improve research productivity.

The weight of this Goal is TBD%.

The Provide Effective and Efficient Science and Technology Program Management Goal shall measure the Contractor’s overall management in executing S&T programs. Dimensions of program management covered include: 1) providing key competencies to support research programs to include key staffing requirements; 2) providing quality research plans that take into account technical risks, identify actions to mitigate risks; and 3) maintaining effective communications with customers to include providing quality responses to customer needs.

Each Objective within this Goal is to be assigned the appropriate numerical score by the Office of Science, other cognizant HQ Program Offices, and other customers as identified below. The overall Goal score from each HQ Program Office and/or customer is computed by multiplying numerical scores earned by the weight of each Objective, and summing them (see Table 3.1). The final weights to be utilized for determining weighted scores will be determined following the end of the performance period and will be based on actual cost for FY 2013 provided by the Program Offices listed below.

- Office of Advanced Scientific Computing Research (ASCR) (TBD%)
- Office of Biological and Environmental Research (BER) (TBD%)
- Office of Basic Energy Sciences (BES) (TBD%)

⁵ The final weights to be utilized for determining weighted scores will be determined following the end of the performance period and will be based on actual cost for FY 2013.

- Office of Fusion Energy Sciences (FES) (TBD%)
- Office of High Energy Physics (HEP) (TBD%)
- Department of Homeland Security (DHS) (TBD%)
- Office of Defense Nuclear Nonproliferation (DNN) (TBD%)
- Office of Energy Efficiency and Renewable Energy (EERE) (TBD%)
- Office of Environmental Management (EM) (TBD%)
- Office of Intelligence (IN) (TBD%)
- Nuclear Regulatory Commission (NRC) (TBD%)
- Office of Electricity Delivery and Energy Reliability (OE) (TBD%)

The overall performance score and grade for this Goal will be determined by multiplying the overall score assigned by each of the offices identified above by the weightings identified for each and then summing them (see Table 3.2 below). The overall score earned is then compared to Table 3.3 to determine the overall letter grade for this Goal. The Contractor's success in meeting each Objective shall be determined based on the Contractor's performance as viewed by the Office of Science, other cognizant HQ Program Offices, and other customers for which the Laboratory conducts work. Should one or more of the HQ Program Offices choose not to provide an evaluation for this Goal and its corresponding Objectives the weighting for the remaining HQ Program Offices shall be recalculated based on their percentage of cost for FY 2013 as compared to the total cost for those remaining HQ Program Offices.

Objectives

3.1 Provide Effective and Efficient Strategic Planning and Stewardship of Scientific Capabilities and Program Vision

In assessing the performance of the Laboratory against this Objective, the following assessment elements should be considered:

- The quality of the Laboratory's strategic plan;
- The extent to which the Laboratory shows strategic vision for research
- The extent to which programs of research take advantage of Laboratory capabilities—research programs are more than the sum of their individual project parts;
- The extent to which the Laboratory undertakes research for which it is uniquely qualified;
- The extent to which lab plans are aligned with DOE mission goals;
- The extent to which the Laboratory programs are balanced between high-/low- risk research for a sustainable program; and
- The extent to which the Laboratory is able to retain and recruit staff for a sustainable program

The following is a sampling of factors to be considered in determining the level of performance for the Laboratory against this Objective. The evaluator(s) may consider the following as measured through progress reports, peer reviews, Field Work Proposals (FWPs), Program Office reviews/oversight, etc.

- Articulation of scientific vision;
- Development and maintenance of core competencies,
- Ability to attract and retain highly qualified staff;
- Efficiency and effectiveness of joint planning (e.g., workshops) with outside community;
- Creativity and robustness of ideas for new facilities and research programs; and

- Willingness to take on high-risk/high payoff/long-term research problems, evidence that the Laboratory “guessed right” in that previous risky decisions proved to be correct and are paying off.
- The depth and breadth of Laboratory research portfolio and its potential for growth.

Letter Grade	Definition
A+	<p>In addition to satisfying the conditions for B+, the execution of the Laboratory’s strategic plan has enabled the Laboratory to achieve each of the following:</p> <ul style="list-style-type: none"> • <i>Most</i> of the Laboratory’s core competencies are recognized as world leading; • The Laboratory has attracted and retained world-leading scientists in <i>most</i> programs; • There is evidence that previous decisions to pursue high-risk/high-payoff research proved to be correct and are paying off; • The Laboratory has succeeded in developing new core competencies of <i>outstanding</i> quality in areas both exploratory, high-risk research and research that is vital to the DOE/SC missions;
A	<p>In addition to satisfying the conditions for B+, the execution of the Laboratory’s strategic plan has enabled the Laboratory to achieve the following:</p> <ul style="list-style-type: none"> • <i>Several</i> of the Laboratory’s core competencies are recognized as world leading; • The Laboratory has attracted and retained world-leading scientists in <i>several</i> programs; • There is evidence that previous decisions to pursue high-risk/high-payoff research proved to be correct and are paying off • The Laboratory has succeeded in developing <i>new</i> core competencies of <i>high</i> quality in areas both exploratory, high-risk research and research that is vital to the DOE/SC missions
A-	<p>In addition to satisfying the conditions for B+, the execution of the Laboratory’s strategic plan has enabled the Laboratory to achieve at least one of the following:</p> <ul style="list-style-type: none"> • At least one of the Laboratory’s core competencies is recognized as <i>world-leading</i>; • The Laboratory has attracted and retained <i>world-leading</i> scientists in one or more programs; • The Laboratory has a coherent plan for addressing future workforce challenges.
B+	<p>The execution of the Laboratory’s strategic plan has enabled the Laboratory to achieve each of the following objectives:</p> <ul style="list-style-type: none"> • The Laboratory has articulated a coherent and compelling strategic plan that has been developed with input from external research communities and headquarters guidance, which, where appropriate, includes a coherent plan for building smaller research programs into new core competencies; and reallocates resources away from less effective programs. • The Laboratory has demonstrated the ability to attract and retain professional scientific staff in support of its strategic vision. • The portfolio of Laboratory research balances the needs for both high-risk/ high-payoff research and stewardship of mission-critical research. • The Laboratory’s research portfolio takes advantage of unique capabilities at the Laboratory. • The Laboratory’s research portfolio includes activities for which the Laboratory is uniquely capable.
B	<p>The Laboratory fails to satisfy one of the conditions for B+; for example</p> <ul style="list-style-type: none"> • The Laboratory’s strategic plan is only <i>partially</i> coherent and is not entirely well-connected with external communities; • The portfolio of Laboratory research does <i>not</i> appropriately balance high-risk/ high-payoff research and stewardship of mission-critical research; • The Laboratory has developed and maintained <i>some, but not all</i>, of its core competencies. • The plan to attract and retain professional scientific staff is <i>lacking</i> strategic vision.
B-	<p>The Laboratory fails to satisfy <i>several</i> of the conditions for B+, including at least one of the following:</p> <ul style="list-style-type: none"> • Weak programmatic vision insufficiently connected with external communities; • Development and maintenance of only a few core competencies • little attention to maintaining the correct balance between high-risk and mission-critical research; • inability to attract and retain talented scientists in some programs.

Letter Grade	Definition
C	The Laboratory fails to satisfy <i>several</i> of the conditions for B+, including at least one of the following reasons: <ul style="list-style-type: none"> • The Laboratory’s strategic plan lacks strategic vision and lacks appropriate coordination with appropriate stakeholders including external research groups. • The Laboratory’s strategic plan does not provide for sufficient maintenance of core competencies • Plan to attract and retain professional scientific staff is unlikely to be successful or does not focus on strategic capabilities.
D	The Laboratory fails to satisfy <i>several</i> of the conditions for B+, and specifically <ul style="list-style-type: none"> • The Laboratory has demonstrated little effort in developing a strategic plan. • The Laboratory has done little to develop and maintain core competencies • The Laboratory has had minimal success in attracting and retaining professional scientific staff.
F	The Laboratory has: <ul style="list-style-type: none"> • Made limited or ineffective attempts to develop a strategic plan; • Not demonstrated the ability to develop and maintain core competencies, has failed to propose high-risk/high-reward research and has failed to steward mission-critical areas; • Failed to attract even reasonably competent scientists and technical staff.

3.2 Provide Effective and Efficient Science and Technology Project/Program/Facilities Management

In assessing the performance of the Laboratory against this Objective, the following assessment elements should be considered:

- The Laboratory’s management of R&D programs and facilities according to proposed plans;
- The extent to which the Laboratory’s management of projects/programs/facilities supports the Laboratory strategic plan
- Adequacy of the Laboratory’s consideration of technical risks;
- The extent to which the Laboratory is successful in identifying/avoiding technical problems;
- Effectiveness in leveraging across multiple areas of research and between research and facility capabilities;
- The extent to which the Laboratory demonstrates a willingness to make tough decisions (i.e., cut programs with sub-critical mass of expertise, divert resources to more promising areas, etc.); and
- The use of LDRD and other Laboratory investments and overhead funds to improve the competitiveness of the Laboratory.

The following is a sampling of factors to be considered in determining the level of performance for the Laboratory against this Objective. The evaluator(s) may consider the following as measured through progress reports, peer reviews, Field Work Proposals (FWPs), Program Office reviews/oversight, etc.

- Laboratory plans that are reviewed by experts outside of lab management and/or include broadly-based input from within the Laboratory.

Letter Grade	Definition
A+	In addition to meeting the all expectations under A, <ul style="list-style-type: none"> • The Laboratory has taken extraordinary measures to deliver an extraordinary result of critical importance to DOE missions, which could include the delivery of a critical technology or insight in response to a National emergency

Letter Grade	Definition
A	<p>In addition to satisfying the conditions for B+,</p> <ul style="list-style-type: none"> The Laboratory's implementation of project/program/facility plans has led directly to effective R&D programs/facility operations that exceed program expectations in <i>several</i> programmatic areas. Examples are listed under A-.
A-	<p>In addition to satisfying the conditions for B+,</p> <ul style="list-style-type: none"> The Laboratory's implementation of project/program/facility plans has led directly to effective R&D programs/facility operations that exceed program expectations in <i>more than one</i> programmatic area. Examples of performance that exceeds expectations include: The Laboratory's implementation of project/program/facility plans has led directly to significant cost savings and/or significantly higher productivity than expected; Project/program/facility plans prove to be robust against changing scientific and fiscal conditions through contingency planning; The Laboratory has demonstrated creativity and forceful leadership in development and/or proactive management of its project/program/facility plans to reduce or eliminate risk; The Laboratory's proposals for new initiatives are funded through reallocation of resources from less effective programs. Research plans and management actions are proactive, not reactive, as evidenced by making hard decisions and taking strong actions; and Management is prepared for budget fluctuations and changes in DOE program priorities – multiple contingencies are planned for; and LDRD investments, overhead funds, and other Laboratory funds are used to strengthen lab plans and fill critical gaps in the Laboratory portfolio enabling it to respond to future DOE initiatives and/or national emergencies;
B+	<p>The Laboratory has achieved each of the following objectives:</p> <ul style="list-style-type: none"> Project/program/facility plans exist for all major projects/programs/facilities. Project/program/facility plans are consistent with known budgets, are based on reasonable assessments of technical risk, are well-aligned with DOE interests, provide sufficient flexibility to respond to unforeseen directives and opportunities, and effectively leverage other Laboratory resources and expertise. The Laboratory has implemented the project/program/facility plans and has effective methods of tracking progress. The Laboratory demonstrates willingness to make tough decisions (i.e., cut programs with sub-critical mass of expertise, divert resources to more promising areas, etc.). The Laboratory's implementation of project/program/facility plans has led directly to effective R&D programs/facility operations. LDRD investments and other overhead funds are managed appropriately.
B	<ul style="list-style-type: none"> Project/program/facility plans exist for all major projects/programs/facilities. The Laboratory has implemented the project/program/facility plans. <p>BUT the Laboratory fails to meet <i>at least one of</i> the conditions for B+.</p>
B-	<ul style="list-style-type: none"> Project/program/facility plans exist for all major projects/programs/facilities. The Laboratory has implemented the project/program/facility plans. <p>BUT the Laboratory fails to meet <i>several of</i> the conditions for B+.</p>
C	<ul style="list-style-type: none"> Project/program/facility plans exist for most major projects/programs/facilities. <p>BUT the Laboratory has failed to implement the project/program/facility plans AND the Laboratory fails to meet <i>several of</i> the conditions for B+.</p>
D	<ul style="list-style-type: none"> Project/program/facility plans do not exist for a significant fraction of the Laboratory's major projects/programs/facilities; <p>OR</p> <ul style="list-style-type: none"> Significant work at the Laboratory is not in alignment with the project/program/facility plans
F	<p>The Laboratory has failed to conduct project/program/facility planning activities.</p>

3.3 Provide Efficient and Effective Communications and Responsiveness to Headquarters Needs

In assessing the performance of the Laboratory against this Objective, the following assessment elements should be considered:

- The quality, accuracy and timeliness of the Laboratory’s response to customer requests for information;
- The extent to which the Laboratory provides point-of-contact resources and maintains effective internal communications hierarchies to facilitate efficient determination of the appropriate point-of-contact for a given issue or program element;
- The effectiveness of the Laboratory’s communications and depth of responsiveness under extraordinary or critical circumstances; and
- The effectiveness of Laboratory management in accentuating the importance of communication and responsiveness.

Letter Grade	Definition
A+	In addition to meeting the all expectations under A, <ul style="list-style-type: none"> • The Laboratory’s effective communication and extraordinary responsiveness in the face of extreme situations or a national emergency had a materially positive impact on the outcome of the event and/or DOE mission objectives
A	In addition to satisfying the conditions for B+, the Laboratory also meets all of the following: <ul style="list-style-type: none"> • Laboratory management has instilled a culture throughout the lab that emphasizes good communication practices; • Communication channels are well-defined and information is effectively conveyed; • Responses to HQ requests for information from all Laboratory representatives are prompt, thorough, correct and succinct; important or critical information is delivered in real-time; • Laboratory representatives <i>always</i> initiate a communication with HQ on emerging Laboratory issues; headquarters is never surprised to learn of emerging Laboratory issues through outside channels.
A-	In addition to satisfying the conditions for B+, <ul style="list-style-type: none"> • Laboratory management has instilled a culture throughout the lab that emphasizes good communication practices; and • Responses to requests for information are prompt, thorough, and economical/succinct at all levels of interaction; • Laboratory representatives <i>often</i> initiate communication with HQ on emerging Laboratory issues; • under critical circumstances, essential information is delivered in real-time
B+	The Laboratory has achieved each of the following objectives: <ul style="list-style-type: none"> • Staff throughout the Laboratory organization engage in good communication practices; • Responses to requests for information are prompt and thorough; • The accuracy and integrity of the information provided is never in doubt; • Up-to-date point-of-contact information is widely available for all programmatic areas; • Headquarters is always and promptly informed of both positive and negative events at the Laboratory
B	The Laboratory failed to meet the conditions for B+ <i>in a few instances</i>
B-	The Laboratory fails to meet the conditions for B+ for <i>one</i> of the following reasons: <ul style="list-style-type: none"> • Responses to requests for information do not provide the minimum requirements to meet HQ needs; While the integrity of the information provided is never in doubt, its accuracy sometimes is; • Laboratory representatives do not take the initiative to alert HQ to emerging Laboratory issues.

Letter Grade	Definition
C	The Laboratory fails to meet the conditions for B+ for <i>one or more</i> of the following reasons: <ul style="list-style-type: none"> • Responses to requests for information frequently fail to provide the minimum requirements to meet HQ needs • The Laboratory used outside channels or circumvented HQ in conveying critical information; • The integrity and/or accuracy of information provided is sometimes in doubt; • Laboratory management fails to demonstrate that its employees are held accountable for ensuring effective communication and responsiveness; • Laboratory representatives failed to alert HQ to emerging Laboratory issues.
D	The Laboratory fails to meet the conditions for B+ for one of the following reasons: <ul style="list-style-type: none"> • Laboratory staff are generally well-intentioned in communication but consistently ineffective and/or incompetent; • The Laboratory management fails to emphasize the importance of effective communication and responsiveness
F	The Laboratory fails to meet the conditions for B+ for one of the following reasons <ul style="list-style-type: none"> • Laboratory staff are openly hostile and/or non-responsive to requests for information – emails and phone calls are consistently ignored; • Responses to requests for information are consistently incorrect, inaccurate or fraudulent – information is not organized, is incomplete, or is fabricated.

Notable Outcomes

- *None*

Program Office ⁶	Letter Grade	Numerical Score	Weight	Overall Score
Office of Advanced Scientific Research				
3.1 Effective and Efficient Strategic Planning and Stewardship			30%	
3.2 Project/Program /Facilities Management			40%	
3.3 Communications and Responsiveness			30%	
Overall ASCR Total				
Office of Biological and Environmental Research				
3.1 Effective and Efficient Strategic Planning and Stewardship			20%	
3.2 Project/Program /Facilities Management			30%	
3.3 Communications and Responsiveness			50%	
Overall BER Total				
Office of Basic Energy Sciences				
3.1 Effective and Efficient Strategic Planning and Stewardship			40%	
3.2 Project/Program /Facilities Management			30%	
3.3 Communications and Responsiveness			30%	
Overall BES Total				
Office of Fusion Energy Sciences				
3.1 Effective and Efficient Strategic Planning and Stewardship			40%	

⁶ A complete listing of the S&T Goals & Objectives weightings for the SC Programs is provided within Attachment I to this plan.

Program Office⁶	Letter Grade	Numerical Score	Weight	Overall Score
3.2 Project/Program /Facilities Management			30%	
3.3 Communications and Responsiveness			30%	
Overall FES Total				
Office of High Energy Physics				
3.1 Effective and Efficient Strategic Planning and Stewardship			40%	
3.2 Project/Program /Facilities Management			40%	
3.3 Communications and Responsiveness			20%	
Overall HEP Total				
Department of Homeland Security				
3.1 Effective and Efficient Strategic Planning and Stewardship			40%	
3.2 Project/Program /Facilities Management			35%	
3.3 Communications and Responsiveness			25%	
Overall DHS Total				
Office of Defense Nuclear Nonproliferation				
3.1 Effective and Efficient Strategic Planning and Stewardship			25%	
3.2 Project/Program /Facilities Management			55%	
3.3 Communications and Responsiveness			20%	
Overall DNN Total				
Office of Energy Efficiency and Renewable Energy				
3.1 Effective and Efficient Strategic Planning and Stewardship			35%	
3.2 Project/Program /Facilities Management			25%	
3.3 Communications and Responsiveness			40%	
Overall EERE Total				
Office of Environmental Management				
3.1 Effective and Efficient Strategic Planning and Stewardship			25%	
3.2 Project/Program /Facilities Management			25%	
3.3 Communications and Responsiveness			50%	
Overall EM Total				
Office of Intelligence				
3.1 Effective and Efficient Strategic Planning and Stewardship			30%	
3.2 Project/Program /Facilities Management			20%	
3.3 Communications and Responsiveness			50%	
Overall IN Total				
Nuclear Regulatory Commission				
3.1 Effective and Efficient Strategic Planning and Stewardship			34%	
3.2 Project/Program /Facilities Management			33%	
3.3 Communications and Responsiveness			33%	
Overall NRC Total				
Office of Electricity Delivery and Energy Reliability				
3.1 Effective and Efficient Strategic Planning and Stewardship			15%	
3.2 Project/Program /Facilities Management			70%	
3.3 Communications and Responsiveness			15%	
Overall OE Total				

Table 3.1 – Program Performance Goal 3.0 Score Development

HQ Program Office	Letter Grade	Numerical Score	Funding Weight (cost)	Overall Weighted Score
Office of Advanced Scientific Research			TBD%	
Office of Biological and Environmental Research			TBD%	
Office of Basic Energy Sciences			TBD%	
Office of Fusion Energy Sciences			TBD%	
Office of High Energy Physics			TBD%	
Department of Homeland Security			TBD%	
Office of Defense Nuclear Nonproliferation			TBD%	
Office of Energy Efficiency and Renewable Energy			TBD%	
Office of Environmental Management			TBD%	
Office of Intelligence			TBD%	
Nuclear Regulatory Commission			TBD%	
Office of Electricity Delivery and Energy Reliability			TBD%	
Performance Goal 3.0 Total				

Table 3.2 – Overall Performance Goal 3.0 Score Development⁷

Total Score	4.3-4.1	4.0-3.8	3.7-3.5	3.4-3.1	3.0-2.8	2.7-2.5	2.4-2.1	2.0-1.8	1.7-1.1	1.0-0.8	0.7-0
Final Grade	A+	A	A-	B+	B	B-	C+	C	C-	D	F

Table 3.3 – Goal 3.0 Final Letter Grade

⁷ The final weights to be utilized for determining weighted scores will be determined following the end of the performance period and will be based on actual cost for FY 2013.

Attachment I

**Program Office Goal & Objective Weightings
Office of Science**

		ASCR	BER	BES	FES	HEP
		Weight	Weight	Weight	Weight	Weight
Goal 1.0 Mission Accomplishment						
	<i>Goal Weight</i>	80%	25%	60%	65%	10%
1.1 Impact		50%	60%	50%	50%	50%
1.2 Leadership		50%	40%	50%	50%	50%
Goal 2.0 Design, Fabrication, Construction and Operation of Facilities						
	<i>Goal Weight</i>		50%			80%
2.1 Design of Facility (the initiation phase and the definition phase, i.e. activities leading up to CD-2)			0%			50%
2.2 Construction of Facility / Fabrication of Components (execution phase, Post CD-2 to CD-4)			30%			50%
2.3 Operation of Facility			60%			0%
2.4 Utilization of Facility to Grow and Support Lab's Research Base and External User Community			10%			0%
Goal 3.0 Program Management						
	<i>Goal Weight</i>	20%	25%	40%	35%	10%
3.1 Effective and Efficient Strategic Planning and Stewardship		30%	20%	40%	40%	40%
3.2 Project/Program/Facilities Management		40%	30%	30%	30%	40%
3.3 Communications and Responsiveness		30%	50%	30%	30%	20%

Attachment I

**Program Office Goal & Objective Weightings
All Other Customers⁸**

		DHS	DNN	EERE	EM	IN	NRC	OE
		Weight	Weight	Weight	Weight	Weight	Weight	Weight
Goal 1.0 Mission Accomplishment								
	<i>Goal Weight</i>	60%	58%	60%	60%	60%	50%	60%
1.1 Impact		50%	65%	60%	40%	60%	50%	50%
1.2 Leadership		50%	35%	40%	60%	40%	50%	50%
Goal 2.0 Design, Fabrication, Construction and Operation of Facilities								
	<i>Goal Weight</i>							
2.1 Design of Facility (the initiation phase and the definition phase, i.e. activities leading up to CD-2)								
2.2 Construction of Facility/Fabrication of Components (execution phase, Post CD-2 to CD-4)								
2.3 Operation of Facility								
2.4 Utilization of Facility to Grow and Support Lab's Research Base and External User Community								
Goal 3.0 Program Management								
	<i>Goal Weight</i>	40%	42%	40%	40%	40%	50%	40%
3.1 Effective and Efficient Strategic Planning and Stewardship		40%	25%	35%	25%	30%	34%	15%
3.2 Project/Program/Facilities Management		35%	55%	25%	25%	20%	33%	70%
3.3 Communications and Responsiveness		25%	20%	40%	50%	50%	33%	15%

⁸ Goal and Objective weightings indicated for non-science customers are reflective of FY 2013 weightings and will be updated as those customers provide their weightings. Final Goal and Objective weightings will be incorporated, as appropriate, once they are determined by each HQ Program Office and provided to the Site Office. Should a HQ Program Office fail to provide final Goal and Objective weightings before the end of the first quarter FY 2013 the preliminary weightings provided shall become final.

GOAL 4.0 Provide Sound and Competent Leadership and Stewardship of the Laboratory

This Goal evaluates the Contractor’s Leadership capabilities in leading the direction of the overall Laboratory, the responsiveness of the Contractor to issues and opportunities for continuous improvement, and corporate office involvement/commitment to the overall success of the Laboratory.

In measuring the performance of the above Objectives, the DOE evaluator(s) shall consider performance trends and outcomes in overall Contractor Leadership’s planning for, integration of, responsiveness to and support for the overall success of the Laboratory. This may include, but is not limited to, the quality of Laboratory Vision/Mission strategic planning documentation and progress in realizing the Laboratory vision/mission; the ability to establish and maintain long-term partnerships/relationships with the scientific and local communities as well as private industry that advance, expand, and benefit the ongoing Laboratory mission(s) and/or provide new opportunities/capabilities; implementation of a robust assurance system; Laboratory and Corporate Office Leadership’s ability to instill responsibility and accountability down and through the entire organization; overall effectiveness of communications with DOE; understanding, management and allocation of the costs of doing business at the Laboratory commensurate with associated risks and benefits; utilization of corporate resources to establish joint appointments or other programs/projects/activities to strengthen the Laboratory; and advancing excellence in stakeholder relations to include good corporate citizenship within the local community.

Objectives:

4.1 Leadership and Stewardship of the Laboratory

By which we mean: The performance of the laboratory’s senior management team as demonstrated by their ability to do such things as:

- Define an exciting yet realistic scientific vision for the future of the laboratory,
- Make progress in realizing the vision for the laboratory,
- Establish and maintain long-term partnerships/relationships that maintain appropriate relations with the scientific and local communities, and
- Develop and leverage appropriate relations with private industry to the benefit of the laboratory and the U.S. taxpayer.

Letter Grade	Definition
A+	The Senior Leadership of the laboratory has made outstanding progress (on an order of magnitude scale) over the previous year in realizing their vision for the laboratory, and has had a demonstrable impact on the Department and the Nation. Strategic plans are of outstanding quality, have been externally recognized and referenced for their excellence, and have an impact on the vision/plans of other national laboratories. The Senior leadership of the laboratory may have been faced very difficult challenges and plotted, successfully, its own course through the difficulty, with minimal hand-holding by the Department. Partners in the scientific and local communities applaud the laboratory in national fora, and the Department is strengthened by this.
A	The Senior Leadership of the laboratory has made significant progress over the previous year in realizing their vision for the laboratory, and has through this has had a demonstrable positive impact on the Office of Science and the Department. Strategic plans are of outstanding quality, and recognize and reflect the vision/plans of other national laboratories. Faced with difficult challenges, actions were taken by the Senior leadership of the laboratory to redirect laboratory activities to enhance the long-term future of the laboratory. Partners in the scientific and local communities applaud the laboratory in national fora, and the Department is strengthened by this.

Letter Grade	Definition
A-	The laboratory senior management performs better than expected (B+ grade) in these areas.
B+	The Senior Leadership of the laboratory has made significant progress over the previous year in realizing their vision for the laboratory. Strategic plans present long range goals that are both exciting and realistic. Decisions and actions taken by the lab leadership align work, facilities, equipment and technical capabilities with the laboratory vision and plan. The Senior leadership of the laboratory faced difficult challenges and successfully plotted its own course through the difficulty, with help from the Department. Partners in the scientific and local communities are supportive of the laboratory.
B	The Senior Leadership of the laboratory has made little progress over the previous year in realizing their vision for the laboratory. Strategic plans present long range goals that are exciting and realistic; however DOE is not fully confident that the laboratory is taking the actions necessary for the goals to be achieved. The Laboratory is not fully engaged with its partners/relationships in the scientific and local communities to maximize the potential benefits these relations have for the laboratory.
C	The Senior Leadership of the laboratory has made no progress over the previous year in realizing their vision for the laboratory or aligning work, facilities, equipment and technical capabilities with the laboratory vision and plan. Strategic plans present long range goals that are either unexciting or unrealistic. Business plans exist, but they are not linked to the strategic plan and do not inspire DOE's confidence that the strategic goals will be achieved. Partnerships with the scientific and local communities with potential to advance the laboratory exist, but they may not always be consistent with the mission of or vision for the laboratory. Affected communities and stakeholders are mostly supportive of the laboratory and aligned with the management's vision for the laboratory.
D	The Senior Leadership of the laboratory has made no progress or has back-slid over the previous year in realizing their vision for the laboratory or in aligning work, facilities, equipment and technical capabilities with the laboratory vision and plan. Strategic plans present long range goals that are neither exciting nor realistic. Partnerships that may advance the Laboratory towards strategic goals are inappropriate, unidentified, or unlikely. Affected communities and stakeholders are not adequately engaged with the laboratory and indicate non-alignment with DOE priorities.
F	The Senior Leadership of the laboratory has made no progress or has back-slid over the previous year in realizing their vision for the laboratory or in or aligning work, facilities, equipment and technical capabilities with the laboratory vision and plan. Strategic plans present long range goals that are not aligned with DOE priorities or the mission of the laboratory. Partnerships that may advance the Laboratory towards strategic goals are inappropriate, unidentified, and unlikely, and/or the senior management team does not demonstrate a concerted effort to develop, leverage, and maintain relations with the scientific and local communities to assist the laboratory in achieving a successful future. Affected communities and stakeholders are openly non-supportive of the laboratory and DOE priorities.

4.2 Management and Operation of the Laboratory

By which we mean: The performance of the laboratory's senior management team as demonstrated by their ability to do such things as:

- Implement a robust contractor assurance system,
- Understand the costs of doing business at the laboratory and prioritize the management and allocation of these costs commensurate with their associated risks and benefits,
- Instill a culture of accountability and responsibility down and through the entire organization;
- Ensure good and timely communication between the laboratory and SC headquarters and the Site Office so that DOE can deal effectively with both internal and external constituencies.

Letter Grade	Definition
A+	<p>The laboratory has a nationally or internationally recognized contractor assurance system in place that integrates internal and external (corporate) evaluation processes to evaluate risk, and is working to help others internal and external to the Department establish similarly outstanding practices. The laboratory understands the drivers of cost at their lab, and are prioritizing and managing these costs commensurate with the associated risks and benefits to the laboratory and the SC laboratory system.</p> <p>Laboratory management and processes reflect a sense of accountability and responsibility with is evident down and through the entire organization. Communication between the laboratory and SC headquarters and the Site Office is such that all the national laboratories and the Department as a whole benefits.</p>
A	<p>The laboratory has improved dramatically in the last year in all of the following: building a robust and transparent contractor assurance system that integrates internal and external (corporate) evaluation processes to evaluate risk; demonstrating the use of this system in making decisions that are aligned with the laboratory’s vision and strategic plan; understanding the drivers of cost at their lab, and prioritizing and managing these costs consistent with their associated risks and benefits to the laboratory and the SC laboratory system; demonstrating laboratory management and processes reflect a sense of accountability and responsibility with is evident down and through the entire organization; assuring communication between the laboratory and SC headquarters that is beneficial to both the lab and SC.</p>
A-	<p>The laboratory senior management performs better than expected (B+ grade) in these areas.</p>
B+	<p>The laboratory has a robust and transparent contractor assurance system in place that integrates internal and external (corporate) evaluation processes to evaluate risk. The laboratory can demonstrate use of this system in making decisions that are aligned with the laboratory’s vision and strategic plan. The laboratory understands the drivers of cost at their lab, and are prioritizing and managing these costs commensurate with the associated risks and benefits to the laboratory and the SC laboratory system.</p> <p>Laboratory management and processes reflect a sense of accountability and responsibility with is evident down and through the entire organization. Communication between the laboratory and SC headquarters and the Site Office is such that there are no surprises or embarrassments.</p>
B	<p>The laboratory has a contractor assurance system in place but further improvements are necessary, or the link between the CAS and the laboratory’s decision-making processes are not evident. The laboratory understands the drivers of cost at their lab, but they are not prioritizing and managing these costs as well as they should to be commensurate with the associated risks and benefits to the laboratory and the SC laboratory system. Laboratory management and processes reflect a sense of accountability and responsibility with is mostly evident down and through the entire organization. Communication between the laboratory and SC headquarters and the Site Office is such that there are no significant surprises or embarrassments.</p>
C	<p>The laboratory lacks a robust and transparent contractor assurance system in place that integrates internal and external (corporate) evaluation processes to evaluate risk. The laboratory cannot demonstrate use of this system in making decisions that are aligned with the laboratory’s vision and strategic plan. The laboratory does not fully understand the drivers of cost at their lab, and thus are not prioritizing and managing these costs as well as they should to be commensurate with the associated risks and benefits to the laboratory and the SC laboratory system. Communication between the laboratory and SC headquarters and the Site Office is such that there has been at least one significant surprise or embarrassment.</p>
D	<p>The laboratory lacks a contractor assurance system, doesn’t understand the drivers of cost at their lab, and is not prioritizing and managing costs. SC HQ must intercede in management decisions. Poor communication between the laboratory and SC headquarters and the Site Office has resulted in more than one significant surprise or embarrassment.</p>
F	<p>Lack of management by the laboratory’s senior management has put the future of the laboratory at risk, or has significantly hurt the reputation of the Office of Science.</p>

4.3 Contractor Value-added

By which we mean: the additional benefits that accrue to the laboratory and the Department of Energy by virtue of having this particular M&O contractor in place. Included here, typically, are things over which the laboratory leadership does not have immediate authority, such as:

- Corporate involvement/contributions to deal with challenges at the laboratory;
- Using corporate resources to establish joint appointments or other programs/projects/activities that strengthen the lab, and
- Providing other contributions to the laboratory that enable the lab to do things that are good for the laboratory and its community and that DOE cannot supply.

Letter Grade	Definition
A+	The laboratory has been transformed as a result of the many, substantial, additional benefits that accrue to the lab as a result of this contractor's operation of the laboratory.
A	Over the past year, the laboratory has become demonstrably stronger, better and more attractive as a place of employment as a result of the many, substantial, additional benefits that accrue to the lab as a result of this contractor's operation of the laboratory.
A-	The laboratory senior management performs better than expected (B+ grade) in these areas.
B+	The laboratory enjoys additional benefits above and beyond those associated with managing the laboratory's activities that accrue as a result of this contractor's operation of the laboratory.
B	The laboratory enjoys few additional benefits that accrue as a result of this contractor's operation of the laboratory; help by the contractor is needed to strengthen the laboratory.
C	The laboratory enjoys few additional benefits that accrue as a result of this contractor's operation of the laboratory; the contractor seems unable to help the laboratory.
D	The laboratory enjoys few additional benefits that accrue as a result of this contractor's operation of the laboratory; the contractor's efforts are inconsistent with the interests of the laboratory and the Department.
F	The laboratory enjoys no additional benefits that accrue as a result of this contractor's operation of the laboratory; the contractor's efforts are counter-productive to the interests of the Department.

Notable Outcomes

- **SC-2 and SC-3:** *Develop a site plan for PNNL including specifically addressing customers, usage, and requirements. (Objective 4.1)*

ELEMENT	Letter Grade	Numerical Score	Objective Weight	Overall Score
Goal 4.0 – Provide Sound and Competent Leadership and Stewardship of the Laboratory				
4.1 Leadership and Stewardship of the Laboratory			33%	
4.2 Management and Operation of the Laboratory			33%	
4.3 Contractor Value-Added			34%	
Performance Goal 4.0 Total				

Table 4.1 – Performance Goal 4.0 Score Development

Total Score	4.3-4.1	4.0-3.8	3.7-3.5	3.4-3.1	3.0-2.8	2.7-2.5	2.4-2.1	2.0-1.8	1.7-1.1	1.0-0.8	0.7-0
Final Grade	A+	A	A-	B+	B	B-	C+	C	C-	D	F

Table 4.2 – Goal 4.0 Final Letter Grade

GOAL 5.0 Sustain Excellence and Enhance Effectiveness of Integrated Safety, Health, and Environmental Protection

The weight of this Goal is 25%.

