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Section 1 of 3

Document Information			
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Title	CONTRACT NO. DE-AC06-96RL13200 - TRANSFER AGREEMENT AND CONTRACT MODIFICATION M086, WITHDRAWAL OF WORK ASSOCIATED WITH THE TANK WASTE REMEDIATION SYSTEM (TWRS) PROJECT		
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Other Information			



**Department of Energy**  
Richland Operations Office  
P.O. Box 550  
Richland, Washington 99352

October 12, 1999

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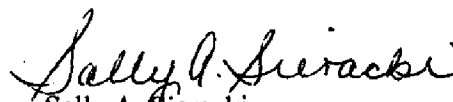
Mr. R. D. Hanson, President  
Fluor Daniel Hanford, Inc.  
Richland, Washington 99352

Dear Mr. Hanson:

**CONTRACT NO. DE-AC06-96RL13200 – TRANSFER AGREEMENT AND CONTRACT MODIFICATION M086, WITHDRAWAL OF WORK ASSOCIATED WITH THE TANK WASTE REMEDIATION SYSTEMS (TWRS) PROJECT**

Enclosed for your files are a signed Transfer Agreement and a fully executed original Contract Modification Number M086. This transfer agreement and modification reflect withdrawal of TWRS work from the PHMC. The modification also incorporates updated language, and terms and conditions. Should you have any questions, please contact me at (509) 373-1259, or Alan Hopko at (509) 376-2031.

Sincerely,

  
Sally A. Bieracki  
Contracting Officer

PRO:AEH

Enclosures

cc w/encl:  
J. L. Jacobsen, FDH

# TRANSFER AGREEMENT

THIS TRANSFER AGREEMENT and the Attachments thereto (the "Agreement"), effective as of 12:01 a.m. on October 1, 1999, (the "Transfer Date"), is entered into by and among the UNITED STATES OF AMERICA, acting through the U.S. DEPARTMENT OF ENERGY ("DOE"); FLUOR DANIEL HANFORD, INC. ("FDH"), a corporation organized and existing under the laws of the State of Washington, and LOCKHEED MARTIN HANFORD CORPORATION ("LMHC"), a corporation organized and existing under the laws of the State of Delaware. DOE, FDH, and LMHC are referred to in this Agreement collectively as the "Parties," and singularly as a "Party".

## RECITALS

WHEREAS, DOE and FDH are parties to the Project Hanford Management Contract, identified as Contract No. DE-AC06-96RL13200 (the "PHMC"), pursuant to which FDH has management and contract integration responsibilities for the Hanford Site; and

WHEREAS, FDH selected LMHC as one of the "PHMC Subcontractors" to perform portions of the Hanford Site work devoted to manage of the Tank Waste Remediation System ("TWRS"), subsequently renamed the River Protection Project ("RPP") pursuant to Subcontract No. 80232765-9-K001 (the "LMHC Subcontract"); and

WHEREAS, DOE has withdrawn the RPP scope of work from the PHMC and directed FDH to assign the LMHC Subcontract to it effective as of the Transfer Date; and

WHEREAS, LMHC will be responsible to the Office of River Protection ("ORP") under a DOE prime contract identified as DE-AC06-99RL14047 (the "RPP Contract"); and

WHEREAS, the Parties and ORP desire to facilitate an orderly transfer of contractual responsibilities to manage the RPP for the Hanford Site, which will include the selective transfer of documents, records, and property and employment of former PHMC employees by LMHC associated with the provision of RPP services, and the continued performance of site services by FDH and its other PHMC Subcontractors for LMHC, and *vice versa*.

NOW, THEREFORE, in consideration of the mutual covenants and understandings contained herein, the Parties agree to and ORP approves of the following:

## AGREEMENT

### 1. PURPOSE

The purpose of this Agreement is to effect an orderly transfer of responsibilities for managing the RPP for the Hanford Site among the Parties as set forth herein; provided, however, that this Agreement does not modify the terms and conditions of the PHMC or the RPP Contract. In the event of a conflict between the terms and conditions of this Agreement, the PHMC, or the RPP Contract, the terms and conditions of the PHMC and the RPP Contract shall control in connection with the respective parties to those contracts.

### 2. ASSIGNMENT OF CONTRACT DOCUMENTS

#### A. Assignment of LMHC Subcontract

FDH hereby assigns to DOE, effective as of the Transfer Date and with notice to LMHC, all of FDH's obligations, rights, interests, and liabilities in the LMHC Subcontract entered into under the authority of the PHMC, and DOE hereby accepts said assignment. Notwithstanding said assignment, provisions of the LMHC Subcontract governing invoicing/payment procedures and any invoice deficiencies (Part II, Sections 6.0 and 7.0); available fee pool, performance incentive fee plan, and subcontractor fee sharing plan (Part II, Sections 9.0, 10.0, and 11.0); disputes (Part III, Section 3.0); pre-existing conditions (Part III, Section 5.0); subcontractor acceptance of notices

of violation or alleged violations, fines, and penalties (Part III, Section 12.0); internal audit (Part III, Section 26.0); insurance—litigation and claims (Part III, Section 38.0); performance objectives, measure, expectations, and incentives (Part III, Section 41.0); determination of incentive fees, conditional payment of fees, and provisional payment of incentives (Part III, Sections 44.0, 45.0, and 46.0); governing law (Part III, Section 53.0); and Federal Acquisition Regulation ("FAR") Clauses 52.242-1 and 52.242-3 (Part III, Section 54.69 and 54.70) shall survive and control the final invoicing and payments to be made under the LMHC Subcontract, resolution of disputes (if any), and disposition of any litigation or administrative regulatory issues that arise after assignment but involve activities performed before the Transfer Date.

**B. Assignment and Transfer of Closed Purchase Orders and Subcontracts**

FDH hereby assigns and transfers to LMHC, effective as of the Transfer Date, all of FDH's obligations, rights, interests, and liabilities in closed purchase orders and subcontracts, including all requests for proposals or other solicitations, entered (i) into by contractors and subcontractors at the Hanford Site prior to October 1, 1996, and (ii) under the PHMC since October 1, 1996, relevant to the RPP at the Hanford Site, and LMHC hereby accepts said assignment and transfer.

**C. Assignment and Transfer of Other Agreements**

FDH hereby assigns and transfers to LMHC, effective as of the Transfer Date, all of FDH's obligations, rights, title, interests, liabilities, and responsibilities in the requests for services identified in Attachment A to this Agreement, and LMHC hereby accepts said assignment and transfer.

**3. TRANSFER OF AND ACCESS TO RECORDS**

**A. Program Records**

- (i) Effective as of the Transfer Date, DOE hereby directs that FDH and its other PHMC Subcontractors shall transfer to LMHC, and they hereby transfer, all RPP Program Records (defined below), and LMHC hereby accepts said transfer. LMHC hereby acknowledges the obligation to preserve said records imposed by orders of the United States District Court for the Eastern District of Washington in In re Hanford Nuclear Reservation Litigation, Master File No. CY-91-3015-AAM. Where such RPP Program Records are maintained in a central Hanford Site repository by FDH, its other PHMC Subcontractors, or subcontractors to one or all of them, LMHC shall accept, in lieu of physical transfer, responsibility for such RPP Program Records. FDH shall ensure that such RPP Program Records in central repositories are maintained in accordance with the September 8, 1999, FDH letter to DOE, countersigned by LMHC, in which FDH and LMHC agreed on the provision of site services (the "Letter Agreement") and shall grant LMHC reasonable access during business hours.
- (ii) The Parties agree that the term "RPP Program Records" shall mean: all documents and information including, but not limited to, writings, manuals, drawings, graphs, charts, photographs, microfilm, microfiche, or data compilation/databases, whether stored on mainframe or mini- or microcomputers, personal computers, file servers, on computer networks or any other electronic storage devices, from which information may be obtained or translated if necessary through detection devices or by other means into a reasonably useable form, in the care, custody, and control of FDH or its PHMC Subcontractors that were acquired or generated pursuant to the performance of work for the RPP under the PHMC, including documents identified as TWRS related.
- (iii) The Parties agree that RPP Program Records do not include those records generated by FDH and its other PHMC Subcontractors (i.e., excluding LMHC), to the extent they

contain: (a) privileged information (including attorney work product or attorney-client communications); (b) confidential business information (including correspondence between FDH and its affiliates and FDH's other PHMC Subcontractors and their affiliates); (c) proprietary information (including financial data); (d) internal files relating to contract performance (including self-assessments) and administration of the PHMC and subcontracts entered into between FDH, its other PHMC Subcontractors; and all other subcontractors; (e) documents relating to subcontract terminations and closeouts except for those purchase orders and subcontracts assigned to LMHC in Section 2.B. above; (f) files involving litigation in which LMHC is not a party; and (g) documents related to the transition of work and subcontract assignment contemplated by this Agreement.

B. Training Records

Effective as of the Transfer Date, DOE hereby directs that FDH and its other PHMC Subcontractors shall transfer to LMHC, and they hereby transfer, the care, custody, and control of all training records and college tuition/education reimbursement records ("Training Records") for all PHMC employees who are employees of LMHC on the effective date of transfer, and LMHC hereby accepts said transfer. Where such Training Records are maintained in a central Hanford Site repository by FDH, its other PHMC Subcontractors, or subcontractors to one or all of them, LMHC shall accept, in lieu of physical transfer, responsibility for such Training Records. FDH shall ensure that such Training Records in central repositories are maintained in accordance with the Letter Agreement and shall grant LMHC reasonable access during business hours.

C. Personnel Records

Effective as of the Transfer Date, DOE hereby directs that FDH shall transfer to LMHC, and it hereby transfers, the care, custody, and control of all personnel records for all LMHC employees and former PHMC employees who become LMHC employees, and LMHC hereby accepts said transfer.

D. Retention

Subject to the obligation to preserve RPP Program Records pursuant to orders imposed by the United States District Court for the Eastern District of Washington in In re Hanford Nuclear Reservation Litigation, *supra*, nothing in this Agreement shall constitute a commitment by either FDH or LMHC to retain RPP Program Records beyond DOE's customary time periods governing document retention.

E. Fee Records

Effective as of the Transfer Date, DOE hereby directs that LMHC shall allow FDH reasonable access to all LMHC records relating to fees received or to be received by LMHC under the terms and conditions of the PHMC and the LMHC Subcontract.

4. FINANCIAL ADMINISTRATION

The Parties agree that segregation of balances and utilization of separate letter of credit banking agreements cannot reasonably occur on the effective date of transfer. The Parties accordingly agree to work together, in conjunction with ORP, to develop and execute a plan to accomplish the full segregation of balances and the establishment of a separate letter of credit banking agreement for LMHC, if deemed appropriate by the Parties. The plan shall include, but not be limited to, handling of credits and rebates; accounts payables and accruals; advance payments and deposits; inventories (including plant and equipment and work-in-progress); accounts receivable; business and occupation taxes ("B&O"), sales taxes, and use taxes; and other assets and liabilities, including contingent liabilities.