This Goal evaluates the Contractor’s overall success in deploying, implementing, and improving integrated ES&H systems that efficiently and effectively support the mission(s) of the Laboratory.

- 5.1 Provide an Efficient and Effective Worker Health and Safety Program
- 5.2 Provide Efficient and Effective Environmental Management System

In measuring the performance of the above Objectives, the DOE evaluator(s) shall consider performance trends and outcomes in protecting workers, the public, and the environment. This may include, but is not limited to, minimizing the occurrence of environment, safety and health (ESH) incidents; effectiveness of the Integrated Safety Management (ISM) system; effectiveness of work planning, feedback, and improvement processes; the strength of the safety culture throughout the Laboratory; the effective development, implementation and maintenance of an efficient and effective Environmental Management system; and the effectiveness of responses to identified hazards and/or incidents.

Notable Outcomes

- ***PNSO: Strengthen accountability for subcontractor performance. (Objective 5.1)***

ELEMENT	Letter Grade	Numerical Score	Objective Weight	Overall Score
Goal 5.0 - Sustain Excellence and Enhance Effectiveness of Integrated Safety, Health, and Environmental Protection.				
5.1 Provide an Efficient and Effective Worker Health and Safety Program			50%	
5.2 Provide an Efficient and Effective Environmental Management System			50%	
Performance Goal 5.0 Total				

Table 5.1 – Performance Goal 5.0 Score Development

Total Score	4.3-4.1	4.0-3.8	3.7-3.5	3.4-3.1	3.0-2.8	2.7-2.5	2.4-2.1	2.0-1.8	1.7-1.1	1.0-0.8	0.7-0
Final Grade	A+	A	A-	B+	B	B-	C+	C	C-	D	F

Table 5.2 – Goal 5.0 Final Letter Grade

GOAL 6.0 Deliver Efficient, Effective, and Responsive Business Systems and Resources that Enable the Successful Achievement of the Laboratory Mission(s)

The weight of this Goal is 25%.

This Goal evaluates the Contractor’s overall success in deploying, implementing, and improving integrated business systems that efficiently and effectively support the mission(s) of the Laboratory.

- 6.1 Provide an Efficient, Effective, and Responsive Financial Management System
- 6.2 Provide an Efficient, Effective, and Responsive Acquisition Management System and Property Management System
- 6.3 Provide an Efficient, Effective, and Responsive Human Resources Management System and Diversity Program
- 6.4 Provide Efficient, Effective, and Responsive Contractor Assurance Systems, including Internal Audit and Quality
- 6.5 Demonstrate Effective Transfer of Technology and Commercialization of Intellectual Assets

In measuring the performance of the above Objectives, the DOE evaluator(s) shall consider performance trends and outcomes in the development, deployment and integration of foundational program (e.g., Contractor Assurance, Quality, Financial Management, Acquisition Management, Property Management, and Human Resource Management) systems across the Laboratory. This may include, but is not limited to, minimizing the occurrence of management systems support issues; quality of work products; continual improvement driven by the results of audits, reviews, and other performance information; the integration of system performance metrics and trends; the degree of knowledge and appropriate utilization of established system processes/procedures by Contractor management and staff; benchmarking and performance trending analysis. The DOE evaluator(s) shall also consider the stewardship of the pipeline of innovations and resulting intellectual assets at the Laboratory along with impacts and returns created/generated as a result of technology transfer, work for others and intellectual asset deployment activities.

Notable Outcomes

- ***PNSO: Effectively manage the former Use Permit projects conducted under the Legacy clause with the goal of completing or transitioning them to a different contract mechanism on or ahead of schedule per the Legacy Clause. (Objectives 6.2, 6.4)***
- ***PNSO: Improve the efficiency and effectiveness of the conduct of R&D through the execution of the IMS Improvement Plan. (Objective 6.4)***

ELEMENT	Letter Grade	Numerical Score	Objective Weight	Overall Score
Goal 6.0 - Deliver Efficient, Effective, and Responsive Business Systems and Resources that Enable the Successful Achievement of the Laboratory Mission(s)				
6.1 Provide an Efficient, Effective, and Responsive Financial Management System(s)			20%	
6.2 Provide an Efficient, Effective, and Responsive Acquisition Management System and Property Management System			20%	

ELEMENT	Letter Grade	Numerical Score	Objective Weight	Overall Score
6.3 Provide an Efficient, Effective, and Responsive Human Resources Management System and Diversity Program			15%	
6.4 Provide Efficient, Effective, and Responsive Contractor Assurance Systems, including Internal Audit and Quality			35%	
6.5 Demonstrate Effective Transfer of Technology and Commercialization of Intellectual Assets			10%	
Performance Goal 6.0 Total				

Table 6.1 – Performance Goal 6.0 Score Development

Total Score	4.3-4.1	4.0-3.8	3.7-3.5	3.4-3.1	3.0-2.8	2.7-2.5	2.4-2.1	2.0-1.8	1.7-1.1	1.0-0.8	0.7-0
Final Grade	A+	A	A-	B+	B	B-	C+	C	C-	D	F

Table 6.2 – Goal 6.0 Final Letter Grade

GOAL 7.0 Sustain Excellence in Operating, Maintaining, and Renewing the Facility and Infrastructure Portfolio to Meet Laboratory Needs

The weight of this Goal is 25%.

This Goal evaluates the overall effectiveness and performance of the Contractor in planning for, delivering, and operations of Laboratory facilities and equipment needed to ensure required capabilities are present to meet today’s and tomorrow’s mission(s) and complex challenges.

- 7.1 Manage Facilities and Infrastructure in an Efficient and Effective Manner that Optimizes Usage, Minimizes Life Cycle Costs, and Ensures Site Capability to Meet Mission Needs
- 7.2 Provide Planning for and Acquire the Facilities and Infrastructure Required to Support the Continuation and Growth of Laboratory Missions and Programs

In measuring the performance of the above Objectives, the DOE evaluator(s) shall consider performance trends and outcomes in facility and infrastructure programs. This may include, but is not limited to, the management of real property assets to maintain effective operational safety, worker health, environmental protection and compliance, property preservation, and cost effectiveness; effective facility utilization, maintenance and budget execution; day-to-day management and utilization of space in the active portfolio; maintenance and renewal of building systems, structures and components associated with the Laboratory’s facility and land assets; management of energy use, conservation, and sustainability practices; the integration and alignment of the Laboratory’s comprehensive strategic plan with capabilities; facility planning, forecasting, and acquisition; the delivery of accurate and timely information required to carry out the critical decision and budget formulation process; quality of site and facility planning documents; and Cost and Schedule Performance Index performance for facility and infrastructure projects.

Notable Outcomes

- *None*

ELEMENT	Letter Grade	Numerical Score	Objective Weight	Overall Score
Goal 7.0 - Sustain Excellence in Operating, Maintaining, and Renewing the Facility and Infrastructure Portfolio to Meet Laboratory Needs.				
7.1 Manage Facilities and Infrastructure in an Efficient and Effective Manner that Optimizes Usage, Minimizes Life Cycle Costs, and Ensures Site Capability to Meet Mission Needs			50%	
7.2 Provide Planning for and Acquire the Facilities and Infrastructure Required to support the Continuation and Growth of Laboratory Missions and Programs			50%	
Performance Goal 7.0 Total				

Table 7.1 – Performance Goal 7.0 Score Development

Total Score	4.3-4.1	4.0-3.8	3.7-3.5	3.4-3.1	3.0-2.8	2.7-2.5	2.4-2.1	2.0-1.8	1.7-1.1	1.0-0.8	0.7-0
Final Grade	A+	A	A-	B+	B	B-	C+	C	C-	D	F

Table 7.2 – Goal 7.0 Final Letter Grade

GOAL 8.0 Sustain and Enhance the Effectiveness of Integrated Safeguards and Security Management (ISSM) and Emergency Management Systems

The weight of this Goal is 25%.

This Goal evaluates the Contractor’s overall success in safeguarding and securing Laboratory assets that supports the mission(s) of the Laboratory in an efficient and effective manner and provides an effective emergency management program.

- 8.1 Provide an Efficient and Effective Emergency Management System
- 8.2 Provide an Efficient and Effective Cyber Security System for the Protection of Classified and Unclassified Information
- 8.3 Provide an Efficient and Effective Physical Security Program for the Protection of Special Nuclear Materials, Classified Matter, Classified Information, Sensitive Information, and Property

In measuring the performance of the above Objectives, the DOE evaluator(s) shall consider performance trends and outcomes in the safeguards and security, cyber security and emergency management program systems. This may include, but is not limited to, the commitment of leadership to strong safeguards and security, cyber security and emergency management systems; the integration of these systems into the culture of the Laboratory; the degree of knowledge and appropriate utilization of established system processes/procedures by Contractor management and staff; maintenance and the appropriate utilization of Safeguards, Security, and Cyber risk identification, prevention, and control processes/activities; and the prevention and management controls and prompt reporting and mitigation of events as necessary.

Notable Outcomes

- ***PNSO: Effectively and efficiently maintain the Baseline Level of Protection as documented in the approved Safeguards and Security Plan. (Objective 8.3)***

ELEMENT	Letter Grade	Numerical Score	Objective Weight	Overall Score
Goal 8.0 - Sustain and Enhance the Effectiveness of Integrated Safeguards and Security management (ISSM) and Emergency Management Systems.				
8.1 Provide an Efficient and Effective Emergency Management System			30%	
8.2 Provide an Efficient and Effective Cyber Security System for the Protection of Classified and Unclassified Information			35%	
8.3 Provide an Efficient and Effective Physical Security Program for the Protection of Special Nuclear Materials, Classified Matter, Classified Information, Sensitive Information, and Property			35%	
Performance Goal 8.0 Total				

Table 8.1 – Performance Goal 8.0 Score Development

Total Score	4.3-4.1	4.0-3.8	3.7-3.5	3.4-3.1	3.0-2.8	2.7-2.5	2.4-2.1	2.0-1.8	1.7-1.1	1.0-0.8	0.7-0
Final Grade	A+	A	A-	B+	B	B-	C+	C	C-	D	F

Table 8.2 – Goal 8.0 Final Letter Grade

**PART III – List of Documents,
Exhibits and Other Attachments**

Section J

Appendix F

**Operational Agreement Between
the Office of Science, Pacific Northwest Site Office and
the Office of Environmental Management, Richland Operations Office**

Operational Agreement
March 2008

**OPERATIONAL AGREEMENT
BETWEEN
THE OFFICE OF SCIENCE
PACIFIC NORTHWEST SITE OFFICE
AND
THE OFFICE OF ENVIRONMENTAL MANAGEMENT
RICHLAND OPERATIONS OFFICE**

Articles:

1. This Operational Agreement is entered into by the Office of Science (SC), Pacific Northwest Site Office (PNSO) and the Office of Environmental Management (EM), Richland Operations Office (RL) in order to define responsibilities and establish expectations, services and interface requirements with respect to:
 - a. Pacific Northwest National Laboratory (PNNL) occupied EM buildings located in the 300 Area on the Hanford Site, Richland, Washington.
 - b. EM access to the PNNL Site
2. This operational agreement supersedes the Memorandum of Agreement (MOA) entered into June 29, 2005, between PNSO and RL (article 3.g) and invokes the DOE-HQ MOA (article 3.1) as well as the land reassignment agreements (articles 3.f and 3.j).
3. The authority for this agreement is based upon the following source documents (RL letter numbers are included for reference):
 - a. DOE Manual 411.1-1C, Safety Management Functions, Responsibilities and Authorities Manual, dated December 31, 2003.
 - b. DOE EM Functions, Responsibilities and Authorities (FRA) Document, dated March 31, 2004.
 - c. DOE PNSO Functions, Responsibilities and Authorities (FRA) Document, dated February 2008.
 - d. DOE Action Memorandum (ES2003-012305) dated November 5, 2003, approved by The Secretary on December 5, 2003, authorizing SC to establish PNSO.
 - e. DOE Action Memorandum (ES2003-013451) of December 9, 2003, approved by The Secretary on January 5, 2004, Authorizing SC Realignment and Announcement of Realignment.
 - f. DOE Action Memorandum of July 14, 2004, approved by Milt Johnson, SC, on August 6, 2004, assigning CSO responsibility for the PNNL Site to SC.
 - g. Memorandum (05-DEO-0015) of June 30, 2005, to P. W. Kruger, Manager, PNSO, from Keith A. Klein, Manager, RL, MOA, dated June 29, 2005.
 - h. Memorandum for Raymond Orbach, Under Secretary for Science, from Clay Sell, Deputy Secretary of Energy, Approval of Revised Alternative Selection and Cost Range (CD-1 Revised) for the Capability Replacement Laboratory (CRL) Project at PNNL, dated December 15, 2006. (Can also be located by letter 07-AMRC-0222).

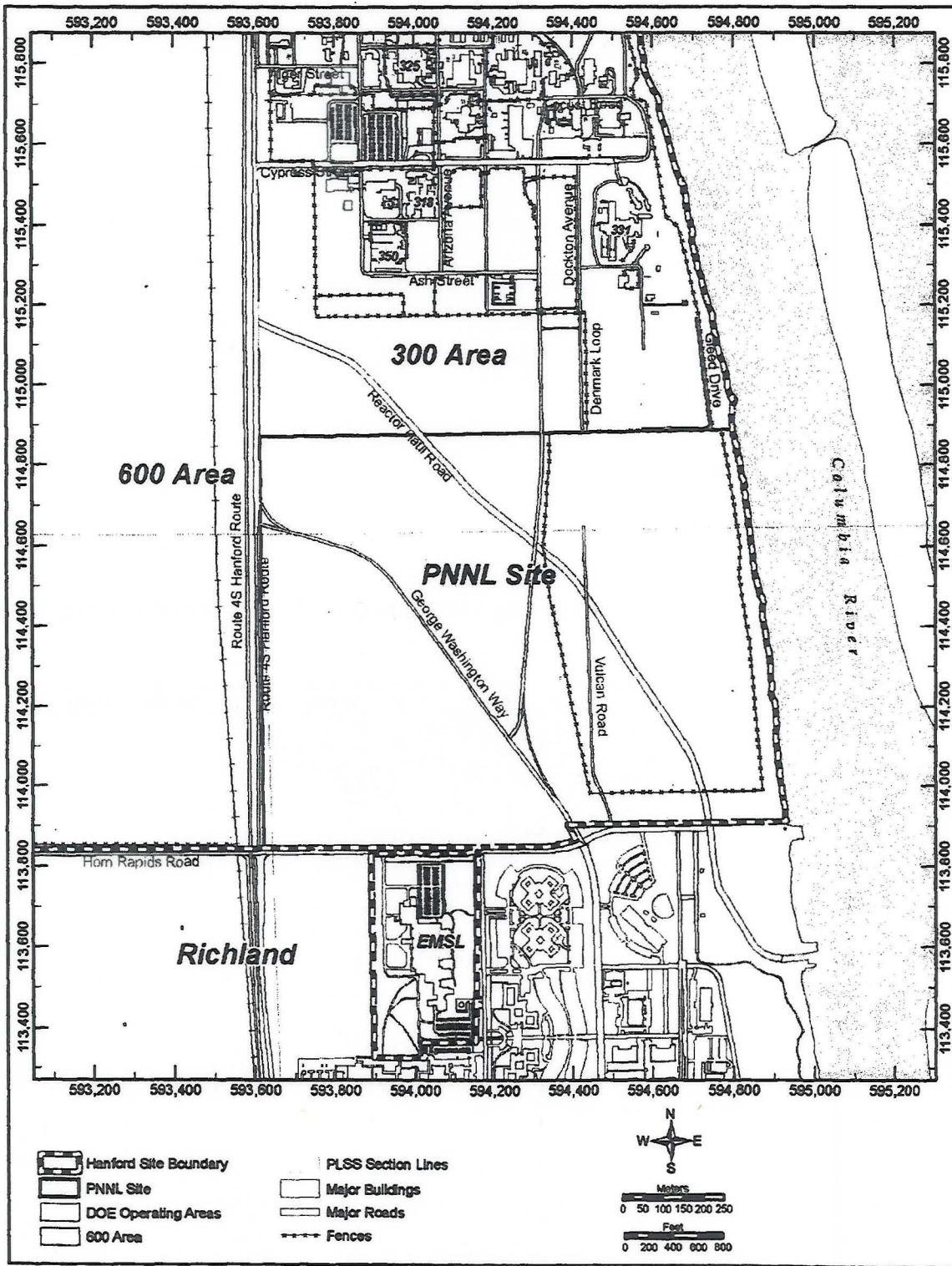
Operational Agreement
March 2008

- i. Letter (06-AMRC-0248) to Mr. P.L. Pettiette, President Washington Closure Hanford LLC from Stacie Sedgwick, Contracting Officer, RL, Transmittal of Washington Closure Hanford/Battelle Joint Approach for Delayed Release Facilities, Revision 1, dated May 22, 2006.
- j. Letter (07-AMRC-0107) to Mr. C. G. Spencer, President Washington Closure Hanford LLC from Jan Osso, Contracting Officer, RL, 300 Area Mitigation Planning, dated February 16, 2007.
- k. DOE Action Memorandum (2007-003271) of May 24, 2007, approved by Raymond L. Orbach, Under Secretary for Science, on June 8, 2007, Accept the Reassignment of Programmatic Control of a Parcel of Hanford Site Real Property. (Can be located by letter 07-AMRC-0229).
- l. Memorandum of Agreement between SC and EM, dated May 24, 2007, and approved June 7, 2007 and May 25, 2007, respectively. (Can be located by letter 07-AMRC-0221).
- m. Memorandum to Raymond L. Orbach, Under Secretary for Science, from Samuel W. Bodman, Secretary of Energy, Revised Safety Functions, Responsibilities, and Authorities, dated June 22, 2007. (Can also be located by letter 08-AMRC-0016).
- n. Letter (07-AMRC-0238) to Mr. C. G. Spencer, President Washington Closure Hanford LLC from Stacie L. Sedgwick, Contracting Officer, RL, 300 Area Mitigation Planning, dated July 19, 2007.
- o. Memorandum to Ines Triay, EM-2, from George J. Malosh, SC-3, Transfer of Safety Basis Approval Authority from EM to SC for PNNL 325 Building, dated November 15, 2007.
- p. Letter to Mr. Michael Kluse, Interim Director, PNNL, from George J. Malosh, Deputy Director for Field Operations, SC, Change of Approval Authority for Building 325, dated November 13, 2007.
- q. Letter to Antoine Minthorn, Board of Trustees, CTIR (Accession # DA06496613) from Raymond L. Orbach and James Rispoli, dated January 10, 2008, regarding reassignment of programmatic control of a portion of the 300 Area.
- r. Memorandum from James M. Owendoff, Chief Operations Officer, EM, to H. Boyd Hathaway, Realty Officer, RL, Payment in Lieu of Taxes (PILT) at PNNL to Benton County, Washington, dated October 26, 2007.
- s. Letter (07-AMRC-0141) to Mr. C.G. Spencer, President Washington Closure Hanford LLC from Stacie Sedgwick, Contracting Officer, RL, 300 Area Mitigation Planning, dated April 19, 2007.

4. The PNNL Site is shown in figure 1 consistent with articles 3.f and 3.k which reassign programmatic control of this land from EM to SC. The PNNL Site is a parcel of land bounded on the north by the north fence-line of a sensitive cultural area extending east to the Columbia River and west to the east right-of-way line of Stevens Drive; then bounded on the east by the Columbia River; bounded on the south by the north right-of-way line of Horn Rapids Road, and bounded on the west by the east right-of-way line of Stevens Drive. Included in the PNNL Site is the land where the Environmental Molecular Sciences Laboratory (EMSL) (Building 3020) is located south of the Horn Rapids Road.

The reassignment of the PNNL Site does not affect CERCLA activities directed by regulatory documentation. Management of CERCLA cleanup of the 300 Area will be in accordance with the 300-FF-2 and 300-FF-5 Records of Decisions, their associated CERCLA documentation (as interpreted by 54FR4100 and Article 3q). PNSO will allow RL and its contractor's access to lands under SC programmatic control in order to carry out CERCLA responsibilities and operate and maintain utility systems serving the 300 Area.

Figure 1: General Area of this Operational Agreement



5. SC is the Head of Contracting Activity (HCA) for the PNNL Contract and has contract oversight responsibility to ensure contractor operations are conducted in a safe, secure and environmentally sound manner. Additionally, SC is responsible for the PNNL Site. SC has been designated the Cognizant Secretarial Office (CSO) for the PNNL Site. PNSO is responsible for all PNNL contractor oversight. In general, PNSO and its contractor will follow Hanford requirements for activities in PNNL-occupied EM buildings.
6. EM is the CSO for the Hanford Site, as described in Article 4, and subject to the exclusions of Article 2. RL is responsible for ensuring EM-cognizant activities are performed safely. RL maintains all authority and responsibility for the activities addressed in this agreement not within the operations of PNSO (or as otherwise described in this agreement).
7. Facility data associated with buildings, mobile offices and other facilities in the 300 Area occupied by PNNL will reside in the EM section of the Facility Information Management System (FIMS) database.
8. RL will be responsible for the disposition of accountable (tracked) EM personal property and materials that are located in the 300 Area buildings occupied by PNNL. This liability is documented on the RL Financial Statement and those systems that feed it (Facility Information Management System (FIMS), Nuclear Material & Safeguards Management System (NMSMS), property management system (real/personal), ect.). Both EM accountable (tracked) and non-accountable (non-tracked) property and materials will be turned over to the River Corridor Closure Contractor or other appropriate RL contractor before or on the date the buildings are turned over. PNSO shall not relocate waste from PNNL occupied 300 Area buildings into buildings being turned over to RL unless authorized under appropriate CERCLA documentation and with RL concurrence.
9. EM personal property and materials which will be utilized for PNNL scientific work, not associated with Hanford work and conducted outside the 300 Area will be transferred to PNSO through the Oak Ridge Financial Statement. The PNSO contractor shall provide RL with the data to update its Standard Accounting and Reporting System (STARS) records when the value and status of property associated with the Hanford Site changes. The PNSO Contractor will also submit changes in the value and status of nuclear materials to RL and directly to the HQ Department Inventory Management System (DIMS).
10. At the end of PNNL occupancy, PNSO will transition the 300 Area buildings, to RL for demolition and cleanup in order to enable accomplishment of the Hanford cleanup goals, in accordance with the schedule outlined in the SC/EM MOA (Article 3.1) and/or the transition Project Execution Plan.

Operational Agreement

March 2008

11. Effective November 15, 2007, PNSO has been delegated the Nuclear Safety basis approval authority under 10CFR830 Subpart B for the Hanford Building 325. The existing EM approved Documented Safety Analysis (DSA), Technical Safety Review (TSR) and DOE Safety Evaluation Reports remain in effect until such time as they are superseded by an approved SC DSA, TSR, and DOE Safety Evaluation Report for the Hanford Building 325, as authorized by articles 3.o and 3.p.
12. Upon approval of this Operational Agreement, day-to-day safety responsibility and oversight for all PNNL occupied 300 Area EM buildings is transferred from RL to PNSO.
13. RL will continue to fund the Hanford Building 325 minimum safe activities in FY08 and FY09 per the target funding as described in the FY08 PNNL Facilities Transition Project (PFT) Project Management Plan to existing requirements. Minimum safe requirements imposed by life extension requirements, as well as minimum safe activity funding for all PNNL occupied buildings is the responsibility of PNSO. RL minimum safe activity funding for the Hanford Building 325 through FY09 will be described in the PFT Project Management Plan.
14. RL will provide infrastructure described in article 3.s (unless otherwise noted in this agreement) up to the transition points agreed to by RL and PNSO's contractors. Except for work that must be performed to implement the conceptual designs approved in article 3.j, RL will not be responsible for funding, upgrade, or management inside PNNL occupied facilities. Infrastructure supports existing operation of the buildings listed in Table 1.

Table 1. Buildings RL will provide infrastructure to	
Building Number	Building Name
325	Hanford Building 325/Radiochemical Processing Laboratory
325A	Cesium Recovery Facility
325B	Shielded Lab Annex
325C	Fluorine Gas Storage
325D	Maintenance Shop Addition
325E	Fire Riser/Backflow Preventer Building
325-BA	Hanford Building 325 Boiler Annex
331	Life Sciences Laboratory
331BA	Life Sciences Laboratory Boiler Annex
331C	Storage Facility
331D	Biomagnetics Effects Laboratory
331G	Radiation Portal Monitor Facility
331H	Aerosol Wind Tunnel Research Facility
331P	Chemical Storage Container
318	Radiological Calibrations Laboratory
318B	High Temperature Lattice Test Reactor Filter Stack
318C	High Temperature Lattice Test Reactor Filter Facility
318-BA	Radiological Calibrations Laboratory Boiler Annex
350	Plant Operations and Maintenance Facility
350A	Paint Shop
350B	Warehouse
350C	Storage Facility
350D	Oil Storage Facility
312	River Pumping Station
3714	River Monitoring Station
361	Modular Equipment Shelter
MO226	Mobile Office
MO-675	Mobile Office
MO-676	Mobile Office
MO-677	Mobile Office
320	Physical Science Laboratory
320-BA	Physical Science Laboratory Boiler Annex
326	Material Science Laboratory
326-BA	Material Science Laboratory Boiler Annex
329	Chemical Science Laboratory
323-BA	Mechanical Properties Laboratory
3760	Technical Library
336	High Bay Testing Facility
338	Maintenance Building

15. RL will provide Utilities/services to the PNNL occupied EM buildings in the 300 Area on a cost recoverable basis using allocation methodologies compliant with Cost Accounting Standards (CAS) that is commensurate with the level of service received. Proposed allocation methodologies, resultant financial allocations, and/or mid-year changes will be reviewed and concurred on by PNSO at least 60 days prior to implementation. RL and PNSO's contractors shall maintain the "300 Area Utility Systems Roles and Responsibilities Agreement" referenced in Article 3i., which defines specific roles, responsibilities, authorities, and accountabilities for the prime contractors and their Sub-Contractors, regarding utilities, services, and general administration of government-owned land and facilities north of the PNNL Site.
16. Within thirty days of the approval of this Operational Agreement, snow removal, road maintenance (including striping), emergency response, and activities related to roads and grounds in the PNNL Site, shall be the responsibility of PNSO.
17. PNSO will continue to receive protective force services from RL at no additional cost unless changes to the security posture at the Hanford Site and PNNL warrant a new strategy. This funding strategy will be reviewed by RL/PNSO annually and RL will provide PNSO with notice prior to any changes.
18. RL will continue to manage the Energy Savings Performance Contract with Johnson Controls, Inc., for retained 300 Area facilities.
19. PNSO will be responsible for energy cost and consumption data reporting, and energy conservation performance reporting for buildings, mobile offices and other facilities under the responsibility of PNSO/PNNL.
20. PNSO will be the responsible entity for assessing the electric metering of its buildings against the goals of the 2005 Energy Policy Act.
21. PNSO will provide a 10 year forecast of summer and winter peak electric demand and a 10 year annual energy forecast for its facilities served by the B3S4 electrical substation in the 300 Area to RL and its contractor by June 30th of each year to allow for RL to prepare the annual 10 year load forecast for submittal to Bonneville Power Administration.
22. PNSO/PNNL will utilize the Hanford Transportation Safety Documentation and Motor Carrier Services for transportation of freight including hazardous material, radioactive materials, and radioactive/mixed waste:
 - a. The applicable RL contractor shall manage, schedule, and conduct motor carrier services.

- b. The applicable RL Contractor shall maintain and operate a centralized pool of vehicles and drivers for the on-site and limited local transportation of freight including hazardous and radioactive materials at the Hanford Site.
- c. Customers of this service prepare the waste for transport including shipper/receiver agreement documents, transportation documents for packaging, transportation and receipt by the receiving facility.

PNSO/PNNL will transport nuclear material and waste in accordance with DOE packaging safety order requirements and 10CFR830.

- 23. PNSO will provide its own Defense Nuclear Facilities Safety Board Liaison.
- 24. For the PNNL occupied 300 Area EM buildings, PNSO and its Contractors will comply with the provisions of the Hanford Emergency Management Plan (DOE/RL-94-02) and receive service from and provide input to the applicable RL Contractor. RL will develop, implement, and maintain the Hanford Site emergency management program and will coordinate key program decisions and/or policy changes with PNSO prior to implementation. Emergency Planning Hazards Assessments and Hazards Surveys will be approved by PNSO, with the concurrence of RL. PNSO will provide representatives to the Hanford Site Emergency Preparedness planning and coordinating functions to include the Hanford Site Emergency Preparedness Council.
- 25. PNSO shall, with coordination and adequate preparation, allow service-providing contractor's access to PNNL occupied buildings in the 300 Area to perform infrastructure related services. PNSO will provide right of way access to RL and its contractors to public roads traversing the PNNL Site.
- 26. New facilities will be constructed to support utility reroutes. Operational responsibility is tentatively identified in Table 2 below:


Table 2: Operational Responsibility for New Buildings to be constructed to support utility reroutes.		
Bldg #	Building Name	Responsible DOE Organization
385	Sanitary Water Pump House	RL
685	Sanitary Water Backflow Preventer Enclosure #1	RL
686	Sanitary Water Backflow Preventer Enclosure #2	RL
3906D	Sanitary Lift Station # 10	RL
3906E	Sanitary Lift Station # 11	RL
3906F	Sanitary Lift Station # 12	RL
3906G	Sanitary Lift Station # 13	RL
RPS	Retention Process Sewer Collection, Sampling, and Transloading System	RL
383	Retention Process Sewer Collection Facility	RL
383A	Retention Process Sewer Lift Station	RL
383TK1	Retention Process Sewer Collection Tank #1	RL
383TK2	Retention Process Sewer Collection Tank #3	RL
383TK3	Retention Process Sewer Collection Tank #4	RL
383TK4	Retention Process Sewer Collection Tank #4	RL
318LS	318 Storm Water Lift Station	RL
326LS	326 Storm Water Lift Station	RL
329LS	329 Storm Water Lift Station	RL
331LS	331 Storm Water Lift Station	RL
TDB after discharge permit is issued by WDOE	331 Storm Water Injection Well	RL

27. PNSO will perform inventory removal, and decontaminate any remaining property items in the 331-C storage unit prior to turnover to RL for clean closure to regulatory standards.
28. For activities in PNNL-occupied EM buildings, PNSO will submit all PNNL requests to obtain or modify any necessary licenses, approval orders, and permits, in which RL is a signatory, to RL for transmission to the appropriate regulator. PNSO shall instruct PNNL to restrict direct communication with external regulatory agencies to routine matters. Direct communication in non-routine matters requires DOE authorization. Per the PNNL Contract the Contractor is required and will continue to establish and maintain routine technical interfaces with the regulators.

29. PNSO/PNNL shall comply with applicable conditions and provisions of the Hanford Site Comprehensive Land Use Environmental Impact Statement and will implement them through PNSO/PNNL policies and procedures.
30. PNSO/PNNL is responsible for funding any increased cost resulting from a release to the environment from SC sources during continued occupancy in the 300 Area.
31. RL is responsible for payment of the Payment in Lieu of Taxes (PILT) to Benton County, Washington on the 130 acres of land reassigned to SC on August 26, 2004 and on the 220 acres of land reassigned to SC on June 8, 2007 (article 3.r).
32. RL and its Contractor will maintain responsibility for the maintenance, repair, and funding of the sub reactor haul road that goes through the PNNL Site. RL will coordinate planned use of the haul road with PNSO.
33. RL and PNSO are independently responsible for compliance with DOE O 450.1, Environmental Protection Program, and DOE 5400.5, Radiation Protection of the Public and the Environment for our respective contractors. PNSO/PNNL will receive service from and provide input to the appropriate RL Contractor, in a timely manner at no cost to RL, for activities on the Hanford Site as follows:
 - a. Provide input for the Site-wide Environmental Management System (EMS) Program Management Plan.
 - b. Integrate their environmental permitting and regulatory compliance activities with the Hanford site-wide permitting and compliance framework maintained by the appropriate RL Contractor.
 - c. Provide appropriate and timely input to the appropriate RL Contractor for regulatory required Site-wide environmental reports and metrics for their facilities and activities.
 - d. Support the appropriate RL Contractor in their Site-wide environmental regulatory management roles.
 - e. Provide legally and regulatory required air and liquid effluent and near facility environmental monitoring; collect, compile, and/or integrate air and liquid effluent monitoring data from facility operations and activities under their control.
 - f. Provide appropriate environmental data for its facility and operable units to support Hanford Site assessments and preparation of the annual Hanford Site Environmental Report. Obtain unit specific permit modifications in coordination with the appropriate RL Contractor.
34. This Operating Agreement shall be effective upon the signature of all parties and shall be evaluated on a regular basis to reflect current conditions. The Operating Agreement may be modified or amended by the mutual agreement of the parties.