FDH will continue to provide all financial functions for LMHC until such time as those functions are subsequently assumed by LMHC with the following exceptions, which will be performed by LMHC effective as of the Transfer Date: travel and relocation audit; LMHC rate determination/structure and accounting; LMHC transactional compliance accounting; and, LMHC corporate accounting. FDH shall be responsible for the accurate and timely payment of funds under its letter of credit banking agreement pursuant to financial data submissions provided by LMHC and the obligations FDH has assumed in the Letter Agreement. LMHC shall be responsible for the proper accounting of funds provided for the RPP in submitting financial data to FDH. Other finance matters shall be governed by the following:

**A. Payroll**

- (i) On behalf of LMHC, FDH shall pay all wages, salaries, and benefits for LMHC employees as follows:
  - (a) LMHC personnel currently are paid under LMHC's employer tax identification number. LMHC will assume responsibility for certain Hanford Atomic Metal Trades Council ("HAMTC") employees and salaried exempt and non-exempt employees as of the Transfer Date. The Parties agree the effective date of change for these transfers in the human resources/financial systems shall be Monday, October 4, 1999, consistent with the start of a pay period.
  - (b) LMHC shall comply with the terms of all Hanford benefit plans for which LMHC is a sponsor and account for all authorized payroll deductions for savings bonds and other withholdings, for the purpose of FDH making employee deductions and/or company contributions to such plans.
- (ii) Internal Revenue Service Procedure 84-77 provides for standard and alternative procedures for filing Forms W-2 under a "successor-predecessor" relationship. FDH and LMHC agree to comply with Revenue Procedure 84-77, Section 5, "Alternative Procedure".
  - (a) To the extent permitted under applicable Federal tax law, FDH, pursuant to the Letter Agreement will prepare and issue for LMHC, as the "successor contractor," by January 31, 2000, single Form W-2s that will include the wages paid and taxes withheld from January 1, 1999 through September 30, 1999, to FDH and other PHMC Subcontractor employees who become employed by LMHC.
  - (b) FDH agrees to provide LMHC with such information and documentation required under Revenue Procedure 84-77, and further agrees to cooperate with LMHC in the performance of duties pursuant to this Section 4.B. below.
- (iii) To the extent permitted under applicable Federal tax law, LMHC will recognize earnings paid and FICA deductions made by FDH for FDH and other PHMC Subcontractor employees who become employed by LMHC during calendar year 1999 in determining FICA taxable earnings and FICA withholding for the balance of the calendar year.

**B. Travel**

- (i) FDH shall be responsible for processing and paying the travel expenses (including local travel) of LMHC and other PHMC employees who are in a travel status on the effective date of transfer, and shall account for employee receivables and advances in closing out travel claims. After the Transfer Date, FDH shall continue to pay travel expenses for all

LMHC employees pursuant to the Letter Agreement, but funding will come from LMHC's account.

- (ii) Effective as of the Transfer Date, DOE hereby directs that FDH shall transfer to LMHC, and FDH hereby transfers, unused airline tickets obtained for official travel of LMHC employees under the terms of the PHMC and identified in Attachment B to this Agreement, and LMHC hereby accepts said transfer.

C. Year-End Closing and Contingent Liabilities

Effective as of the Transfer Date, FDH shall retain administrative responsibility for the financial activities associated with the closing of fiscal year 1999 ("FY 99"), including preparation of all year-end closing documents, Site Management System and Progress Tracking System reporting and corresponding data transmissions to the DOE and other routinely included parties. FDH will prepare all documents to accurately reflect balances and activities as recorded by LMHC and FDH and its other PHMC Subcontractors for the appropriate fiscal periods. The recognition of any contingent liabilities shall be appropriately reflected in the reporting done by LMHC based on the direction of and approved by FDH. The FY 99 Statement of Costs Incurred shall be prepared by FDH. Responses to any FY 99 audit findings shall be prepared by FDH.

D. Credit Cards

Effective as of the Transfer Date, FDH shall cancel all corporate travel cards issued to any other PHMC employees who transfer to LMHC.

E. College Education Reimbursement Expenses

FDH has, pursuant to the PHMC, reimbursed certain employees for the costs of obtaining bachelors or advanced degrees or further formal education. In order to obtain reimbursement for these expenses, employees are required to meet certain criteria that have been provided to FDH. Effective on December 31, 1999, LMHC hereby assumes and accepts all of FDH's liabilities and obligations for educational expenses for those FDH and other PHMC Subcontractor employees who become employees of LMHC.

F. Taxes

FDH shall have access to records of former PHMC employees transferred to LMHC as may be necessary to complete any Federal, state, or local tax return not completed prior to the Transfer Date or to respond to any Federal, state, or local government agency audit.

- (i) LMHC shall prepare all income tax returns and reports due after September 30, 1999, with the exception of any Federal income tax report that may be required to be prepared or filed by FDH. FDH shall continue to report and submit tax filings and payments on behalf of LMHC for payroll taxes, B&O taxes, sales taxes, and use taxes. All returns prepared by FDH on behalf of LMHC will be reviewed, approved, and signed by an appropriate LMHC official. If LMHC reasonably believes that FDH is reporting data or information that is incorrect or improper, LMHC reserves the right to require FDH to correct the data or information prior to filing. LMHC shall be responsible for any fine, penalty or interest that may arise from any filing by FDH on or after the Transfer Date if such fine, penalty or interest is a result of LMHC's act or failure to act.
- (ii) FDH shall, as provided elsewhere herein, have access to records and its former employees as may be necessary to complete any Federal, state, or local tax return not completed prior to the Transfer Date or to respond to any Federal, state, or local tax audit.

LMHC shall have access to records and FDH employees as may be necessary to complete any income tax return prepared or based on information provided by FDH.

G. P-Cards

Effective on or about November 1, 1999, FDH shall cancel all P-Cards (i.e., purchase cards) issued to PHMC employees who are LMHC employees. LMHC shall establish its own P-Card program, working in conjunction with FDH Finance, to ensure proper financial system integration and schedule implementation. FDH shall pay all invoices presented for P-Card purchases on or before the Transfer Date on behalf of LMHC as long as such invoices are consistent with established policies, procedures, and authorization of LMHC for the use of such cards. FDH shall make any payments for purchases after the Transfer Date on behalf of LMHC from LMHC's account.

H. Service Award Funding

Paragraph 8.0 of Appendix B to Part III, Section J of the PHMC allows costs incurred for employee morale, recreation, and welfare programs in an amount not to exceed \$20.00 per PHMC employee per year. FDH hereby gives LMHC notice that effective as of the Transfer Date, any such costs incurred by LMHC for LMHC employees are unallowable under the terms of the PHMC.

I. Outstanding Liabilities Associated with Relocation

Paragraph 5.0 of Appendix B to Part III, Section J of the PHMC allows costs incurred by prospective PHMC employees for travel and relocation at the request of FDH or its PHMC Subcontractors in connection with work under the PHMC. LMHC shall be responsible for all advance travel, relocation, and per diem costs committed to new and prospective LMHC employees incurring such costs as of the Transfer Date. These costs and future obligations originally accounted for under the PHMC are identified in Attachment C to this Agreement.

J. Closing Process

With respect to this Section 4, the Parties recognize that the complexity of the transfer may give rise to unforeseen conditions and that exactness in the actions are not fully determinable. The traditional use of estimates in the closing process will also necessitate future adjustments to actual financial information. The Parties agree to use their best efforts to address these future actions and to achieve equitable resolution in a timely manner.

K. Audit Support

LMHC shall provide support as requested by FDH for any audit inquiries or responses for costs reported during the period October 1, 1996, through September 30, 1999.

5. COLLECTIVE BARGAINING UNIT EMPLOYEES, GRIEVANCES, AND ARBITRATIONS

A. Hanford Atomic Metal Trades Council

FDH is party to a certain collective bargaining agreement with HAMTC entitled the 1997 FDH/HAMTC Labor Agreement. FDH employees represented by HAMTC who are assigned to LMHC shall be transferred to LMHC and continue to be represented by HAMTC on the Transfer Date. Actual transfer within the human resources/financial system shall be October 4, 1999, in accordance with Section 4.A.(i)(a) above.



LMHC shall recognize the 1997 FDH/HAMTC Labor Agreement as the bargaining agreement between LMHC and HAMTC to cover employees in the bargaining unit, with appropriate changes to reflect the new status of LMHC as an independent successor employer and the direct contractual relationship between LMHC and HAMTC.

**B. Grievances and Arbitrations**

Grievances and arbitrations identified in Attachment D that related directly and solely to bargaining unit employee issues with LMHC shall be effectively assigned by FDH to LMHC on the Transfer Date, and LMHC hereby accepts said assignment. LMHC shall not represent FDH or any of its other PHMC Subcontractors in any assigned grievances and arbitrations if, during the course of resolution, LMHC determines that the bargaining unit employee issues affect or concern FDH or its other PHMC Subcontractors. LMHC shall give notice to FDH upon any such determination. Notwithstanding the foregoing, nothing shall prohibit FDH from expressly agreeing to in writing with LMHC that LMHC may resolve such issues for FDH or its other PHMC Subcontractors to their mutual benefit.

**6. LITIGATION AND ADMINISTRATIVE EMPLOYMENT MATTERS**

**A. Litigation and Administrative Employment Matters**

- (i) After the Transfer Date, FDH shall continue to manage all litigation, Equal Employment Opportunity Commission ("EEOC") cases, Washington State Human Resource Commission ("WSHRC") complaints, and Office of Federal Contract Compliance Program ("OFCCP") cases filed before said Transfer Date. However, any pending collective bargaining unit grievances filed by and arbitrations involving new and former LMHC employees, if they extend beyond the effective date of this Agreement, shall be assigned by FDH to LMHC for resolution in accordance with Section 5.B. above.
- (ii) FDH shall review within 30 days of the Transfer Date all such pending litigation, cases, and complaints attributable to, arising from, or related to the RPP or LMHC or involving former FDH and other PHMC Subcontractor employees transferred to LMHC, and report to DOE the propriety of FDH Legal Services continuing to manage such matters and cases on behalf of LMHC. Following DOE's review, the DOE will make a determination concerning any assignment of said litigation, cases, and complaints. If the Parties agree that litigation management responsibilities should be transferred, the Parties shall execute documentation effecting assignment of costs, substitute counsel and litigation parties, implement indemnification agreements (if appropriate), designate litigation management principals, and resolve other relevant matters.

**B. Unemployment Compensation Cases and Other Matters**

Unemployment compensation cases for LMHC employees identified in Attachment E to this Agreement shall be effectively assigned by FDH to LMHC on the Transfer Date, and LMHC hereby accepts said assignment. Other matters, including any claims or potential claims related to automobile accidents, also identified in Attachment E to this Agreement, shall be effectively assigned by FDH to LMHC on the Transfer Date, and LMHC hereby accepts said assignment.

**7. NON-BARGAINING UNIT EMPLOYEES**

**A. Employees**

- (i) LMHC is free to post offers of employment on the Hanford Local Area Network ("HLAN") for any positions currently occupied by FDH or other PHMC Subcontractor employees who performed work for the RPP with prior written approval by FDH. The

Parties agree that any subsequent decision to offer employment to current PHMC employees is made solely at the discretion of LMHC, and that FDH has not provided LMHC with personal information concerning any of these employees without said employee's written consent.