Operational Agreement
March 2008

APPROVED:



Michael J. Weis, Manager
Pacific Northwest Site Office

3/28/08
Date



David A. Brockman, Manager
Richland Operations Office

4/7/08
Date

**PART III – List of Documents,
Exhibits, And Other Attachments**

Section J

Appendix G

**DOE Research and Development Bilateral
And Multilateral Agreements**

Office of Policy and International Affairs

All In Force Bilateral Agreements

ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
61	407	8/1/1996	8/1/2001	Primary DOE			None	Energy Research and Development	Energy Technology Cooperation
<p>Title: <i>Specific Arrangement between the Department of Energy of the United States of America and the Public Works and Services Secretariat of the Argentine Republic in the Area of Energy Technology Cooperation</i></p> <p>Comment: Energy Forecasting meeting was hosted by FE in Oct. of 97. Seminar on New Technologies for the Energy Sector was held in Buenos Aires in Dec 98. EERE has work on energy efficiency and renewable projects started under a statement of intent which was a precursor to this agreement. In Dec of 97 four priority areas of work were identified - energy efficiency, energy and environment, energy planning, and renewable energy by then Secretaries of Energy.</p>									
62	409	10/16/199	10/16/200	Primary DOE			None	Arms Control and Nonproliferation	Nuclear Technologies
<p>Title: <i>Implementing Arrangement between the Department of Energy of the United States of America and the National Atomic Energy Commission of the Argentine Republic for Technical Exchange and Cooperation in the area of Peaceful Uses of Nuclear Energy</i></p> <p>Comment: Expanded sister lab arrangement supporting Article IV of the NPT. Existing annexes cover work in Molybdenum-99 production for LEU, boron neutron capture therapy, decontamination and decommissioning, and LEU advanced fuels.</p>									
475	431	4/13/1998	10/16/200	Secondary DOE		62	Primary DOE	Arms Control and Nonproliferation	Annex 1 - LEU Moly-99 production
<p>Title: <i>Project Annex 1 Cooperation in the Field of Molybdenum-99 Production from Low-Enriched Uranium</i></p> <p>Comment: In force as long as the Implementing Arrangement. Action sheets are under development.</p>									
521	431	2/8/1999	2/8/2003	Tertiary DOE		475	Secondary DOE	Nuclear Energy	Action Sheet 1 - Project Annex 1
<p>Title: <i>Action Sheet 1 pursuant to Project Annex 1 for Cooperation in the Field of Molybdenum-99 Production for Low-Enriched Uranium between the National Atomic Energy Commission of the Argentine Republic and the University of Chicago, as Operator of Argonne National Laboratory</i></p> <p>Comment:</p>									
476	431	4/13/1998	10/16/200	Intergovernmental		62	Primary DOE	Arms Control and Nonproliferation	Annex 2 - Boron Neutron Capture Therapy
<p>Title: <i>Project Annex 2 Cooperation in the Area of Boron Neutron Capture Therapy</i></p> <p>Comment: In force as long as the Implementing Arrangement. Expert visits are underway.</p>									
503	431	8/11/1998		Tertiary DOE		476	Secondary DOE	Arms Control and Nonproliferation	Action Sheet 1
<p>Title: <i>Action Sheet 1 Pursuant to Project Annex 2 Cooperation in the Field of Boron Neutron Capture Therapy</i></p> <p>Comment: Technical exchange visits.</p>									

All In Force Bilateral Agreements

ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
477	431	4/13/1998	10/16/2000	Secondary DOE		62	Primary DOE	Arms Control and Nonproliferation	Annex 3 - D&D of Nuclear Facilities
Title: <i>Project Annex 3 Cooperation in the Field of Decontamination and Decommissioning of Nuclear Facilities</i>									
Comment: In force as long as the Implementing Arrangement. Workshop was successfully held in fall of 98 at ANL.									
496	431	8/18/1998	10/16/2000	Secondary DOE		62	Primary DOE	Arms Control and Nonproliferation	Annex 4 - Advanced Fuels
Title: <i>Project Annex 4 Cooperation in Field of Low Enriched Uranium Advanced Fuels</i>									
Comment: Remains in force as long as the Implement Arrangement. Action sheets are under development.									
555	431	2/8/1999	2/8/2003	Tertiary DOE		496	Secondary DOE	Arms Control and Nonproliferation	Action Sheet 1 Annex 4, Dart Code Development
Title: <i>Action Sheet 1 Pursuant to Project Annex 4 for Cooperation in the Field of Low Enriched Uranium Advanced Fuels between the National Atomic Energy Commission of the Argentine Republic (CNEA) and the University of Chicago, as Operator of Argonne National Laboratory</i>									
Comment:									
63	331	4/18/1994	4/18/2004	Primary DOE			None	Arms Control and Nonproliferation	International Safeguards Applications
Title: <i>Agreement between the United States Department of Energy and the National Atomic Energy Commission of Argentina Concerning Research and Development in Nuclear Material Control, Accountancy, Verification, Physical Protection, and Advanced Containment and Surveillance Technology for International Safeguards Applications</i>									
Comment: Cooperate in research, development, testing, and evaluation of technology, equipment and procedures in order to improve nuclear material control, accountancy, verification, physical protection and advanced containment and surveillance technologies for international safeguards applications.									
64	387	5/29/1996	5/29/2006	Primary DOE			None	Environmental Restoration and Waste Management	Radioactive and Mixed Waste Management
Title: <i>Implementing Arrangement between the Department of Energy of the United States of America and the National Atomic Energy Commission of the Argentine Republic for Technical Exchange and Cooperation in the Area of Radioactive and Mixed Waste Management</i>									
Comment: Study radioactive and mixed waste management activities in such areas as: preparation and packaging; decontamination and decommissioning; surface and subsurface storage; characterization of geologic formations; disposal in geologic formations, etc.									

Country: Australia

509	456	9/15/1998	9/14/2008	Primary DOE			None	Arms Control and Nonproliferation	Safeguards Arrangement
Title: <i>Arrangement between the United States Department of Energy and the Australian Safeguards and Nonproliferation Office Concerning Research and Development in Nuclear material Control Accountancy, Verification, Physical Protection, Advance Containment and Surveillance Technologies for International Safeguards</i>									
Comment:									

Country: Austria

All In Force Bilateral Agreements

ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
65	337	9/18/1994		Primary DOE			None	Energy Efficiency and Renewable Energy	EE/Conservation and Climate Change
<p>Title: <i>Memorandum of Understanding on Cooperation in Environmental Aspects of Energy Policy and the Protection of Global Climate</i></p> <p>Comment: Cooperate in areas of sufficient growth of energy supplies; energy efficiency and conservation measures and protection of the biosphere (climate change).</p>									

Country: Bangladesh

501	450	12/15/199		Statement of Intent			None	Energy Research and Development	SOI in Energy Cooperation
<p>Title: <i>Joint Statement of Cooperation in Energy</i></p> <p>Comment:</p>									
514	460	2/11/1999	2/11/2004	Primary DOE			None	Information and/or Personnel Exchange	Exchange of Energy Information
<p>Title: <i>Arrangement between the Department of Energy of the United States of America and the Ministry of Energy and Mineral Resources, Government of the People's Republic of Bangladesh for Exchange of Energy Information</i></p> <p>Comment: EIA will work with an agency designated by MEOMR to establish a reasonably balanced exchange of energy information.</p>									

Country: Botswana

600	495	12/15/200		Statement of Intent			None	Fossil Energy	Cooperation in the Field of Fossil Energy
<p>Title: <i>Statement of Intent Between The Department of Energy of the United States of America and The Ministry of Minerals, Energy and Water Affairs of the Republic of Botswana for Cooperation in the Field of Fossil Energy Technology</i></p> <p>Comment:</p>									

Country: Brazil

26	391	9/30/1996		Statement of Intent			None	Fossil Energy	Clean Coal Technologies
<p>Title: <i>Joint Statement of Intent on Clean Coal Technologies between the Department of Energy of the United States of America and the State of Rio Grande do Sul and the State of Santa Catarina, and the Sindicato Nacional da Industria da Extracao do Carvao, Eletrabras, and the Ministry of Mines and Energy of the Federal Republic of Brazil</i></p> <p>Comment: Intention to cooperate between DOE, the State of Rio Grande do Sul, the State of Santa Catarina, The Sindicato Nacional da Industria da Extracao do Carvao, Electrobras, and the Ministry of Mines and Energy of Brazil in clean coal technologies.</p>									
655	550	6/20/2003	6/20/2008	Primary DOE			None	Science and Technology	Cooperation in Nuclear Energy
<p>Title: <i>Agreement between the Department of Energy of the United States of America nd the Ministry of Science and Technology of the Federative Republic of Brazil Concerning Cooperation in Nuclear Energy</i></p> <p>Comment:</p>									

All In Force Bilateral Agreements

ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
75	412	10/14/1999	10/14/2000	Primary DOE			None	Energy Research and Development	Energy Technology
<p>Title: <i>Implementing Arrangement between the United States of America and the Federative Republic of Brazil for Cooperation in the Area of Energy Technology</i></p> <p>Comment: Umbrella Agreement</p>									
279	412	10/14/1999	10/14/2000	Secondary DOE		75	Primary DOE	Fossil Energy	Annex 1 - Coal and Power Systems
<p>Title: <i>Annex I to the Implementing Arrangement between the United States of America and the Federative Republic of Brazil for Cooperation in the Area of Energy Technology in the Field of Coal and Power Systems</i></p> <p>Comment: Exchange experience and views on clean coal technologies, advanced power systems, advanced coal preparation, and environmental monitoring technologies and standards.</p>									
280	412	10/14/1999	10/14/2000	Secondary DOE		75	Primary DOE	Energy Efficiency and Renewable Energy	Annex 2 - Renewable Energy
<p>Title: <i>Annex II to the Implementing Arrangement between the United States of America and the Federative Republic of Brazil for Cooperation in the Area of Energy Technology in the Field of Renewable Energy</i></p> <p>Comment: Collaboration on renewables resource assessment, integration in electric utility, policy analysis, and identification of opportunities for renewable energy in Brazil.</p>									
281	412	10/14/1999	10/14/2000	Secondary DOE		75	Primary DOE	Energy Efficiency and Renewable Energy	Annex 3- Energy Efficiency
<p>Title: <i>Annex III - to the Implementing Arrangement between the United States of America and the Federative Republic of Brazil for Cooperation in the Area of Energy Technology in the Field of Energy Efficiency</i></p> <p>Comment: Collaboration to increase energy, efficiency, promote global environmental protection, and stimulate the market in Brazil for energy efficiency goods and services.</p>									
76	332	4/18/1994	4/18/2004	Primary DOE			None	Arms Control and Nonproliferation	International Safeguards Applications
<p>Title: <i>Agreement between the United States Department of Energy and the Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials Concerning Research and Development in Nuclear Material Control, Accountancy, Verification, and Advanced Containment and Surveillance Technologies for International Safeguards Applications</i></p> <p>Comment:</p>									
77	376	9/19/1995	9/19/2000	Primary DOE			None	Arms Control and Nonproliferation	International Safeguards Applications
<p>Title: <i>Agreement between the United States Department of Energy and the National Nuclear Energy Commission of Brazil Concerning Research and Development in Nuclear Material Control, Accountancy, Verification, and Physical Protection, and Advanced Containment and Surveillance Technologies for International Safeguards Applications</i></p> <p>Comment:</p>									
651	546	9/17/2001	9/17/2006	Secondary DOE		77	Primary DOE	Arms Control and Nonproliferation	Extension - Agreement bet. DOE and the National Nuclear Energy Commission
<p>Title: <i>Agreement to Extend the Agreement between the Department of Energy of the United States and the National Nuclear Energy Commission of Brazil Concerning Research and Development in Nuclear Material Control, Accountancy, Verification, Physical Protection, and Advanced Containment and Surveillance Technologies for International Safeguards Applications</i></p> <p>Comment: 5- year extension</p>									

Country: Canada

All In Force Bilateral Agreements

ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
28	363	7/21/1995		Statement of Intent		21	Broad	Energy Efficiency and Renewable Energy	Building Energy Simulation Tools
Title: <i>Statement of Intent between the United States Department of Energy and the Department of Natural Resources of Canada on Building Energy Simulation Tools</i>									
Comment: Collaborate in building energy simulation R&D and information dissemination.									
614	509	10/22/200	10/22/200	Primary DOE			None	Energy Efficiency and Renewable Energy	Arrangement between DOE and Dept. of Natural Resources Canada
Title: <i>Implementing Arrangement between the Department of Energy of the United States of America and the Department of Natural Resources Canada for Cooperation in the areas of Microgeneration and Community Energy Systems</i>									
Comment:									
632	527	5/10/2000	5/10/2005	Primary DOE			None	Science and Technology	Cooperation in the area of Bioenergy
Title: <i>Implementing Arrangement between the United States Department of Energy and the Department of Natural Resources of Canada for Cooperation in the area of Bioenergy</i>									
Comment:									
656	551	6/17/2003	6/17/2008	Primary DOE			None	Nuclear Energy	Nuclear Energy Research
Title: <i>Implementing Arrangement between the United States Department of Energy and the Department of Natural Resources of Canada and Atomic Energy of Canada Limited for Collaboration in the area of Nuclear Energy Research</i>									
Comment: Foreign Party for Atomic Energy of Canada Limited signed this agreement also on June 17, 2003.									
81	425	3/18/1998	3/18/2008	Primary DOE			None	Energy Research and Development	Energy R&D
Title: <i>Memorandum of Understanding between the Department of Energy of the United States of America and the Department of Natural Resources of Canada on Collaboration in Energy Research and Development</i>									
Comment: Establish wider areas of cooperation for mutual benefit									
524	469	2/1/2000	2/1/2005	Secondary DOE		81	Primary DOE	Fossil Energy	DOE/NRCan Fuel Cells Implementing Arrangement
Title: <i>Implementing Arrangement between the Department of Energy of the United States of America and the Department of Natural resources Canada for Cooperation in the area of Fuel Cells</i>									
Comment: Automatic Renewal after 5 years with written agreement of the participants.									
525	470	2/1/2000	2/1/2005	Secondary DOE		81	Primary DOE	Fossil Energy	DOE/NRCan Fossil Fuels Implementing
Title: <i>Implementing Arrangement between Department of Energy of the United States of America and the Department of Natural Resources Canada for Cooperation in the area of Fossil Fuels</i>									
Comment: Automatic renewal for 5 years with written agreement of the participants.									

All In Force Bilateral Agreements

ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
646	541	9/11/2002	9/11/2007	Tertiary DOE		525	Secondary DOE	Fossil Energy	Project Annex 1 - Weyburn CO2 Sequestration Title: <i>Project Annex 1 - Weyburn CO2 Sequestration Project under the Implementing Arrangement Between the Department of Energy of the United States of America and the Department of Natural Resources Canada for Cooperation in the Area of Fossil Fuels</i> Comment:
27	341	11/18/199		Statement of Intent		21	Broad	Energy Efficiency and Renewable Energy	Biennial Biomass Conf. of the Americas Title: <i>Statement of Intent between the United States Department of Energy and the Department of Mines and Resources on Biennial Biomass Conference of Americas</i> Comment: Collaborate in a biennial conference to present the latest results in biomass energy research and development.

Country: Chile

35	352	3/7/1995		Statement of Intent			None	Energy Efficiency and Renewable Energy	Control Emissions of Greenhouse Gases Title: <i>Statement of Intent for Sustainable Development Cooperation and Joint Implementation of Measures to Control Emissions of Greenhouse Gases Between the Department of Energy of the United States of America and the National Energy Commission of Chile</i> Comment: Intent to facilitate the development of joint implementation projects in order to encourage: market deployment of greenhouse gas-reducing technologies, including energy efficiency and renewable energy technologies; education and training programs, etc.
474	430	4/18/1998	4/12/2000	Statement of Intent			None	Energy Efficiency and Renewable Energy	Natural Gas-Powered Bus Pilot Project Title: <i>Statement of Intent Concerning the Natural Gas-Powered Bus Pilot Project in the Metropolitan Region of Chile</i> Comment: Signed in Santiago, Chile, during the SOAII

Country: China

1	427	1/31/1979	4/30/2001	Intergovernmental			None	Science and Technology	Gov't to Gov't S&T Title: <i>Agreement between the Government of United States of America and the Government of People's Republic of China on Cooperation in Science and Technology</i> Comment: Need copy of agreement
238	123	5/11/1983	4/30/2001	Primary DOE		1	Intergovernmental	Fusion Energy	Protocol on Nuclear Physics and Magnetic Fusion Title: <i>Protocol between the Department of Energy of the United States of America and the Ministry of Science and Technology of the People's Republic of China on Cooperation in the Fields of Nuclear Physics and Controlled Magnetic Fusion Research</i> Comment: Cooperate in promoting each other's program in Nuclear Physics and Controlled Magnetic Fusion. Co-terminates with umbrella S&T agreement.
290	223	9/28/1987	4/30/2001	Secondary DOE		239	Primary DOE	Fossil Energy	Annex 2 - Mine Safety and Health Title: <i>Annex II to the Protocol on Cooperation in the Field of Fossil Energy Research and Development between the Department of Energy of the United States of America and the Ministry of Coal Industry of the People's Republic of China in the Area of Mine Safety and Health</i> Comment: Co-terminates with the Protocol

All In Force Bilateral Agreements

ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
291	217	8/19/1987	4/30/2001	Secondary DOE		239	Primary DOE	Energy Research and Development	Annex 3 - Atmospheric Trace Gasses
<p>Title: <i>Annex III to the protocol on fossil energy R&D on Cooperation in the field of atmospheric trace gases</i></p> <p>Comment: Co-terminates with the Protocol</p>									
292	226	10/13/198	4/30/2001	Secondary DOE		239	Primary DOE	Fossil Energy	Annex 4 - Coal Preparation & Waste Stream Utilization
<p>Title: <i>Annex IV to protocol on cooperation in field of fossil energy R&D between U.S. Department of Energy & Ministry of Coal Industry of the People's Republic of China in the area of coal preparation and waste stream utilization</i></p> <p>Comment: TASKS PLANNED WERE COMPLETED IN 10/90. DISCUSSIONS ON POSSIBLE FURTHER COOPERATION IN COAL PREP. Co-terminates with the Protocol</p>									
293	227	10/13/198	4/30/2001	Secondary DOE		239	Primary DOE	Fossil Energy	Annex 5 - Atmospheric Fluidized Bed Combustion Info Exchange
<p>Title: <i>Annex V to protocol on cooperation in field of fossil energy R&D between U.S. Department of Energy - Ministry of Coal Industry of the People's Republic of China in the area of atmospheric fluidized bed (AFB) combustion information exchange</i></p> <p>Comment: EXCHANGE OF REPORTS AND DATA. Co-terminates with Protocol</p>									
296	349	2/23/1995	2/23/2000	Secondary DOE		239	Primary DOE	Fossil Energy	Annex 11 - Coal Bed Methane Recovery and Utilization
<p>Title: <i>Annex XI to the Protocol for Cooperation in the Field of Fossil Energy Research and Development between the Department Energy of the United States of America and the Ministry of Coal Industry of the People's Republic of China for Cooperation in the Area of Coalbed Methane Recovery and Utilization</i></p> <p>Comment: Promote technological and economic cooperation in coal bed methane recovery and utilization technology in order to make positive contributions toward improving recovery efficiency and utilization of globally significant natural gas energy resources.</p>									
297	348	2/23/1995	2/23/2000	Secondary DOE		239	Primary DOE	Fossil Energy	Annex 12 - Regional Climate Research
<p>Title: <i>Annex XII to the Protocol on Cooperation in the Field of Fossil Energy Research and Development between the Department Energy of the United States of America and the Ministry of Coal Industry of the People's Republic of China for Cooperation in the Area of Regional Climate Research with the China Meteorological Administration</i></p> <p>Comment: Establish a program of joint R&D and information exchange to document regional climate and climate change, to predict regional climate and climate change and to identify regional impacts of climate</p>									
485	439	11/14/199	11/14/200	Secondary DOE		239	Primary DOE	Fossil Energy	Annex 13 - Fossil Fuel Utilization
<p>Title: <i>Annex XIII to the Protocol for Cooperation in the Field of Fossil Energy Research and Development between the Department of Energy of the United States of America and the Ministry of Coal Industry of the People's Republic of China in the Area of Fossil Fuel Utilization for Production of Chemicals</i></p> <p>Comment: Co-terminates with Protocol</p>									
298	413	11/14/199	11/14/200	Secondary DOE		239	Primary DOE	Fossil Energy	Annex 14 - Bilateral Consultations on Coal Industry
<p>Title: <i>Annex XIV to the Protocol for Cooperation in the field of Fossil Energy Research & Development between the Department of Energy of the United States of America and the Ministry of Coal Industry of the People's Republic of China on Bilateral Consultations and Exchanges on Coal Industry Development and Information</i></p> <p>Comment: Co-terminates with the Protocol</p>									

All In Force Bilateral Agreements

ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
618	513	12/7/2000	12/7/2005	Secondary DOE		239	Primary DOE	Fossil Energy	Annex III - for Cooperation in the areas of Oil and Title: <i>Annex III to the Protocol for Cooperation in the Field of Fossil Energy Technology Development and Utilization between the Department of Energy of the United States of America and The Ministry of Science and Technology of the People's Republic of China for Cooperation in the areas of Oil and Gas</i> Comment:
240	351	2/23/1995	2/22/2005	Primary DOE		1	Intergovernmental	Energy Efficiency and Renewable Energy	Protocol for Energy Efficiency and Renewable Title: <i>Protocol for Cooperation in the Fields of Energy Efficiency and Renewable Energy Technology Development and Utilization between the Department of Energy of the United States of America and the Ministry of Science and Technology of the People's Republic of China</i> Comment: Desire to conduct bilateral energy consultations by forming a Chinese-American Ministerial Working Group to enhance the understanding of energy issues and promote the exchange of information on energy policies, programs and technologies.
478	432	6/27/1995	6/27/2000	Secondary DOE		240	Primary DOE	Energy Efficiency and Renewable Energy	Annex 1 - 100 Counties Renewable Energy Title: <i>Annex I to the Protocol for Cooperation in the Field of Energy Efficiency and Renewable Energy between the Department of Energy of the United States of America and the Ministry of Science and Technology of the People's Republic of China for Developing Cooperative Activities in the Area of Renewable Energy Under the Hundred Counties Integrated Rural Energy Development Program in China between the Department of Energy of the United States of America and the Ministry of Agriculture of the People's Republic of China</i> Comment: Remains in force for five years or until termination of the Protocol, whichever occurs first
299	420	10/25/199	10/25/200	Secondary DOE		240	Primary DOE	Energy Efficiency and Renewable Energy	Annex 2 - Wind Energy Development Title: <i>Wind Energy Development in China Developing Cooperative Activities between the Department of Energy of the United States of America and the Ministry of Electric Power of the People's Republic of China ANNEX II under the Protocol for Cooperation in the Fields of Energy Efficiency and Renewable Energy Technology Development and Utilization between the Department of Energy of the United States of America and the State Science and Technology Commission of the People's Republic of China</i> Comment: Remains in force for five years or until termination of the Protocol, whichever occurs first.
300	422	10/25/199	10/25/200	Secondary DOE		240	Primary DOE	Energy Efficiency and Renewable Energy	Annex 3 - Energy Efficiency Title: <i>Annex III to the Protocol for Cooperation in the Fields of Energy Efficiency and Renewable Energy Technology Development and utilization between the Department of Energy of the United States of America and the State Science and Technology Commission of the People's Republic of China for Cooperation Between the Department of Energy of the United States of America and the State Planning Commission of the People's Republic of China in the Area of Energy Efficiency</i> Comment: Remains in force for five years or until termination of the Protocol, whichever occurs first
301	421	10/25/199	10/25/200	Secondary DOE		240	Primary DOE	Energy Efficiency and Renewable Energy	Annex 4 - Renewable Energy Business Development Title: <i>Renewable Energy Business Development ANNEX IV Cooperative Activities between the Department of Energy of the United States of America and the State Economic and Trade Commission of the People's Republic of China</i> Comment: Remains in force for five years or until termination of the Protocol, whichever occurs first
302	414	11/18/199	11/18/200	Secondary DOE		240	Primary DOE	Energy Efficiency and Renewable Energy	Annex 5 - Electric Vehicle Development Title: <i>The Department of Energy of the United States of America and the Ministry of Science and Technology of the People's Republic of China for Cooperation in the Field of Energy Efficiency and Renewable Energy Technology Development and Utilization Annex V Electric Vehicle and Hybrid-Electric Vehicle Development</i> Comment: Remains in force for five years or until termination of the Protocol, whichever occurs first.

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
303	415	11/18/199	11/18/200	Secondary DOE		240	Primary DOE	Energy Efficiency and Renewable Energy	Annex 6 - Geothermal Production and Use Title: <i>Geothermal Production and Use Cooperative Activities between the Department of Energy of the United States of America and the Ministry of Science and Technology of the People's Republic of China Annex VI under The Protocol for cooperation in the Field of Energy Efficiency and renewable Energy Technology Development and Utilization between the Department of Energy of the United States of America and the State Science and Technology Commission of the People's Republic of China</i> Comment: Remains in force for five years or until termination of the Protocol, whichever occurs first.
490	443	7/9/1998		Secondary DOE		240	Primary DOE	Energy Efficiency and Renewable Energy	Design Criteria for Energy Efficient Building Title: <i>Statement of Work between the Department of Energy of the United States of America and the Ministry of Science and Technology of the People's Republic of China</i> Comment:
563	486	5/11/2000	5/11/2005	Secondary DOE		240	Primary DOE	Energy Efficiency and Renewable Energy	Annex 7 - Renewable Energy Policy and Planning Title: <i>Renewable Energy Policy and Planning Annex VII Cooperative Activities between Department of Energy of the United States of America and the State Development Planning Commission of the People's Republic of China</i> Comment: Remains in force for five years or until termination of the Protocol, whichever occurs first.
616	511	7/18/2001		Secondary DOE		240	Primary DOE	Energy Efficiency and Renewable Energy	Design Criteria for Energy Efficient Building Title: <i>Amendment to The Statement of Work of July 9, 1998 between The Department of Energy of the United States of America and The Ministry of Science and Technology of the People's Republic of</i> Comment:
621	516	2/12/2002	2/12/2007	Secondary DOE		240	Primary DOE	Energy Efficiency and Renewable Energy	Annex II - The State Power Corporation of China Title: <i>Agreement to Extend Annex II to the Protocol for Cooperation in the Fields of Energy Efficiency and Renewable Energy Technology Development and Utilization for Cooperative Activities in Wind Development in China between the Department of Energy of the United States of America and the State Power Corporation of China</i> Comment:
622	517	2/12/2002	2/12/2007	Secondary DOE		240	Primary DOE	Energy Efficiency and Renewable Energy	Annex III - State Planning Commission Title: <i>Agreement to Extend and Amend Annex III to the Protocol for Cooperation in the Fields of Energy Efficiency and Renewable Energy Technology Development and Utilization for Cooperative Activities in Energy Efficiency between The Department of Energy of the United States of America and the State Planning Commission of the People's Republic of China</i> Comment:
623	518	2/12/2002	2/12/2007	Secondary DOE		240	Primary DOE	Energy Efficiency and Renewable Energy	Annex IV - State Economic and Trade Commission Title: <i>Agreement to Extend and Amend Annex IV to the Protocol for Cooperation in the Fields of Energy Efficiency and Renewable Energy Technology Development and Utilization for Cooperative Activities in Renewable Energy Business Development between the Department of Energy of the United States of America and the State Economic and Trade Commission of the People's Republic of</i> Comment:
241	38	1/31/1979	4/30/2001	Primary DOE		1	Intergovernmental	High Energy Physics	High Energy Physics Title: <i>Implementing Accord between the U.S. Department of Energy and the State Scientific and Technological Commission of the People's Republic of China on Cooperation in the Field of High Energy Physics.</i> Comment: Co-Terminates with the S&T Agreement

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
242	311	11/4/1992	11/4/2002	Primary DOE		1	Intergovernmental	High Energy Physics	Superconducting Super Collider Title: <i>Implementing Accord between the U.S. Department of Energy and the Chinese Academy of Sciences for a Program of Collaboration on the Superconducting Super Collider</i> Comment:
522	467	1/12/2000	1/12/2005	Primary DOE		1	Intergovernmental	Information and/or Personnel Exchange	Exchange of Energy Information Title: <i>Protocol for Cooperation Concerning the Exchange of Energy Information between the Department of Energy of the United States of America and the National Bureau of Statistics of the People's Republic of China</i> Comment:
531	476	4/20/2000	4/30/2001	Primary DOE		1	Intergovernmental	Fossil Energy	Fossil Energy Protocol Title: <i>Protocol for Cooperation in the Field of Fossil Energy Technology Development and Utilization between the Department of Energy of the United States of America and the Ministry of Science and Technology of the People's Republic of China</i> Comment: Remains in force for 5 years from date of signature or as long as the Umbrella Agreement (US-China S&T) remains in force, whichever is shorter.
649	544	11/19/200	11/19/200	Secondary DOE		531	Primary DOE	Fossil Energy	Annex II - Cooperation in the area of Clean Fuels Title: <i>Annex II to the Protocol on Cooperation in the Field of Fossil Energy Technology Development and Utilization between The Department of Energy of the United States of America and The Ministry of Science and Technology of the People's Republic of China for Cooperation in the Area of Clean Fuels</i> Comment:
3	410	10/29/199		Intergovernmental			None	*Other - Energy and Environment	Energy and Environment Cooperation Initiative Title: <i>United States of American and People's Republic of China Energy and Environment Cooperation Initiative</i> Comment:
31	347	2/23/1995		Statement of Intent			None	Nuclear Energy	Research Reactor Fuel Title: <i>Statement of Intent between the Department of Energy of the United States of America and the China Atomic Energy Authority of the People's Republic of China on Research Reactor Fuel</i> Comment: Exchange information and views on opportunities for the conversion of research reactors to the use of low enriched uranium.
493	445	6/29/1998	6/29/2003	Primary DOE			None	Nuclear Energy	Nuclear Technologies Agreement Title: <i>Agreement between the Department of Energy of the United States of America and the State Development Planning Commission of the People's Republic of China on Cooperation Concerning Peaceful Uses of Nuclear Technologies</i> Comment: Subject to the Gov't to Gov't Peaceful Uses of Nuclear Energy Agreement signed July 23, 1985.
494	445	6/29/1998	6/29/2003	Secondary DOE		493	Primary DOE	Nuclear Energy	Annex 1 - IPR Title: <i>Annex I- Intellectual Property</i> Comment: Attached to original agreement.

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
620	515	5/11/2000	5/11/2005	Secondary DOE		493	Primary DOE	Energy Efficiency and Renewable Energy	Annex VII <i>Title: Renewable Energy Policy and Planning Annex VII Cooperative Activities Between the Department of Energy of the United States of America and the State Development Planning Commission of the People's Republic of China</i> Comment:
554	483	3/29/1999		Statement of Intent			None	*Other - Energy and Environment	MOU on Clean Energy Projects and Technologies <i>Title: Memorandum of Understanding Among The State Development Planning Commission of the People's Republic of China, China Development Bank, The United States Department of Energy, and Export Import Bank of the United States Regarding Cooperation on Clean Energy Projects and Technologies</i> Comment:
642	537	9/10/2002		Statement of Intent			None	Science and Technology	SOI - Clean Energy Technologies <i>Title: Statement of Intent between the Department of Energy of the United States of America and the Municipality of Beijing of the People's Republic of China Concerning Clean Energy Technologies</i> Comment:
84	345	2/23/1995		Primary DOE			None	*Other - Bilateral Energy Consultations	Bilateral Energy Consultations <i>Title: Memorandum of Understanding between the Department of Energy of the United States of America and the State Planning Commission of the People's Republic of China on Bilateral Energy Consultations</i> Comment: Desire to conduct bilateral energy consultations by forming a Chinese-American Ministerial Working Group to enhance the understanding of energy issues and promote the exchange of information on energy policies, programs and technologies.

Country: Costa Rica

36	401	5/9/1997	5/9/2002	Statement of Intent			None	Energy Efficiency and Renewable Energy	Electric Transport <i>Title: Statement of Intent by the Ministry of Environment and Energy of Costa Rica and the Department of Energy of the United States of America for Cooperation in the Field of Electric Transport</i> Comment:
504	451	11/17/199	11/17/200	Primary DOE			None	Arms Control and Nonproliferation	Sister Lab Arrangement <i>Title: Arrangement for information Exchange and Cooperation in the Area of Peaceful Uses of Nuclear Energy between Argonne National Laboratory and Atomic Energy Commission of Costa Rica</i> Comment: ACDA led sister lab.

Country: Czech Republic

4	300	10/22/199	10/22/200	Intergovernmental			None	Science and Technology	Science & Technology <i>Title: Agreement between the Government of the Czech and Slovak Federal Republic and the Government of the United States of America for Scientific and Technological Cooperation</i> Comment: Develop, support and facilitate S&T cooperation between cooperating organizations between the two countries in the areas of basic science, environmental protection, medical sciences and health, agriculture, engineering research, energy, natural resources and their useful utilization, standardization, S&T policy and management.
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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
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Country: Egypt

517	463	7/1/1999	7/1/2004	Primary DOE			None	Energy Research and Development	Energy Technology Agreement
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Title: *Implementing Arrangement between the Department of Energy of the United States of America and the Ministry of Electricity and Energy of the Arab Republic of Egypt for Cooperation in Energy Technology*

Comment:

527	472	2/23/2000	2/23/2005	Secondary DOE		517	Primary DOE	Energy Efficiency and Renewable Energy	Annex 1 - Renewable Energy
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Title: *Annex I to the Implementing Arrangement between the Department of Energy of the United States of America and the Ministry of Electricity and Energy of the Arab Republic of Egypt in the Field of Renewable Energy*

Comment:

528	473	2/23/2000	2/23/2005	Secondary DOE		517	Primary DOE	Energy Efficiency and Renewable Energy	Annex 2 - Fuel Cells
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Title: *Annex II to the Implementing Arrangement between the Department of Energy of the United States of America and the Ministry of Electricity and Energy of the Arab Republic of Egypt for Cooperation in Energy Technology in the Field of Fuel Cells*

Comment:

Country: Estonia

526	471	2/4/2000	2/4/2003	Primary DOE			None	Fossil Energy	Oil Shale Research and Utilization
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Title: *Agreement between the Department of Energy of the United States of America and the Ministry of Economic Affairs of the Republic of Estonia for Scientific and Technology Cooperation on Oil Shale Research and Utilization*

Comment: Establishes a Joint Coordinating Committee to manage cooperative work under the agreement.

99	353	3/13/1995	3/13/2000	Primary DOE			None	Environmental Restoration and Waste Management	Technical Cooperation in Clean-up Paldiski Site
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Title: *Memorandum of Understanding between the Department of Energy of the United States and the Ministry of Economy of Estonia for Technical Cooperation in the Clean-up of the Paldiski Nuclear Training Site*

Comment: Cooperate and share interests and objectives in environmental restoration and in the safe and effective management of hazardous wastes and the clean-up of the environment at and around the nuclear training site at Paldiski, Estonia.

Country: European Atomic Energy Community (EURATOM)

568	490	1/6/1995	1/6/2005	Primary DOE			None	International Safeguards	EURATOM Safeguards
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Title: *Agreement between the European Atomic Energy Community Represented by the Commission of the European Communities and the United States Department of Energy in the field of Nuclear Materials Safeguards Research and Development*

Comment: Auto renewal for five years periods.

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
576	490	2/18/1999	2/18/2001	Secondary DOE		568	Primary DOE	International Safeguards	Action Sheet 10 - Tank Analysis <i>Title: Action Sheet 10 - The United States Department of Energy (DOE) and The European Atomic Energy Community represented by The Commission of European Communities (EURATOM) for Computer Code Development for Automated Acquisition and Real-Time Analysis of Volume Measurement Data</i> Comment:
612	507	5/14/2001	5/14/2006	Primary DOE			None	Fusion Energy	Fusion Agreement between EURATOM and DOE <i>Title: Agreement for Cooperation between the European Atomic Energy Community Represented by the Commission of the European Communities and the Department of Energy of the United States of America in the Field of Fusion Energy Research and Development</i> Comment:

Country: European Union

648	543	5/14/2001	5/14/2006	Primary DOE			None	Science and Technology	Non-Nuclear Energy S&T Agreement <i>Title: Implementing Agreement between the Department of Energy of the United States of America and the European Commission for Non-Nuclear Energy Scientific and Technological Co-operation</i> Comment:
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Country: Finland

116	393	1/17/1997	1/17/2001	Primary DOE			None	Energy Research and Development	Energy R&D <i>Title: Implementing Arrangement between the Department of Energy of the United States of America and the Ministry of Trade and Industry of Finland for Cooperation in Energy Research and</i> Comment: Auto renewal for 5 years
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Country: France

39	132	10/27/198		Secondary DOE		121	Primary DOE	Environmental Restoration and Waste Management	Radioactive Waste Management--West Valley <i>Title: Statement of Intent between the United States Department of Energy and the French Commissariat a l'Energie Atomique on the West Valley Demonstration Project</i> Comment: Cooperate in the areas of treatment of radioactive waste and decontamination and decommissioning activities throughout the course of the DOE Demonstration Project at the Western New York Nuclear Service Center located at West Valley, New York.
40	185	6/20/1986		Secondary DOE		121	Primary DOE	Civilian Radioactive Waste Management	Low-Level Radioactive Waste <i>Title: Statement of Intent between the United States Department of Energy and the French Commissariat a l'Energie Atomique in the Field of Low-Level Radioactive Waste</i> Comment: Confirm intent to expand radioactive waste management cooperation in the area of surface and subsurface disposal and storage of low-level radioactive waste, as well as defined activities.

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
128	416	12/29/199	12/29/200	Primary DOE			None	Arms Control and Nonproliferation	Material Control and Accounting
<p>Title: <i>Agreement between the Department of Energy of the United States and the Commissariat a l'Energie Atomique of France Concerning Research and Development in the Field of Nuclear Material Control and Accounting Measures</i></p> <p>Comment: Cooperate on research, development, testing and evaluation in the area of nuclear material control and accounting measures.</p>									
577	416	1/20/2000	1/20/2001	Secondary DOE		128	Primary DOE	Arms Control and Nonproliferation	Action Sheet 2 - Isotopic Analysis Evaluation Using the PC/FRAM Physics Isotopics Software
<p>Title: <i>Action Sheet No. 2 The United States Department of Energy (DOE) and The Commissariat a l'Energie Atomique (CNEA) of France for Isotopic Analysis Evaluation Using the PC/FRAM Physics Isotopics Software</i></p> <p>Comment:</p>									
129	417	12/29/199	12/29/200	Primary DOE			None	Arms Control and Nonproliferation	Physical Protection of Nuclear Materials
<p>Title: <i>Agreement between the Department of Energy of the United States and the Commissariat a l'Energie Atomique of France Concerning Research and Development in the Field of Physical Protection of Nuclear Materials and Facilities</i></p> <p>Comment: Improve the US & France nuclear materials and facilities physical protection procedures</p>									
567	417	3/14/2000	3/14/2002	Secondary DOE		129	Primary DOE	International Safeguards	Action Sheet 3 - Nuclear Materials Transportation Security
<p>Title: <i>Action Sheet No. 3 The United States Department of Energy (DOE) and the Commissariat a l'Energie Atomique of France (CEA) for Nuclear Transportation Security</i></p> <p>Comment:</p>									
130	357	4/26/1995	4/26/2005	Primary DOE			None	High Energy Physics	Accelerator Driven Technology
<p>Title: <i>Agreement between the Department of Energy and the Commissariat a l'Energie Atomique for Cooperation in Research Development and Application for Accelerators driven Technology</i></p> <p>Comment: Conduct cooperative program of scientific and technical engineering in research, development and application for accelerator driven technology</p>									
131	377	9/20/1995	9/20/2000	Primary DOE			None	Civilian Radioactive Waste Management	Radioactive Waste Management
<p>Title: <i>Agreement between the United States Department of Energy and the French Commissariat a l'Energie Atomique in the field of Radioactive Waste Management</i></p> <p>Comment: Cooperation in the management of radioactive wastes for the purpose of minimizing the consequences of radioactive contamination on health and environment and promoting the safe and economic application of nuclear energy. Cooperation includes: characterization of geologic formations; field/laboratory testing; preparation/packaging of radioactive wastes; disposal in geologic formations; environmental and safety issues, etc.</p>									
132	379	10/8/1995	10/8/2000	Primary DOE			None	Civilian Radioactive Waste Management	Radioactive Waste Management
<p>Title: <i>Agreement between the United States Department of Energy and the National Radioactive Waste Management Agency of France in the Field of Radioactive Waste Management</i></p> <p>Comment: Cooperate for purposes of minimizing consequences of radioactive contamination on health and environment and promoting safe and economic application of nuclear energy.</p>									

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
564	487	5/9/2000	5/9/2005	Primary DOE			None	Defense Programs	DOE/DGA Emerging Technologies
<p>Title: <i>Technical Arrangement between the Department of Energy of the United States of America and the Minister of Defense of the French Republic Concerning Cooperation in the Application of Emerging Technologies</i></p> <p>Comment: Auto Renewal for 5 year periods.</p>									
582	257	8/9/1994	8/9/2004	Primary DOE			None	Defense Programs	1994- High Energy Lasers
<p>Title: <i>Agreement between the Department of Energy of the United States of America and the Commissariat a l'Energie Atomique of France of Cooperation in Research, Development and Applications of High Energy Lasers and high Energy Laser-Mater Interaction Physics</i></p> <p>Comment:</p>									
316	342	11/19/199		Secondary DOE		582	Primary DOE	Defense Programs	Megajoule-Class Solid State Lasers - IA #1
<p>Title: <i>Implementing Arrangement 1 between the United States Department of Energy and the French Atomic Energy Commission concerning Sharing of Science and Technology Information Related to Megajoule-class Solid State Lasers</i></p> <p>Comment: Sharing of specific S&T information related to megajoule-class solid state lasers.</p>									
317	343	11/19/199	8/9/2004	Secondary DOE		582	Primary DOE	Defense Programs	Megajoule-Class Solid State Laser Technology - IA
<p>Title: <i>Implementing Arrangement #2 between the United States Department of Energy and the French Commissariat a l'Energie Atomique on Cooperation in Megajoule-Class Solid State Laser Technology</i></p> <p>Comment: Implement cooperative activities in research and development in megajoule-class solid state laser technology (high-power, high-energy solid state lasers and target experimental chambers and support</p>									
601	496	9/18/2000	9/18/2005	Primary DOE			None	Nuclear Energy	Advanced Nuclear Reactor
<p>Title: <i>Agreement between The Department of Energy of the United States of America and The Commissariat A L'Energie Atomique of France for Cooperation in Advanced Nuclear Reactor Science and Technology</i></p> <p>Comment:</p>									
635	530	7/9/2001	7/9/2006	Secondary DOE		601	Primary DOE	Nuclear Energy	Advanced Nuclear Reactor Science and Technology (1-NERI)
<p>Title: <i>Implementing Arrangement No. 1 under the Agreement between the Department of Energy of the United States of America and Commissariat A L'Energie Atomique of France for Cooperation in Advanced Nuclear Reactor Science and Technology</i></p> <p>Comment: International Nuclear Energy Research Initiative</p>									
629	524	1/2/2002	1/2/2007	Statement of Intent			None	Exchange of Information on Research in Life Sciences	SOI between DOE and France
<p>Title: <i>Statement of Intent Between the Department of Energy of the United States of America and the Commissariat A' L'Energie Atomique of France Concerning Exchange of Information on Research in Life Sciences</i></p> <p>Comment:</p>									
630	525	3/13/2002	3/12/2007	Primary DOE			None	Computer Sciences	Computer Sciences
<p>Title: <i>Agreement between the Department of Energy of the United States of America and the Commissariat A' L'E'nergie Atomique of France Concerning Cooperation in Computer Sciences</i></p> <p>Comment:</p>									

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
631	526	3/13/2002	3/13/2007	Primary DOE			None	Fundamental Science	Fundamental Science on Stockpile Stewardship Title: <i>Agreement between the Department of Energy of the United States of America and the Commissariat A' L'E'nergie Atomique of France Concerning Cooperation in Fundamental Science Supporting Stockpile Stewardship</i> Comment:
650	545	5/23/2002	5/23/2007	Primary DOE			None	Civilian Radioactive Waste Management	Radioactive Waste Management Agreement Title: <i>Agreement between the Department of Energy of the United States of America and the Commissariat A L'Energie Atomique of France in the field of Radioactive Waste Management</i> Comment:
Country: <u>Germany</u>									
613	508	7/24/2001	7/24/2006	Primary DOE			None	Science and Technology	Agreement between DOE and Germany on Dense Plasma Physics Title: <i>Implementing Agreement between the Federal Ministry of Education and Research of the Federal Republic of Germany and the Department of Energy of the United States of America on Collaboration in the Field of Dense Plasma Physics</i> Comment:
88	419	2/20/1998	2/20/2003	Primary DOE			None	Energy Research and Development	Energy Research Title: <i>Agreement Between the Department of Energy of the United States of America and the Federal Ministry of Education, Science, Research and Technology of the Federal Republic of Germany on Cooperation in Energy Research, Science and Technology, and Development</i> Comment: Auto renewal for 5 year periods. Broad-based umbrella agreement to allow formal cooperation in various program areas
480	434	5/12/1998	5/12/2001	Secondary DOE		88	Primary DOE	Environmental Restoration and Waste Management	Project: Transportation of Rad Waste Title: <i>Project Agreement between the Department of Energy of the United States of America and the Federal Institute for Material Research and Testing of the Federal Republic of Germany: Technical Exchange and Cooperation on Transportation Requirements in the Field of Management of Radioactive Waste</i> Comment:
93	31	9/27/1977		Primary DOE			None	Arms Control and Nonproliferation	Nuclear Materials Safeguards/Physical Security Title: <i>Agreement between the United States Department of Energy and the Federal Minister for Research and Technology of Germany Cooperate in the field of Nuclear Material Safeguards and Physical Security Research and Development</i> Comment: Open-end expiration date

Country: Ghana

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
149	392	10/1/1996	10/1/2001	Primary DOE			None	Energy Research and Development	Energy Policy, S&T and Development
<p>Title: <i>Memorandum of Understanding between the Department of Energy of the United States of America and the Ministry of Mines and Energy of the Republic of Ghana on Cooperation in Energy Policy, Science and Technology, and, Development</i></p> <p>Comment: Facilitate and establish cooperative activities in such areas as: energy efficiency and renewable energy; fossil energy, including natural gas, liquefied petroleum gas, and clean coal technologies; environmental management, including utilization of energy technologies, particularly cost-effective technologies aimed at reducing emissions of greenhouse gases and minimizing environmental impacts; independent power project development, etc.</p>									
330	399	2/27/1997	2/27/2001	Secondary DOE		149	Primary DOE	Energy Efficiency and Renewable Energy	Industrial Assessment Center
<p>Title: <i>Implementing Arrangement Between the Department of Energy of the United States of America and the Ministry of Mines and Energy of the Republic of Ghana: Exchange of Information, Technical Assistance and Collaboration for the Establishment of the Industrial Assessment Center at the University of Science and Technology in Kumasi, Ghana</i></p> <p>Comment:</p>									
43	378	9/29/1995		Statement of Intent			None	Energy Efficiency and Renewable Energy	Energy Efficiency and Renewable Energy
<p>Title: <i>Statement of Intent between the Department of Energy of the United States and the Ministry of Mines and Energy of the Republic of Ghana to Cooperate in the Fields of Energy Efficiency and Renewable Energy</i></p> <p>Comment: Exchanging experience and views on opportunities for the utilization of energy efficiency and renewable energy technologies.</p>									
44	380	10/30/199		Primary DOE			None	Nuclear Energy	Peaceful Uses of Nuclear Energy
<p>Title: <i>Memorandum of Understanding for the Exchange of Technical Information and for Cooperation in the Field of Peaceful Uses of Nuclear Energy between the Ghana Atomic Energy Commission and Argonne National Laboratory</i></p> <p>Comment: Establish the basis for a cooperative institutional relationship for the exchange of S&T information regarding the peaceful uses of atomic energy. This is between Ghana Atomic Energy Commission and ARGONNE NATIONAL LAB)</p>									

Country: India

615	510	9/13/2000	9/13/2005	Primary DOE			None	Energy Efficiency and Renewable Energy	MOU between DOE and India concerning Energy Consultations
<p>Title: <i>Memorandum of Understanding between the Ministry of Power of the Republic of India and the Department of Energy of the United States of America Concerning Energy Consultations</i></p> <p>Comment:</p>									

Country: Israel

156	384	2/1/1996	2/1/2001	Primary DOE			None	Energy Efficiency and Renewable Energy	Energy Cooperation
<p>Title: <i>Agreement between the Department of Energy of the United States of America and the Ministry of Energy and Infrastructure of Israel Concerning Energy Cooperation</i></p> <p>Comment: Establish a framework for collaboration in energy R&D activities including: solar energy; biomass; energy efficiency; wind energy; fossil energy, including oil, gas and coal; electric power production and transmission. Annex I on Intellectual Property and Annex II on Security Obligations are attached. Discussion underway in clean coal technology and electric vehicles.</p>									

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
530	475	2/22/2000		Statement of Intent			None	Arms Control and Nonproliferation	SOI on Nonproliferation, Arms Control and Regional Security
<p>Title: <i>Letter of Intent between the Department of Energy of the United States of America and the Atomic Energy Commission of Israel on cooperation in the Fields of Non-Proliferation, Arms Control, and Regional Security</i></p> <p>Comment:</p>									
617	512	10/23/200	10/23/200	Primary DOE			None	Energy Efficiency and Renewable Energy	Cooperation in the Field of High Temperature Superconductivity
<p>Title: <i>Implementation Agreement 3 between the Department of Energy of the United States of America and the Ministry of National Infrastructure of the State of Israel for Cooperation in the Field of High Temperature Superconductivity</i></p> <p>Comment:</p>									

Country: Italy

160	358	5/26/1995	5/26/2000	Primary DOE			None	Energy Research and Development	Energy R&D
<p>Title: <i>Agreement between the Department of Energy of the United States of America and the Ministry of Industry, Commerce and Handicraft of the Italian Republic in the Field of Energy Research and Development</i></p> <p>Comment: continues 1985 MOU in Energy R&D</p>									
344	358	5/7/1997		Secondary DOE		160	Primary DOE	Fossil Energy	Annex 3 - Fossil Energy
<p>Title: <i>Annex III to the Agreement between the Department of Energy of the United States of America and the Ministry of Industry, Commerce and Handicraft of the Republic of Italy to Cooperate in the Field of Fossil Energy</i></p> <p>Comment: Two additional areas were added in March 1998; fuel cells for power applications and externally fired combined cycle systems</p>									
345	358	3/24/1998	3/24/2003	Secondary DOE		160	Primary DOE	Energy Efficiency and Renewable Energy	Annex 4 - Advanced Geothermal Technology
<p>Title: <i>Annex IV to the Agreement between the Department of Energy of the United States of America and the Ministry of Industry, Commerce and Handicraft of the Republic of Italy in the Field of Energy Research and Development for Cooperation on Advanced Geothermal Technology</i></p> <p>Comment: Provides for collaboration between Ladrello and the Geyser Geothermal Facilities</p>									
346	358	3/24/1998	3/24/2008	Secondary DOE		160	Primary DOE	Energy Efficiency and Renewable Energy	Annex 5 - Biomass Energy
<p>Title: <i>Annex V to the Agreement between the Department of Energy of the United States of America and the Ministry of Industry, Commerce and Handicraft of the Republic of Italy in the Field of Energy Research and Development for Cooperation in the Field of Biomass Energy</i></p> <p>Comment: Information Exchange on biomass systems. Task sharing on hot gas clean-up for medium-scale gasifiers.</p>									
347	358	3/24/1998	3/24/2008	Secondary DOE		160	Primary DOE	Energy Efficiency and Renewable Energy	Annex 6 - Photovoltaic Technology
<p>Title: <i>Annex VI to the Agreement between the Department of Energy of the United States of America and the Ministry of Industry, Commerce and Handicraft of the Republic of Italy in the Field of Energy Research and Development for Cooperation in the Field of Photovoltaic Technology</i></p> <p>Comment: Info exchange on reducing manufacturing costs of PV cells. Cooperation on guidelines for building integrated PV systems.</p>									

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
492	444	7/10/1998	7/10/2003	Secondary DOE		160	Primary DOE	Energy Research and Development	Annex 7 - Electric and Hybrid Vehicles
Title: <i>Annex VII to the Agreement between the Department of Energy of the United States of America and the Ministry of Industry, Commerce and Handicraft of the Republic of Italy in the Field of Energy Research and Development for Cooperation in the Field of Electric and Hybrid Vehicles</i>									
Comment: Remains in force for 5 years or until the Agreement expires, whichever is sooner.									
7	323	10/4/1993	10/4/2003	Intergovernmental			None	Science and Technology	Gov't to Gov't S & T
Title: <i>Agreement between the Government of the United States of America and the Government of the Italian Republic for Scientific and Technological Cooperation</i>									
Comment: Science and Technology agreement between the United States and the Government of Italy which allows U.S. Government agencies to undertake cooperation in their respective areas of responsibility. Renewed last in 1998.									
46	323	10/31/198		Statement of Intent		7	Intergovernmental	Information and/or Personnel Exchange	Synchrotron Light Source
Title: <i>Protocol of Intent of Intent between the Department of Energy of the United States of America and the Ministry of the University and of Scientific and Technological Research of the Republic of Italy</i>									
Comment:									

Country: Japan

251	385	5/3/1996	5/3/2001	Primary DOE		10	Intergovernmental	Science and Technology	DOE/STA Basic Science & Technology
Title: <i>Implementing Arrangement between the Department of Energy of the United States of America and the Science and Technology Agency of Japan in the Field of Basic Science and Technology</i>									
Comment: Determine cooperation on joint projects in the field of basic S&T which may include nuclear physics; synchrotron radiation; medical application of the radiation produced by accelerators; spin physics program at the Relativistic Heavy Ion Collider and biologic effects of radiation.									
166	195	12/3/1986	12/2/2001	Primary DOE			None	Nuclear Energy	Radioactive Waste Management
Title: <i>Agreement between the United State Department of Energy and the Power Reactor and Nuclear Fuel Development Corp of Japan in the Area of Radioactive Waste Management</i>									
Comment: Study topics and develop cooperatively and jointly technology and techniques necessary for the safe management of radioactive wastes.									
511	195	7/17/1998	7/17/2000	Secondary DOE		166	Primary DOE	Civilian Radioactive Waste Management	Project Annex on Engineered Barriers
Title: <i>Project Annex for Cooperation in Near-Field Performance and Analyses on the Long-Term Behavior of the Engineered Barriers under the Agreement between the Department of Energy of the United States of America and the Power Reactor and Nuclear Fuel Development Corporation Japan in the Area of Radioactive Waste Management</i>									
Comment:									
395	365	2/19/1997	5/19/2000	Secondary DOE		171	Primary DOE	Arms Control and Nonproliferation	Action Sheet 30 - Randomized Inspection (PNC)
Title: <i>Action Sheet PNC 30 The United States Department of Energy (DOE) and The Power Reactor and Nuclear Fuel Development Corporation of Japan (PNC) for Joint Study of Improved Safeguards Methodology Using Non-Notice Randomized Inspection</i>									
Comment:									

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
545	365	12/18/1999	12/18/2000	Secondary DOE		171	Primary DOE	Arms Control and Nonproliferation	Action Sheet 37 - A-MAGB at Plutonium Fuel Production Facility Title: <i>Action Sheet 37 between the United States Department of Energy (DOE) and the Japan Nuclear Cycle Development Institute (JNC) for Development of Plutonium Isotopic Systems for Measuring Containers in the Advanced Material Accountancy Glove Box at PFPF</i> Comment:
546	365	12/18/1999	12/18/2000	Secondary DOE		171	Primary DOE	Arms Control and Nonproliferation	Action Sheet 38 - Remote Monitoring for Tokai Title: <i>Action Sheet 38 between the United States Department of Energy (DOE) and the Japan Nuclear Cycle Development Institute (JNC) for Development of Remote Monitoring for Tokai Vitrification Facility Safeguards System</i> Comment:
547	365	3/12/1999	3/12/2002	Secondary DOE		171	Primary DOE	Arms Control and Nonproliferation	Action Sheet 39 - Radiation Sensor Monitors at Title: <i>Action Sheet 39 between The United States Department of Energy (DOE) and The Japan Nuclear Cycle Development Institute (JNC) for Development of Radiation Sensor Monitors to Improve Dual C/S at Monju Reactor Core</i> Comment:
548	365	3/22/1999	3/22/2002	Secondary DOE		171	Primary DOE	Arms Control and Nonproliferation	Action Sheet 40 - Isotope Dilution Gamma-Ray Spectrometry Title: <i>Action Sheet (40) between The United States Department of Energy (DOE) and The Japan Nuclear Cycle Development Institute (JNC) for Joint Research and Development Study of the Metrology of the Isotope Dilution Gamma-Ray Spectrometry (IDGS)</i> Comment:
549	365	3/24/1999	9/24/2000	Secondary DOE		171	Primary DOE	Arms Control and Nonproliferation	Action Sheet 41 Conceptual Design for RETF Safeguards System Phase 2. Title: <i>Action Sheet 41 between The Japan Nuclear Cycle Development Institute (JNC) And The United States Department of Energy (DOE) For Joint Study on the Conceptual Design for the RETF Safeguards System (Phase-2)</i> Comment:
173	356	4/11/1995	4/11/2005	Primary DOE			None	Nuclear Energy	Nuclear Reactor Technologies R&D Title: <i>Memorandum of Understanding between the United States Research and Development Organizations and the Japanese Research Organizations for Cooperation in Nuclear Reactor Technologies Research and Development</i> Comment: Provide a vehicle for cooperation between DOE and its national laboratories, EPRI and the Advanced Reactor Corporation, and the Japanese R&D Organizations, including PNC, JAPC, JAERI and CRJEPI to cooperate in nuclear reactor technologies R&D.
174	362	7/17/1995	7/17/2005	Primary DOE			None	Nuclear Energy	Nuclear Research and Development - JAERI Title: <i>Agreement between the Department of Energy of the United States of America and the Japan Atomic Energy Research Institute in the Field of Nuclear Research and Development</i> Comment: Cooperation to conduct programs associated with nuclear R&D in such areas as basic nuclear S&T, nuclear safety, and advanced nuclear technologies.

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
397	428	4/23/1998	4/23/2001	Secondary DOE		174	Primary DOE	High Energy Physics	Collaborative program for target development for high power spallation neutron sources
<p>Title: <i>Specific Memorandum of Agreement between the Japan Atomic Energy Research Institute and the Department of Energy of the United States of America for Collaborative Program of Target Development for High Power Spallation Neutron Sources</i></p> <p>Comment: Work will be performed at the Alternating Gradient Synchrotron facility at Brookhaven National Laboratory</p>									
481	435	6/9/1997	6/9/2007	Secondary DOE		174	Primary DOE	Arms Control and Nonproliferation	SMA - Safeguards
<p>Title: <i>Specific Memorandum of Agreement between the Japan Atomic Energy Research Institute and the Department of Energy of the United States of America Concerning Research and Development in Nuclear Material Control, Accountancy, Verification and Physical Protection</i></p> <p>Comment:</p>									
523	468	1/27/2000	1/27/2005	Primary DOE			None	Arms Control and Nonproliferation	DOE/JNC Safeguards Agreement
<p>Title: <i>Agreement between the Department of Energy of the United States of America and the Japan Nuclear Cycle Development Institute For Cooperation in Research and Development (R&D) Concerning Nuclear Material Control and Accounting Measures for Safeguards and Nonproliferation</i></p> <p>Comment: Improving the efficiency and effectiveness of equipment and techniques for safeguards and nonproliferation to implement policies and procedures pursuant to the non-proliferation treaty.</p>									
550	482	1/27/2000	7/27/2001	Secondary DOE		523	Primary DOE	Arms Control and Nonproliferation	Action Sheet 42 Measurement Methods for Scrap Materials
<p>Title: <i>Action Sheet 42 between The Japan Nuclear Cycle Development Institute (JNC) and The United States Department of Energy (DOE) For Investigation of Measurements Methods for Scrap Materials with High Impurities</i></p> <p>Comment:</p>									
551	482	1/27/2000	1/27/2003	Secondary DOE		523	Primary DOE	Arms Control and Nonproliferation	Action Sheet 43 NDA Techniques at Ningyo
<p>Title: <i>Action Sheet 43 between The United States Department of Energy (DOE) and The Japan Nuclear Cycle Development Institute (JNC) for Design Studies and Development of NDA Techniques for In-Process and Waste Invention at the Ningyo Enrichment Plant</i></p> <p>Comment:</p>									
552	482	1/27/2000	1/27/2002	Secondary DOE		523	Primary DOE	Arms Control and Nonproliferation	Action Sheet 44 - Dry Reprocessing Methods
<p>Title: <i>Action Sheet 44 between The Japan Nuclear Cycle Development Institute (JN) and The United States Department of Energy (DOE) for A Joint Study of Safeguards Systems for Dry Reprocessing</i></p> <p>Comment:</p>									
553	482	1/27/2000	1/27/2003	Secondary DOE		523	Primary DOE	Arms Control and Nonproliferation	Action Sheet 45 Remote Monitoring System at PFPF
<p>Title: <i>Action Sheet 45 between The United States Department of Energy (DOE) and The Japan Nuclear Cycle Development Institute (JNC) for Development of the Integrated Remote Monitoring System at the Plutonium Fuel Production Facility in Japan</i></p> <p>Comment:</p>									

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
597	492	8/22/2000	8/22/2005	Primary DOE			None	Nuclear Energy	Agreement for Nuclear Technologies <i>Title: Agreement Between The Department of Energy of the United States of America and The Japan Nuclear Cycle Developments Institute in the Field of Nuclear Technologies.</i> Comment:
640	535	7/10/2002	7/10/2005	Primary DOE			None	Civilian Radioactive Waste Management	Nuclear Waste Management Organization Agreement (NUMO) <i>Title: Agreement between the Department of Energy of the United States of America and the Nuclear Waste Management Organization of Japan in the Field of Radioactive Waste Management</i> Comment:
643	538	9/2/2002	9/2/2005	Primary DOE			None		Agreement bet. DOE and the Japan Atomic Energy Research Institute <i>Title: Specific Memorandum of Agreement between the Department of Energy of the United States of America and the Japan Atomic Energy Research Institute on Cooperation in the Field of Synchrotron Radiation Research</i> Comment:
653	548	3/19/2003	3/19/2008	Primary DOE			None	Civilian Radioactive Waste Management	Radioactive Waste Management <i>Title: Agreement between the Department of Energy of the United States of America and the Japan Nuclear Cycle Development Institute in the Field of Radioactive Waste Management</i> Comment:
657	552	8/18/2000	8/18/2005	Amendment		263	None	Fusion Energy	Amendment V <i>Title: Amendment V to the Agreement between the Japan Atomic Energy Research Institute and the United States Department of Energy on Cooperation in Doublet III Project</i> Comment:
8	42	5/2/1979	5/1/2005	Intergovernmental			None	Energy Research and Development	US/Japan Energy and Related Fields Agreement <i>Title: Agreement between the Government of the United States of America and the Government of Japan on Cooperation in Research and Development in Energy and Related Fields</i> Comment: Maintaining and intensifying cooperation in research and development in energy and related fields.
22	114	1/24/1983	5/1/2005	Broad		8	Intergovernmental	Fusion Energy	Fusion Energy <i>Title: Exchange of Notes establishing the Cooperation in Fusion Research and Development</i> Comment: A cooperative program for the exchange of information, personnel and equipment, and special activities as may be mutually agreed, in various technical areas of fusion energy between DOE and the Ministry of Education, the STA, MONBUSHO, and the MITI, as established by an exchange of diplomatic notes and separate agreements within each organization. Remains in force as long as the Agreement between US-Japan on Cooperation in Research and Development in Energy and Related Fields remains in force.
255	116	1/25/1983	5/1/2005	Primary DOE		22	Broad	Fusion Energy	Fusion Energy - MITI <i>Title: Exchange of Letters establishing the MITI-DOE Cooperation in Fusion Research and Development</i> Comment: Remains in effect as long as the Exchange of Notes between USA-Japan on Cooperation in Fusion Research and Development

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
256	117	1/25/1983	5/1/2005	Primary DOE		22	Broad	Fusion Energy	Fusion Energy - STA - Primary DOE agreement
Title: <i>Exchange of Letters establishing the STA-DOE Cooperation in Fusion Research and Development</i>									
Comment: Remains in effect as long as the Exchange of Notes between USA-Japan on Cooperation in Fusion Research and Development									
417	134	11/8/1983	5/1/2005	Secondary DOE		256	Primary DOE	Fusion Energy	Fusion Research and Development - JAERI
Title: <i>Implementing Arrangement between the Japan Atomic Energy Research Institute and the United States Department of Energy on Cooperation in Fusion Research and Development</i>									
Comment: Appoint coordinators to report to Fusion Committee and to cooperate in such areas as plasma-containment devices, such as tokomaks; joint research related to plasma physics; magnetic fusion concepts; magnetic systems for fusion devices; plasma engineering; fusion-reactor materials; fusion-systems engineering; environmental and safety aspects of fusion energy; plasma diagnostics and vacuum technology; and applications of fusion energy.									
463	133	11/8/1983	3/31/2004	Tertiary DOE		417	Secondary DOE	Fusion Energy	Annex 1 - First Wall and Blanket Structural
Title: <i>Annex I to Implementing Arrangement between Japan Atomic Energy Research Institute and U.S. Department of Energy on Cooperation in Fusion Research and Development U.S.-Japan Collaborative Testing of First Wall and Blanket Structural Materials with Mixed Spectrum Fission Reactors</i>									
Comment: JOINT IRRADIATION EXPERIMENTS AND EVALUATION OF RESULTS.									
466	210	6/11/1987	6/11/2001	Tertiary DOE		417	Secondary DOE	Fusion Energy	Annex 4 - Fusion - Fuel Processing
Title: <i>Annex IV to the Implementing Arrangement between the Japan Atomic Energy Research Institute and the United States Department of Energy on Cooperation in Fusion Research and Development for the DOE-JAERI Collaborative Program Technology for Fusion-Fuel Processing</i>									
Comment: Define, conduct, evaluate the joint operation/experiments on fusion fuel technology with TSTA at LANL for the purposes of developing and demonstrating fuel process technology for fusion power systems; developing/testing environmental/personnel protective systems for tritium handling; developing/testing/qualifying equipment and material for tritium services in the fusion energy program,									
471	270	1/11/1990	1/11/2005	Tertiary DOE		417	Secondary DOE	Fusion Energy	Annex 9 - Data Link
Title: <i>Annex IX to the Implementing Arrangement between the Japan Atomic Energy Research Institute and United States Department of Energy on Cooperation in Fusion Research and Development for the DOE-JAERI Collaboration on the Data Link</i>									
Comment: Establish the Data Link to facilitate rapid information exchanges between fusion researchers of the Parties through (1) code development and/or usage; (2) data analysis and/or theory/experiment comparison; (3) access to computers in home countries by visiting scientists for computations related to purpose of visit; (4) administration of the Data Link. VISITS: Yes DURATION: To Be Determined DOE/HQ CONTACT: Arthur Katz, ER-523, (301) 903-4932; FTS: 233-4932									
257	115	1/29/1983	5/1/2005	Primary DOE		22	Broad	Fusion Energy	Fusion Energy - Monbusho - Primary DOE
Title: <i>Exchange of Letters establishing the Monbusho-DOE Cooperation in Fusion Research and Development</i>									
Comment: Remains in effect as long as the Exchange of Notes between USA-Japan on Cooperation in Fusion Research and Development									
419	214	7/17/1987	7/19/2001	Secondary DOE		257	Primary DOE	Fusion Energy	Annex 1 - Irradiation Effects Utilizing Fission
Title: <i>Annex 1 to 01/25/83 exchange of letters between Japan Ministry of Education (Monbusho) and USDOE on cooperation in fusion R&D for collaboration in fundamental studies of irradiation effects in fusion materials utilizing fission</i>									
Comment: JOINT IRRADIATION AND EVALUATION EXPERIMENTS ON MATERIALS									

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
420	258	12/12/198	12/21/200	Secondary DOE		257	Primary DOE	Fusion Energy	Annex 2 - Data Link & Data Link Projects for <i>Title: Annex II to the January 25, 1983 Exchange of Letters between Monbusho of Japan and the Department of Energy of the United States on Cooperation in Fusion Research and Development</i> <i>Monbusho-DOE Collaboration on a data Link and Data Link Projects for Fusion</i> <i>Comment: STEERING COMMITTEE MEETING</i>
602	497	1/17/2001	7/19/2007	Secondary DOE		257	Primary DOE	Fusion Energy	Amendment 4 - Annex 1 Fusion Research and Development <i>Title: Amendment 4 of Annex I to the DOE - Monbusho Exchange of Letters on Cooperation in Fusion Research and Development</i> <i>Comment:</i>
259	228	10/16/198	5/1/2005	Primary DOE		8	Intergovernmental	Fossil Energy	Coal R&D - AIST and ANRE <i>Title: Implementing Arrangement between the Agency of Industrial Science and Technology and the Agency of Natural Resources and Energy of Japan and the United States Department of Energy in Coal Research and Development</i> <i>Comment: Establish comprehensive cooperation in the area of coal energy R&D in order to accelerate development of coal R&D efforts, i.e., coal liquefaction, coal gasification; materials and components for coal conversion and utilization; pollution control technology related to coal conversion and utilization.</i>
262	48	8/24/1979	5/1/2005	Primary DOE		8	Intergovernmental	Fusion Energy	Fusion Energy/Coordinating Committee <i>Title: Exchange of Letters Establishing a Coordinating Committee on Fusion Energy</i> <i>Comment: Establish a Coordinating Committee on Fusion Energy to facilitate the coordination and implementation of cooperative activities in the area of fusion as well as to assure proper balance and to ensure the overall planning and oversight of such cooperative activities.</i>
263	50	8/28/1979	8/28/2000	Primary DOE		8	Intergovernmental	Fusion Energy	Fusion Energy/Doublet III <i>Title: Agreement between the United States Department of Energy and the Japan Atomic Energy Research Institute on Cooperation in Doublet III Project</i> <i>Comment: Undertake experimental research on tokamak plasmas with doublet and dee-shaped cross-sections in the Doublet III, a tokamak facility, located in LaJolla, California.</i>
264	58	11/11/197	5/1/2005	Primary DOE		8	Intergovernmental	High Energy Physics	High Energy Physics <i>Title: Implementing Arrangement between the Department of Energy of the United States of America and the Ministry of Education, Science and Culture of Japan on Cooperation in Field of High Energy Physics</i> <i>Comment: Establish a framework for cooperation in the field of high energy physics including research; accelerator and detector instrumentation R&D; the fabrication and subsequent use of new experimental devices and facilities. Remains in forces for the duration of the U.S.-Japan R&D in Energy and Related Fields Agreement signed on May 2, 1979</i>

Country: Kazakhstan

186	402	7/12/1996		Primary DOE			None	Science and Technology	Energy R&D and Tech exchange <i>Title: Agreement between the Department of Energy of the United States of America and the Ministry of Science-Academy of Sciences of the Republic of Kazakhstan on Scientific Research and Development and Technology Exchange Programs</i> <i>Comment:</i>
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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
428	402	5/13/1997		Secondary DOE		186	Primary DOE	*Other - Remote Sensing	Remote Sensing Mission
Title: <i>Annex 1 - For the Conduct of the Remote Sensing Mission (AMPS) in the Republic of Kazakhstan</i>									
Comment:									
529	474	12/19/200		Primary DOE			None	Arms Control and Nonproliferation	Decommissioning of the BN-350 Reactor
Title: <i>Implementing Arrangement between the Department of Energy of the United States of America and the Ministry of Energy, Industry and Trade of the Republic of Kazakhstan Concerning Decommissioning of the BN-350 Reactor</i>									
Comment:									
Country: <u><i>Korea, Republic of</i></u>									
180	389	6/14/1996	6/14/2001	Primary DOE		11	Intergovernmental	Fusion Energy	Fusion Energy Research and Related Fields
Title: <i>Implementing Arrangement between the Department of Energy of the United States of America and the Ministry of Science and Technology of the Republic of Korea for Cooperation in the Area of Fusion Energy Research and Related Fields</i>									
Comment: Promote S&T cooperation in fusion energy research and related fields in order to enhance contributions. Remains in force for 5 years or until termination of the S&T Agreement, whichever occurs first.									
626	521	6/14/2001	6/14/2006	Secondary DOE		180	Primary DOE	Fusion Energy	Extension on the Implementing Arrangement between DOE and Korea
Title: <i>Agreement to Extend the Implementing Arrangement between the Department of Energy of the United States of America and the Ministry of Science and Technology of the Republic of Korea for Cooperation in the Area of Fusion Energy Research and Related Fields</i>									
Comment:									
179	388	6/14/1996	6/14/2001	Primary DOE			None	Nuclear Energy	Cooperative Laboratory Relationship
Title: <i>Memorandum of Understanding between the Department of Energy of the United States of America and the Ministry of Science and Technology of the Republic of Korea for a Cooperative Laboratory Relationship</i>									
Comment: Cooperate in the field of peaceful uses of nuclear energy including such areas as: nuclear waste management; nuclear safety and environment; nuclear safeguards technology; basic sciences; education; health physics; environmental research related to nuclear technology, etc									
595	388	6/29/2000	6/29/2005	Secondary DOE		179	Primary DOE	Nuclear Energy	Annex 4 - Cintichem Process Technology (first project annex)
Title: <i>Annex 4 Joint Project on Cintichem Technology between the Department of Energy of the United States of America and the Korea Atomic Energy Research Institute under the Memorandum of Understanding between the Department of Energy of the United States of America and the Ministry of Science and Technology of the Republic of Korea for a Cooperative Laboratory Relationship</i>									
Comment:									

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608	503	5/16/2001	5/16/2006	Secondary DOE		179	Primary DOE	Nuclear Energy	Annex V - MOU between DOE and Ministry of Science and Technology of the Republic of Korea on I-NERI Title: <i>Annex V to the Memorandum of Understanding between the Department of Energy of the United States of America and the Ministry of Science and Technology of the Republic of Korea for a Cooperative Laboratory Relationship on a Collaboration Project Supporting the International Nuclear Energy Research Initiative (INERI)</i> Comment:
609	504	5/16/2001	6/14/2001	Secondary DOE		179	Primary DOE	Nuclear Energy	Amendment C to Annex III Participating Institutions to the MOU between DOE and Ministry Science and Technology Title: <i>Amendment C to Annex III - Participating Institutions to the Memorandum of Understanding between the Department of Energy of the United States of America and the Ministry of Science and Technology of the Republic of Korea for a Cooperative Laboratory Relationship</i> Comment:
644	539	6/14/2001	6/14/2006	Secondary DOE		179	Primary DOE	Science and Technology	Extend and Amend MOU bet. DOE and MOST Title: <i>Agreement to Extend and Amend the Memorandum of Understanding between the Department of Energy of the United States of America and the Ministry of Science and Technology of the Republic of Korea for a Cooperative Laboratory Relationship</i> Comment:
639	534	9/17/2002	9/17/2007	Primary DOE			None	Science and Technology	Safeguards Agreement Title: <i>Arrangement between the Department of Energy of the United States of America and the Ministry of Science and Technology of the Republic of Korea Concerning Research and Development in Nuclear Material Control, Accountancy, Verification, Physical Protection, and Advanced Containment and Surveillance Technologies for International Safeguards Applications</i> Comment:

Country: Mexico

12	41	6/15/1972		Intergovernmental			None	Science and Technology	Science & Technology Title: <i>Agreement Between the United States of America and Mexico for Scientific and Technical Cooperation</i> Comment: Effected by Exchange of Notes Signed at Washington June 15, 1972
270	386	5/7/1996	5/7/2001	Primary DOE		12	Intergovernmental	Energy Research and Development	Energy Cooperation Title: <i>Agreement between the Department of Energy of the United States of America and the Secretariat of Energy of the United Mexican States for Energy Cooperation</i> Comment: Develop a framework for cooperation to facilitate establishment of cooperative activities in research, development and commercialization to promote improved use of renewable energy and energy efficiency and fossil energy technologies, giving due consideration to environmental concerns, as well as to exchange, develop, and analyze energy strategies and regulatory criteria and to encourage the promotion of energy trade opportunities.