- (ii) LMHC agrees to extend to all FDH and other PHMC Subcontractor employees who accept offers of employment with LMHC continuity of prior service credits for the calculation of benefits, including carryover of Personal Time Bank ("PTB") hours.

**B. Outplacement Services and Other Benefits**

- (i) The Parties recognize there may be a number of PHMC employees who are subject to a reduction of force resulting in the loss of their employment. The Parties also recognize that, pursuant to the terms of the Hanford Site Work Force Restructuring Plan (the "Plan") developed and submitted by DOE to Congress under the terms of Section 3161 of the National Defense Authorization Act for Fiscal Year 1993, FDH has implemented a variety of benefits for displaced employees including, but not limited to, the establishment of an outplacement center, education and relocation expenses, separation pay, re-hiring preference and the retention of medical benefits, including those provided under the 1986 Consolidated Omnibus Budget Reconciliation Act, Public Law 99-272, Title X ("COBRA"). The Parties recognize that some of the benefits available to former PHMC employees shall continue beyond the Transfer Date and shall be the responsibility of LMHC.
- (ii) Nothing herein shall be construed as creating any rights in third parties, and no third-party beneficiary rights are created or intended to be created by this Agreement.

**8. TRADEMARKS**

**A. License**

FDH hereby grants to LMHC, for the sole purpose of performing its responsibilities at the Hanford Site, a non-exclusive, non-transferable, royalty-free license to use in the United States any trademarks, service marks, trade names, advertising, signs, slogans, symbols and other trade indicia, (hereinafter collectively referred to as "Marks") being used as of the Transfer Date by LMHC in connection with the business activities conducted by FDH under the PHMC until March 31, 2000. LMHC will maintain and protect said Marks as FDH proprietary data. LMHC agrees that it will not claim any right, title or interest in such Marks.

**B. Removal**

LMHC shall use due diligence to remove, within a reasonable time, all Marks from any of the premises or properties, real, personal or mixed, involved with the PHMC. LMHC agrees that all items so removed shall be destroyed.

**C. Right To Use**

LMHC understands and agrees that FDH policy and procedure manuals, instructions, and work rules may be used until reprinted. LMHC may continue to use the PHMC internal forms containing Marks until the supply is exhausted, but no later than March 31, 2000.

9. **GOVERNMENT-OWNED PROPERTY TRANSFERS**

A. **Transfer of Government-Owned Real Property**

Effective as of the Transfer Date, DOE hereby directs that FDH shall transfer to LMHC, and FDH hereby transfers, accountability for certain government-owned real property under the care, control, and custody of LMHC as of the Transfer Date for which FDH is accountable to DOE under the terms of the PHMC, and LMHC hereby accepts said transfer. The inventory of facilities, buildings, and other identified structures and areas under the care, control, and custody of LMHC as of the Transfer Date is contained in the RL Property System ("RLPS"), and FDH will revise the RLPS organization codes to show said transfer; provided, however, that Building 209E shall be reassigned to FDH, on a provisional basis, subject to a pre-existing condition assessment for radioactive contamination and resolution of identified issues. Funds associated with Building 209E will be transferred to the PHMC Multi-Year Work Plan in Fiscal Year 2000.

B. **Transfer of Government-Owned Personal Property**

Effective as of the Transfer Date, DOE hereby directs that FDH shall transfer to LMHC, and FDH hereby transfers, accountability for certain government-owned personal property under the care, control, and custody of LMHC as of the Transfer Date for which FDH is accountable to DOE by the terms of the PHMC, and LMHC hereby accepts said transfer. This transfer does not preclude further transfers to any LMHC subcontractors of said government-owned personal property necessary to perform services. The inventory of personal property under the care, control, and custody of LMHC as of the Transfer Date is contained in the RLPS, and FDH will revise the RLPS organization codes to show said transfer.

C. **Transfer of Government-Owned Waste Sites**

Effective as of the Transfer Date, DOE hereby directs that FDH shall transfer to LMHC, and FDH hereby transfers, accountability for certain government-owned waste sites under the care, control, and custody of LMHC as of the Transfer Date for which FDH is accountable to DOE by the terms of the PHMC, and LMHC hereby accepts said transfer. The inventory of waste sites under the care, control, and custody of LMHC as of the Transfer Date is contained in the Waste Identification Data System ("WIDS"), and FDH will ensure that the database manager, Bechtel Hanford, Inc., revises the WIDS organization codes to show said transfer.

10. **ENVIRONMENTAL REGULATORY REQUIREMENTS, PERMITS, AND APPLICATIONS**

A. **Assignment**

FDH hereby assigns and transfers to LMHC, effective as of the Transfer Date, all environmental permits and applications identified in Attachment F to this Agreement, where, and to the extent, FDH is listed as a permittee, operator, co-operator, signatory or applicant for RPP facilities, and LMHC does hereby accept such assignment and transfer. Nothing in this Section 10 or elsewhere in this Agreement precludes the future addition, with necessary regulatory approval, of LMHC subcontractors to such permits or applications. This Section is not intended in any way to change the status of the DOE with respect to such permits and/or applications.

B. **Removal of Names**

FDH and the DOE agree that, as soon as practicable, but no later than October 15, 1999, both or either of them shall notify the appropriate regulatory agency(s) of the assignment effected in Section 10.A. above and request that (i) the name of FDH be removed from any permit, application for a permit, or other related documents, and (ii) the name of LMHC be substituted for FDH as may be applicable.

C. RCRA Permit

For pending Part B RCRA permit applications pertaining to RPP facilities that are scheduled to be added to the Hanford Facility RCRA Permit, DOE has notified the appropriate regulators that FDH, effective as of the Transfer Date, will no longer be a co-operator. LMHC shall update and recertify these applications as co-operator in place of FDH in accordance with the permit modification schedule agreed to by the DOE and the regulators. This approach is in accordance with the direction received from the State of Washington, Department of Ecology ("Ecology"), by letter dated July 18, 1996, entitled "Transfer of RCRA Permitting Documentation in Support of Contract Transition". This letter also directs DOE and FDH to certify and resubmit all the concerned Part A Form 3 documents and Research, Development and Demonstration documentation no later than the Transfer Date. The DOE and FDH agree each shall use its best efforts to comply with the direction from Ecology.

11. DISPOSITION OF MAIL

FDH hereby authorizes LMHC to open all mail addressed to FDH relating to the RPP at the Hanford Site and to retain such mail as may be necessary for the performance of the RPP Contract. LMHC shall use reasonable efforts not to open mail that is expressly marked externally "To Be Opened by Addressee Only" or "Confidential" or similar markings. Non-contract-related mail and mail externally marked "To Be Opened by Addressee Only" or "Confidential" or similar markings (e.g., mail from one corporate affiliate to LMHC) shall be forwarded by FDH as follows:

Lockheed Martin Hanford Corporation  
P.O. Box 1500  
Richland, Washington 99352-1500

12. EMPLOYEE HEALTH MONITORING

The Parties agree and understand that PHMC employees who become LMHC employees on the Transfer Date will not receive baseline physical examinations or whole body dosimetry examinations. Effective as of the Transfer Date, LMHC assumes full responsibility for monitoring the health and safety of said employees, including limiting the combined pre-existing and future exposures of personnel to radioactive and hazardous materials.

13. COSTS

LMHC is solely responsible for operations in the spaces it occupies pursuant to the RPP Contract, and all costs and liabilities associated with such operations shall be on LMHC's account after the Transfer Date.

14. LABORATORY SAMPLES

Effective as of the Transfer Date, DOE hereby directs that FDH and its other PHMC Subcontractors shall transfer to LMHC, and they hereby transfer to LMHC, accountability for any material, substances, or samples owned by DOE that originated in the RPP that any PHMC company sent to offsite contract laboratories for analysis, examination, and testing during the period of October 1, 1996, through September 30, 1999, and LMHC hereby accepts said transfer.

15. INTELLECTUAL PROPERTY

Effective as of the Transfer Date, title to PHMC invention disclosures, patent applications, copyrights, or other intellectual property developed, generated, or reduced to practice by LMHC employees up to the Transfer Date vest in FDH for the benefit of the United States Government. LMHC hereby certifies that all

inventions have been disclosed to FDH consistent with LMHC Subcontract requirements governing such disclosure.

16. **SERVICES**

Effective as of the Transfer Date, DOE hereby directs that FDH, FDH's other PHMC Subcontractors, and their subcontractors provide to LMHC and that LMHC provides to FDH and its other PHMC Subcontractors the services identified in Letter Agreement.

17. **INTERPRETATION**

- A. This Agreement shall be governed by and interpreted in accordance with the laws pertaining to United States Government contracts and, if none, laws of the State of Washington, subject to provisions thereof that refer to the laws of another jurisdiction.
- B. Headings and titles of Sections, paragraphs and other subparts of this Agreement are for convenience of reference only and shall not be considered in interpreting the text of this Agreement. Modifications, revisions, or amendments to this Agreement must be in writing and executed by a duly authorized representative of each Party.
- C. The Parties agree to look solely to each other with respect to the obligations and liabilities arising in connection with this Agreement. This Agreement and each and every provision hereof is for the exclusive benefit of the Parties and not for the benefit of any third party.
- D. In the event that any portion or all of this Agreement is held to be void or unenforceable, the Parties agree to negotiate in good faith to amend the terms of this Agreement in order to effect the intent of the Parties as set forth in this Agreement. Save as modified by the preceding sentence, the remainder of this Agreement shall continue to be enforceable as written.
- E. The Parties recognize that the complexity of the transfer effected under this Agreement may occasion unforeseen consequences that require additional actions to fully effect the intent of this Agreement. Further, new disclosures after the effective date of transfer may require remedial actions, including, but not limited to, additional assignments and transfers of employees. The Parties agree to use their best efforts to address unforeseen consequences and new disclosures and, in good faith, arrive at equitable resolution, which can include mutual consent to modify this Agreement.

18. **ENTIRE AGREEMENT**

A. **Complete Agreement**

Subject to terms and conditions of the PHMC and any related modifications, this Agreement sets forth the full and complete understanding of the Parties as of the date first above stated, and supersedes any and all agreements and representations made or dated prior thereto relating to the subject matter hereof.

B. **Amendment**

The Parties recognize that additional matters may be identified that require mutual agreement. Such additional matters shall be reduced to writing and made a part of this Agreement by an appropriate amendment signed by all of the Parties hereto.

C. Attachments

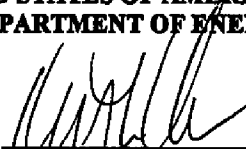
FDH and LMHC concur that the Attachments listed below constitute agreements made by their respective organizations during a transition period preceding the effective date of transfer. No other agreements or understandings exist as of the Transfer Date, but future agreements may be attached to this Agreement by mutual consent of FDH and LMHC. Copies of any such future agreements shall be provided to DOE. This section in no way constitutes DOE approval or ratification of the Attachments.

- Attachment A Assignment and Transfer of Other Agreements
- Attachment B Transfer of Unused Airline Tickets
- Attachment C Compilation of Relocation Costs Incurred, Payable, or Otherwise Obligated
- Attachment D Pending LMHC Employee Grievances and Arbitrations
- Attachment E Assignment of LMHC Unemployment Compensation Cases and Other Matters
- Attachment F Assignment and Transfer of Environmental Regulatory Requirements, Permits, and Applications

IN WITNESS WHEREOF, the Parties and ORP have executed this Agreement effective on the Transfer Date.