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
483	437	6/10/1998	6/10/2001	Secondary DOE		270	Primary DOE	Energy Efficiency and Renewable Energy	Annex 1 - Renewable Energy
Title: <i>Project Annex 1 Cooperation in the Field of Renewable Energy</i>									
Comment: Project areas under discussion by SNL and CNEA (Mexico National Commission for Energy Savings)									
484	438	6/10/1998	6/10/2001	Secondary DOE		270	Primary DOE	Energy Efficiency and Renewable Energy	Annex 2 - Energy Efficiency
Title: <i>Project Annex 2 Cooperation in the Field of Energy Efficiency</i>									
Comment: Project areas under discussion.									
498	447	10/21/199	10/21/200	Secondary DOE		270	Primary DOE	Environmental Restoration and Waste Management	Annex 3 - Enviro Cooperation in hydrocarbons
Title: <i>Project Annex 3 - Environmental Cooperation in the Field of Hydrocarbons</i>									
Comment: Facilitating work between Mexico Institute of Petroleum and ORNL.									
519	465	12/7/1999	5/7/2001	Secondary DOE		270	Primary DOE	Fossil Energy	Annex 4- Clean Fossil Energy Technologies
Title: <i>Project Annex 4 Cooperation in the field of Clean Fossil Energy Technologies</i>									
Comment: Annex is in force as long as the Agreement is in force.									
610	505	5/7/2001	5/7/2006	Secondary DOE		270	Primary DOE	Science and Technology	
Title: <i>Extension of the Agreement for Energy Cooperation between the Department of Energy of the United States of America and the Secretariat of Energy of the United Mexican States, and its Four</i>									
Comment:									
188	405	3/25/1985	3/25/2005	Primary DOE			None	Arms Control and Nonproliferation	Sister Lab Arrangement
Title: <i>Memorandum of Understanding (MOU) for the Exchange of Technical Information and for Cooperation in the Field of Peaceful Uses of Nuclear Energy between the National Institute of Nuclear Research of Mexico and the Los Alamos National laboratory of the United States of America</i>									
Comment: Sister lab arrangement supporting Article IV of the NPT.									
604	499	3/9/2001		Broad			None	Fifth Hemispheric Energy Ministers Meeting	Mexico Declaration
Title: <i>Fifth Hemispheric Energy Ministers Meeting Mexico City, Mexico - March 9, 2001. Mexico Declaration - Energy: A Crucial Factor for Integration and Sustainable Development in the Hemisphere</i>									
Comment:									
Country: <u>Morocco</u>									
599	494	10/16/200	10/16/200	Primary DOE			None	Energy Efficiency and Renewable Energy	Agreement on Concerning Cooperation in Energy Efficiency and Renewable Energy
Title: <i>Agreement Between The Department of Energy of the United States of America and The Ministry of Industry, Commerce, Energy and Mines of the Kingdom of Morocco Concerning Cooperation in Energy Efficiency and Renewable Energy</i>									
Comment:									

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
627	522	10/16/200	10/16/200	Secondary DOE		599	Primary DOE	Energy Efficiency and Renewable Energy	Project Annex 1 - EERE
<p>Title: <i>Project Annex 1 to the Agreement between the Department of Energy of the United States of America and the Ministry of Industry, Commerce, Energy and Mines of the Kingdom of Morocco Concerning Cooperation in Energy Efficiency and Renewable Energy</i></p> <p>Comment:</p>									
647	542	6/3/2002	6/3/2007	Secondary DOE		599	Primary DOE	Energy Efficiency and Renewable Energy	Project Annex 2 - Clean Energy Technologies
<p>Title: <i>Project Annex 2 to the Agreement between the Department of Energy of the United States of America and the Ministry of Industry, Commerce, Energy and Mines of the Kingdom of Morocco Concerning Cooperation in Clean Energy Technologies</i></p> <p>Comment:</p>									

Country: Nigeria

48	76	7/23/1980		Statement of Intent			None	Energy Research and Development	Energy R&D
<p>Title: <i>Memorandum of Intent Concerning Energy Cooperation between the Government of the United States of America and the Government of the Federal Republic of Nigeria</i></p> <p>Comment: Exploit and use conventional sources of energy, develop effective machinery to monitor environmental effects of energy, develop and demonstrate technologies to utilize new and renewable energy sources, training in energy planning and technology and strengthen bilateral relations through increased official cooperation. Formal cooperation never establish</p>									
520	466	8/14/1999		Primary DOE			None	*Other - Energy Policy	MOU on Energy Policy
<p>Title: <i>Memorandum of Understanding between the Department of Energy of the United States of America and the Federal Ministry of Power and Steel of the Federal Republic of Nigeria on Energy Policy</i></p> <p>Comment:</p>									

Country: Pakistan

49	339	9/24/1994		Statement of Intent			None	*Other - Climate Change	Climate Change
<p>Title: <i>Joint Statement of Intent between the Department of Energy of the United States of America and the Environment and Urban Affairs Division of the Islamic Republic of Pakistan</i></p> <p>Comment: Enhancing mutual environmental protection, in particular, controlling greenhouse gas emissions to limit potential adverse climate change impacts (Environment and Urban Affairs Division).</p>									
50	338	9/24/1994		Statement of Intent			None	Fossil Energy	Statement of Intent w/ Ministry of Petroleum and Natural Resources
<p>Title: <i>Statement of Intent between the Department of Energy of the United States of America and the Ministry of Petroleum and Natural Resources, Government of the Islamic Republic of Pakistan</i></p> <p>Comment: Promoting trade, investment and cooperation between U.S. & Pakistan (Min of Petroleum and Natural Resources) public and private-sector entities in the fields of fossil fuels (petroleum and minerals, including coal) and new and renewable energy resources, related infrastructure development, and in the exchange of experience and views on opportunities in these sectors.</p>									

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
51	340	9/24/1994		Statement of Intent			None	Energy Efficiency and Renewable Energy	Statement of Intent w/ Ministry of Water and Power
<p>Title: <i>Statement of Intent between the Department of Energy of the United States of America and the Ministry of Water and Power of the Islamic Republic of Pakistan</i></p> <p>Comment: Promoting trade, investment and cooperation between the U.S. and Pakistan (Ministry of Water and Power) private and public sector entities in the fields of fossil and renewable energy, and in the exchange of experience and views on opportunities for improving energy efficiency and enhancing electricity policy.</p>									

Country: Palestinian Authority

535	479	2/22/2000		Statement of Intent			None	Energy Research and Development	Energy Planning SOI
<p>Title: <i>Joint Statement of Intent between the Department of Energy of the United States of America and the Palestinian Energy Authority on Cooperation in the Field of Energy</i></p> <p>Comment:</p>									

Country: Peru

512	458	6/17/1991	6/16/2001	Primary DOE			None	Arms Control and Nonproliferation	Sister Lab Arrangement
<p>Title: <i>Arrangement for the Exchange of Technical Information and for Cooperation in the Field of Peaceful Uses of Nuclear Energy between the Peruvian Institute of Nuclear Energy and the Los Alamos National Laboratory</i></p> <p>Comment:</p>									
603	498	3/8/2001		Statement of Intent			None	Cooperation in the Field of Energy	Cooperation in the Field of Energy
<p>Title: <i>Joint Statement of Intent between the Department of Energy of the United States of America and The Ministry of Energy and Mines of the Republic of Peru on Cooperation in the Field of Energy</i></p> <p>Comment:</p>									
645	540	8/14/2001	8/14/2006	Primary DOE			None	Science and Technology	MOU - Cooperation in the Field of Energy
<p>Title: <i>Memorandum of Understanding between the Department of Energy of the United States of America and the Ministry of Energy and Mines of the Republic of Peru on Cooperation in the Field of</i></p> <p>Comment:</p>									

Country: Philippines

195	403	6/19/1997	6/19/2002	Primary DOE			None	Information and/or Personnel Exchange	Info Exchange
<p>Title: <i>Memorandum of Agreement between the Department of Energy of the United States of America and the Department of Energy of the Republic of the Philippines for the Exchange of Energy</i></p> <p>Comment:</p>									

Country: Poland

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
13	224	9/28/1987	9/28/2002	Intergovernmental			None	Science and Technology	Science & Technology
Title: <i>Agreement between the Government of the United States of America and the Government of the Polish People's Republic on Cooperation in Science and Technology and its Funding</i>									
Comment: Develop, support and facilitate S&T cooperation on the basis of the principles of equality, reciprocity, and mutual benefit. Joint projects of mutual interest are funded by a fund contributed to by the two governments. Renewed last in 1997.									
198	367	8/21/1995	8/21/2000	Primary DOE			None	Environmental Restoration and Waste Management	Environmental Restoration Hazardous Waste Mgmt
Title: <i>Agreement for Technical Exchange and Cooperating between the Department of Energy of the United States of America and the Institute for Ecology of Industrial Areas of the Republic of Poland in the Area of Environmental Restoration and Hazardous Waste Management</i>									
Comment: Study topics associated with the safe management of hazardous wastes, e.g., risks associated with human exposure to environmental contamination from chemical and heavy metals in soils; demonstration of technologies or methodologies for soil cleaning; and other areas determined by both parties.									

Country: Romania

513	459	3/29/1999	3/26/2004	Primary DOE			None	Arms Control and Nonproliferation	Sister Lab Arrangement
Title: <i>Arrangement for Information Exchange and Cooperation in Area of Peaceful Uses of Atomic Energy between United States Department of Energy (DOE) and the Ministry of Industry and Commerce (MIC) - Romania</i>									
Comment: Establishes the basis for a cooperative institutional relationship between the participants for the exchange of scientific and technological and other information regarding the peaceful uses of atomic									

Country: Russian Federation

203	395	9/16/1996	9/16/2001	Primary DOE		14	Intergovernmental	Environmental Restoration and Waste Management	Environmental Restoration and Waste Management
Title: <i>Memorandum of Cooperation between the Department of Energy of United States of America and the Ministry of the Russian Federation on Atomic Energy in the Fields of Environmental Restoration and Waste Management</i>									
Comment:									
211	396	9/16/1996	9/16/2001	Primary DOE		14	Intergovernmental	Nuclear Energy	Nuclear Reactor Safety
Title: <i>Memorandum of Cooperation between the United States of America and the Russian Federation in the Field of Civilian Nuclear Reactor Safety</i>									
Comment: replaces MOU in Civilian Nuclear Reactor Safety signed 26 April, 1988									
213	397	9/16/1996	9/16/2001	Primary DOE		14	Intergovernmental	Fusion Energy	Magnetic Confinement Fusion
Title: <i>Memorandum of Cooperation between the Department of Energy of the United States of America and the Ministry of the Russian Federation on Atomic Energy in the Field of Magnetic Confinement Fusion</i>									
Comment: Focus on Fusion science research and development									

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
436	397	9/16/1996	9/16/2001	Secondary DOE		213	Primary DOE	Nuclear Energy	Annex 1
<p>Title: <i>Annex 1 - List of Organizations that could participate</i></p> <p>Comment:</p>									
214	398	2/17/1997	2/17/2002	Primary DOE		14	Intergovernmental	*Other - High Energy and Nuclear Physics	Fundamental Properties of Matter
<p>Title: <i>Memorandum of Cooperation in the Field of Research on Fundamental Properties of Matter between the Department of Energy of the United States of America and the Ministry of Atomic Energy and the State Committee for Science & Technologies of the Russian Federation</i></p> <p>Comment: activities coordinated by the Joint Coordinating Committee for Research in the Fundamental Properties of Matter (FCC-FPM)</p>									
15	315	2/18/1993		Intergovernmental			None	Nuclear Energy	Disposition HEU Extracted From Nuclear Weapons
<p>Title: <i>Agreement between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons</i></p> <p>Comment: Conversion of HEU extracted from nuclear weapons resulting from the reduction of nuclear weapons; the establishment of appropriate measures to fulfill the nonproliferation, physical protection, nuclear material accounting and control, and environmental requirements with respect to HEU and LEU.</p>									
202	394	9/16/1996	9/16/2001	Primary DOE			None	*Other - Fuel Cell Technology	RAFCO
<p>Title: <i>Agreement between the Department of Energy of the United States of America and the Ministry of the Russian Federation on Atomic Energy Regarding a Russian-American Fuel Cell Consortium</i></p> <p>Comment: Joint R&D work in fuel cell technology development</p>									
208	324	1/14/1994	1/14/2004	Intergovernmental			None	Environmental Safety Health	Radioactive Contamination Health & Environment
<p>Title: <i>Agreement between the Government of the United States of America and the Government of the Russian Federation on Cooperation in Research on Radiation Effects for the Purpose of Minimizing the Consequences of Radioactive Contamination on Health and the Environment</i></p> <p>Comment: Establish a framework for cooperation in research on radiation effects for the purpose of minimization of the consequences of radioactive contamination on health and the environment. DOE is the Executive Agent and is responsible for coordination of activities to implement the agreement.</p>									
210	360	6/16/1995		Primary DOE			None	Arms Control and Nonproliferation	Nonproliferation of Weapons/Weapons Expertise
<p>Title: <i>Memorandum of Agreement between the Department of Energy of the United States of America and the International Science and Technology Center in the Russian Federation for Cooperation in Approved Projects to Facilitate the Nonproliferation of Weapons and Weapons Expertise</i></p> <p>Comment: Facilitate cooperation under the ISTC agreement including the efforts to reduce or eliminate weapons of mass destruction in a safe and secure manner.</p>									
209	359	6/15/1995		Secondary DOE		210	Primary DOE	Fusion Energy	Annex 1 Weapons Expertise for the Globus-M
<p>Title: <i>Annex I to the Memorandum of Agreement between the Department of Energy of the United States of America and the International Science and Technology Center in the Russian Federation Concerning Cooperation in Approved Projects to Facilitate the Nonproliferation Weapons and Weapons Expertise for the Globus-M Project</i></p> <p>Comment: Cooperate to support the A.F. IOFFE Physics-Technical Institute in the completion of the GLOBUS-M project by participating in the modification (or reconstruction) of the experimental hall of the Institute in order to accommodate the new GLOBUS-M spherical tokamak device and the near-by supporting equipment, the buildings that house all the other device supporting systems, and the connections/conduits between the experimental hall and those buildings needed by the GLOBUS-M project.</p>									

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
536	480	6/22/1999	6/22/2001	Secondary DOE		210	Primary DOE	Fusion Energy	ISTC Annex III -Advanced Diagnostics equipment for Spherical Tokamak Globus-M Title: <i>Annex III to the Memorandum of Agreement between the Department of Energy of the United States of America and the International Science and Technology Center in the Russian Federation Concerning Cooperation in Approved Projects to Facilitate the Nonproliferation of Weapons and Weapons Expertise for Advanced Diagnostics Equipment for Spherical Tokamak Globus-M (ISTC Project No. 1126)</i> Comment:
435	328	3/16/1994		Primary DOE			None	Nuclear Energy	Replacement of Russian Pu Production Reactors Title: <i>Protocol of Meeting between the United States and the Russian Federation on the Replacement of Russian Plutonium Production Reactors</i> Comment: Plan for replacement of plutonium production reactors with alternate energy sources.
515	461	9/22/1998	9/22/2003	Intergovernmental			None	Arms Control and Nonproliferation	Nuclear Cities Initiative Title: <i>Agreement between the Government of the United States of America and the Government of the Russian Federation on the Nuclear Cities Initiative</i> Comment: DOE is the US Executive Agent for the carrying out provisions of the agreement. Ministry of the Russian Federation for Atomic Energy is the Executive agent for Russia
518	464	3/24/1999	3/24/2004	Primary DOE			None	Science and Technology	MOU w/ Russian Academy of Sciences Title: <i>Memorandum of Understanding between the Department of Energy of the United States of America and the Russian Academy of Sciences on Cooperation in Science and Technology</i> Comment:
565	488	5/15/2000	3/24/2004	Secondary DOE		518	Primary DOE	Environmental Restoration and Waste Management	DOE/RAS Implementing Arrangement 1 Title: <i>Implementing Arrangement #1 Under the Memorandum of Understanding between the United States Department of Energy and the Russian Academy of Sciences on Cooperation in Science and Technology - Geologic Analogues, Migration and Accumulation of Radionuclides in Geologic Media</i> Comment:
590	488	5/16/2000	9/20/2002	Tertiary DOE		565	Secondary DOE	Environmental Restoration and Waste Management	Appendix D - Uranium Mass Transport Phenomena Title: <i>Appendix D Implementing Arrangement #1 of the U.S. Department of Energy/Russian Academy of Sciences Memorandum of Understanding Uranium Mass Transport Phenomena in Fractured Welded Tuffs</i> Comment:
593	488	5/18/2000	9/30/2003	Tertiary DOE		565	Secondary DOE	Civilian Radioactive Waste Management	Appendix G - Interaction of Actinides and Fission Products Title: <i>Appendix G Implementing Arrangement #1 of the U.S. Department of Energy/Russian Academy of Science Memorandum of Understanding The Interaction of Actinides and Fission Products with Environmental Matrices</i> Comment:

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
594	488	5/18/2000	9/30/2003	Tertiary DOE		565	Secondary DOE	Civilian Radioactive Waste Management	Appendix H - Actinide Speciation <i>Title: Appendix H Implementing Arrangement #1 of the U.S. Department of Energy/Russian Academy of sciences Memorandum of Understanding Actinide Speciation in the Environment to Support Safety Assessment of Geologic Repositories and for the Remediation of Contaminated Sites</i> Comment:
566	489	5/15/2000	3/24/2004	Secondary DOE		518	Primary DOE	Environmental Restoration and Waste Management	DOE/RAS Implementing Arrangement 2 <i>Title: Implementing Arrangement #2 Under the Memorandum of Understanding between the United States Department of Energy and the Russian Academy of Sciences on Cooperation in Science and Technology - Risk Assessment and Advanced Modeling Regarding Geologic Disposal</i> Comment:
589	489	6/2/2000	9/30/2003	Tertiary DOE		566	Secondary DOE	Civilian Radioactive Waste Management	Appendix C - Contaminant Transport Processes in Unsaturated Rocks <i>Title: Appendix C Implementing Arrangement #2 of the U.S. Department of Energy/Russian Academy of Sciences Memorandum of Understanding Interdisciplinary Fundamental Research to Further Develop the Methods of Describing and Modeling Contaminant Transport Process in Unsaturated Rocks</i> Comment:
591	489	5/31/2000	9/30/2002	Tertiary DOE		566	Secondary DOE	Environmental Restoration and Waste Management	Appendix D- Annex A - Chara. Of Contaminated Territories <i>Title: Annex A of Appendix D Implementing Arrangement #2 of the U.S. Department of Energy/Russian Academy of Sciences Memorandum of Understanding Characterization of Contaminated Territories, Monitoring Network Optimization, and Cost Minimization</i> Comment:
592	489	5/31/2000	9/30/2002	Tertiary DOE		566	Secondary DOE	Environmental Restoration and Waste Management	Appendix D - Annex B - Uncertainty Assessment <i>Title: Annex B of Appendix D Implementing Arrangement #2 under the DOE-RAS Memorandum of Understanding Uncertainty Assessment Through Incorporation of Mathematical Geology in Development of Inverse Flow and Transport Models</i> Comment:
605	500	4/25/2001	4/25/2004	Secondary DOE		518	Primary DOE	Science and Technology	Appendix K w/ the Russian Academy of Sciences <i>Title: Appendix K Under Implementing Arrangement #1 of the Memorandum of Understanding Between the U.S. Department of Energy and Russian Academy of Sciences on Cooperation in Science and Technology</i> Comment:
606	501	10/1/2000	10/1/2002	Secondary DOE		518	Primary DOE	Uranium Mass Transport Phenomena in Fractured Welded Tuffs	Appendix D of Implementing Arrangement #1 w/ Russian Academy of Sciences MOU <i>Title: Appendix D Implementing Arrangement #1 of The U.S. Department of Energy/Russian Academy of Sciences Memorandum of Understanding Uranium Mass Transport Phenomena in Fractured Welded Tuffs</i> Comment:

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
52	302	3/18/1992		Statement of Intent			None	Information and/or Personnel Exchange	Electric Power Technologies
Title: <i>U.S.-Russia Task Force on Cooperation in Electric Power Technologies Joint Statement of Intent</i>									
Comment: Exchange information on developments in the electric power industries and encourage more extensive contacts among experts in this field in both countries.									
537	481	7/24/1998	7/24/2003	Intergovernmental			None	Arms Control and Nonproliferation	Plutonium Management
Title: <i>Agreement between the Government of the United States of America and the Government of the Russian Federation on Scientific and Technical Cooperation in the Management of Plutonium that has been withdrawn from Nuclear Military Programs</i>									
Comment: DOE is the Executive Agent for the US. The agreement establishes the U.S.-Russian Joint Steering Committee on Plutonium Management									
619	514	6/30/2000	6/30/2005	Secondary DOE		607	Primary DOE	Civilian Radioactive Waste Management	Protocol extending the agreement between DOE and Russia
Title: <i>Protocol Extending the Agreement between the Department of Energy of the United States of America and the Federal Nuclear, and Radiation Safety Authority of Russia for Cooperation on Enhancing the Safety of Russian Nuclear Fuel Cycle Facilities and Research Reactors</i>									
Comment: Extending the agreement mention above for five years until June 30, 2005.									
641	536	6/26/200	6/30/2005	Secondary DOE		607	Primary DOE	Arms Control and Nonproliferation	Extension bet. DOE federal Nuclear and Radiation Safety Authority of Russia
Title: <i>Protocol Extending the Agreement between the Department of Energy of the United States of America and the Federal Nuclear and Radiation Safety Authority of Russia to Cooperate on National Protection, Control and Accounting of Nuclear Materials</i>									
Comment:									
636	531	4/23/2002		Statement of Intent			None	Science and Technology	Joint Statement of Intent between DOE and Dubna
Title: <i>Joint Statement of Intent between the Department of Energy of the United States of America and the Joint Institute for Nuclear Research at Dubna</i>									
Comment:									
658	553	5/8/2002		Primary DOE			None	*Other - Purchases of Pu-238 for Peaceful Purposes	Purchases of Pu-238 for Peaceful Purposes
Title: <i>Joint Announcement by the United States Department of Energy and the Russian Federation Ministry for Atomic Energy Concerning Continued Purchases of Pu-238 for Peaceful Purposes</i>									
Comment:									
659	554	7/16/2001	7/16/2006	Secondary DOE		210	Primary DOE	Civilian Radioactive Waste Management	Annex VI
Title: <i>Annex VI to the Memorandum of Agreement between the Department of the United States of America and the International Science and Technology Center in the Russian Federation Concerning Implementation of Projects of the Office of Civilian Radioactive Waste Management</i>									
Comment:									

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
Country: <u>Senegal</u>									
479	433	4/2/1998		Statement of Intent			None	Energy Research and Development	SOI - Energy R&D
Title: <i>Memorandum of Understanding between the Republic of Senegal and the United States of America for Cooperation on Energy Policy, Science and Technology, and Research and Development</i>									
Comment:									
516	462	3/19/1999	3/19/2004	Primary DOE			None	Energy Research and Development	Energy Policy, S and T, and R and D
Title: <i>Agreement between the Department of Energy and the Ministry of Energy, Mines and Industry of the Republic of Senegal on Cooperation in Energy Policy, Science and Technology, Research and Development</i>									
Comment: The objective of this Agreement is to facilitate and establish cooperative activities by the Parties.									
Country: <u>South Africa</u>									
20	368	12/4/1997	12/4/2022	Intergovernmental			None	Nuclear Energy	Peaceful Uses of Nuclear Energy
Title: <i>Agreement for Cooperation between the United States of America and the Republic of South Africa Concerning Peaceful Uses of Nuclear Energy</i>									
Comment: Cooperate in the development, use and control of peaceful uses of nuclear energy which must be undertaken with a view to protecting the international environment from radioactive, chemical and thermal contamination. Agreement was signed on 8/25/95 ratified by exchange of diplomatic notes on 12/4/97.									
230	369	8/25/1995		Primary DOE			None	Energy Research and Development	Sustainable Energy Development Committee
Title: <i>Terms of Reference on the Sustainable Energy Development Committee of the U.S. - South Africa Binational Commission</i>									
Comment:									
231	371	8/25/1995		Primary DOE			None	Energy Research and Development	Sustainable Development Resource Center
Title: <i>Memorandum of Understanding between the World Wildlife Fund-South Africa, EarthKind International, U.S. Department of Energy and U.S. Agency for International Development on Creating the Sustainable Development Resource Center</i>									
Comment: Cooperate on the creation of the Sustainable Development Resource center to advance policies and programs on the use of renewable energy and energy efficiency technologies and participation by nongovernmental organization in the decision making process. Other signatories are EarthKind Intl (Jan Hartke) and USAID (Larry Byrne)									
232	372	8/25/1995		Primary DOE			None	Energy Efficiency and Renewable Energy	Renewable and Energy Efficiency Technologies
Title: <i>Memorandum of Understanding</i>									
Comment: Promotion of renewable energy and energy efficient technologies as a cost-effective means of increasing access to energy of the majority of South Africa disadvantaged population (w/USAID as a partner).									
233	374	8/25/1995		Primary DOE			None	Energy Efficiency and Renewable Energy	Electrification of Rural Clinics (Cape Town)
Title: <i>Memorandum of Understanding between Sandia National Laboratories of Albuquerque New Mexico, USA and the Independent Development Trust Cape Town, Republic of South Africa</i>									
Comment: Sandia National Lab, as signatory of this MOU, has agreed to co-fund the Independent Development Trust model clinic electrification program and to provide other technical assistance as agreed by mutual consent.									

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
234	381	12/5/1995	12/5/2000	Primary DOE			None	Energy Research and Development	Energy Policy, S&T and Development
<p>Title: <i>Implementing Agreement between the United States Department of Energy and the Department of Mineral and Energy Affairs of South Africa on Collaboration on Energy, Policy, Science, Technology and Development</i></p> <p>Comment: Facilitate and establish cooperative activities in energy policy, science, technology, development and commercialization activities in such areas as: fossil energy, including clean coal; energy planning, efficiency, renewable energy; environmental management; environment enhancing energy technologies; and private power project development</p>									
55	423	8/25/1995		Statement of Intent			None	Information and/or Personnel Exchange	Energy Information Exchange
<p>Title: <i>Joint Statement of Intent between the Department of Energy of the United States of American and the Department of Mineral and Energy Affairs of the Republic of South Africa on an Energy Information Exchange</i></p> <p>Comment:</p>									
56	370	8/25/1995		Statement of Intent			None	Energy Research and Development	Energy Policy, S&T and Development
<p>Title: <i>Joint Statement of Intent between the Department of Energy of the United States of American and the Department of Mineral and Energy Affairs of the Republic of South Africa on Energy Policy, Science and Technology, and Development</i></p> <p>Comment: Facilitate joint activities related to energy policy, S&T, development and commercialization in an environmentally and economically sound manner.</p>									
57	373	8/25/1995		Statement of Intent			None	Energy Efficiency and Renewable Energy	Renewable Energy (Guguletu Township)
<p>Title: <i>Joint Statement of Intent for Integrated Industrial/Educational Development in Guguletu Township between the United States Department of Energy, United States Department of Energy National Laboratories, and the Guguletu RDP Forum</i></p> <p>Comment: Establishment of a light industrial part in Guguletu Township.</p>									
58	375	8/25/1995		Statement of Intent			None	Energy Efficiency and Renewable Energy	Renewable Energy (The Csir, South Africa)
<p>Title: <i>Statement of Intent on Renewable Energy Technologies between the National Renewable Energy Laboratory, U.S.A. and Sandia national Laboratories, U.S.A. and the CSIR (Council for Scientific and Industrial Research), Republic of South Africa</i></p> <p>Comment: NREL and Sandia, by being signatories of this Statement, have agreed to exchange experience and views on opportunities for the appropriate utilization of renewable energy technologies with The Csir, Republic of South Africa. Witnessed by Secretary O'Leary.</p>									
59	383	12/5/1995		Statement of Intent			None	Fossil Energy	Mitigation of Greenhouse Gases
<p>Title: <i>Statement of Intent concerning Cooperation in Sustainable Energy Development and the Mitigation of Greenhouse gases between the Republic of South Africa and the United States of America</i></p> <p>Comment: Investigate pilot studies the feasibility of the development of projects which could achieve additional mitigation of climate change by addressing anthropogenic emissions by sources and removal by sinks in an environmentally sound and socially and economically equitable fashion through deployment of greenhouse gas mitigation technologies; education/training programs; diversification of energy sources; conservation, restoration and enhancement of natural carbon sinks, etc.</p>									
60	382	12/5/1995		Statement of Intent			None	Energy Research and Development	South Africa/Provincial Gov'ts Cooperation Agreement - Statement of Intent
<p>Title: <i>Cooperative Agreement between Provincial Governments of the Republic of South Africa on Regional Cooperation in Energy</i></p> <p>Comment: Intention to cooperate in a manner which will facilitate joint activities related to energy development in an environmentally and economically sound way with the following provincial governments of South Africa: Province of the Free State; Northern Cape Province; Eastern Cape Province</p>									

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
100	404	9/15/1997	9/15/2007	Primary DOE			None	Environmental Safety Health	Research on Radiological Evaluations
<p>Title: <i>Implementing Arrangement between the Department of Energy of the United States of America and the Ministry of Industry and Energy of the Kingdom of Spain on Cooperation in Research on Radiological Evaluations</i></p> <p>Comment:</p>									
307	404	9/15/1997	9/15/2007	Secondary DOE		100	Primary DOE	Environmental Safety Health	Annex 1
<p>Title: <i>Project Annex 1 - cooperation on research in radiological evaluations</i></p> <p>Comment: Related to radioactive waste management.</p>									
5	171	12/12/198		Primary DOE			None	Science and Technology	Science & Technology
<p>Title: <i>Agreement between the United States Department of Energy and the United States-Spain Joint Committee for Scientific and Technological Cooperation</i></p> <p>Comment: Establish responsibilities, guidelines and procedures for evaluating, funding and coordinating research proposals, projects and related activities in the field of energy selected and funded by the US-Spain Joint Committee for S&T Cooperation.</p>									
596	491	7/15/2000	7/15/2006	Primary DOE			None	Energy Research and Development	MOU for Energy Cooperation
<p>Title: <i>Memorandum of Understanding Between The Ministry of Science and Technology of the Kingdom of Spain and The Department of Energy of the United States of America Concerning Cooperation in Energy</i></p> <p>Comment:</p>									

Country: Sweden

218	235	2/11/1988		Primary DOE			None	*Other - Classified	Subject and Umbrella contents are classified
<p>Title: <i>Subject and Umbrella contents are classified</i></p> <p>Comment: Description not available in History</p>									
580	442	10/23/199	10/23/200	Primary DOE			None	Civilian Radioactive Waste Management	Radioactive Waste Management
<p>Title: <i>Agreement between the United States Department of Energy and the Swedish Nuclear Fuel and Waste Management Company Concerning a Cooperative Program in the Field of Radioactive waste Management</i></p> <p>Comment:</p>									