**UNITED STATES OF AMERICA, by  
U.S. DEPARTMENT OF ENERGY**

Date: 30 Sept 99

By:   
Keith Klein  
Manager, Richland Operations Office, and  
Contracting Officer

**FLUOR DANIEL HANFORD, INC.**

Date: 30 Sept 99

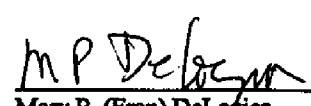
By:   
Ron D. Hanson  
President and  
Chief Executive Officer



LEGAL

**LOCKHEED MARTIN HANFORD CORPORATION**

Date: 30 Sept 99

By:   
Mary P. (Fran) DeLozier  
President and General Manager

**ATTACHMENT A TO TRANSFER AGREEMENT**

**ASSIGNMENT AND TRANSFER OF OTHER AGREEMENTS**

## **OUTSTANDING LMHC REQUESTS FOR SERVICES**

The following requests for services by LMHC remain outstanding as of September 30, 1999:

- 1W7D21 (funded by EW4010): Slurry Monitoring. Value: \$40,000.
- 1W7P51 (funded by EW4010): PFMC Characterization and Safety. Value: \$30,000.



**ATTACHMENT B TO TRANSFER AGREEMENT**

**TRANSFER OF UNUSED AIRLINE TICKETS**

Lockheed Ticket Inventory by Last Name													
Updated 9/14-99	First Name	Payroll Number	Company ID	TA Number	Ticket Number	Destination	Ticket Value	Issue Date	Depart Date	Expiration Date			
BROWN	ROBERT	6C716	LMHC	542330	0161461955513	LAS VEGAS	\$ 288.50	4/26/94	6/24/94	none			
DUFFIELD	GEORGE	57348	LMHC	026863	0061044961534	FL ORLANDO	\$ 592.50	1/21/99	2/2/99	1/21/01			
EBBEN	MICHAEL	8B038	LMHC	021372	0061001247467	LA NEW ORLEANS	\$ 334.00	10/8/97	12/10/97	10/8/99			
EBBEN	MICHAEL	8B038	LMHC	022773	0061008622937	NM ALBUQUERQUE	\$ 341.00	1/16/98	2/4/98	1/16/00			
FERGUSON	JAMES	8B296	LMHC	026220	0271038753434	CA SAN JOSE	\$ 291.00	11/12/98	11/19/98	11/12/99			
GUNTER	DAVID	8B075	LMHC	022234	0061003565201	LA NEW ORLEANS	\$ 338.00	11/13/97	12/9/97	11/13/99			
GUNTER	PETER	6C082	LMHC	027255	0271048907577	NV LAS VEGAS	\$ 423.00	2/25/99	3/13/99	2/25/00			
HALL	KATHLEEN	8B040	LMHC		0061503945667	MD BALTIMORE	\$ 408.50	7/15/99	8/21/99	7/15/01			
HAMM	EARNEST	66089	LMHC		0161058332362	DC WASHINGTON	\$ 412.00	5/25/99	6/22/99	NONE			
HAMM	EARNEST	66089	LMHC	505749	0161009013273	UT SALT LAKE CITY	\$ 325.00	10/12/94	11/3/94	none			
HERNDON	VAN	55292	LMHC	506745	0167761966599-600	TX DALLAS/FT. WORTH	\$ 673.00	10/13/94	10/29/94	none			
JENNINGS	TONY	84781	LMHC	025225	0061031038534	CA SAN FRANCISCO	\$ 284.50	8/18/98	9/20/98	8/18/00			
JENNINGS	TONY	84781	LMHC	025579	35097724981	CA SAN FRANCISCO	\$ 25.00	9/22/98	9/22/98	9/22/99			
LINTHO	PATRICIA	89626	LMHC	025326	0061032286803	MN MINNEAPOLIS	\$ 443.00	8/31/98	9/24/98	8/31/00			
MCDANIEL	DONALD	8B043	LMHC	026221	0271038753433	CA SAN JOSE	\$ 291.00	11/12/98	11/19/98	11/12/99			
ROSENBERRY	MARK	6C225	LMHC	022188	0068494017013	LA NEW ORLEANS	\$ 338.00	11/6/97	12/10/97	11/6/99			
WILLIAMS	ANDRE	84363	LMHC		0061506025077	LA NEW ORLEANS	\$ 498.00	8/13/99	9/12/99	8/13/01			
							<b>Grand Total</b>	<b>\$ 6,306.00</b>					

**ATTACHMENT C TO TRANSFER AGREEMENT**

**COMPILATION OF RELOCATION COSTS INCURRED, PAYABLE, OR OTHERWISE  
OBLIGATED**

## PENDING LMHC RELOCATIONS ASSOCIATED WITH OPEN REQUISITIONS

Req. #	Title	Hiring Mgr.	Candidate	Relocating From
4562	Mgr. Industrial Relations	Bill Dalton	William B. Engel	Idaho Falls
4613	Project Mgr	Harry Boston	William Lonergan	Idaho Falls
3404	Engineer	Don McDaniel	Jana Thompson	Santa Clara, CA
4063	Mgr. Industrial Hygiene	Ed Mayer	Sandra Gilmore	Relocating travel expenses only, Husband with relocation package from BNFL

In addition, reviewing two other candidates from Idaho Falls for possible position matches (Phil Sanders and Gerald Backen).

**ATTACHMENT D TO TRANSFER AGREEMENT**

**PENDING LMHC GRIEVANCES AND ARBITRATIONS**

## Active Grievances for LMHC

99-027\*  
99-102 - Step I, 5/25/99  
99-103 - Step I, 5/13/99  
99-106 - Step I, 6/7/99  
99-115 - Step I, 6/10/99  
99-133 - Step I, 7/15/99  
99-137 - Step I, 7/20/99  
99-142 - Step I, 8/2/99  
99-147 - Step I, 8/9/99  
99-035 - Step II, 6/22/99  
99-057 - Step II, 5/7/99  
99-073 - Step II, 5/7/99  
99-074 - Step II, 5/7/99  
99-121 - Step II, 8/9/99

*\*Field copy not received as of Transfer Date.*

## Grievances Requested to be Arbitrated

95-377/95-400  
98-173  
98-225 - Arbitration not scheduled as of this date, however, Arbitrator Duane Buckmaster was selected.  
98-226 - Arbitration scheduled for April 19, 2000 with Arbitrator George Lehlitner.  
98-227 - Arbitration not scheduled as of this date, however, Arbitrator Gary Axon was selected.  
98-277  
99-037  
99-062  
99-100

Note: Arbitration schedules and arbitrators have not been selected unless otherwise indicated.

**ATTACHMENT E TO TRANSFER AGREEMENT**

**ASSIGNMENT OF UNEMPLOYMENT COMPENSATION CASES AND OTHER MATTERS**

## **ACTIVE UNEMPLOYMENT COMPENSATION CASES**

The following active unemployment cases are for former LMHC employees:

1.     Becker, Lloyd L.                   Termination Date: 09/18/98
2.     Carter, Dale K.                   Termination Date: 08/19/98
3.     Lewis, Judith G.                 Termination Date: 04/05/99



**ATTACHMENT F TO TRANSFER AGREEMENT**

**ASSIGNMENT AND TRANSFER OF ENVIRONMENTAL PERMITS AND APPLICATIONS**

**CORRESPONDENCE DISTRIBUTION COVERSHEET**

Author  
W. D. Adair, FDH  
S. M. Price, FDH, 376-1653

Addressee  
J. E. Rasmussen, RL

Correspondence No.  
FDH-9956578

Subject: **CONTRACT NO. DE-AC06-96RL13200 - TRANSFER OF RESOURCE  
CONSERVATION AND RECOVERY ACT PERMITTING DOCUMENTATION IN  
SUPPORT OF CONTRACT TRANSITION**

**DISTRIBUTION**

Approval	Date	Name	Location	w/att
		Correspondence Control	A3-01	X
		<u>Fluor Daniel Hanford, Inc.</u>		
		President's Office	H5-20	
		W. D. Adair	A0-22	X
		L. D. Arnold	H8-67	X
		L. E. Borneman	G1-24	X
		S. B. Cherry	B3-15	X
		G. R. Franz	G1-24	X
		K. M. Norris	B3-15	X
		S. M. Price	A0-22	X
		R. J. Swan	A0-22	X
		S. A. Thompson	A0-22	X
		T. B. Veneziano	G1-24	X
		EATS File (C. P. Strand)	A0-22	X
		Env. Integration LB (L. O. Shapley)	A0-22	X
		<u>Lockheed Martin Hanford Corporation</u>		
		S. D. Brumley	H7-07	X
		M. P. DeLozier	H7-07	X
		W. T. Dixon	R3-01	X
		B. G. Erlandson	R1-51	X
		E. E. Mayer	R2-50	X
		D. L. Parker	R1-51	X
		<u>U.S. Department of Energy, Richland Operations Office</u>		
		C. E. Clark	A5-15	X
		A. C. McKarns	A5-15	X
		S. A. Sieracki	A7-80	
		<u>Waste Management Federal Services of Hanford, Inc.</u>		
		R. H. Engelmann	G1-30	X
		L. L. Powers	G1-27	X
		J. F. Williams, Jr.	G1-30	X
		RCRA Scan (D. B. Jensen)	G1-30	X

xLDA/ra/son  
S.M.P. 9-16-99

XCBC 9/16/99

XQ 9/16/99

XSP/DO 9-16-99

XCB 7-16-99

x sm 9/16/99



**FLUOR DANIEL**

Fluor Daniel Hanford, Inc.  
P.O. Box 1000  
Richland, WA 99352

September 16, 1999

FDH-9956578

Mr. J. E. Rasmussen, Director  
Environmental Assurance, Permits  
and Policy Division  
U.S. Department of Energy  
Richland Operations Office  
Post Office Box 550  
Richland, Washington 99352

Dear Mr. Rasmussen:

**CONTRACT NO. DE-AC06-96RL13200 - TRANSFER OF RESOURCE CONSERVATION AND  
RECOVERY ACT PERMITTING DOCUMENTATION IN SUPPORT OF CONTRACT  
TRANSITION**

Attached is a letter requesting the assistance of the State of Washington, Department of Ecology, (Ecology) in facilitating the transfer of Resource Conservation and Recovery Act (RCRA) permitting documentation from the Project Hanford Management Contractor, Fluor Daniel Hanford, Inc. (FDH), to the River Protection Project Contractor, Lockheed Martin Hanford Corporation (LMHC). This transfer is currently scheduled to become effective on October 1, 1999, and will be accomplished using the process outlined in this letter. This process was discussed among U.S. Department of Energy (DOE), Richland Operations Office (RL), DOE Office of River Protection (ORP), FDH, LMHC, and Ecology representatives during a meeting held on September 1, 1999. In accordance with a commitment made at this meeting, a draft of the attachment was reviewed with Ms. L. E. Ruud and Ms. J. J. Wallace of Ecology, following the RCRA Permit Steering Committee meeting held on September 14, 1999.

You are requested to forward this letter to Ecology by September 21, 1999, in order to support the October 1, 1999, transmittal date for the revised RCRA documentation. If you have any questions, please call Dr. S. M. Price, of my staff, on 376-1653,

Very truly yours,

William D. Adair, Director  
Environmental Protection  
Responsible Party for  
Fluor Daniel Hanford, Inc.

Is

Attachment



**FDH-9956578**

**ATTACHMENT**

**Transmittal Letter (and Enclosure) to Mr. M. A. Wilson, Ecology**

**Consisting of 4 Pages including Coversheet**

Mr. M. A. Wilson, Program Manager  
Nuclear Waste Program  
State of Washington  
Department of Ecology  
P.O. Box 47600  
Olympia, Washington 98504-7600

Dear Mr. Wilson:

**TRANSFER OF RESOURCE CONSERVATION AND RECOVERY ACT PERMITTING  
DOCUMENTATION IN SUPPORT OF CONTRACT TRANSITION**

The U.S. Department of Energy (DOE), Richland Operations Office (RL) and the Office of River Protection (ORP) are requesting the assistance of the State of Washington, Department of Ecology (Ecology), in facilitating the transfer of Resource Conservation and Recovery Act (RCRA) permitting documentation from the Project Hanford Management Contract (PHMC), Fluor Daniel Hanford, Inc. (FDH), to the River Protection Project Contractor, Lockheed Martin Hanford Corporation (LMHC). This transfer is currently scheduled to become effective on October 1, 1999, and will be accomplished using the process outlined in this letter. This process was discussed with members of your staff during a meeting held on September 1, 1999, and September 14, 1999.

The organization of the Hanford Site is currently being re-structured to implement Section 3139 of the *Strom Thurmond National Defense Authorization Act* for Fiscal Year 1999, which establishes the new ORP. As part of this re-structuring, LMHC will become a prime contractor reporting directly to ORP, beginning October 1, 1999. For the last 3 years, LMHC has been a major subcontractor within the PHMC Team and has been reporting to FDH. In this role, LMHC has been providing day-to-day management of the following treatment, storage, and/or disposal (TSD) units for FDH: (1) Double-Shell Tank System (DST); (2) Single-Shell Tank System (SST); (3) Grout Treatment Facility (GTF); and (4) the 204-AR Waste Unloading Station. Upon re-structuring, LMHC will continue to provide the same day-to-day management of these TSD units. DOE will retain ownership and, in conjunction with LMHC, will co-operate these units. Thus, FDH will no longer have management responsibility for these four TSD units, and LMHC will assume the Co-operator role. In addition, beginning October 1, 1999, neither LMHC nor FDH will have management responsibility for the Hanford Waste Vitrification Plant (HWVP). Therefore, DOE will assume responsibility for the HWVP unit until such time that a revised Part A, Form 3 identifying a Co-operator is submitted, or until the processes and capacities of this unit are incorporated into other Part A, Form 3 permit application documents.

Mr. M. A. Wilson

- 2 -

To support this change, the products identified in the enclosure will be provided to Ecology in parallel with execution of the new contract (i.e., October 1, 1999). The basis for the content of these permitting documents is also identified.

Based on the previously noted conversations with Ecology staff, DOE believes that the proposed path forward is sufficient to support transition of the noted TSD units to a new Co-operator (i.e., from FDH to LHMC) by October 1, 1999. If you have any questions or concerns, please contact Clifford E. Clark at (509) 376-9333 or Tony C. McKarns at (509) 376-8981.

Sincerely,

James E. Rasmussen, Director  
Environmental Assurance, Permits,  
and Policy Division

Enclosure:  
Products and Basis

cc: Administrative Record H6-08  
HF Operating Record H6-08  
W. D. Adair, FDH  
S. M. Price, FDH  
S. A. Thompson, FDH  
B. G. Erlandson, LMHC  
R. Wilkinson, CTUIR  
P. Sobotta, NPT  
R. Jim, YIN  
Ecology NWP Kennewick Library  
L. J. Cusack, Ecology  
L. E. Ruud, Ecology  
J. J. Wallace, Ecology  
A. Valero, Ecology  
D. R. Sherwood, EPA  
Environmental Portal, LMSI

## Products and Basis

### Products:

1. A new Part A, Form 1, with a certification listing U.S. Department of Energy (DOE) as the Owner/Operator, and Lockheed Martin Hanford Corporation (LMHC) as a Co-operator.
2. Four revised Part A Form 3s identifying LMHC as the Co-operator of the Double-Shell Tank System (DST), Single-Shell Tank System (SST), Grout Treatment Facility (GTF), and 204-AR Waste Unloading Station.
3. A revision of the Hanford Waste Vitrification Plant (HWVP) Part A, Form 3, will be submitted listing only DOE as the Owner/Operator. Upon identification of a Co-operator for the HWVP, a revised Part A, Form 3, would be submitted under separate cover.

### Basis:

1. The scope of the Resource Conservation and Recovery Act (RCRA) form revisions will be limited to what is necessary to reflect the change in contractors. This may require information to be updated so that the forms are "true, accurate, and complete" at the time of certification. Additions or deletions necessary to make the forms "true, accurate, and complete" will be discussed with Ecology in advance of transmittal. DOE recognizes Ecology's acceptance of these forms is for the purpose of documenting a change in Co-operators only. Ecology's acceptance does not negate comments being evaluated as part of other negotiations (e.g., DST Part B permit application review).
2. Part B documentation for three of the affected treatment, storage, and/or disposal (TSD) units (i.e., DST, Grout, and HWVP) has been submitted to Ecology. Documentation for these TSD units has not yet been finalized for inclusion in the Hanford Facility RCRA Permit. As with the Westinghouse Hanford Company to Fluor Daniel Hanford, Inc. (FDH) transfer, it is assumed that "in-progress" Part Bs will not have to be resubmitted or recertified based on this action of changing Co-operator status, as DOE remains the facility Owner/Operator.
3. Keith Klein will sign for the DOE.
4. Ecology will consider the certified Part A, Form 3s and formal letters received from DOE as documented evidence that a change in Co-operator management responsibility has occurred.
5. The Part A, Form 3 for the Interim High-Level Waste storage facility (i.e., Canister Storage Building) will continue to be assigned to DOE and FDH, and will not be transferred to LMHC. The facility is not under LMHC management control; if high-level vitrified waste is delisted then RCRA permit coverage will not be required.
6. Any required changes to the Hanford Facility RCRA Permit as a result of contract transition will be accomplished on the already established schedule for permit modification (e.g., incorporating the change in Co-operator status in the General Information Volume (DOE/RL 91-28)).

<b>AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT</b>				1. CONTRACT ID CODE	PAGE OF PAGES 1   450
2. AMENDMENT/MODIFICATION NO. <b>M086</b>	3. EFFECTIVE DATE <b>See Block 16C</b>	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. (If applicable)		
6. ISSUED BY U.S. Department of Energy Richland Operations Office 825 Jadwin Avenue, MSIN A7-80 Richland, WA 99352		CODE	7. ADMINISTERED BY (If other than Item 6)		CODE
8. NAME AND ADDRESS OF CONTRACTOR (No. Street, county, State and ZIP Code)  Fluor Daniel Hanford, Inc. 2420 Stevens Center  PO Box 1000 Richland, WA 99352				<input checked="" type="checkbox"/>	9A. AMENDMENT OF SOLICITATION NO.
					9B. DATED (SEE ITEM 11)
					10A. MODIFICATION OF CONTRACT/ORDER NO. <b>DE-AC06-96RL-13200</b>
					10B. DATED (SEE ITEM 13) <b>08/06/96</b>
CODE		FACILITY CODE			

**11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS**

The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers  is extended,  is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:

(a) By completing Items 8 and 15, and returning one (1) copy of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATA SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and data specified.

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

N/A      \$0.00

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

A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.

B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).

C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:

D. OTHER Specify type of modification and authority  
**Clause H.16 "Withdrawal of Work" and Mutual Agreement**

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 solicitation/contract subject matter where feasible.)**

This modification reflects withdrawal of work associated with the Tank Waste Remediation Systems (TWRS) Project, and incorporates updated language and terms and conditions. The following pages make up the current contract (with the exception of Appendices D, K, and L, which are unchanged by this modification), including all changes agreed upon to date.

The effective date for the addition and deletion of the Directives set forth in Section J, Appendix C shall be thirty days from the effective date of the modification.

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

Reviewed <i>gjc</i> Approved	15A. NAME AND TITLE OF SIGNER (Type or print) <b>Ron D. Hanson, President and Chief Executive Officer</b>	16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) <b>Keith A. Klein Manager</b>
	15B. CONTRACTOR/OFFEROR <i>R. Hanson</i> (Signature of person authorized to sign)	15C. DATE SIGNED <b>9/30/99</b>
		16C. DATE SIGNED <b>9/30/99</b>



# **United States Department of Energy**

## **PROJECT HANFORD MANAGEMENT CONTRACT**

**FLUOR DANIEL HANFORD, INC.**

**DE-AC06-96RL13200**

**REDACTED**



**U.S. Department of Energy  
Richland Operations Office**

**October 1, 1999  
Modification MO86**

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**PART I - THE SCHEDULE**

**SECTION B  
SUPPLIES OR SERVICES AND PRICES/COST**

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B.4	ESTIMATED COST AND FEE.....	B-3
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**Fluor Daniel Hanford, Inc.**  
**DE-AC06-96RL13200**  
**Modification MO86**  
**October 1, 1999**

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## **B.1 SERVICES BEING ACQUIRED**

The Contractor shall be responsible for planning, managing, integrating, operating and implementing a full range of Hanford programs, projects, and other activities as set forth in Section C. It is understood that in performing the Statement of Work set forth in Section C, the Contractor's approach to the work shall be consistent with that described (excluding references relating to Lockheed Martin Hanford Company) in the Contractor's proposal dated March 25, 1996, and its answers to the Government's Oral Discussion questions as provided in its response dated June 10, 1996, as modified by its proposal amendments contained in its Best and Final Offer dated July 11, 1996, unless otherwise agreed to, the DOE approved Management Plan(s), and as agreed to and/or directed by DOE. The Contractor shall furnish all personnel, facilities, equipment, material, supplies, and services (except as expressly set forth in this contract as furnished by the Government) and otherwise do all things necessary for, or incident to, performing in an efficient and effective manner all work set forth in Section C.

## **B.2 OBLIGATION OF FUNDS**

### **A. Obligation of Funds**

The amount obligated by the Government with respect to this contract is \$2,821,873,889.13 as of August 27, 1999. Such amount may be increased unilaterally by DOE Contracting Officer written notice to the Contractor and may be increased or decreased by modification to the contract. Estimated collections from others for work and services to be performed under this contract are not included in the funds currently 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 DOE Contracting Officer. Nothing in this paragraph is to be construed as authorizing the Contractor to exceed limitations stated in financial plans, such as the Modification of contract Obligation Notice and distribution of Obligation Report (for individual orders of work for other DOE offices and non-DOE funded work only), established by DOE and furnished to the Contractor from time to time under this contract unless written direction is provided by DOE Contracting Officer.