Country: Switzerland

All In Force Bilateral Agreements

ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
225	418	12/23/199	12/23/200	Primary DOE			None	Civilian Radioactive Waste Management	Radioactive Waste Management
<p>Title: <i>Agreement between the Department of Energy of the United States of America and the National Cooperative for the Disposal of Radioactive Waste in Switzerland in the Field of Radioactive Waste Management</i></p> <p>Comment: Auto extension for 5 yr. Periods.</p>									
Country: <u>Thailand</u>									
227	400	3/20/1997		Primary DOE			None	Arms Control and Nonproliferation	Lab-to-Lab arrangement
<p>Title: <i>Arrangement for the Exchange of Technical Information and for Cooperation in the Field of Peaceful Uses of Nuclear Energy between the Office of Atomic Energy for Peace of Thailand and the United States Department of Energy</i></p> <p>Comment: Open ended.</p>									
538	400	3/6/2000		Secondary DOE		227	Primary DOE	Arms Control and Nonproliferation	Action Sheet 1 - Preliminary Safety Analysis Report
<p>Title: <i>Action Sheet 1 between the Office of Atomic Energy for Peace of Thailand and the United States Department of Energy for Preliminary Safety Analysis Report Review</i></p> <p>Comment:</p>									

Country: Turkey

624	519	3/20/2002	3/20/2007	Primary DOE			None	Science and Technology	Cooperation in Energy Technology
<p>Title: <i>Implementing Arrangement between the Department of Energy of the United States of America and the Ministry of Energy and Natural Resources of the Republic of Turkey for Cooperation in Energy Technology</i></p> <p>Comment:</p>									
625	520	3/20/2002	3/20/2002	Secondary DOE		624	Primary DOE	Science and Technology	Annex 2 - Cooperation in the Field of Coal and Power Systems
<p>Title: <i>Annex 2 to the Implementing Arrangement between the Department of Energy of the United States of America and the Ministry of Energy and Natural Resources of the Republic of Turkey for Cooperation in the Field of Coal and Power Systems</i></p> <p>Comment:</p>									

Country: Ukraine

507	454	4/26/1996		Intergovernmental			None	*Other - Radioactive Waste	Chernobyl Center
<p>Title: <i>Memorandum of Understanding on Participation In and Support of the Activities of the International Chernobyl Center on Nuclear Safety, Radioactive Waste and Radioecology</i></p> <p>Comment:</p>									

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ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
508	455	7/22/1998	7/22/2003	Intergovernmental			None	*Other - Radioactive Waste	Int'l Radioecology Lab
<p>Title: <i>Agreement between the Government of the United States of America and the Government of Ukraine Concerning the International Radioecology Laboratory of the International Chernobyl Center on Nuclear Safety, Radioactive Waste and Radioecology</i></p> <p>Comment: Department of Energy is the Executive Agent</p>									
510	457	5/6/1998	5/4/2028	Intergovernmental			None	Nuclear Energy	US-Ukraine PNC
<p>Title: <i>Agreement for Cooperation between the United States of America and Ukraine Concerning Peaceful Uses of Nuclear Energy</i></p> <p>Comment:</p>									
54	330	4/8/1994		Statement of Intent			None	Nuclear Energy	Shutdown Chernobyl Nuclear Power Plant
<p>Title: <i>Joint Statement About Paths to the Soonest Possible Shutdown of the Chernobyl Nuclear Power Plant</i></p> <p>Comment: Undertake near-term joint analysis of options for earliest possible closure of the Chernobyl power plant.</p>									

Country: United Kingdom

41	364	7/25/1995		Statement of Intent			None	Environmental Restoration and Waste Management	Nuclear Clean-Up
<p>Title: <i>Heads of Agreement for Cooperation Between the United States Department of Energy and the United Kingdom Department of Trade and Industry on their Perspective Program for Nuclear Clean-up</i></p> <p>Comment: Cooperate, through sharing of information, on similar issues associated with nuclear decommissioning and clean-up</p>									
42	390	9/5/1996		Statement of Intent			None	Environmental Restoration and Waste Management	Environmental Restoration and Waste Management
<p>Title: <i>Statement of Intent between the United States Department of Energy and the United Kingdom Department of Trade and Industry</i></p> <p>Comment: Establish framework for cooperation in R&D of technologies for the treatment, packaging, disposal of aluminum-based spent nuclear fuel.</p>									
598	493	11/6/2000	11/6/2010	Primary DOE			None	Energy Research and Development	MOU on Energy Research and Development
<p>Title: <i>Memorandum of Understanding Between The Department of Energy of the United States of America and The Department of Trade and Industry of the United Kingdom of Great Britain and Northern Ireland on Collaboration in Energy Research and Development</i></p> <p>Comment: Provides for cooperation in Fossil Energy, Energy Efficiency, Renewable Energy and the waste-related management and the environment.</p>									
634	529	11/17/200	11/17/200	Secondary DOE		598	Primary DOE	Environmental Management	AEA Technology plc
<p>Title: <i>Implementing Arrangement between the Department of Energy of the United States of America and AEA Technology plc Under the Memorandum of Understanding on Energy R&D between the Department of Energy of the United States of America and the Department of Trade and Industry of the United Kingdom of Great Britain and Northern Ireland</i></p> <p>Comment:</p>									

All In Force Bilateral Agreements

ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
611	506	9/17/2001	9/17/2006	Primary DOE			None	Nuclear Verification Technologies	MOU between DOE and the Department of Trade and Industry of the United Kingdom
<p>Title: <i>Memorandum of Understanding between the Department of Energy of the United States of America and the Department of Trade and Industry of the United Kingdom of Great Britain and Northern Ireland Concerning the Development and Implementation of Nuclear Verification Technologies</i></p> <p>Comment:</p>									
637	532	7/25/2002	7/25/2007	Primary DOE			None	Science and Technology	Implementing Agreement between DOE and Great Britain
<p>Title: <i>Implementing Arrangement between the Department of Energy of the United States of America and the Secretary of State for Defense of the United Kingdom of Great Britain and Northern Ireland for Cooperation in Research and Development of Chemical and Biological Weapons Detection and Protection-Related Technologies</i></p> <p>Comment:</p>									
638	533	7/3/2002	7/3/2007	Primary DOE			None	Science and Technology	Gov't to Gov't agreement between US and Great Britain
<p>Title: <i>Agreement between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland for Cooperation in Research and Development of Weapons Detection and Protection-Related Technologies</i></p> <p>Comment:</p>									
652	547	3/10/2003	3/10/2008	Primary DOE			None	Fossil Energy	Cooperation in the Field of Fossil Energy
<p>Title: <i>Implementing Arrangement between the Department of Energy of the United States of America and the Department of Trade and Industry of the United Kingdom of Great Britain and Northern Ireland to Cooperate in the Field of Fossil Energy Technology</i></p> <p>Comment:</p>									
143	278	6/11/1990	6/11/2000	Primary DOE			None	Energy Research and Development	Energy R&D
<p>Title: <i>Memorandum of understanding between the U.S. Department of Energy and the Department of energy of the United Kingdom of Great Britain and Northern Ireland on collaboration in energy research and development</i></p> <p>Comment: To continue and maximize cooperation in energy research and development.</p>									

Country: Uzbekistan

628	523	3/12/2002		Primary DOE			None	Arms Control and Nonproliferation	Proliferation of Nuclear Materials and Technologies
<p>Title: <i>Agreement between the Department of Energy of the United States of America and the Ministry of Foreign Affairs of the Republic of Uzbekistan Concerning Cooperation in the area of Prevention of Proliferation of Nuclear Materials and Technologies</i></p> <p>Comment:</p>									

Country: Venezuela

All In Force Bilateral Agreements

ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
228	408	10/13/199	10/13/200	Primary DOE			None	Energy Research and Development	Energy Cooperation
<p>Title: <i>Agreement for Energy Cooperation between the Department of Energy of the United States of America and the Ministry of Energy and Mines of the Republic of Venezuela</i></p> <p>Comment: Supersedes the March 6, 1980 Energy R&D agreement</p>									
443	73	7/10/1980	10/13/200	Secondary DOE		228	Primary DOE	Fossil Energy	Project Annex 1 - Crude Characterization
<p>Title: <i>Project Annex I between the Department of Energy of the United States of America and the Ministry of Energy and Mines of Venezuela for the Joint Characterization of Heavy Crude Oils</i></p> <p>Comment: Exchange published technical information and jointly modify or develop new techniques for the characterization of heavy crude oil and heavy ends.</p>									
444	82	9/29/1980	10/13/200	Secondary DOE		228	Primary DOE	Fossil Energy	Project Annex 4 - Enhanced Oil Recovery Thermal Processes
<p>Title: <i>Project Annex IV between the Department of Energy of the United States of America and the Ministry of Energy and Mines of the Republic of Venezuela in the Area of Enhanced Oil Recovery Thermal Process</i></p> <p>Comment: Cooperate in the application of additives to steam injection for the recovery of heavy oil thereby further efforts on the understanding of the thermal processes and the reservoir and its fluids where these processes are conducted.</p>									
445	137	3/14/1984	10/13/200	Secondary DOE		228	Primary DOE	Fossil Energy	Project Annex 10 - Training of Petroleum Engineers
<p>Title: <i>Project Annex X between the Department of Energy of the United States of America and the Ministry of Energy and Mines of the Republic of Venezuela for On-Site Training of Petroleum Engineers</i></p> <p>Comment: Training of Venezuelan petroleum engineers at Elks Hills Naval Petroleum Facility.</p>									
446	264	2/16/1989	10/13/200	Secondary DOE		228	Primary DOE	Fossil Energy	Project Annex 14 - Exchange of Energy-Related Personnel
<p>Title: <i>Project Annex XIV between the Department of Energy of the United States of America and the Ministry of Energy and Mines of the Republic of Venezuela for the Exchange of Energy-Related</i></p> <p>Comment: DOE and MEMV shall cooperate in using their good offices and taking all reasonable steps to facilitate the exchange of energy-related personnel between Venezuela and the U.S. in the areas of fossil</p>									
447	333	4/26/1994	10/13/200	Secondary DOE		228	Primary DOE	Fossil Energy	Project Annex 15 - Oil Recovery Information and Tech. Transfer
<p>Title: <i>Implementing Agreement XV to the Memorandum of Understanding between the Department of Energy of the United States of America and the Ministry of Energy and Mines of the Republic of Venezuela in the Area of "Oil Recovery Information and Technology Transfer"</i></p> <p>Comment: Evaluate past and ongoing improved oil recovery projects in US and Venezuela; Data base compilation and exchange</p>									
499	448	8/15/1995	10/13/200	Secondary DOE		228	Primary DOE	Fossil Energy	Annex 16 - Oil and Petrochemical Ecology and Environmental Research
<p>Title: <i>Implementing Agreement XVI to the Memorandum of Understanding between the Department of Energy of the United States of America and the Ministry of Energy and Mines of the Republic of Venezuela in the Area of Oil and Petrochemistry Ecology and Environmental Research</i></p> <p>Comment: Information exchange, biotechnology update and analysis of industrial and environmental trends.</p>									

All In Force Bilateral Agreements

ID	File#	Start Date	End Date	Agreement Type	Legally Binding	Parent ID	Parent Type	Subject	Brief Description
500	449	9/7/1995	10/13/200	Secondary DOE		228	Primary DOE	Fossil Energy	Annex 17 - Drilling Technology
<p>Title: <i>Implementing Agreement XVII to the Memorandum of Understanding between the Department of Energy of the United States of America and the Ministry of Energy and Mines of the Republic of Venezuela in the Area of Drilling Technology</i></p> <p>Comment: Exchange information and training of personnel on drilling technologies for more efficient and cost-effective methods drilling.</p>									
633	528	8/9/2001	8/9/2006	Secondary DOE		228	Primary DOE	Fossil Energy	Project Annex No. XVIII - Natural Gas Technologies
<p>Title: <i>Project Annex No. XVIII to the Agreement for Energy Cooperation between the Department of Energy of the United States of America and the Ministry of Energy and Mines of the Bolivarian Republic of Venezuela in the area of Natural Gas Technologies</i></p> <p>Comment:</p>									

Contract Number: DE-AC05-76RL01830
Modification M881

**PART III – List of Documents,
Exhibits and Other Attachments**

Section J

Appendix H

**LIST OF APPROVED LABORATORY FACILITIES
(OWNED AND LEASED)**

DOE Owned		
Land	Designation	Ownership/Description/Program
Northern Triangle and EMSL Land	N Triangle	SC Owned – Land located north of Horn Rapids Rd extending North towards the 300 area - ~101 Acres and Land surrounding the EMSL Facility ~30 Acres
PNNL Site Expansion Land	PSE Site	SC Owned – 214.5 Acres located South of the 300 Area, bounded nominally by the Columbia River on the East, the George Washington Way Extension on the West and Horn Rapids Road on the South
Facility	Designation	Ownership/Description/Program
Plant Operations & Maintenance Facility	350 ¹	EM Owned – Machine Shop – Multi Program
Paint Shop	350A	EM Owned – Support Facility/Structure – Multi Program
Warehouse 350B	350B	EM Owned – Storage – Multi Program
Storage Building 350C	350C	EM Owned – Storage – Multi Program
Oil Storage Facility	350D	EM Owned – Storage – Multi Program
Radiological Calibrations Lab	318	EM Owned – Lab – Multi Program
Office Trailer 318	318TRL4	EM Owned – Office – Multi Program
Life Sciences Laboratory 1	331	EM Owned – Lab/Office – Multi Program
Coastal Security Institute 1	CSI1	SC Owned – SCIF – Multi Program
Environmental Molecular Science Lab	3020 (EMSL)	SC Owned – Office/Lab – Multi Program
Radiochemical Processing Laboratory	325	EM Owned – Lab – Multi Program
Material Science & Technology Laboratory	3410	SC Owned – Lab – Multi Program
Rad Detection Laboratory	3420	SC Owned – Lab – Multi Program
Ultra Low Background Building (Deep Lab)	3425	SC Owned – Lab – Multi Program
Ultra Trace Laboratory	3430	SC Owned - Lab – Multi Program
Large Detector Laboratory	3440	SC Owned – Lab – Multi Program
PSF Trailer A	3455	SC Owned – Office – Multi Program
PSF Trailer B	3465	SC Owned – Office – Multi Program
Laboratory Support Warehouse	3475	SC Owned – Storage – Multi Program
DOE Leased		
Consolidated Information Center	CIC	GSA Lease – DOE Resource Room
Contractor Leased²		

¹ DOE EM Facilities in the 300 Area will be removed as they become available for D&D and transitioned to the D&D contractor. The end date for occupancy of the facilities and completion of laboratory activities is scheduled for 9/30/2026 (318 complex, 325, 331 and 350 complex).

2400 Stevens	2400STV	3 rd Party - Office/Lab – Multi Program
2410 Stevens Warehouse Facility	2410STV	3 rd Party - Storage – Multi Program
Albuquerque NM	ALBUQUERQUE	3 rd Party - Polygraph Center – Single Program
Applied Processing Engineering Lab	APEL	3 rd Party - Office/Lab – Multi Program
Badger Mountain Repeater Building	BADGERMTN	3 rd Party – Storage – Single Program
Battelle Seattle Research Center	BSRC	3 rd Party – (ILA with BCO) – Office/Lab – Multi Program
Bioproducts Science and Engineering Laboratory	BSEL	3 rd Party - Office/Lab – Multi Program
Biological Sciences Facility	BSF	3 rd Party - Office/Lab – Multi Program
Lexington MA Office Building	LEXINGTON	3 rd Party – Office – Multi Program
Battelle Washington Office	BWO	3 rd Party – (ILA with BCO) – Office – Multi Program
Computational Sciences Facility	CSF	3 rd Party - Office/Lab – Multi Program
Environmental Technology Building	ETB	3 rd Party - Office – Multi Program
Information Sciences Building I	ISB-I	3 rd Party - Office/Computer Lab – Multi Program
Information Sciences Building II	ISB-II	3 rd Party - Office/Computer Lab – Multi Program
Laboratory Support Building	LSB	3 rd Party – Office/Lab – Multi Program
Marine Sciences Laboratory 7	MSL7	3 rd Party – Office/Lab – Multi Program
National Security Building	NSB	3 rd Party - Office/SCIF – Multi Program
Microproducts Breakthrough Institute	MBI11	3 rd Party - Office/Lab – Multi Program
Port Of Pasco	POP	3 rd Party - Storage – Single Program
Portland Office	PORTLAND	3 rd Party - Office – Multi Program
Port of Skamania	POS	3 rd Party – Storage – Multi Program
Port of Skamania Office Building	POS2	3 rd Party – Office – Multi Program
Research Support Warehouse	RSW	3 rd Party – Storage – Multi Program
Salk Building	SALK	3 rd Party - Office/Lab – Multi Program
Systems Engineering Facility	SEF	3 rd Party – Office/Lab – Multi Program
SIGMA 1	SIGMA I	3 rd Party – Office – Multi Program
SIGMA2	SIGMA II	3 rd Party - Office – Multi Program

² Contractor Leased Facilities are added to this list as approved Real Estate Packages, where DOE reviews terms and conditions, rates, market surveys and mission need to determine the use of this space under the Pacific Northwest National Laboratory. This establishes reimbursement for those lease costs incidental to the performance of work.

SIGMA3	SIGMA III	3rd Party - Office – Multi Program
SIGMA4	SIGMA IV	3rd Party - Office – Multi Program
SIGMA5	SIGMA V	3rd Party - Office/Lab – Multi Program
Guest House at PNNL	GUESTHOUSE (UHF)	3rd Party – Support Facility/Structure - Lodging Facility
Joint Global Change Research Institute	JGCRI	3rd Party - Office/Lab – Multi Program
Contractor Owned³		
PNNL Site	PNNL Campus	BMI Owned – The land encompassing main PNNL Campus ~250 Acres
Sequim Site	Sequim Campus	BMI Owned – The land encompassing the Sequim Campus ~150 Acres
Atmospheric Measurement Laboratory	AML	BMI Owned – Lab/Office – Single Program
Auditorium	AUD	BMI Owned - Auditorium
Aviary in PGF Complex	AVIARY	BMI Owned – Lab/Support Structure – Multi-Program
Battelle Inhalation Laboratory	BIL	BMI Owned – (ILA with BCO) – Lab/Office – Multi Program
Battelle Receiving & Shipping Warehouse	BRSW	BMI Owned – Storage – Multi Program
Engineering Development Laboratory	EDL	BMI Owned – Lab/Office - Multi Program
Engineering Support Building	ESB	BMI Owned – Lab/Office – Multi Program
Grounds Equipment Storage	GES	BMI Owned – Support Facility/Structure
Life Sciences Laboratory II	LSLII	BMI Owned – (ILA with BCO) Lab/Office – Multi Program
Lift Station	LS	BMI Owned – Support Facility/Structure
Mathematics Building	MATH	BMI Owned – Lab/Office – Multi Program
Beach Office/Laboratory	MSL1	BMI Owned – Lab/Office– Multi Program
Waste Water Treatment Building	MSL1W	BMI Owned – Support Facility/Structure
Biotech, Conference and Shop Building	MSL2	BMI Owned – Storage – Multi Program
Filter Building	MSL3	BMI Owned – Support Facility/Structure
Pumphouse	MSL4	BMI Owned – Support Facility/Structure
Uplands Office/Laboratory	MSL5	BMI Owned – Lab/Office
Chemical Storage MSL5A	MSL5A	BMI Owned – Storage– Multi Program
Chemical Storage MSL5B	MSL5B	BMI Owned - Storage– Multi Program
Cold Storage	MSL5C	BMI Owned – Storage – Multi Program

³ Contractor Owned Land/Facilities are included in this list as DOE has authorized work to be conducted in these sites or is beneficial to the operations of the Pacific Northwest National Laboratory Campus located in Richland or Sequim, Washington, through a series of Contracting Officer letters authorizing the reimbursement of certain costs Battelle incurs in providing these sites to the Government for its use. The inclusion of Battelle-owned land/facilities into this list does not presume any liabilities by either party; it is only done to designate authorized Government work locations.

Chemical Engineering Laboratory	CEL	BMI Owned – Lab/Office– Multi Program
Process Development Laboratory East	PDLE	BMI Owned – High Bay– Multi Program
Process Development Laboratory West	PDLW	BMI Owned – High Bay– Single Program
Plant Growth Facility 1	PGF1	BMI Owned – Greenhouse – Multi Program
Plant Growth Facility 2	PGF2	BMI Owned - Greenhouse – Multi Program
Plant Growth Facility 3	PGF3	BMI Owned - Greenhouse – Multi Program
Plant Growth Facility 4	PGF4	BMI Owned - Greenhouse – Multi Program
Plant Growth Facility 5	PGF5	BMI Owned - Greenhouse – Multi Program
Physical Science Laboratory	PSL	BMI Owned – Lab/Office – Multi Program
Research Operations Building	ROB	BMI Owned – Office – Multi Program
Richland River Station	RRS	BMI Owned – Support Facility/Structure
Chemical And Flammable Storage	RTL510	BMI Owned – Storage – Multi Program
Research Technology Laboratory	RTL520	BMI Owned – Lab/Office – Multi Program
Fire Riser Facility	RTL524	BMI Owned – Support Facility/Structure
Radioactive Storage	RTL530	BMI Owned – Storage – Multi Program
Paper Shredder Facility	RTL540	BMI Owned – Support Facility/Structure
Technical Services	RTL550	BMI Owned – Support Facility/Structure
Utility Building	RTL560	BMI Owned – Support Facility/Structure
Autoclave Center	RTL570	BMI Owned – Support Facility/Structure
Crafts Shop	RTL580	BMI Owned – Support Facility/Structure Program
Warehouse RTL590	RTL590	BMI Owned – Storage – Multi Program
Technical Support Warehouse	TSW	BMI Owned – Storage – Multi Program

Contract Number: DE-AC05-76RL01830
Modification M920

**PART III – List of Documents,
Exhibits and Other Attachments**

Section J

Appendix I

LIST OF BATTELLE MEMORIAL INSTITUTE LEGACY WORK

**APPENDIX I
LIST OF BATTELLE MEMORIAL INSTITUTE LEGACY WORK
(LEGACY PROJECT AUTHORIZATION - OCTOBER 2012)**

Contract No. DE-AC05-76RL01830
Modification M920

SCOPE NO	PROPOSAL TITLE	CONT_CLNT_NAME	FUND_CLNT_NAME	WALS	WALS
				COST_AMT	PROP_END_ DATE
63499	56067 - Predicting Kinetic Rate Constants for Condensed Phas	Spectral Sciences, Inc.	Air Force Research Laboratory	146,891	3/13/2013
63767	58844 - Potsdam Roadmaps towards Sustainable Energy Futures	Potsdam Institute for Climate Impact Research	Potsdam Institute for Climate Impact Research	245,000	6/30/2013
63607	62301 - INSPIRE Maintenance	Multi-client Industrial	Multi-client Industrial	62,443	9/30/2013
63766	58619 - Links - Linking Global and Regional Energy Strategie	SINTEF Energy Research	SINTEF Energy Research	71,000	4/25/2014
63619	62654 - Enhancement of the Light Right Survey (LRS) Tool	Philips Lighting	Philips Lighting	40,064	12/20/2012
63451	48887 - Improving Efficiency of Commercial Buildings in WA	State of Washington, Attorney Generals Office	State of Washington, Attorney Generals Office	1,630,000	12/31/2014
63828	FRAPCON-3 User Group. Paper study.	Multi-client	Multi-client	75,000	9/30/2013
63594	61846 - Silicon Detectors for High Resolution Radioxenon Mea	XIA, LLC	DOE - SC Germantown Building	70,000	2/12/2014
63759	52172 - Economic Methods for Assessing Climate Change	Mizuho Information & Research Institute	Mizuho Information & Research Institute	17,294	1/31/2013
63602	62215 - Helium Ion Microscopy of Shale Mineral Deposits	ExxonMobile Research and Engineering Company	ExxonMobile Research and Engineering Company	6,845	8/31/2013
63513	57320 - The Impact of geo-engineering by aerosols on the cli	University of Calgary	University of Calgary	224,674	9/30/2013
63551	APT Analysis	GE Global Research	GE Global Research	37,046	12/31/2013
63508	AMS Deployment at National Parks	Electric Power Research Insititute - EPRI	Electric Power Research Insititute - EPRI	5,797	12/31/2013
63574	Evaluation of Dose and Dose Rate Effects in Beagle dogs expo	Electric Power Research Insititute - EPRI	Electric Power Research Insititute - EPRI	50,949	12/31/2013
63503	Develop and Utilize an Integrated Model of GHG Emissions	Electric Power Research Insititute - EPRI	Electric Power Research Insititute - EPRI	126,140	12/31/2013
63583	61605 - Polymer Characterization	PepsiCo, Inc.	PepsiCo, Inc.	59,236	12/31/2013
63492	55433 - Seamless prediction of cold clouds (NCAR)	National Center of Atomospheric Research	NASA - National Aeronautics & Space Administration	115,819	5/31/2014
63603	62232 - Analyzing Model Simulations from the Community Land	Carnegie Institution of Washington	NASA - National Aeronautics & Space Administration	31,780	7/30/2014
63482	54211 - Collaborative Research: The Role of Surface, Subsurf	National Oceanic and Atmospheric Administration (NOAA)	National Oceanic and Atmospheric Administration (NOAA)	57,288	7/31/2014
63520	58354 - Integrated Assessment Modeling of Major Forest Distu	University of Maryland at College Park	NASA - National Aeronautics & Space Administration	297,040	8/31/2014
63516	57489 - Integrated Assessment of Coupled Human-Forest Dynami	University of New Hampshire	NASA - National Aeronautics & Space Administration	391,305	8/31/2014
63475	53677 - Comparative proteomics of women infected with Malaria	Seattle Biomedical Research Institute	NIH - National Institutes of Health	268,370	11/30/2014
63507	56613 - GEPR: Soybean Root Hairs: A model for single-cell pl	University of Missouri	National Science Foundation	107,341	8/31/2015
63545	Impact of Organic Matter and Black Carbon Emissions	National Oceanic and Atmospheric Administration (NOAA)	National Oceanic and Atmospheric Administration (NOAA)	455,008	8/31/2015
63558	60730 - High Order Model, Computation, and Stochastic Hybrid	University of Notre Dame	National Science Foundation	28,124	9/30/2015
64029	62438 - Prediction and Network Construction Using High-throu	University of Washington	NIH - National Institute of General Medical Sciences	46,326	6/30/2013
63489	54923 - Genetic analysis of Salmonella typhimurium virulence	Oregon Health Science University	NIH - National Institutes of Health	85,890	11/30/2013
63477	53776 - Genetic Analysis of Salmonella Typhimurium Virulence	Oregon Health Sciences University	NIH - National Institutes of Health	144,012	11/30/2013
63885	58766 - Automated NMR Potato Sensing	Lamb Weston	Lamb Weston	27,072	12/31/2012
63468	53063 - Evaluation and development of FT catalysts	Korea Institute of Energy Research	Korea Institute of Energy Research	28,958	12/31/2012
63742	61886 - COMcheck Ontario	Municipal Affairs & Housing Building	Municipal Affairs & Housing Building	8,127	3/31/2013
63604	62241 - CSC FRAMES Support Task Order 1521.02	Computer Sciences Corporation	EPA Mid-Continent Ecology Division	125,453	5/7/2013
63760	61148 - NREL WIND SITE SWEA	Los Alamos Technical Associates (LATA)	National Renewable Energy Laboratory - NREL	17,000	9/30/2013
63573	61088 - CO2BOLs post combustion	U.S. Department of Energy (DOE)	U.S. Department of Energy (DOE)	455,333	3/31/2014
63585	61615 - EMFP of Bitumen for Fuel and Chemical Production	H-Quest Partners, LP	H-Quest Partners, LP	20,064,674	9/30/2015
63524	59070 - Numerical Simulator for the Kinetic Exchange of Gas	Korea Institute of Geoscience & Mineral Research	Korea Institute of Geoscience & Mineral Research	85,464	3/31/2013
63622	62715 - GS3 for EPA Region 5	EPA, Environmental Protection Agency	EPA, Environmental Protection Agency	37,136	9/30/2013
63496	55898 - Shell Oil Co.	Shell Oil Company	Shell Oil Company	360,000	12/31/2014
63453	Carbon Sequestration Field Pilot Study	National Energy Technology Laboratory (NETL)	National Energy Technology Laboratory (NETL)	2,167,949	12/31/2014
63587	61713 - Support for RTI	Real-Time Innovations, Inc.	Air Force, Research Laboratory	182,414	9/30/2013
63755	63106 - Installation of SAIC P7500 at 3440 Test Track	Science Applications International Corporation - SAIC	DHS - Customs & Border Protection	300,000	10/31/2012
63854	63166 - Installation of Smiths IRD & HE System at 3440 Test	Smith's Detection	DHS - Customs & Border Protection	710,000	12/30/2012
63493	Visual Sample Plan Training Course in Support of AMEC	AMEC	AMEC	30,000	4/30/2013
63544	60207 - Geometric flow approach to implicit solvation modeli	Michigan State University	NIH - National Institutes of Health	118,823	7/31/2013
63737	60586 - Characterization/bioinformatics-modeling	Washington University School of Medicine	National Institute of Health (NIH)	254,386	8/31/2013
63511	57182 - Natural Products	Antelope Therapeutics, LLC	Antelope Therapeutics, LLC	572,712	9/30/2013
63614	62510 - NEIMiner Phase II	Intelligent Automation, Inc.	U.S. Army Corps of Engineers	8,472	11/13/2013
63541	National Biomedical Computation Resource	University of California, San Diego	NIH - National Institutes of Health	57,659	4/30/2014
63579	61394 - Immunization Safety Beliefs in Microblogs	Infectious Diseases Society of America Edu & Rsch	Sealy Center for Vaccine Development, UTMB	50,956	5/1/2014
63589	61764 - Nanophotonic sensor fabrication and characterization	University of Delaware	National Science Foundation	39,000	3/31/2015
63542	59994 - Mechanism of Oxysterol Activation of Membrane Choles	Washington University School of Medicine	NIH - National Institutes of Health	158,361	9/30/2015
63479	54067 - RL16 Laboratory (post-cert)	CTBTO	CTBTO	375,000	9/30/2015
63440	28480 - Chernobyl Shelter Implementation Plan Project Manage	Ministry of Energy of Ukraine State Dept. of Nuclear Safety	European Bank for Reconstruction and Development	45,000,000	9/30/2015
63834	59383 - GC PUD Productivity	Grant County Public Utility District	Grant County Public Utility District	8,110	12/31/2012
63842	61023 - Spawn Habitat	Grant County Public Utility District	Grant County Public Utility District	7,582	12/31/2012
63833	59272 - Fall Chinook Working Group	Grant County Public Utility District	Grant County Public Utility District	11,000	12/31/2012
63851	62541 - Phase 2-O2 Isotopes Fall Chinook	Idaho Power Company	Idaho Power Company	83,000	12/31/2012
63606	62290 - McNary Steelhead Fallback	Army Corps of Engineers - Walla Walla District (USACE)	Army Corps of Engineers - Walla Walla District (USACE)	99,677	12/31/2012