### **B. Limitation on Payment by the Government**

Payment of allowable costs by the Government under this contract cannot exceed the funds currently obligated at (a) each budget and reporting (BNR) control, and (b) specific limitations identified in the Modification of Contract Obligation Notice and/or Distribution of Obligation Report (for individual orders of work for other DOE offices and non-DOE funded work only), referred to as the financial control point, less the Contractor's fee.

Actual costs and/or encumbrances that exceed the current obligation limit at the financial control point shall be retained within the Contractor's financial system. Financial control points that have been exceeded will be worked to resolution by the Contractor and DOE. Costs drawn on the letter of credit which exceed the current obligation limit at the financial control point and cannot be resolved by fiscal year-end will be reimbursed from corporate funds. If resolution cannot be reached, including but not limited to, authorization received, additional funding received, Contractor accounting errors corrected, then such actual costs and/or encumbrances will be borne by the Contractor, including interest in accordance with the contract clause entitled, "Interest," of this contract. Interest will accumulate beginning when the Contractor records the cost.

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) above), plus the Contractor's best estimate of collections to be received and available during the 30-day period hereinafter specified, is in the Contractor's best judgment sufficient to continue contract operations at the programmed rate for only 30 days and to cover the Contractor's unpaid fee, 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) above), less the amount of the Contractor's fee then earned but not paid, 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).

D. Financial Plans; Cost and Encumbrance Limitations

In addition to the limitations provided for elsewhere in this contract, DOE may, through contract modifications to this section, financial plans (such as the Modification of Contract Obligation Notice and distribution of Obligation Report [for individual orders of work for other DOE offices and non-DOE funded work only]), and other directives issued to the Contractor, establish specific limitations on costs and encumbrances at the financial control point. Such plans and directives may be amended or supplemented from time to time by DOE. The Contractor hereby agrees (1) to comply with financial control point limitations 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

when it has reason to believe that any limitation on costs and encumbrances will be exceeded or substantially underrun at the financial control point. Encumbrances are defined as the uncOSTed balances under contracts issued and other liabilities incurred by the Contractor, including but not limited to (a) purchase orders issued; (b) contracts and subcontracts awarded including the full liability under lease purchase and capital leases; (c) termination cost for incrementally funded firm fixed price contracts, operating lease agreements, and multi-year service contracts that contain termination clauses; (d) other agreements for the acquisition of goods and services related to other M&O and Management and Integration (M&I) contractors liabilities; and (e) work orders or authorizations issued to M&O and M&I construction contractors. This definition may be revised and provided to the Contractor from time to time by RL.

**B.3 PERIOD OF PERFORMANCE**

The period of performance for the work specified in Section C of this contract shall commence on the date of award of the contract, and continue through September 30, 2001, unless terminated sooner as provided for in other provisions of this contract. The Transition Period shall commence on the date of award of the contract and continue through September 30, 1996.

**B.4 ESTIMATED COST AND FEE**

A. The estimated cost and total available fee pool will be established annually by the Government and set forth in a modification to this subsection. The estimated cost excludes costs of work related to Bechtel Hanford, Inc. (BHI), Hanford Environmental Health Foundation (HEHF), privatization of treatment of Tank Waste Remediation System (TWRS) work, and Pacific Northwest National Laboratory [non-Environmental Management (EM)] work, but includes the estimated cost associated with the Lockheed Martin Hanford Corporation (LMHC) prime contract to DOE starting in FY 2000. The total available fee pool for the PHMC will be based on the fee proposed and negotiated at the time of contract award. The estimated cost (includes total and LMHC available fee pool) for this contract and the LMHC contract is as follows:

Table B-1  
 Estimated Costs (in millions)<sup>(1)(2)</sup>

<u>CATEGORY</u>	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001 <sup>(3)</sup>
EM Non-Construction	776.3	735.5	728.7	695.7	634.5
EM Construction	<u>151.4</u>	<u>61.0</u>	<u>51.8</u>	<u>158.0</u>	<u>196.0</u>
Total EM	927.7	796.5	780.5	853.7	830.5

Other Non-Const.	98.8	65.0	40.1	106.0	106.0
Other Construct.	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
Total Other	98.8	65.0	40.1	106.0	106.0
Total Site Funding	<u>1026.5</u>	<u>862.5</u>	<u>820.6</u>	<u>959.7</u>	<u>936.5</u>
Total Avail. Fee Pool	<u>54.0</u>	<u>44.6</u>	<u>42.3</u>	<u>49.5</u>	<u>48.3</u>

In no event will the total fees/incentives for the Contractor, when added to the total fee/incentives for the Major Subcontractors, and the LMHC prime contract with DOE, exceed the above Total Available Fee Pool for each fiscal year.

Effective starting in FY 2000, the estimated cost and total available fee for the PHMC only will be established annually by the government and set forth in a modification to this subsection. The total estimated cost (includes total available fee pool) and fee are as follows:

FY2000

Estimated PHMC Cost	Available Fee Pool	Superstretch Fee	Total Fee
\$620M	\$34.5M	\$8.5M	\$43.0M

- (1) The Government reserves the right to unilaterally increase or decrease the estimated cost in accordance with appropriated funds and Subsection B.5 below.
- (2) Estimated cost numbers include fee.
- (3) The cost for each of the option years from October 1, 2001, through September 30, 2006, is estimated to be the same as those estimated costs set forth for FY 2001.

B. The estimated cost for the Transition Period is reflected below:

For the period August 1, 1996, to September 30, 1996, the total estimated cost is \$9,500,000.

## **B.5 AVAILABILITY OF APPROPRIATED FUNDS**

The duties and obligations of the Government calling for the expenditure of appropriated funds shall be subject to the availability of funds appropriated by the Congress, which DOE may legally spend or obligate for authorized purposes. Any work performed that exceeds funds currently obligated by BNR controls and specific limitations identified in Contract Modifications to Section B.2.A and Distribution of Obligation Report (for individual orders of work for other DOE offices and non-DOE funded work only), without the written consent of the DOE Contracting Officer, shall be at the Contractor's risk.

## **B.6 RESERVED**

## **B.7 OPTION TO EXTEND THE TERM OF THE CONTRACT**

This contract may be extended at the unilateral option of the Government by written notice to the Contractor 120 days prior to the expiration date of this contract. Further, the Contractor agrees that the performance under said extension shall be accomplished within the estimated cost as set forth in B.8 below. The Option Periods may be for a period from one to five years at the unilateral discretion of the Contracting Officer and may be exercised unilaterally for some lessor period. (Also see the contract clause entitled, Exercise of Options.)

## **B.8 OPTION PERIOD - TOTAL AVAILABLE FEE**

The total available fee pool for the Option Periods will include all fee performance incentives or other incentives for both the Contractor and its Major Subcontractors. In no event will the total fee/incentives for the Contractor when added to the total fee/incentives for its Major Subcontractors exceed the total available fee pool shown below for each fiscal year. The Contractor's share of cost savings incentives, while subject to the limitations of regulations and statutes, are not necessarily limited by the amount of the fee pool since they are paid out of the cost saved.

The total estimated cost for the Option Periods October 1, 2001, to September 30, 2006, is \$4.6825 billion (including fee) for the total five years. The estimated cost per option year is \$936,500,000 and is broken down as shown in B.4 for FY 2001 for each year of the option periods. The total available fee pool per option year is \$48.3 million.

## **B.9 OPTIONAL SERVICES**

The Government may, at its option and during performance of this contract, unilaterally add any or all of the work scope identified in Section C.5 of this contract as being performed by Lockheed Martin Hanford (LMHC), BNFL, Inc. or Bechtel Hanford Inc. (BHI). An equitable



adjustment shall be negotiated for any work appropriately authorized and performed as a result of exercise of any portion of this option.

The addition of such added workscope, if any, shall be subject to the requirements of FAR 52.243.1, Changes - Fixed Price, or FAR 52.243.2, Changes - Cost Reimbursement, depending on contract type.

#### **B.10 EXERCISE OF OPTION(S)**

The DOE has included options to purchase additional services and to extend the term of this contract. To demonstrate the value it places on cost efficient quality performance, the Department has provided a mechanism for continuing the contractual relationship with the Contractor if the Contractor performs at a level that meets or exceeds cost efficient quality performance expectations as communicated to the Contractor, in writing, by the Contracting Officer or designated representative. When deciding whether to exercise the option, the Contracting Officer will consider the quality of the Contractor's performance and the effectiveness of the Contractor's cost control under this contract.

#### **B.11 OPTIONAL TYPES OF CONTRACTS**

The Government, at its option, may negotiate various types of contracting arrangements for any portion of this contract, upon award and throughout the duration of the contract, including any modifications made thereto. Such arrangements include, but are not limited to, firm-fixed price, fixed-price-incentive fee, and cost-plus-fixed-fee. Thus, at any point during contract performance, the contract may consist of more than one type, as mutually agreed to by the parties.

#### **B.12 CONTRACT TYPE, ESTIMATED COST, INCENTIVE FEE, AWARD FEE, AND COST SAVINGS SHARING**

This contract contains multiple pricing arrangements, including contract clauses entitled "Base Fee and Award Fee," and "Cost Savings Program" (and any other clauses as appropriate) a summary of costs and fees are provided herein. Paragraph A below sets forth the cost, basic fee, and award fee information for the period. Subsection B.4 of Section B provides the various arrangements for each contract line item by fiscal year. A complete description of the incentive provisions is contained in the various incentive clauses of the contract.

- A. (1) The amount obligated, estimated cost, basic fee, and maximum available award fee, if any, for the previous contract periods, is set forth below:

<u>Contract Period</u>	<u>Amount Obligated</u>	<u>Estimated Cost</u>	<u>Basic Fee</u>	<u>Max. Avail. Award Fee</u>
_____	_____	_____	_____	_____

- B. The contract line items and fee arrangements for the period of \_\_\_\_\_ through, \_\_\_\_\_, are set forth below:

- (1) Firm-Fixed Price - The following Contract Line Items are hereby incorporated on a firm-fixed price basis:

<u>Contract Line Item</u>	<u>Fixed-Price</u>

- (2) Fixed Price Incentive - The following Contract Line Items are hereby incorporated on a fixed price incentive basis:

<u>Line Item</u>	<u>Tar. Cost</u>	<u>Tar. Fee</u>	<u>Ceiling</u>	<u>Share</u>

- (3) Cost Plus Incentive Fee - The following Line Items are hereby incorporated on a cost plus incentive fee basis:

<u>Line Item</u>	<u>Tar. Cost</u>	<u>Tar. Fee</u>	<u>Min. Fee</u>	<u>Max. Fee</u>	<u>Share</u>

- (4) Cost Plus Award Fee - The following Line Items are hereby incorporated on a cost plus award fee basis:

<u>Line Item</u>	<u>Per./Yr</u>	<u>Est. Cost</u>	<u>Base Fee</u>	<u>At-Risk Fee</u>	<u>AF Pool</u>
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- (5) Effort/Line Items subject to a Cost Savings Incentive Program - The following effort/Line Items are subject to Cost Savings Sharing:

<u>Line Item/ Effort</u>	<u>Current Est. Cost</u>	<u>New Method Est. Cost</u>	<u>Savings not Sub. to share</u>	<u>Savings Share Sub. to share</u>	<u>%/ Max. Share</u>
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**PART I - THE SCHEDULE**

**SECTION C  
STATEMENT OF WORK**

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**Fluor Daniel Hanford, Inc.**  
**DE-AC06-96RL13200**  
**Modification MO86**  
**October 1, 1999**

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## **PART I - THE SCHEDULE**

### **SECTION C STATEMENT OF WORK**

#### **C.1 SUMMARY DESCRIPTION OF WORK**

The Hanford Site has two major missions: (1) cleanup, and (2) science and technology. There are two major Office of Environmental Management (EM) programs associated with cleanup. The first is Tank Waste Remediation System (TWRS), which entails cleanup of Hanford Site high-level waste, and is managed by the DOE Office of River Protection (ORP). The second is Project Hanford, which entails cleanup of the remainder of the Hanford Site, and is managed by the DOE Richland Operations Office (RL).