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LIST OF BATTELLE MEMORIAL INSTITUTE LEGACY WORK
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SCOPE NO	PROPOSAL TITLE	CONT_CLNT_NAME	FUND_CLNT_NAME	WALS COST_AMT	WALS PROP_END_ DATE
63837	59746 - Egg to Fry Survival	Grant County Public Utility District	Grant County Public Utility District	50,000	12/31/2012
63624	62747 - Tailrace Tracking	Army Corps of Engineers - Walla Walla District (USACE)	Army Corps of Engineers - Walla Walla District (USACE)	290,951	2/15/2014
63623	62724 - External JSATS Field Test	Army Corps of Engineers - Walla Walla District (USACE)	Army Corps of Engineers - Walla Walla District (USACE)	568,597	3/29/2013
63618	62636 - Steelhead Kelt Passage	Army Corps of Engineers - Walla Walla District (USACE)	Army Corps of Engineers - Walla Walla District (USACE)	567,550	3/29/2013
63913	Spawning & Overwintering of Rainbow Trout	Fish & Wildlife Department - Colville Confederated Tribes	BPA - Portland	288,000	4/30/2013
63577	61316 - WW JSATS	Army Corps of Engineers - Walla Walla District (USACE)	Army Corps of Engineers - Walla Walla District (USACE)	7,519,737	5/1/2014
63738	61110 - Basin of Origin	Grant County Public Utility District	Grant County Public Utility District	450,000	12/31/2013
63840	60894 - Stranding/Entrapment	Grant County Public Utility District	Grant County Public Utility District	750,804	9/30/2015
63835	59402 - Life Cycle Model	Grant County Public Utility District	Grant County Public Utility District	305,017	9/30/2015
63568	61020 - Survival Study	Army, Corps of Engineers - Portland District	Army, Corps of Engineers - Portland District	742,526	9/30/2013
63841	60989 - Barotrauma Consultation	Symbiotics, LLC	Symbiotics, LLC	101,000	9/30/2013
63836	59599 - GC Thermal Modeling	Grant County Public Utility District	Grant County Public Utility District	317,000	12/31/2014
63888	60676 - PRD Turbine Assessment	Grant County Public Utility District	Grant County Public Utility District	848,000	12/31/2014
63829	Tech Services GC PUD	Grant County Public Utility District	Grant County Public Utility District	5,000,000	9/30/2015
63488	54761 - In vivo Characterization of Extracellular Reduction	Bowling Green State University	NIH - National Inst of Environmental Health Sciences (NIEHS)	5,959	11/30/2012
63580	61486 - Research Consultation for American Chemical Council	American Chemistry Council	American Chemistry Council	4,601	12/31/2012
63890	61593 - Airborne Ammonia Sensor Test Flight	Los Gatos Research	U.S. Department of Energy (DOE)	7,900	12/31/2012
63570	61062 - Calculations of Airflow and Particle Breakup Inside	Oregon State University	NASA - John C. Stennis Space Center	3,636	2/5/2013
63598	61949 - Social Network Analysis: Enhance Climate Change Adap	Centre for Environmental Mgmt, CQ University Australia	National Climate Change Adaptation Research Facility	43,632	2/6/2013
63740	61690 - Inhalation Route Isobutyl Series Pharmacokinetics	Oxo Process Panel, ACC	Oxo Process Panel, ACC	40,769	3/31/2013
63850	62322 - UMCP Human Dimensions of Global Change(HDGC) Researc	University of Maryland at College Park	University of Maryland at College Park	67,000	4/30/2013
63481	54193 - PBPK Enabled Urine Biomarker Based Human BPA Exposur	EPA, Environmental Protection Agency	EPA, Environmental Protection Agency	274,080	5/3/2013
63556	Validation of Biomarkers for Triple Negative Breast Cancer	University of Texas Health Science Center-San Antonio	NIH - National Cancer Institute	600,000	6/30/2013
63500	Exceptional, Unconventional Research Enabling Knowledge Acce	University of Miami	NIH - National Institutes of Health	209,112	8/31/2013
63626	62847 - Migration of Y-90 in Tumor	Advanced Medical Isotope Corporation	Advanced Medical Isotope Corporation	412,435	9/30/2013
63609	62435 - Intergenerational & intragenerational equity- climat	Ragnar Frisch Centre for Economic Research	Norwegian Research Council	56,222	12/31/2013
63559	60829 - Modeling International Offsets	Electric Power Research Institute	Electric Power Research Institute	50,431	12/31/2013
63497	Support for GTSP	Electric Power Research Institute	Electric Power Research Institute	179,199	12/31/2013
63910	48559 - Vinyl Acetate Council Consulting	Vinyl Acetate Council	Vinyl Acetate Council	1,000,000	1/3/2014
63832	59135 - Molecular Mechanisms of LPS Preconditioning in Strok	Oregon Health & Science University	NIH - NINDS	80,000	6/30/2014
63746	62182 - Evaluation of BPA Dermal Exposure and TK Among Cashi	Ohio State University	Centers for Disease Control & Prevention	88,663	6/30/2014
63728	54142 - Mitral-FSI	University of Maine	NIH - National Institutes of Health	381,000	6/30/2014
63729	55374 - Urinary Proteome Monitoring for Transplant Injury	Stanford University	NIH - National Institutes of Health	800,000	7/31/2014
63566	60962 - A 1.5-T superconducting solenoid-dipole magnet for M	Massachusetts Institute of Technology (MIT)	NIH - National Institutes of Health	152,010	9/30/2014
63745	62084 - Reduction of Black Carbon from Diesel Sources	EPA, Office of International Affairs	EPA, Office of International Affairs	1,000,000	9/30/2015
63540	59973 - Structure-Function of Dirigent Protein in Lignan Bio	Washington State University	National Science Foundation	219,024	9/30/2015
63726	53375 - Administrative Core for OSU/PNNL Superfund	Oregon State University	National Toxicology Program (NIEHS)	251,596	9/30/2015
63735	60260 - Deep RNA sequencing and proteomic analysis of a hybr	University of California, Los Angeles	NIH - National Institutes of Health	575,107	9/30/2015
63597	61923 - Structural Genomics on Infectious Diseases	Seattle Biomedical Research Institute	NIH - Nat'l Inst of Allergy & Infectious Diseases (NIAID)	809,184	9/30/2015
63560	60831 - Vulnerability of DOD facilities to climate change	DOD - Strategic Environmental Research & Development-SERD	DOD - Strategic Environmental Research & Development-SERPD	1,734,518	9/30/2015
63464	52726 - Statistics & Bioinformatics for SBRP	Oregon State University	NIH - National Institutes of Health	3,152,595	9/30/2015
63518	57951 - Transplacental pharmacokinetics of dibenzo[a,h]pyren	Oregon State University	National Toxicology Program (NIEHS)	3,261,092	9/30/2015
63549	Animal Model Development for Medical Countermeasures	Department of Health and Human Services	Department of Health and Human Services	26,000,000	9/30/2015
63831	56852 - IEA Task 34	IEA Bioenergy	IEA Bioenergy	86,500	12/31/2012
63467	Aberdeen Proving Ground	Johnson Controls, Federal Solutions	Army, Aberdeen Proving Grounds	209,934	12/31/2012
63452	48997 - ENVIRONMENT-ASSISTED CRACKING MECHANISMS	Rolls Royce & Associates Ltd.	Rolls Royce & Associates Ltd.	223,504	3/31/2013
63744	62045 - Production of Bio-Hydrogenated Diesel (BHD) in Micro	Oregon State University	PTT Public Company Limited	108,500	6/20/2013
63843	61182 - Membrane Evaluation for Redox Flow Battery	LynnTech, Inc.	U.S. Department of Energy (DOE)	125,000	9/30/2014
63847	62021 - FCE UVP Components	Fuel Cell Energy, Inc.	Navy, Office of Naval Research	300,000	9/30/2014
63839	60752 - Sustainable Alternative Jet Fuel from Cellulosic Bio	LanzaTech	US Department of Transportation	200,009	9/30/2014
63519	57999 - ARRA - Pacific Northwest Smart Grid Demonstration	U.S. Department of Energy (DOE)	U.S. Department of Energy (DOE)	46,128,990	9/30/2015
63550	60549 - ARRA Technical Support to FutureGen Industrial Alli	FutureGen Industrial Alliance, Inc.	National Energy Technology Laboratory (NETL)	68,539,852	9/30/2015
63536	59676 - NEEA Industrial Model	Northwest Energy Efficiency Alliance	Bonneville Power Administration - Portland	52,780	12/31/2012
63564	60951 - American Samoa Tropical Energy Code Adoption and Tra	American Samoa Energy Office	DOE, Energy Efficiency and Renewable Energy Network	106,964	12/31/2012
63581	61493 - Transcriptomics Analysis of Fermentation Organisms	LanzaTech	LanzaTech	67,109	3/31/2013
63439	28336 - CVSA Pilot Inspection Study	Commercial Vehicle Safety Alliance	DOE, Office of Civilian Radioactive Waste Management	66,000	9/30/2013
63480	54159 - SECA Vertical Team Coal Based SOFC Stack Development	Delphi	DOE, Office of Fossil Energy	705,000	6/30/2014
63621	62676 - Low Cost Vacuum Insulated Glass Windows	Milgard Windows & Doors	Milgard Windows & Doors	205,288	12/31/2012

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SCOPE NO	PROPOSAL TITLE	CONT_CLNT_NAME	FUND_CLNT_NAME	WALS	WALS
				COST_AMT	PROP_END_ DATE
63546	60306 - Biomarkers for pulmonary injury following deployment	Institute for Systems Biology	Army, Medical Research and Materiel Command	179,775	7/31/2013
63476	53773 - Technical Assistance to Ashland for Catalytic Hydrot	Ashland Speciality Chemical Company	Ashland Speciality Chemical Company	45,902	7/2/2013
63474	Quality Assurance Support	Theseus Professional Services, LLC	DOE, Office of Environmental Management	139,111	9/30/2013
63514	57361 - Quality Assurance Support	Theseus Professional Services, LLC	Farris Engineering Curtiss Wright Flow Control Corp	16,715	9/30/2013
63748	62446 - Infrared Transmitting Glass Ceramics	Raytheon - Integrated Defense Systems	Defense Advanced Research Projects Agency (DARPA)	144,549	12/31/2013
63887	59828 - AECL Reactor Dosimetry	Atomic Energy of Canada Limited	Atomic Energy of Canada Limited	17,722	3/31/2013
63463	52687 - Tri Cities Patient Safety Improvement	Benton Franklin Community Health Alliance	Benton Franklin Community Health Alliance	30,839	12/31/2012
63571	61072 - EPRI PWR Reactor Support	Electric Power Research Institute	Electric Power Research Institute	12,068	12/31/2012
63461	52306 - Southern California Edison Co.	Southern California Edison Co.	Southern California Edison Co.	36,640	12/31/2012
63484	54489 - SM Stoller - Germanium Detector	SM Stoller Corporation	SM Stoller Corporation	996	3/31/2013
63534	59658 - Chemical Waste Management Northwest	Chemical Waste Management	Chemical Waste Management	854	5/31/2013
63533	59647 - STTR Phase II: Development of an Integrated In Situ	EIC Laboratories, Inc.	DOE, Office of Science	35,874	8/14/2013
63535	59674 - SBIR Phase II: Development of a Compact Fiber Optica	EIC Laboratories, Inc.	DOE, Office of Science	106,733	8/14/2013
64040	53725 - Isotope Production from Gamma and Neutron Generators	Thorenco, LLC	Thorenco, LLC	30,000	9/30/2013
63449	47859 - Westinghouse Retrospective Reactor Dosimetry	Westinghouse Electric Company - Nuclear Fuel Unit	Westinghouse Electric Company - Nuclear Fuel Unit	115,763	9/30/2013
64028	57296 - Modeling/Simulation Studies of Cincinnati Arch Mt.	Battelle Memorial Institute	National Energy Technology Laboratory (NETL)	11,000	10/31/2012
63501	56185 - Hunters Point Parcel F BCO Support	Battelle Columbus Operations	Naval Facilities Engineering Command - Southwest Division	15,000	10/31/2012
63523	DU Soil Contamination and Transport	Battelle Eastern Science & Technology Center	Army Public Health Command	1,162	11/30/2012
63915	62594 - Sulfuryl Fluoride Modeling support	Battelle Columbus Operations	Dow Chemical Company	20,000	12/31/2012
63627	62879 - ExFIRS Support	Battelle Columbus Operations	Internal Revenue Service	50,000	12/31/2012
63884	First Wave	Battelle Columbus Operations	Independent Establishments and Government Corporations	75,000	12/31/2012
63973	54140 - Technical and Analytical Support to NA-24	Battelle Columbus Operations	DOE - National Nuclear Security Administration	200,000	1/31/2013
63912	57119 - Chlorpyrifos Children Modeling	Battelle Columbus Operations	Dow Chemical Company	72,000	2/28/2013
63562	60928 - Veterinary Support for Tox Northwest	Battelle Columbus Operations	National Institutes of Health (NIH)	15,000	3/31/2013
63563	60931 - Veterinary Support for Tox Northwest	Battelle Columbus Operations	National Institutes of Health (NIH)	10,000	3/31/2013
63578	61370 - RNTRA	Battelle Columbus Operations	DHS - Department of Homeland Security	261,000	3/31/2013
63510	56994 - Fagitue Management for Rapid Renewal Highway Const	Battelle Columbus Operations	DOE Transportation Research Board	82,300	3/31/2013
63855	63175 - EDSP - TO 03	Battelle Columbus Operations	EPA, Environmental Protection Agency	47,000	4/30/2013
64049	59343 - ACRP 03-16	Battelle Memorial Institute	Transportation Research Board	40,000	4/30/2013
63889	Assessment of Contamination after Laundering	Battelle Columbus Operations	EPA Office of Research and Development	133,980	8/31/2013
63506	56589 - High-Flyer Dosimetry Testing	Battelle Memorial Institute	Air Force, School of Aerospace Medicine	110,000	9/30/2013
63438	27190 - Provide Multiple Services to Pre Clinical Drug Devel	Battelle Columbus Operations	Department of Health and Human Services	350,000	9/30/2013
63911	55031 - Brooks Air Force Base - Dosimeter Irradiations	Battelle San Antonio Operations	Air Force, Brooks Air Force Base	76,465	8/1/2014
63538	59781 - Biological Threat Reduction Program (BTRP/BTRIC)	Battelle Crystal City Office	Defense Threat Reduction Agency (DTRA)	1,500,000	9/30/2013
63491	PBPK Model Support for EPA-ORD	Battelle Memorial Institute	EPA, Environmental Protection Agency	350,000	10/31/2013
63530	Evaluation of PB Biokinetic Model for Bacillus anthracis	Battelle Memorial Institute	EPA, National Risk Management Research Laboratory	174,000	10/31/2013
64041	59556 - ICM Benefit Analysis	Battelle Columbus Operations	US Department of Transportation	75,000	4/30/2014
63495	55879 - MRCS Phase III	Battelle Columbus Operations	National Energy Technology Laboratory (NETL)	1,000,000	9/30/2014
63856	63219 - Evaluation of AEP Oklahoma gridSMART Volt Var Projec	Battelle Columbus Operations	American Electric Power Service	75,000	12/15/2012
63436	07182 - Monitoring marine receiving water	City of Sequim	City of Sequim	9,943	12/31/2012
63442	41578 - Biomarkers and Toxicology involving EVOS-related Spe	Exxon Mobil Corporation	Exxon Mobil Corporation	62,000	12/31/2012
63445	44198 - Silver and Copper Analysis in Effluent	City of Salisbury, WWTP	City of Salisbury, WWTP	5,100	12/31/2012
63515	57393 - Hydrodynamic Modeling Analyses for the Mill Road Res	Columbia Land Trust	Bonneville Power Administration - Portland	19,252	12/31/2012
63505	56575 - Kitsap Co EPA Region X 2009	Kitsap County Public Works	EPA Region 10 - Seattle	12,978	12/31/2012
63617	62562 - USACE NYD Arthur Kill	Battelle Ocean Sciences Laboratory	Army - Corps of Engineers - New York District	28,125	12/31/2012
63521	58366 - Palau Circulation Modeling	University of California, San Diego	Navy, Office of Naval Research	61,239	2/26/2014
63612	62488 - Pelton Round Butte - Temperature Model - FY 2012	Portland General Electric	Portland General Electric	119,910	12/31/2012
63611	62452 - BW Treatment Technology Verification using Test Orga	National Science Foundation International	U.S. EPA - Great Lakes Region	117,640	1/31/2013
63590	61780 - EDSP - TO 38	EPA, Environmental Protection Agency	EPA, Environmental Protection Agency	362,824	2/28/2013
63754	63005 - FSU Mercury	Florida State University	National Oceanic and Atmospheric Administration (NOAA)	12,000	3/1/2013
63543	60076 - EDSP - TO 33	EPA, Environmental Protection Agency	EPA, Environmental Protection Agency	332,854	3/21/2013
63527	59495 - EDSP-TO 31 Larval Amphibian	EPA, Environmental Protection Agency	EPA, Environmental Protection Agency	444,663	3/21/2013
63528	59496 - EDSP-TO 32 Medaka	EPA, Environmental Protection Agency	EPA, Environmental Protection Agency	676,818	3/21/2013
63485	54627 - Hecla Greens Creek Mining Company	Hecla Green Creek Mining Company	Hecla Green Creek Mining Company	15,566	4/16/2013
63596	Fish and Shellfish Monitoring-Analytical	Aluminum Company of America (ALCOA)	Aluminum Company of America (ALCOA)	45,000	6/26/2013
63460	52238 - Ballast Water RDTE Facility	National Oceanic & Atmospheric Administration (NOAA)	National Oceanic & Atmospheric Administration (NOAA)	569,821	9/30/2013
63586	61699 - META CCA Analysis	META Environmental	Electric Power Research Institute	3,569	9/30/2013
63444	43549 - Morro Bay Taxonomic Identifications	Marine Research Specialists	City of Morro Bay	2,800	9/30/2013

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SCOPE NO	PROPOSAL TITLE	CONT_CLNT_NAME	FUND_CLNT_NAME	WALS COST_AMT	WALS PROP_END_ DATE
63446	EPA Region 2 Low Level Hg Analyses	EPA Region 2 - New York	EPA Region 2 - New York	7,500	9/30/2013
63450	47930 - Eagle River Water and Sanitation District	Eagle River Water & Sanitation District	Eagle River Water & Sanitation District	10,988	9/30/2013
63443	42556 - Englewood Mercury Analyses 2001 Open PO	City of Englewood Colorado	City of Englewood Colorado	12,000	9/30/2013
63592	61829 - Carbon Footprint Tool Technical Support	Noblis	Noblis	86,723	9/30/2013
63616	62561 - USACE NYD Newark Bay	Battelle Ocean Sciences Laboratory	Army - Corps of Engineers - New York District	57,956	4/30/2013
63458	51728 - Penobscot River Mercury Study	Eviron International Corporation	Mallinckrodt	99,290	9/30/2013
63547	60371 - 2010 Maine DEP Gulfwatch	AXYS Analytical Services Ltd	Maine Department of Environmental Protection	56,500	9/30/2013
63600	62172 - TO 1 Chemical Repository	Battelle Columbus Operations	EPA, Environmental Protection Agency	90,260	9/30/2013
63599	61985 - USACE NYD HARS Sampling	Battelle Ocean Sciences Laboratory	Army - Corps of Engineers - New York District	111,488	9/30/2013
63457	DuPont South River Project	Dupont De Nemours and Company, Inc.	Dupont De Nemours and Company, Inc.	176,645	9/30/2013
63526	59394 - Fir Island Farm Restoration	Shannon & Wilson, Inc.	Shannon & Wilson, Inc.	138,733	9/30/2013
63531	59524 - CSF Proteomics	University of Medicine & Dentistry of New Jersey	NIH - National Institutes of Health	155,000	9/30/2013
63487	54715 - Temperature Modeling Support Boundary Hydroelectric	Seattle City Light	Seattle City Light	76,065	12/31/2013
63454	Mercury Analysis - Olin Corporation	Olin Corporation	Olin Corporation	27,434	12/31/2013
63509	56654 - City of Greeley - Hg Analysis	City of Greeley - WPCF	City of Greeley - WPCF	10,983	12/31/2013
63610	62444 - Alyeska Work Order for 2012	Alyeska Pipeline Services Company	Alyeska Pipeline Services Company	95,293	12/31/2013
63739	61146 - High throughput screening of endocrine disruptors	EPA, Environmental Protection Agency	EPA, Environmental Protection Agency	1,200,000	9/30/2015
63494	55849 - Population-Climate Project	Population Action International	Population Action International	4,017	9/30/2013
63576	61262 - Nerospora quantitative proteomics study	University of California, Berkeley	British Petroleum	49,500	10/31/2012
63478	53806 - Modeling Post-2012 International Climate Policy Scen	Pew Center on Global Climate Change	Pew Center on Global Climate Change	18,796	12/31/2012
63747	62434 - Cardiac Metabolism and Protein Synthesis during Extr	Seattle Children's Research Institute	NIH - National Institutes of Health	12,000	12/31/2012
63525	59310 - Characterization of Thin Films for Mermistor Devices	Oregon State University	Navy, Office of Naval Research	35,000	12/31/2012
63532	59531 - Characterize the proteome response to hydrocodone	Genova Foundation	Army, Medical Research and Materiel Command	170,839	2/28/2013
63483	A Systems Biology Approach to Emerging Respiratory Viral Dis	University of Washington	NIH - Nat'l Inst of Allergy & Infectious Diseases (NIAID)	1,880,000	9/25/2013
63539	Blood plasma biomarker verification from early state breast	Fred Hutchinson Cancer Research Center	Susan G. Komen Breast Cancer Foundation	5,984	9/30/2013
63465	52792 - Support for GTSP 3	Chevron Environmental Management Company	Chevron Environmental Management Company	72,968	9/30/2013
63502	56191 - Optimal U.S. freight transport to reduce emissions	University of Illinois	EPA, Environmental Protection Agency	34,225	10/31/2013
63459	51834 - Support for GTSP Phase 3	ExxonMobil Corporation	ExxonMobil Corporation	463,201	12/31/2013
63472	53527 - Chairmanship of GOFc/GOLD	American Geophysical Union	NASA - National Aeronautics & Space Administration	90,089	4/13/2014
63914	61077 - High-Content High-Throughput Zebrafish Assays for Pr	Oregon State University	EPA, Environmental Protection Agency	450,000	1/31/2015
63522	Biomarkers for prostate cancer	University of Washington	NIH - National Cancer Institute	355,000	6/30/2015
63567	Microbiome Studies of Type 1 Diabetes	J. Craig Venter Institute	NIH - Nat'l Inst of Diabetes, Digestive, & Kidney Diseases	823,378	8/31/2015
63753	62860 - Gryphon Scientific	Battelle Columbus Operations	DHS - Department of Homeland Security	50,000	3/31/2013
64155	62631 - Support for Midwest Carbon Sequestration	Battelle Columbus Operations	Ohio Department of Development	10,000	10/31/2012

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**PART III – List of Documents,
Exhibits and Other Attachments**

Section J

Appendix J

**Advance Agreement on Costs and Associated Use of Battelle-Owned Facilities and Real
Property**

ADVANCE AGREEMENT ON COSTS AND ASSOCIATED USE OF BATTELLE-OWNED FACILITIES AND REAL PROPERTY

The Parties acknowledge that in consideration of the extension of Contract No. DE-AC05-76RL01830 (hereinafter referred to as "the PNNL Prime Contract") from October 1, 2012 through September 30, 2017, it would be in the best interests of both Parties to enter into this Advance Agreement (hereinafter referred to as "the Agreement"),

The Parties agree as follows:

1. Effective October 1, 2012, Battelle grants to the Department of Energy (hereinafter referred to as "DOE") operational control over the Battelle owned facilities as identified in Section J, Appendix H of the PNNL Prime Contract (hereinafter referred to as "the Facilities") and the right to exclusive use of the Facilities and the beneficial use of the areas and grounds appurtenant to the Facilities necessary for access, occupancy and enjoyment. The Parties agree that DOE's exclusive use of the Facilities shall include any use authorized under the PNNL Prime Contract, or as otherwise agreed to by the Parties.
2. This Agreement, including without limitation, DOE's exclusive use and occupancy of the Facilities, as identified in Section J, Appendix H, and the beneficial use of the areas and grounds appurtenant to the Facilities shall terminate if Battelle is no longer the operator of PNNL, or alternatively by mutual assent.
3. Battelle agrees to allow access to the Facilities, without reasonably preventable or recurring disruption, as is required for DOE to access, occupy, use and enjoy such facilities as provided in this Agreement.
4. Battelle provides DOE the option to lease the Facilities at any time during the term of the PNNL Prime Contract. If DOE exercises this option to lease the Facilities, as defined at the time in Section J, Appendix H, this Agreement shall terminate upon the lease becoming effective. The lease term may not extend greater than 5 years past the end date of this Agreement without mutual assent. The Parties agree that in principle any lease shall be market based as negotiated between the Parties and shall be adjusted for the degree of Government investment and assets in the Facilities (irrespective of funding type) and any unamortized portion of Battelle's share of the residual radiological contamination as set forth in paragraph 8 based on a 10 year amortization period commencing with the effective date of this Agreement.
5. DOE expenditures in the Facilities under the DOE capitalization threshold shall be operating expenses under the PNNL Prime Contract provided such

expenditures are authorized by DOE upon evaluation of mission necessity and benefit justification. DOE may from time to time make appropriate mission essential capital modifications to the Facilities, as approved by the Contracting Officer.

6. Battelle expenditures in the Facilities shall follow Battelle capitalization criteria. Battelle shall be responsible for capital expenditures above the DOE capitalization threshold to maintain the Facilities in good working order. Battelle may from time to time elect to make investments below the DOE capitalization threshold in the Facilities, not otherwise approved by DOE, utilizing Battelle funds.
7. The Parties agree that improvements to roads, grounds, supporting site infrastructure and parking lots will be split between the Parties such that DOE investments, as justified, appropriate and expressly approved by the Contracting Officer, will address requirements of the combined core campus including and North of Battelle Blvd while Battelle will address those South of Battelle Blvd and on the Sequim campus. The Parties agree to evaluate the potential transfer of Battelle Blvd to the City of Richland within the term of this Agreement.
8. The Parties acknowledge that through the conduct of both Government and private work, several Battelle owned facilities (the Engineering Development Laboratory (EDL), the Marine Sciences Laboratory (MSL-1/MSL-5), the Life Sciences Laboratory 2 (LSL-2), the Physical Sciences Laboratory (PSL), and the Research Technology Laboratory (RTL)) are, in part, radiologically contaminated. The Parties acknowledge that both Battelle and the Government have responsibility for the radiological contamination in these Battelle owned facilities. The Parties agree that, pursuant to Government interests, DOE shall assume responsibility (to include both regulatory and financial aspects) for such contamination, including control and ultimately remediation of the radiological contamination. Battelle agrees to share the costs for remediation of such radiological contamination by contributing 10% of the cost except as further provided in this paragraph 8. As consideration for Battelle granting DOE exclusive use of the Facilities, radiological remediation completed while Battelle is the operator of PNNL will be without cost share by Battelle. To that end, the Parties agree to remediate the radiological contamination in LSL-2, EDL, PSL, MSL-1 and MSL-5 prior to September 30, 2017 and remediate the radiological contamination in RTL prior to September 30, 2022. This agreement is based on the currently known extent of condition of these facilities and subject to review if conditions are later found to materially differ. The responsibilities and obligations set forth in this paragraph shall survive termination of this Agreement or the PNNL Prime Contract.

9. Battelle shall annually report progress against the obligations in this agreement as well as expenditures as approved by DOE and Battelle in the Facilities and appurtenant areas and grounds in order to monitor this Agreement.
10. Nothing in this Agreement shall be deemed to constitute a release of Battelle from liability under the Comprehensive, Environmental, Response, Compensation, and Liability Act or any other relevant environmental law or regulation or from financial responsibility for pre-existing unknown hazardous substances that may be discovered during radiological remediation of the Battelle owned facilities identified in paragraph 8.
11. Upon termination of this Agreement, DOE shall vacate the Facilities and at its sole election, either remove any real property improvements or abandon any such improvements in place. If DOE elects to remove any real property improvements made at DOE expense rather than abandoning such in place, DOE shall arrange for the removal. The removal of any such real property improvements shall be at no cost to Battelle and DOE shall leave the Facilities in a reasonable condition.
12. The Parties agree that each and every obligation of the Government contained herein involving an expenditure of funds is subject to the availability of the appropriated funds of the DOE, or in the event of a claim, as provided by the Contract Disputes Act, if applicable. DOE will use its best efforts to obtain funds to meet all of its obligations under this Agreement. Nothing herein shall be construed as implying that the Congress will, at a later date, appropriate funds sufficient to meet deficiencies.

Agreed and acknowledged by the Parties as of the 21ST day of August, 2012.

Battelle Memorial Institute

By: Michael Kahan

Date: 8/21/2012

U.S. Department of Energy

By: [Signature]

Date: 8-21-12

Contract Number: DE-AC05-76RL01830
Modification M881

**PART III – List of Documents,
Exhibits and Other Attachments**

Section J

Appendix K

**Advance Agreement on Costs and Disposition of Battelle Owned Personal
Property/Nuclear Materials for the Pacific Northwest National Laboratory**

Section J – Appendix K

Advance Agreement on Disposition of Battelle Owned Personal Property/Nuclear Materials for the Pacific Northwest National Laboratory

The Parties agree as follows:

Battelle Memorial Institute (Battelle) owns certain property which includes: personal property, nuclear materials, and one G-1 aircraft with associated parts. Such property identified is required for the continued operations and missions of the Pacific Northwest National Laboratory (PNNL).

For Battelle owned personal property and nuclear materials, which are either fully depreciated or in the case of nuclear materials that are required for transfer for the purposes of eliminating state licenses and the assumption of licensing by the Department of Energy and its regulatory requirements, sales agreements between the Parties will be executed and made part of this advance agreement effective October 1, 2012. Appendix K-1 Advance Agreement On Costs And Disposition Of Battelle Owned Personal Property (Attachment A – Personal Property Sales Agreement) and Appendix K-2 Advance Agreement On Costs And Disposition Of Battelle Owned Nuclear Materials (Attachment A – Nuclear Materials Sales Agreement)

For those personal property items listed in Appendix K-1, Attachment B – Retained Personal Property, that still have remaining net book value, those items will continue to follow Battelle's depreciation schedule. On an annual basis, the Department and Battelle will review the list of personal property and execute a sales agreement for those items that have a net book value of zero (\$0) and as mutually agreed upon for the continuing missions of PNNL. Battelle will be responsible for the disposition and incremental costs associated with disposition of the items of personal property, which are not a part of the sales agreement(s).

For those nuclear materials listed in Appendix K-2, Attachment B – Retained Nuclear Materials, that are for the sole purpose of fulfilling Battelle Memorial Institute Legacy Work, the Department and Battelle will evaluate the continuing need for those nuclear materials on or before 9/30/2015 and will either require disposition of the materials by Battelle or their client or inclusion under the Contract and executed by a sales agreement.

For those personal property items related to the G-1 aircraft listed in Appendix K-1, Attachment C - Personal Property Associated with G-1 Aircraft, the Parties agree to review the list of property on an annual basis and determine the need for the property associated with the aircraft and its associated operation and against any requirements as promulgated by the Federal Aviation Administration. As personal property associated with the G-1 aircraft reaches a net book value of \$0, the Parties will be required to determine the appropriate pathway for disposition.

Battelle and DOE agree the best interests of both Parties are served by executing an Advance Agreement on the costs and disposition pathways for the Battelle owned personal property/ nuclear materials and an agreement for the use and costs associated with the G-1 aircraft. The text of those advance agreements are described as follows in Appendix K-1 and Appendix K-2.

Agreed and acknowledged by the Parties as of the 17th day of September 2012.

Battelle Memorial Institute

By: 

Date: 17 Sept 2012

U.S. Department of Energy

By: 

Date: 09-17-12

APPENDIX K-1

ADVANCE AGREEMENT ON COSTS AND DISPOSITION OF BATTELLE OWNED PERSONAL PROPERTY

The Parties acknowledge that in consideration of the extension of Contract No. DE-AC05-76RL01830 from October 1, 2012 through September 30, 2017, it would be in the best interests of both Parties to enter into this Advance Agreement on Costs and Disposition of Battelle Owned Personal Property (hereinafter referred to as “the Agreement – Personal Property”),

The Parties agree as follows:

General Principles

1. Through prior undertakings, to include the Use Permit, Battelle Memorial Institute (hereinafter referred to as “Battelle”) owns certain personal property, described in Attachment B, Retained Personal Property to the Agreement – Personal Property;
2. The personal property described in Attachment B is believed to be in use or available for use presently in PNNL facilities in Richland, WA or Sequim, WA.
3. All personal property described in Attachment B shall be under the sole and exclusive custody of Battelle as the Operator of PNNL for exclusive use in performing work authorized under Contract No. DE-AC05-76RL01830, as amended (hereinafter referred to as the “PNNL Prime Contract”), or as agreed to by the Parties. Nothing in the Agreement - Personal Property shall obligate the Government to replace such property while in the custody of Battelle as the Operator of PNNL.
4. If at some point Battelle is no longer the Operator of PNNL, Battelle hereby agrees to sell any personal property not otherwise already transferred to DOE, that is desired by DOE, and described in Attachment B to either DOE or the successor contractor at the then-existing Net Book Value (NBV) for such property. Alternatively, at such time, Battelle may elect to remove or, with DOE approval, abandon in place any such personal property with a positive NBV. Battelle shall pay any incremental cost for excessing any such personal property.
5. All personal property transferred to DOE under Attachment A, Personal Property Sales Agreement to this Agreement - Personal Property will be appropriately tagged by December 31, 2012, or within 90 days of subsequent yearly transfers. This requirement applies only where a physical tag is required in accordance with the DOE property requirements.
6. The Parties agree that each and every obligation of the Government contained herein involving an expenditure of funds is subject to the availability of the

appropriated funds of the DOE, or in the event of a claim, as provided by the Contract Disputes Act, if applicable. DOE will use its best efforts to obtain funds to meet all of its obligations under this Agreement - Personal Property. Nothing herein shall be construed as implying that the Congress will, at a later date, appropriate funds sufficient to meet deficiencies.

Miscellaneous Personal Property

7. As of October 1, 2012, the title to all personal property identified in Attachment A shall be transferred to and reside in DOE.
8. As of October 1, 2012, all costs (including depreciation, insurance and cost of capital), associated with the maintenance and management (including disposition) pursuant to the DOE-approved property management system, of the personal property identified on Attachment B that are otherwise allowable under the terms of the PNNL Prime Contract shall be allowable, if not otherwise unallowable under any other term of the Contract, so long as:
 - a. The property remains functional and available for DOE use, and
 - b. The property and its associated costs will be properly allocated to the benefiting projects, and
 - c. The property is necessary for conduct of assigned missions and/or capabilities of PNNL, and
 - d. DOE has not expressly declined utilization of the property.
9. Once the NBV of such property listed in Attachment B becomes zero, the title to such personal property shall be transferred to and reside in DOE as agreed to by an executed sales agreement on an annual basis.
10. The consideration for the transfer of title to all miscellaneous personal property identified in Attachment A from Battelle to DOE will be documented in the initial executed sales agreement and annually as sales agreements are executed for the remainder of Attachment B property.
11. Battelle shall annually update the status of personal property described on Attachment B.

Aircraft

12. Battelle currently owns a certain aircraft and associated personal property, as described in Attachment C - Personal Property Associated with G-1 Aircraft.
13. Missions assigned to and undertaken by Battelle as Operator of PNNL have need for such aircraft. As such it is considered in the Government's interest for Battelle to continue to provide such aircraft and associated personal property on an exclusive basis for use under the PNNL Prime Contract in FY13. In FY 13 a business case evaluation will be conducted by DOE for the continued PNNL use of such Battelle owned aircraft in comparison to other acquisition options for aircraft and as measured against the current level of programmatic utilization. Utilization of such Battelle owned aircraft may continue beyond FY13 if mutually

- agreed to be in the interests of both Parties and approved by the Contracting Officer.
14. While in the service of PNNL, such aircraft will be maintained in compliance with any and all statutes, laws, ordinances, regulations and standards or directives issued by any governmental agency applicable to the maintenance thereof, in compliance with any airworthiness certificate, license or registration relating to such aircraft issued by any agency and in a manner that does not modify or impair any existing warranties on the aircraft or any part thereof.
 15. As of October 1, 2012, expenses associated with the maintenance and management of such aircraft and associated personal property identified in Attachment C (including, without limitation, (i) depreciation, (ii) the cost of capital, (iii) the allocable portion of a liability insurance policy with a policy limit of \$50,000,000.00, (iv) future repair/replacement of parts or components of the aircraft and associated personal property, and (v) all costs of maintaining and managing the aircraft and associated personal property) shall be allowable under the terms of the PNNL Prime Contract, if not otherwise unallowable under any other term of the Contract, so long as:
 - a. The aircraft and associated personal property remain functional and available for DOE use, and
 - b. The aircraft and associated personal property are necessary for conduct of assigned missions and/or capabilities of PNNL, and
 - c. DOE has not expressly declined utilization of the aircraft and associated personal property.
 16. Battelle shall bear the entire risk of any property loss, theft, confiscation, expropriation, requisition, damage to, or destruction of, such aircraft or part thereof owned by Battelle from any cause whatsoever, except to the extent such events directly result from the gross negligence or willful misconduct of DOE. If for any reason such aircraft, or any part thereof owned by Battelle becomes irreparably damaged or unusable, then Battelle, may at its own cost and expense replace such property and equipment or withdraw the aircraft or part thereof from PNNL use.
 17. At no point shall such aircraft be transferred to DOE without express written acceptance by DOE.
 18. Battelle shall annually update the status of personal property described on Attachment C.