The Project Hanford Management Contractor ("Contractor") shall be responsible for planning, integrating, managing, and executing its projects, services, and other activities at the Hanford Site as described in the Contract. The Contractor shall be responsible for interfacing and coordinating with other Hanford Site Prime Contractors in the performance of its work. Where other Hanford Site Prime Contractors use infrastructure and services furnished by the Government through the Contractor, the Contractor shall integrate their requirements into Project Hanford Management Contract (PHMC) requirements.

The Contractor shall conduct business in such a way as to be consistent with the following outcomes, which flow from the Hanford Strategic Plan:

- Restore the River Corridor for multiple uses
- Transition the Central Plateau to support long-term waste management
- Use our assets to solve global problems.

Success in achieving these outcomes shall consider the following factors:

- Protection of worker safety and health, public safety and health, and the environment
- Leadership & management effectiveness (operations management)
- Management responsiveness to customers (customer service)

- Responsive communications with external and internal Hanford customers
- Proficient partnering with other Hanford Site Prime Contractors.

Specific performance objectives, measures, and expectations are detailed in Section J, Appendix D.

The Contractor shall integrate safety and environmental awareness into all activities, including those of subcontractors at all levels. Work must be accomplished in a manner that achieves high levels of quality, protects the environment, the safety and health of workers and the public, and complies with requirements. The Contractor shall identify hazards, manage risks, identify and implement good management practices, and make continued improvements in environment, safety, health and quality (ESH&Q) performance.

The Contractor shall seek ways to streamline work processes by the use of necessary and sufficient standards and requirements.

The Contractor shall furnish, or cause to be furnished, all personnel, facilities, equipment, material, supplies, and services (except as may be expressly set forth in this contract as furnished by the Government), and otherwise do all things necessary for, or incident to, providing its best efforts so as to carry out in an efficient and effective manner all necessary work set forth in this Contract.

## **C.2 MANAGEMENT AND INTEGRATION WORKSCOPE**

### **A. Site Planning**

The Contractor shall:

- (1) Perform planning based on the requirements, interfaces, endpoint targets and performance objectives provided in DOE guidance. This planning activity shall utilize systems engineering techniques that assures the Contractor's workscope is integrated and consistent with requirements in the Hanford Site Environmental Management Specification (Specification), DOE/RL-97-55, Rev. 1c, 7 September 1999, as modified under configuration control from time to time. The Contractor shall support required revisions of the Hanford Strategic Plan and will participate with other DOE Prime Contractors, regulators, stakeholders, and HQ-EM, in strategic situation analysis, integrated baseline development discussions and issue definition and resolution. This planning shall look beyond the period of this contract to the life-cycle of the projects associated with the Contract workscope.

- (2) Complete and maintain a life-cycle baseline which reflects: (a) the technical scope of work specified in this Contract, (b) project/program schedules with critical paths identified, and (c) a validated cost profile based on a resource-loaded schedule. The Contractor shall use industry-proven methodology, which will interface with DOE specific management information systems, in the preparation of this technical, schedule and cost baseline. The baseline shall be the basis for budget development, input to risk analysis, and prioritization of work. The baseline will be developed and implemented in the Contractor's management system. Specifically, the Contractor shall:
- (a) Organize the technical scope of work to be planned, managed, integrated, and reported using conventional project management techniques. The contractor shall develop and use a Work Breakdown Structure (WBS) which will map to the Hanford EM WBS.
  - (b) Implement a systems engineering process which supports the management and integration of workscope activities under the authority of the PHMC. The Contractor shall describe their approach to systems engineering in a Systems Engineering Management Plan as required in Section J, Appendix E. The Contractors' selected approach to systems engineering should be based on best industry practices and should utilize a graded approach, as necessary.
  - (c) Develop and implement a risk management process which supports the management and integration activities under the authority of the PHMC. The Contractor shall describe the approach to risk management specifically in the Risk Management Plan as required in Section J Appendix E.
  - (d) Use a "graded approach" to determine applicable sets of requirements for use in design, management and operation of the individual facilities, and execution of projects and programs, with due consideration for industry standards, elimination of redundant requirements, value added, and the level of risk associated with each facility or program.
  - (e) Incorporate the requirements of the National Environmental Policy Act (NEPA) into the planning process for activities covered in this Contract.
  - (f) Provide support to the DOE planning process. Conduct studies and analyses of Hanford sitewide systems and information, which supports



RL's internal and external management needs. The Contractor shall provide support in (1) corporate strategic planning, (2) policy formulation, (3) management information systems development, and (4) baseline management and reporting. Studies and analyses include identification and development in conjunction with DOE of breakthroughs that significantly improve baseline performance and lifecycle costs or improve work processes.

- (3) Translate specific fiscal year guidance from the Contracting Officer into direction for updating baselines of each project and site services activities. DOE must approve the baselines and the supporting documentation before the Contracting Officer authorizes the commencement of work.

B. Management Systems

The Contractor is responsible to have systems which are managerially and financially in control for its own and other Hanford Site work as required by DOE. In furtherance of this the Contractor shall:

- (1) Establish and maintain management systems to ensure that the Contract work is managed in a business-like manner to promote integration, enhance customer and stakeholder confidence, provide accurate and timely information for proactive decision-making, and ensure worker and public safety and protection of the environment. Systems and methodologies shall be established to identify, evaluate, and manage risks, and establish priorities based on project life-cycle considerations.
- (2) Obtain, integrate, analyze, report and maintain appropriate and accurate Hanford Site information to support DOE in the integration and management of the Hanford Site. This information includes, but is not limited to, data critical to effective management of the Hanford Site such as movement of wastes on or off the site, compliance with regulatory action assignments, or utilization of site services.
- (3) Maintain a plan that describes the management and integration approach and manage Contract performance in accordance with it. The plan shall include a detailed description of the proposed management system and cover the elements required to achieve integrated technical, cost, and schedule control and reporting (See Section J, Appendix E).

The management system should consider the best of incumbent contractor(s), the Contractor, or new processes to supply DOE and Contractor management with appropriate and accurate information to control, evaluate, and integrate project/mission management. This system shall reflect the following.

- (a) Management, control, and reporting of technical, schedule, cost, and financial elements of the Project Hanford life-cycle baseline and the supporting execution plans of project and site services activities, as required by the Earned Value Management System clause of this contract, including:
  - (i) Appropriate change control processes which ensure documentation of all monitored elements of the baseline is maintained up-to-date. This includes the configuration baseline of all technical systems and structures, and includes revision to the baseline and critical path as appropriate upon approval of changes. Any change request that impacts the Specification shall be submitted with sufficient detail to allow DOE to update it.
  - (ii) Tracking and measuring tools to provide DOE continual assessment of Contractor and subcontractor performance against the baseline;
  - (iii) Tools which allow the evaluation of the consequences (technical, cost, and schedule) of new information, alternative activities, and/or new financial scenarios;
  - (iv) Estimating procedures based on proven commercial techniques, such as activity-based cost estimating and benchmarking against industry standards, providing DOE with cost estimates, which can be independently validated;
  - (v) Cost accounting practices used for accumulating and reporting costs shall be consistent with those used in estimating costs for work under the contract, and as such, amenable to the same validation as above;
- (b) Provide DOE with appropriate integrated financial, schedule, and critical path analysis, and activity tracking data to effectively manage their baselines through automated reporting emphasizing performance measurements, change control, and trending data. This system shall

support DOE's ability to both control and report direct and indirect costs in a manner satisfactory to DOE.

- (c) Maintain flexible information systems compatible with DOE information systems, including reporting, budget, and financial systems, and allow efficient data interchange among site contractors and DOE. This includes compatibility with DOE Integrated Planning, Accountability, and Budgeting System-Information System.
  - (d) Create the ability to accommodate electronic transfer of data between a diverse set of hardware, software, and communications platforms. Use standard data definitions, time schedules, and rules for the provision of information to the MIS to ensure accuracy and consistency. All data and information provided to DOE relating to the Contractor or the subcontractors shall be prepared using common and consistent definitions, principles, and methodologies (e.g., Full-Time Equivalent [FTE] employees).
  - (e) Use a centralized system of reporting unusual occurrences, near misses, etc., and ensure that lessons to be learned from such occurrences are provided to DOE, the Contractor, and subcontractor workforces.
  - (f) Maintain comprehensive management and technical oversight and corrective action programs, including tracking of issues thus developed and lessons-learned program effectiveness.
- (4) Establish a configuration management system based on industry consensus standards, which with other management tools, such as change control, assures a sound technical basis for the PHMC life-cycle baseline. Configuration Management will be specifically addressed in the management and integration plan as part of the integrated management system.
  - (5) Provide to DOE via a computerized file, periodic accounting entries regarding government property acquisitions, dispositions, and monthly depreciation charges. These entries shall provide consistent information and allow reconciliation of the Contractor's detailed property records.

C. Manage and Integrate Resources

The Contractor shall manage and integrate its resources for optimal achievement of outcomes set forth in C.1 above. In furtherance of this, the Contractor shall:

- (1) Support the annual budget submission process by working with DOE and other prime contractors to develop budget formulation documentation. The Contractor shall prepare documentation for its own work activities as well as coordinate, compile and integrate budget documentation for all Hanford Site work, as required by DOE. Support to DOE during this process shall include but is not limited to assisting DOE to:
  - (a) Develop project and site support budget data.
  - (b) Prepare budget justification analyses and budget scenario studies.
  - (c) Prepare and integrate all crosscutting budget formulation documents, i.e., ESH&Q, Information Resources Management, etc.
  - (d) Obtain regulator and other stakeholder participation in budget development, including assistance in response to stakeholder and regulator inquiries.
- (2) Provide leadership, project, and personnel management skills necessary to ensure compliance with the Hanford Site goals and the Tri-Party Agreement (TPA), and to motivate the workforce to:
  - (a) Achieve quality work performance;
  - (b) Mandate attention to worker and public safety and health, environmental protection, and the tenets of Conduct of Operations; and,
  - (c) Be fiscally and ethically responsible in the management of government and public resources, including property, equipment, funds, and time.
- (3) Use the existing "People Core" system at the Hanford Site to enhance human resources functions sitewide.
- (4) Continually "right-size" its own workforce and that of its subcontractors to have the size of workforce equal to that necessary to accomplish the authorized workscope.
- (5) Resolve employee concerns at the appropriate level, as required by applicable laws and DOE directives. The Contractor shall support and provide cooperative membership in the Hanford Joint Council (HJC) for resolving employee concerns,

using it as a forum for resolution of contractor personnel concerns. However, the Contractor shall review and make recommendation to DOE to make the Charter and processes of the HJC consistent with this contract. The annual budget for the effort will be determined by DOE. The continued need for the HJC shall be reviewed annually and recommendations submitted to DOE for decision.