Attachment A – Personal Property Sales Agreement

Attachment B – Retained Personal Property

Appendix K-1
Attachment B - Retained Personal Property

Contract Number: DE-AC05-76RL01830
Modification M881

Acquisition Date	ORG CD	AREA	BLD NO	ROOM	PROPTY NO	PROPTY NAME	EQPT TYPE	MFG NAME	SENSTV SW	USEFUL LIFE YRS	ACCUM TOTAL DEP	TOTAL COST	EST NBV 10/1/2012	POTENTIALLY CONTAMINATED
01-May-04	D9H57	RCHN	OFFSITE	NONE	N827521	ECHO SOUNDER	MULTI-MODE	PRECISION ACOUSTIC	N	10	29,045.76	36,732.00	5,666.81	No
01-Oct-03	D7PA3C	RCHN	2400STV	1837	N827488	SPECTROPHOTOME	UV/VIS/NIR	PERKIN ELMER	N	10	61,868.92	72,790.00	6,905.04	No
01-Mar-03	D7PA1	RCHN	2400STV	1837	N830459	LASER	ARGON ION	COHERENT	N	10	52,058.51	57,226.00	1,992.50	No
01-Apr-03	D7E84	300	331	305	N827468	DEWAR	LIQUID NITROGEN	NORCO	N	10	2,634.69	2,924.00	127.33	No
01-Apr-03	D7E84	300	331	313	N830440	CHROMATOGRAPH	GAS	AGILENT TECHNOLOGIES	N	10	26,945.94	29,905.00	1,301.95	No
01-Apr-03	D7E84	300	331	305	N830438	MASS SPECTROME	SERIES 1100	AGILENT TECHNOLOGIES	N	10	146,528.75	162,620.00	7,080.15	No
01-Jan-06	D7E84	300	331	307	N827584	DEWAR	LIQUID GASES	MVE	N	10	2,614.33	4,201.00	1,357.35	No
01-Jan-06	D7E84	300	331	307	N827585	DEWAR	LIQUID GASES	MVE	N	10	2,612.53	4,198.00	1,356.29	No
01-Feb-06	D7E84	300	331	307	N828154	REACTION SYSTEM	OCTOPOLE	AGILENT TECHNOLOGIES	N	10	98,337.34	160,191.00	53,112.97	No
01-Jun-03	D7E84	300	331	313	N830439	CHROMATOGRAPH	GAS	AGILENT TECHNOLOGIES	N	10	78,389.38	88,677.00	5,381.60	No
01-Feb-06	D7E84	300	331	307	N828168	HEAT EXCHANGER	POLYSCIENCE AIR CO	AGILENT TECHNOLOGIES	N	10	4,187.89	6,822.00	2,261.85	No
01-Feb-06	D7E84	300	331	307	N828166	AUTOSAMPLER	RANDOM ACCESS INT	CETAC TECHNOLOGIES	N	10	6,424.83	10,466.00	3,470.11	No
01-May-03	D7E84	RCHN	331	1229	N830437	DETECTOR	MASS SELECTIVE	AGILENT TECHNOLOGIES	N	10	73,029.13	81,815.00	4,254.21	No
01-Dec-08	D7PA5B	PNNL	3420	1607	N828217	SPECTROMETER	DUAL VIEW	THERMO SCIENTIFIC	Y	10	28,860.62	88,124.00	54,465.51	Yes
01-Sep-08	D7PA5B	PNNL	3420	1607	N827629	AUTOSAMPLER	RANDOM ACCESS INT	CETAC TECHNOLOGIES	N	10	6,284.33	17,814.00	10,559.82	Yes
01-Jul-04	D9H49	RCHN	APEL	207	N828141	DETECTOR	MASS SELECTIVE	AGILENT TECHNOLOGIES	N	10	51,238.12	66,212.00	11,337.10	No
01-Oct-04	D9H64	RCHN	APEL	105	N828149	GLOVE BOX	CONTROLLED ATMOS	M BRAUN	N	10	61,118.62	81,659.00	16,062.13	No
01-Jul-04	D9H49	RCHN	APEL	207	N828142	CHROMATOGRAPH	GAS	AGILENT TECHNOLOGIES	N	10	17,059.51	22,045.00	3,774.63	No
01-Nov-02	D1151K	RCHN	AUD		N830324	FURNITURE	AUDITORIUM	NONE	N	10	34,055.63	36,093.00	30.75	No
01-Sep-06	D7E84	RCHN	BIL	122	N828495	HOOD	VENTED	UNKNOWN	N	11	2,693.90	5,554.00	2,573.94	No
01-Feb-07	D7E84	RCHN	BIL	6666	N828493	REFRIGERATOR	WALK-IN	ALL PHASE REFRIGERATION	N	13	10,386.02	27,477.00	15,908.12	No
01-Oct-06	D7E84	RCHN	BIL	122	N828465	FREEZER	ULTRA LOW TEMPER	VWR	N	14	3,054.42	8,137.00	4,757.99	No
01-Sep-06	D7E84	RCHN	BIL	122	N828488	HOOD	LABORATORY FUME	UNKNOWN	N	11	2,693.90	5,554.00	2,573.94	No
01-Sep-06	D7E84	RCHN	BIL	122	N828489	HOOD	VENTED	UNKNOWN	N	11	2,693.90	5,554.00	2,573.94	No
01-Sep-06	D7E84	RCHN	BIL	122	N828487	HOOD	LABORATORY FUME	UNKNOWN	N	11	2,693.90	5,554.00	2,573.94	No
01-Sep-06	D7E84	RCHN	BIL	122	N828496	HOOD	VENTED	UNKNOWN	N	11	2,693.90	5,554.00	2,573.94	No
01-Sep-06	D7E84	RCHN	BIL	106	N828482	RACK WASHER		UNKNOWN	N	9	98,142.02	165,350.00	56,576.24	No
01-Sep-06	D7E84	RCHN	BIL	105	N828491	BALANCE	MICROBALANCE	METTLER	N	17	5,094.56	16,254.00	10,628.42	No
01-Sep-06	D7E84	RCHN	BIL	122	N828494	HOOD	LABORATORY FUME	UNKNOWN	N	11	2,693.90	5,554.00	2,573.94	No
01-Sep-06	D7E84	RCHN	BIL	6666	N828492	REFRIGERATION UN		UNKNOWN	N	10	7,149.25	14,550.00	6,493.62	No
01-Feb-07	D7E84	RCHN	BIL	105	N828466	PURIFIER	PURELAB	SIEMANS WATER TECH	N	13	4,159.39	10,985.00	6,353.25	No
01-Jul-09	D1158T	RCHN	BRSW	10	N827638	LIFT	TUK-A-WAY	MAXON	N	10	2,463.13	9,170.00	6,207.63	No
01-Jun-09	D1158T	RCHN	BRSW	10	N827637	LIFT	TUK-A-WAY	MAXON	N	10	2,439.55	8,809.00	5,889.81	No
01-Oct-03	D9H46	PNNL	BSEL	6666	N830524	REACTOR	BENCH TOP	PARR	N	10	27,758.12	32,658.00	3,098.08	No
01-Oct-05	D9H46	RCHN	BSEL	157	N827532	CHILLER		TEK TEMP	N	15	75,192.83	174,282.00	92,750.60	No
01-Sep-03	D9H46	RCHN	BSEL	156A	N830526	DISTILLATION SYST	WIPED FILM STILL	POPE SCIENTIFIC	N	10	39,952.95	46,556.00	4,030.06	No
01-Oct-03	D9H46	RCHN	BSEL	166	N830522	CHROMATOGRAPH	GAS	SHIMADZU SCIENTIFIC	N	10	43,489.31	51,166.00	4,853.73	No
01-Oct-03	D9H46	RCHN	BSEL	262	N830521	EVAPORATOR	ROTARY	BUCHI	N	10	13,720.15	16,142.00	1,531.24	No
01-Oct-03	D9H46	RCHN	BSEL	166	N830519	CHROMATOGRAPH	LIQUID	SHIMADZU SCIENTIFIC	N	10	62,526.00	73,563.00	6,978.33	No
01-Oct-03	D9H46	RCHN	BSEL	262	N830525	REACTOR	BENCH TOP	PARR	N	10	27,758.12	32,658.00	3,098.08	No
01-Mar-99	D7M47	RCHN	BSF	2240	N828485	FREEZER	ULTRA-LOW TEMPER	REVCO	N	22	4,161.16	7,128.00	2,783.86	No
01-Dec-02	D1100	BWO	BWO	9220	N828277	TABLE	CONFERENCE	NUCRAFT FURNITURE	N	10	4,735.26	5,064.00	47.34	No
01-Dec-02	D1100	BWO	BWO	9220	N828278	FURNITURE	15 OFFICE CHAIRS	NONE	N	10	7,964.09	8,517.00	79.71	No
01-Oct-04	D7M42	PNNL	EMSL	1418	N828145	CONTROLLER	SPECTROMETER	BRUKER INSTRUMENTS	N	10	329,285.51	439,950.00	86,537.38	No
01-Dec-05	D9H49	PNNL	EMSL	1413	N827578	CHROMATOGRAPH	GAS	AGILENT TECHNOLOGIES	N	10	15,368.96	24,365.00	7,665.27	No
01-Dec-05	D9H49	RCHN	EMSL	217	N828152	CONTROLLER		SHOP MADE	N	10	11,854.25	18,793.00	5,912.34	No
01-Jul-04	D9H54	RCHN	ETB	1332	N830470	POSITIONER	GLOBAL RTK	TRIMBLE NAVIGATION	Y	10	19,444.48	25,127.00	4,302.40	No
01-Jul-04	D9H54	RCHN	ETB	1332	N830469	POSITIONER	GLOBAL RTK SURVEY	TRIMBLE NAVIGATION	Y	10	18,848.67	24,357.00	4,170.49	No
01-Nov-02	D3318E	PNNL	LSW	1	N827456	VIDEO CONFERENC		PICTURETEL	N	10	28,995.37	30,730.00	26.14	No
01-Jun-08	D7PA3B	PNNL	LSW	6666	N830552	SCANNER	HOLOGRAPHIC BODY	INTELLIFIT	N	10	34,878.56	91,900.00	52,027.57	No
01-May-04	D9H70	MSL	MSL1	6666	N828293	TRAILER	BOAT	KING TRAILERS	N	10	7,614.13	9,629.00	1,485.53	No
01-Oct-02	D9H70	MSL	MSL1	6666	N830432A	BOAT	CENTER CONSOLE	SAFE BOATS INTERNATIONAL	N	17	216.73	402.00	172.74	No
01-Oct-03	D9H70	MSL	MSL1	6666	N828280	MOTOR	OUTBOARD	YAMAHA	N	10	14,011.64	16,485.00	1,563.85	No
01-Oct-03	D9H70	MSL	MSL1	6666	N828279	MOTOR	OUTBOARD	YAMAHA	N	10	14,017.64	16,492.00	1,564.50	No
01-Jun-03	D9H70	MSL	MSL1	6666	N830485	TANK	FISH HOLDING	RED EWALD	N	10	10,125.22	11,454.00	695.14	No

Appendix K-1
Attachment B - Retained Personal Property

Contract Number: DE-AC05-76RL01830
Modification M881

Acquisition Date	ORG CD	AREA	BLD NO	ROOM	PROPTY NO	PROPTY NAME	EQPT TYPE	MFG NAME	SENSTV SW	USEFUL LIFE YRS	ACCUM TOTAL DEP	TOTAL COST	EST NBV 10/1/2012	POTENTIALLY CONTAMINATED
01-May-02	D9H70	MSL	MSL1	6666	N830432	BOAT	CENTER CONSOLE	SAFE BOATS INTERNATIONAL	N	18	28,844.24	52,439.00	21,997.36	No
01-Jun-03	D9H70	MSL	MSL1	6666	N830484	TANK	FISH HOLDING	RED EWALD	N	10	10,186.17	11,523.00	699.34	No
01-Mar-09	D9H70	MSL	MSL2	111	N828459	IMAGING SYSTEM	2 CHANNEL SIMULTA	MAG BIOSYSTEMS	N	10	7,495.61	12,490.00	4,604.56	No
01-May-06	D9H57	MSL	MSL2	OUTSD	N828316	BOAT	31' WALK AROUND C	SAFE BOATS INTERNATIONAL	N	18	70,584.50	215,849.00	138,728.25	No
01-Jul-04	D9H70	MSL	MSL2	108	N830504	PCR SYSTEM	REAL TIME	APPLIED BIOSYSTEMS	N	10	26,374.35	34,082.00	5,835.64	No
01-Oct-04	D9H70	MSL	MSL2	110	N830539	TEST CHAMBER	ENVIRONMENTAL	CARON PRODUCTS	N	10	18,311.86	24,466.00	4,812.45	No
01-Jul-04	D9H70	MSL	MSL2	111	N828291	MICROSCOPE	INVERTED	LEICA	N	10	33,102.22	46,336.00	10,019.66	No
01-Oct-05	D9H70	MSL	MSL2	111	N829002	CYTOMETER	IMAGING FLOW CYTO	FLUID IMAGING TECHNOLC	N	10	65,444.77	101,060.00	30,092.65	No
01-Jun-03	D9H70	MSL	MSL2	108	N830481	READER	MICROPLATE	BIO TEK INSTRUMENTS	N	10	26,029.93	29,446.00	1,787.03	No
01-Jul-04	D9H70	MSL	MSL2	111	N828296	CAMERA	MICROSCOPE SLIDER	SPOT	N	10	8,439.61	10,906.00	1,867.33	No
01-May-06	D9H70	MSL	MSL5	227	N828315	ANALYZER	DIRECT MERCURY	MILESTONE	N	10	23,140.19	39,290.00	14,005.29	No
01-Mar-03	D9H70	MSL	MSL5	223	N830480	SPECTROMETER		ORTEC	N	10	11,122.90	12,227.00	425.73	No
01-Mar-08	D9H70	MSL	MSL5	114	N828343	SPECTROPHOTOME		PERKIN ELMER	N	10	5,681.25	14,039.00	7,594.40	No
01-Apr-06	D9H70	MSL	MSL5	130	N828313	FREEZE DRYER	BENCHTOP SHELL	VIRTIS	N	10	16,459.24	27,556.00	9,592.67	No
01-May-04	D9H70	MSL	MSL5	215	N830501	SAMPLER	AUTOMATIC LIQUID	AGILENT TECHNOLOGIES	N	10	7,741.41	9,790.00	1,510.36	No
01-Apr-04	D9H70	MSL	MSL5	227	N830497	MASS SPECTROME	ICP	PERKIN ELMER	N	10	137,632.03	172,228.00	25,125.60	No
01-May-04	D9H70	MSL	MSL5	215	N830499	DETECTOR	MASS SELECTIVE	AGILENT TECHNOLOGIES	N	10	54,419.34	68,820.00	10,617.09	No
01-Feb-05	D9H70	MSL	MSL5	219	N830542	CHROMATOGRAPH	GAS	AGILENT TECHNOLOGIES	N	10	38,188.82	53,439.00	12,325.51	No
01-Mar-06	D9H70	MSL	MSL5	126	N828311	DETECTOR	MERCURY	TEKRAN	N	10	4,045.84	6,679.00	2,268.39	No
01-Feb-05	D9H70	MSL	MSL5	219	N830544	CHROMATOGRAPH	LIQUID	AGILENT TECHNOLOGIES	N	10	40,646.44	56,878.00	13,118.66	No
01-Apr-06	D9H70	MSL	MSL5	130	N828314	FREEZE DRYER	BENCHTOP SHELL	VIRTIS	N	10	16,323.06	27,328.00	9,513.24	No
01-Sep-04	D9H70	MSL	MSL5	118	N828297	CYCLER	THERMAL	BIO RAD	N	10	5,440.05	7,188.00	1,353.71	No
01-Apr-04	D9H70	MSL	MSL5	227	N830493	ANALYZER	MERCURY	LEEMAN LAB	N	10	20,921.12	26,180.00	3,819.33	No
01-Jun-05	D9H70	MSL	MSL5	118	N830551	CENTRIFUGE	ULTRA	BECKMAN COULTER	N	10	48,505.91	71,205.00	18,803.31	No
01-Mar-08	D9H70	MSL	MSL5	114	N828345	S10 AUTOSAMPLER		PERKIN ELMER	N	10	6,154.43	15,699.00	8,672.86	No
01-Mar-03	D9H70	MSL	MSL5	227	N830479	CHROMATOGRAPH	ION	DIONEX	N	10	33,541.57	36,871.00	1,283.75	No
01-Mar-08	D9H70	MSL	MSL5	114	N828344	FIAS-400		PERKIN ELMER	N	10	5,679.62	14,035.00	7,592.24	No
01-Mar-06	D9H70	MSL	MSL5	126	N828312	DETECTOR	MERCURY	TEKRAN	N	10	3,475.77	5,738.00	1,948.84	No
01-May-04	D9H70	MSL	MSL5	215	N830500	CHROMATOGRAPH	GAS	AGILENT TECHNOLOGIES	N	10	10,567.56	13,364.00	2,061.72	No
01-Jun-03	D9H70	MSL	MSL5	219	N830489	WASHER	MICROPLATE	BIO TEK INSTRUMENTS	N	10	5,348.14	6,050.00	367.19	No
01-Oct-03	D9H70	MSL	MSL5	114	N830491	SPECTROMETER	ICP-OES	PERKIN ELMER	N	10	71,495.61	84,116.00	7,979.46	No
01-Mar-05	D9H70	MSL	MSL5	223	N830541	EXTRACTOR	ACCELERATED SOLVE	DIONEX	N	10	34,330.15	48,590.00	11,598.03	No
01-Oct-05	D9H70	MSL	MSL7	131	N828300	MAPPING SYSTEM	GEOEXPLORER XT	TRIMBLE NAVIGATION	Y	10	3,822.62	5,903.00	1,757.82	No
01-Oct-05	D9H70	MSL	MSL7	105	N828305	FLUOROMETER	PULSED AMPLITUDE	HEINZ WALZ	N	10	16,599.54	25,633.00	7,632.69	No
01-Oct-05	D9H70	MSL	MSL7	130	N828302	SURVEY INSTRUME		MDL	N	10	3,562.97	5,502.00	1,638.38	No
01-Jun-04	D9H57		OFFSITE		N827531	RECEIVER	TELEMETRY	LOTEK	N	10	6,309.41	8,066.00	1,313.49	No
01-Oct-05	D9H70	MSL	OFFSITE		N828304	MAPPING SYSTEM	GEOEXPLORER XT	TRIMBLE NAVIGATION	Y	10	3,010.59	4,649.00	1,384.38	No
01-Oct-05	D9H70	MSL	OFFSITE		N828304	MAPPING SYSTEM	GEOEXPLORER XT	TRIMBLE NAVIGATION	Y	10	3,010.59	4,649.00	1,384.38	No
01-Apr-04	D9H70	MSL	OFFSITE		N828288	MAPPING SYSTEM	GEOEXPLORER XT	TRIMBLE NAVIGATION	Y	10	4,792.39	5,997.00	874.84	No
01-May-04	D9H57	POS2	POS2	1	N827524	TRANSDUCER	SPLIT BEAM MULTIPL	PRECISION ACOUSTIC	N	10	5,447.49	6,889.00	1,062.81	No
01-Jul-04	D9H57	POS2	POS2	1	N828292	SURVEY INSTRUME	ROBOTIC TOTAL STAT	TRIMBLE	N	10	21,385.32	27,635.00	4,731.80	No
01-May-04	D9H57	POS2	POS2	1	N827520	TRANSDUCER	SPLIT BEAM MULTIPL	PRECISION ACOUSTIC	N	10	7,393.48	9,350.00	1,442.51	No
01-May-04	D9H57	POS2	POS2	1	N827527	TRANSDUCER	SPLIT BEAM MULTIPL	PRECISION ACOUSTIC	N	10	5,447.49	6,889.00	1,062.81	No
01-May-04	D9H57	POS2	POS2	1	N827526	TRANSDUCER	SPLIT BEAM MULTIPL	PRECISION ACOUSTIC	N	10	5,447.49	6,889.00	1,062.81	No
01-May-04	D9H57	POS2	POS2	1	N827519	TRANSDUCER	SPLIT BEAM MULTIPL	PRECISION ACOUSTIC	N	10	7,395.08	9,352.00	1,442.77	No
01-May-04	D9H57	POS2	POS2	1	N827525	TRANSDUCER	SPLIT BEAM MULTIPL	PRECISION ACOUSTIC	N	10	5,447.49	6,889.00	1,062.81	No
01-May-04	D9H57	POS2	POS2	1	N827523	TRANSDUCER	SPLIT BEAM MULTIPL	PRECISION ACOUSTIC	N	10	5,780.36	7,310.00	1,127.77	No
01-May-04	D9H53	RCHN	PSL	609	N827514	AUTOCLAVE	TOP LOADING	HIRAYAMA	N	10	6,044.50	7,644.00	1,179.29	No
01-Oct-04	D9H53	RCHN	PSL	609	N827557	THERMAL CYCLER	DNA ENGINE	MJ RESEARCH	N	10	29,445.19	39,341.00	7,738.34	No
01-May-04	D9H53	RCHN	PSL	609	N827516	READER	MICROPLATE	BIO TEK INSTRUMENTS	N	10	22,295.94	28,196.00	4,349.91	No
01-Jun-08	D9H47	RCHN	PSL	1425	N828326	PROBE		JANDEL ENGINEERING	N	10	7,575.80	20,256.00	11,569.72	No
01-May-08	D7E53A	RCHN	PSL	1316	N828325	AIR CONDITIONER	CHALLENGER 3000	LIEBERT	N	10	9,325.82	24,028.00	13,396.47	No
01-Jan-07	D7000	RCHN	ROB	1104	N827594	VIDEO CONFERENC		TANDBERG	N	10	6,507.36	12,472.00	5,285.36	No
01-Oct-04	D9H63	300	RPL	400	N830443	SAMPLER	AUTOMATIC	DIONEX	N	10	3,103.08	4,146.00	815.56	No
01-Oct-04	D9H63	300	RPL	400	N830447	GENERATOR	EFFLUENT	DIONEX	N	10	4,933.14	6,591.00	1,296.38	No

Appendix K-1
Attachment B - Retained Personal Property

Contract Number: DE-AC05-76RL01830
Modification M881

Acquisition Date	ORG CD	AREA	BLD NO	ROOM	PROPTY NO	PROPTY NAME	EQPT TYPE	MFG NAME	SENSTV SW	USEFUL LIFE YRS	ACCUM TOTAL DEP	TOTAL COST	EST NBV 10/1/2012	POTENTIALLY CONTAMINATED
01-Oct-04	D9H63	300	RPL	400	N830449	DETECTOR	CONDUCTIVITY	DIONEX	N	10	6,052.08	8,086.00	1,590.47	No
01-Oct-05	D1158J	300	RPL		N827563	TRUCK	MICRO PICKUP	VANTAGE VEHICLE	N	10	6,722.54	10,381.00	3,091.18	No
01-Oct-05	D9H63	300	RPL	54	N828151	LASER FLASH APPA	THERMOPHYSICAL	NETZSCH	N	10	109,251.84	168,707.00	50,235.88	No
01-Apr-07	D9H63	300	RPL	405	N827583	SPECTROMETER	ICP-OES	PERKIN ELMER	N	10	64,620.79	130,085.00	58,379.16	No
01-Oct-04	D9H63	300	RPL	400	N830448	GENERATOR	EFFLUENT	DIONEX	N	10	4,933.14	6,591.00	1,296.38	Yes
01-Oct-04	D9H63	300	RPL	400	N830450	DETECTOR	ELECTROCHEMICAL	DIONEX	N	10	5,911.37	7,898.00	1,553.47	Yes
01-Oct-04	D9H63	300	RPL	400	N830444	SAMPLER	AUTOMATIC	DIONEX	N	10	36,905.85	49,309.00	9,699.05	Yes
01-May-06	D9H64	RCHN	RTL520	416	N828317	MAGNETIC SYSTEM		MICROTECH INSTRUMENTS	N	10	53,830.87	91,400.00	32,580.30	No
01-Jun-04	D9H57	RCHN	SIGMA5	2517	N827528	RECEIVER	TELEMETRY	LOTEK	N	10	9,993.65	12,776.00	2,080.46	No
01-Jun-04	D9H57	RCHN	SIGMA5	2517	N827529	RECEIVER	TELEMETRY	LOTEK	N	10	6,308.60	8,065.00	1,313.37	No
											3,138,553.30	4,615,469.00	1,232,585.67	

Attachment C – Personal Property Associated with G-1 Aircraft

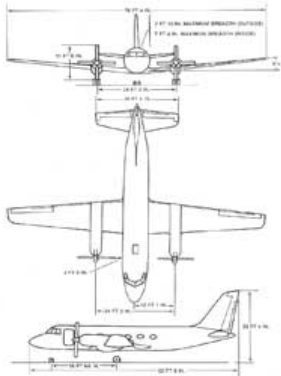
APPENDIX K-1
ATTACHMENT C - PERSONAL PROPERTY ASSOCIATED WITH
G-1 AIRCRAFT (5/21/2012)

Contract Number: DOE-AC05-76RL01830
Modification M881

Acquisition Date	AREA	BLD NO	ROOM	PROPTY NO	PROPTY NAME	EQPT TYPE	MFG NAME	SENSTV SW	USEFUL LIFE YRS	ACCUM TOTAL DEP	TOTAL COST	EST NBV 10/1/2012	EST FY13 DEPR COST
01-May-12	PASCO	POP	1	N829046	ENGINE	DART	ROLLS ROYCE	N	7	2,974.38	249,848.00	234,976.10	35,692.56
01-Oct-04	PASCO	POP	1	N828150	MONITOR	FUEL/AIR DATA	SHADIN	N	10	5,373.33	7,032.00	1,383.22	661.08
01-Oct-08	PASCO	POP	1	N828233	PROBE	CLOUD AEROSOL AND PRECIP	DROPLET MEASUREMENT	N	10	4,547.91	12,633.00	7,593.79	1,179.12
01-Oct-08	PASCO	POP	1	N828234	PROBE	CLOUD AEROSOL AND PRECIP	DROPLET MEASUREMENT	N	10	4,547.91	12,633.00	7,593.79	1,179.12
01-Oct-08	PASCO	POP	1	N828231	PROBE	CLOUD AEROSOL AND PRECIP	DROPLET MEASUREMENT	N	10	4,547.91	12,633.00	7,593.79	1,179.12
01-Oct-08	PASCO	POP	1	N828229	PROBE	CLOUD AEROSOL AND PRECIP	DROPLET MEASUREMENT	N	10	4,547.91	12,633.00	7,593.79	1,179.12
01-Oct-08	PASCO	POP	1	N828230	PROBE	CLOUD AEROSOL AND PRECIP	DROPLET MEASUREMENT	N	10	4,547.91	12,633.00	7,593.79	1,179.12
01-Oct-08	PASCO	POP	1	N828232	PROBE	CLOUD AEROSOL AND PRECIP	DROPLET MEASUREMENT	N	10	4,547.91	12,633.00	7,593.79	1,179.12
01-Oct-10	PASCO	POP	1	N828454	INVERTER	STATIC	KGS ELECTRONICS	N	10	4,889.62	31,100.00	25,000.93	2,902.68
01-Oct-10	PASCO	POP	8	N828462	INVERTER	STATIC	KGS ELECTRONICS	N	10	4,889.62	31,100.00	25,000.93	2,902.68
01-Oct-10	PASCO	POP	8	N828464	INVERTER	STATIC	KGS ELECTRONICS	N	10	4,889.62	31,100.00	25,000.93	2,902.68
01-Oct-10	PASCO	POP	8	N828461	INVERTER	STATIC	KGS ELECTRONICS	N	10	4,889.62	31,100.00	25,000.93	2,902.68
01-Oct-10	PASCO	POP	8	N828463	INVERTER	STATIC	KGS ELECTRONICS	N	10	4,889.62	31,100.00	25,000.93	2,902.68
01-Oct-10	PASCO	POP	1	N828453	INVERTER	STATIC	KGS ELECTRONICS	N	10	4,889.62	31,100.00	25,000.93	2,902.68
01-Oct-10	PASCO	POP	8	N828460	INVERTER	STATIC	KGS ELECTRONICS	N	10	4,889.62	31,100.00	25,000.93	2,902.68
01-Jun-10	PASCO	POP	1	N825480B	PROPELLER	AIRPLANE LEFT	GULFSTREAM	N	10	11,668.04	61,054.00	47,011.66	5,698.32
01-Oct-04	PASCO	POP	1	N827566	WARNING SYSTEM	TERRAIN AWARENESS	LANDMARK	N	10	60,202.79	78,786.00	15,497.01	7,406.88
01-Sep-03	PASCO	POP	1	N830490	AIR CONDITIONER	REFRIGERANT	KEITH SYSTEMS	N	10	83,520.34	95,546.00	8,259.26	9,039.36
01-Mar-02	PASCO	POP	1	N830435	ENGINE	AIRPLANE LEFT	ROLLS ROYCE	N	20	142,380.93	278,575.00	130,743.17	13,082.16
01-Oct-10	PASCO	POP	1	N828222	ENGINE	AIRPLANE RIGHT	ROLLS ROYCE	N	20	23,232.88	295,542.00	266,562.47	13,791.96
01-Jun-11	PASCO	POP	1	N821836B	AIRPLANE		GULFSTREAM	N	10	10,253.91	180,685.00	163,149.94	17,474.76
										401,121.40	1,540,566.00	1,088,152.08	130,240.56

Gulfstream-1 Research Aircraft

The G-1 is a large twin turboprop with performance characteristics of contemporary production aircraft. It is capable of measurements to altitudes approaching 30,000 feet over ranges of 1500 nautical miles, and can be operated at speeds that enable both relatively slow sampling and rapid deployment to field sites throughout the world. The aircraft is configured for versatile research applications. It accommodates a variety of external probes for aerosol, radiation, and turbulence measurements and internal sampling systems for a wide range of measurements. The G-1 has sufficient cabin volume, electrical power and payload capabilities, and flight characteristics to accommodate a variety of instrument systems and experimental equipment configurations. Internal instrumentation is mounted in removable racks to enable rapid reconfiguration as necessary. Data from most systems are acquired on a central computer that is tailored to airborne research data acquisition. In addition to acquiring the various analog and digital input signals, it can be configured to communicate with and/or control other systems onboard, and to provide time synchronization to other computers.



Technical Information

Aircraft length: 63.75 ft (19.44 m)
Aircraft wingspan: 78.33 ft (23.88 m)
Aircraft height: 23.33 ft (7.11 m)
Maximum gross weight: 36,000 lb (16,330 kg)
Nominal operating altitude: 1,000 ft AGL to 25,000 ft (7.5 km) MSL
Maximum operating altitude: 30,000 ft (9 km) MSL
Nominal cruise speed: 160 - 290 knots (80 - 150 m s-1)
Nominal sampling speed: 195 knots (100 m s-1)
Nominal rate of climb: 500-1000 ft min-1 (2.5-5 m sec-1)
Endurance with maximum fuel: 6 hours
Crew capacity: 2 pilots and 1 to 5 scientists and engineers
Cabin payload at maximum gross weight, with full fuel: 2,500 lb (1,134 kg) including scientific crew and instruments
Cabin dimensions: 21 ft (6.4 m) long; 7 ft (2.13 m) wide; 6 ft (1.83 m) high
Cabin floor space: 165 ft² (15.3 m²)

APPENDIX K-1
ATTACHMENT C - PERSONAL PROPERTY ASSOCIATED WITH
G-1 AIRCRAFT (5/21/2012)

Contract Number: DOE-AC05-76RL01830
Modification M881

Entrance door dimensions: 29 in. (74 cm) wide; 58 in. (147 cm) high

Interior cabin passage way dimensions: 29 in. (74 cm) wide; 68 in. (173 cm) high

Standard 19" equipment rack dimensions: 17 & 24 in. (43 & 61 cm) deep; 22 & 42.5 in. (56 & 108 cm) wide; 42 in. (107 cm) high

Floor mounting track width: 12 in. (30.48 cm)

Supplemental air conditioning: 3 heat-exchangers in cabin rated at ~6000 Btu/hr each

Electrical power: 300 A @ 28 VDC provides 4,000 V-A at 115 VAC 60 Hz and 4,000 V-A at 230 VAC 60 Hz

APPENDIX K-2

ADVANCE AGREEMENT ON COSTS AND DISPOSITION OF BATTELLE OWNED NUCLEAR MATERIALS

The Parties acknowledge that in consideration of the extension of Contract No. DE-AC05-76RL01830 from October 1, 2012 through September 30, 2017, it would be in the best interests of both Parties to enter into this Advance Agreement on Costs and Disposition of - Battelle Owned Nuclear Materials (hereinafter referred to as “the Agreement – Nuclear Materials”),

The Parties agree as follows:

General Principles

1. Through prior undertakings, to include the Use Permit, Battelle Memorial Institute (hereinafter referred to as “Battelle”) owns certain nuclear materials, described in Attachment A, Nuclear Materials Sales Agreement, and possesses client furnished materials in Attachment B, Retained Nuclear Materials, to this Agreement - Nuclear Materials;
2. Battelle affirms its unrestricted ownership of the nuclear materials described in Attachment A and its ability to freely convey them to the Government;
3. Nuclear materials such as those in Attachments A and B are needed in support of programmatic objectives under Contract No. DE-AC05-76RL01830, as amended (hereinafter referred to as the “PNNL Prime Contract”), or as agreed to by the Parties.
4. Battelle is not aware of any deficiency or defect in the packaging or containment of the materials in Attachments A and B nor do any materials in Attachments A and B lack a current disposal pathway.
5. All nuclear materials described in Attachments A and B shall be under the sole and exclusive custody of Battelle as the Operator of PNNL for use in performing work authorized under the PNNL Prime Contract, or as agreed to by the Parties. Nothing in this Agreement - Nuclear Materials shall obligate the Government to replace such nuclear materials as described in Attachments A and B should they be consumed, found to be unfit or unusable, unsuitable or otherwise undesirable.
6. Each and every obligation of the Government contained herein involving an expenditure of funds is subject to the availability of the appropriated funds of the DOE, or in the event of a claim, as provided by the Contract Disputes Act, if applicable. DOE will use its best efforts to obtain funds to meet all of its obligations under this Agreement - Nuclear Materials. Nothing herein shall be construed as implying that the Congress will, at a later date, appropriate funds sufficient to meet deficiencies.

Transferred Nuclear Materials

7. As of October 1, 2012, ownership to all nuclear materials identified in Attachment A shall be transferred to and reside with DOE. DOE accepts transfer of title to such materials in an AS-IS condition.
8. Upon transfer to the DOE, DOE assumes responsibility for all subsequent costs associated with ownership of the nuclear materials identified in Attachment A.
9. The consideration for the transfer of ownership all nuclear materials identified in Attachment A from Battelle to DOE will be documented in the initial executed sales agreement.

Retained Nuclear Materials

1. As of October 1, 2012, Battelle will assign custody to the nuclear materials identified in Attachment B. Those materials shall be transferred to and reside in DOE custody in support of pre-existing Battelle work under clause H-45. DOE accepts the transfer of custodianship to such materials on Battelle's behalf in accordance with terms and conditions as outlined clause H-45.
2. Battelle or, as appropriate, the benefitting client of the Legacy project executed under clause H-45, bears responsibility for all subsequent costs associated with utilization of the nuclear materials identified in Attachment B.
3. At the conclusion of pre-existing Battelle Legacy work under clause H-45, nuclear materials identified in Attachment B and any resultant waste will be dispositioned at the expense of the benefitting client of Legacy project or Battelle unless otherwise explicitly approved by DOE. All nuclear materials identified in Attachment B and any resultant waste will be dispositioned on or before September 30, 2015.

Attachment A – Nuclear Materials Sales Agreement

Attachment B – Retained Nuclear Materials

Line#	RMT#	User ID	Description	Total Ci	Location
63	47997	EPA Laundering I	Cs-137 Stock Solutions 1831 Project #61205	1.00E-04	331:170
64	64745	EPA Laundering II	<i>Assessment of contaminated laundering</i>	1.00E-04	
65	54721	Cloth Swatches	Spiked cloth samples 1831 Project# 61205 <i>Assessment of contaminated laundering</i>	3.00E-05	
66	50277	Zr Studsvik	Activated zirconium alloy samples. Dominant radionuclides include Co-60, Sb-125, Cs-137, Mn-43, Zr-95	3.0E-04	RPL:405
67	62179	Half Zr Alloy Rings	1831 Project # 63449, <i>Westinghouse Retrospective Reactor Dosimetry</i>		RPL:525
68	60539	Nb Samples AECL	Activated Niobium wire samples 1831 Project #59828 <i>AECL Reactor Dosimetry</i>	2.5E-03	RPL:405