- (6) Continually promote diversity in all aspects of the work under this contract. An updated Diversity Plan shall be submitted to DOE annually for review and approval, as set forth in Section J, Appendix E.
- (7) Provide an independent internal audit capability to review its activities and those of its subcontractors. An updated Internal Audit Plan shall be submitted to DOE annually for review and approval as set forth in Section J, Appendix E.

**D. Environment, Safety, Health and Quality (ESH&Q)**

The safety and health of workers and the public, protection and restoration of the environment and implementation of quality assurance programs are fundamental responsibilities of the Contractor. Accordingly, the Contractor shall:

- (1) Take necessary actions to minimize serious injuries/illnesses and /or fatalities and prevent radiological or chemical exposures to workers and environmental releases in excess of established limits;
- (2) Establish clear environmental, safety, health and quality plans and priorities and manage activities in proactive ways, including visible management field presence, that effectively and efficiently protect the environment, public and worker safety and health, and ensure the quality of work and work products;
- (3) Carry out all activities in a manner that complies with human health, safety, environmental, and quality regulations; minimizes the generation of wastes, releases or emissions into the atmosphere, and releases to soil and surface or groundwater; and complies with applicable regulatory requirements and DOE directives;
- (4) Empower workers through the use of committees, employee involvement and the tenants of DOE's Voluntary Protection Program (VPP);
- (5) Engender a "Safety Conscious Work Environment" in which safety issues are promptly identified and effectively resolved, and in which employees feel free of recrimination, harassment, intimidation, or other actions that induce peer pressure

to not raise safety issues or otherwise create an environment where safety issues are not identified and resolved.

The Contractor shall establish an Integrated Safety Management System (ISMS), in compliance with the clauses entitled, "Integration of Environment, Safety and Health into Work Planning and Execution," and "Conditional Payment of Fee, Profit or Incentives" that clearly communicates the roles, responsibilities, and authorities of line managers; holds line managers accountable for the performance of work in a manner ensuring protection of workers, the public, and the environment; and ensures quality work and products. The Contractor shall maintain a ISMS system description and submit appropriate changes to the Contracting Officer.

The Contractor shall:

- (1) Establish effective management systems to identify deficiencies and resolve them in a timely manner; ensure that corrective actions are implemented that address the extent of conditions, root causes, and measures to prevent recurrence; and prioritize and track commitments and actions as well as identify and implement lessons learned from other DOE Sites, contractors, or commercial activities.
- (2) Establish a structured, standards-based approach to planning and control of work including identification, management and implementation of ESH&Q standards and requirements that are appropriate for the work to be performed and for controlling related hazards, while facilitating the effective and efficient delivery of work. The Contractor shall implement the requirements identified in the clause entitled, "Laws, Regulations and DOE Directives."
- (3) Establish an organization that supports effective ESH&Q management by ensuring appropriate levels of staffing and competence.
- (4) Establish disciplined self-assessment, feedback, continuous improvement processes, and conduct of operations discipline in the performance of all work.
- (5) Implement a program to track and address environmental compliance issues and implement requirements (including but not limited to permitting, environmental reporting, Consent Decrees, Tri-Party Agreement reporting/management, NEPA, pollution prevention, waste minimization), and comply with all aspects of the clause entitled, "Environmental Responsibility."
- (6) Recommend and implement ESH&Q performance measures to monitor the effectiveness of the implementation of ESH&Q programs.

- (7) Occupational Health Services are currently provided to the Hanford Site by the Hanford Environmental Health Foundations (HEHF). The Contractor shall obtain for itself and require all subcontractors performing work on the Hanford Site to obtain the following services from HEHF: occupational medical evaluations including return to work evaluations and work restriction reviews, medical surveillance evaluations, occupational primary care, health care centers/first aid, work conditioning, case management, work site health programs including blood-borne pathogens and immunizations, and behavioral health services including employee assistance programs, and health information services such as medical records and medical scheduling.

The Contractor shall coordinate with HEHF and reach agreement regarding service requirements and delivery, including data gathering and sharing. The agreement should emphasize a comprehensive public health approach as being integral to a well run health and safety program and address cost and resources effectiveness. This agreement shall be subject to approval and validation by DOE.

- (8) Maintain, implement and improve the PHMC Nuclear Safety Authorization Basis in support of safe, effective, and efficient work accomplishment.
- (9) Provide Material Safety Data Sheet management services for the PHMC, LMHC, RL and HEHF.

E. Economic Transition and Outsourcing

The Contractor shall:

- (1) Be responsible for the performance of the work under this contract in a manner that helps the community establish a stable economic base over the long term. This shall be accomplished through appropriate private sector participation in cleanup, creation as appropriate of new service or technology companies, making available for effective private use DOE assets no longer required or under-utilized by the Government, and investment of private resources in the community.
- (2) The Contractor shall:
- (a) Implement and maintain an Economic Transition and Outsourcing Plan which addresses short- and long-term strategies to actively pursue opportunities to transition functions performed solely for DOE to local and

regional businesses or other governmental entities when found to be in the long-term financial advantage of the Federal Government.

- (b) Expand private sector participation in cleanup through the creation of technical and service companies.
- (c) Recommend to DOE the use (by the Contractor, subcontractors, or other private entities) of Government-owned assets (equipment, facilities, or land) on a non-interfering basis to promote, assist, or otherwise foster creation of new private sector jobs.
- (d) Accomplish changes in the workforce in a way that minimizes social and economic impacts and complies with Section 3161 of P.L. 102-484.

F. Technology Management

The Contractor shall support efforts to implement the DOE-established technology management process, which provides the framework to identify technology needs and develop effective, acceptable solutions. The Contractor shall work with the Pacific Northwest National Laboratory (PNNL) to identify the areas of highest technical risk and uncertainty, align technology investments with the areas of highest risk, seek and apply innovative technical solutions, and provide linkages with the national science and technology programs. The Contractor shall:

- (1) Coordinate and conduct science and technology assessments to identify and quantify the areas of high technical risk/uncertainty.
- (2) Develop near and long term mitigation plans (e.g., technology roadmaps, technology plans, technology insertion points, etc.) and link these plans with project baselines.
- (3) Seek innovative technical solutions and make appropriate investments to buy-down areas of highest risk consistent with mitigation plans.
- (4) Communicate and cooperate with appropriate Hanford Site and National Technology Development teams and build partnerships with the science and technology community.



### C.3 PROJECTS AND SERVICES WORKSCOPE

This section provides an overview of the projects and services to be performed. Details are contained in the Specification which shall be used by the Contractor in planning and executing its work. The Specification shall be maintained under configuration control and the Contract need not be modified by changes to the Specification unless those changes specifically modify the wording or intent of the Contract. If any discrepancies exist between the Specification and the Contract, the Contract shall prevail. *Work shown in italics is or will be contracted to another entity and is included for complete understanding of the integration and management issues involved.*

#### A. Waste Management Project

The mission of the Hanford Waste Management Project is to provide safe, compliant, and cost-effective waste management services for the Hanford Site and DOE complex. These services include solid waste storage, treatment, and disposal and management of liquid effluents. In addition, the Project provides cross-cutting support services including analytical services, waste generator services, transportation and packaging (including shipment to the Waste Isolation Pilot Project), and waste minimization.

This project has the lead to ensure waste minimization programs are applied across the Hanford Site in accordance with DOE/RL-91-31, Hanford Site Waste Minimization and Pollution Prevention Program Plan (RL 1997a).

#### B. Spent Nuclear Fuel Project

The Spent Nuclear Fuel (SNF) mission supports the Hanford Site mission to clean up the Site by providing safe, economic, and environmentally sound management of Hanford Site SNF in a manner which relocates the fuel to interim on-site storage, initiates interim storage, and deactivates the 100 K Area facilities. The SNF scope includes:

- (1) All the Hanford Site SNF, as defined in Hanford Spent Fuel Inventory Baseline, WHC-SD-SNF-TI-001;
- (2) K Basin facilities, associated operations, and equipment;
- (3) All the Hanford Site SNF stabilization, handling, and onsite transfer activities to achieve safe, interim storage;
- (4) All new or modified Hanford Site SNF facilities (Cold Vacuum Drying (CVD), Canister Storage Building (CSB) associated with receipt, stabilization and interim

storage before staging for final disposition. Acquire SNF interim storage facilities;

- (5) Transfer and transport of SNF from custodian facilities to SNF facilities;
- (6) Operating the complex, which includes the CSB and 200 Area Interim Storage Area. Management and integration of Contractor activities at the 100 K Area until the SNF, debris, water, and sludge have been removed from the K Basins;
- (7) Deactivation of the K Basins and interim stabilization and storage facilities to a condition that meets requirements for transfer to the organization(s) responsible for final disposition of these facilities.

C. Facility Stabilization Project (FSP)

The primary FSP mission is to deactivate contaminated facilities on the Hanford Site, in preparation for Decontamination and Decommissioning (D&D), and to provide safe and secure storage of Special Nuclear Material (SNM), Nuclear Material (NM), and Nuclear Fuel (NF) until these materials can be transferred to another facility, sold, or dispositioned. The Facility Stabilization Project mission includes providing minimum safe surveillance and maintenance of facilities on the Hanford Site to reduce risks to workers, the public, and the environment, until they are transitioned to a low cost, long term surveillance and maintenance state. Facility Stabilization will protect the health and safety of the public and our workers, protect the environment, and provide beneficial use of the facilities and other resources where it makes sense to do so. Work will be in accordance with the Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement), local, national, international and other agreements, and in compliance with all applicable Federal, state, and local laws. Work will be leveraged with a view of providing positive, lasting economic impact in the region.

D. Landlord Project

The mission of Landlord Project is to provide major maintenance/replacement of general infrastructure facilities and systems to facilitate the Hanford Site cleanup mission. Also, once an infrastructure facility or system is no longer needed the Landlord Project transitions the facility to final closure/removal through excess, salvage, or demolition. Landlord Project activities will be performed in an environmentally sound, safe, economical, prudent, and reliable manner. The Landlord Project consists of the following major facilities/systems: steam, water, liquid sanitary waste, electrical distribution, telecommunication systems, sanitary landfill, emergency services, general purpose offices, general purpose shops, general purpose warehouses, environmental

support facilities, roads, and the site land. The objectives for general infrastructure support are reflected in three specific areas, (1) Core Infrastructure Maintenance, (2) Mortgage Reduction, and (3) Infrastructure Risk Mitigation.

E. Advanced Reactors Transition (ART) Project

The ART Project mission is to manage and deactivate the Fast Flux Test Facility (FFTF) and Fuels and Materials Examination Facility (FMEF), the Nuclear Energy Legacy alkali metal test facilities, and the Plutonium Recycle Test Reactor (PRTR)/309 Building. The FFTF is being maintained in a standby condition, pending a DOE decision on the potential for a future mission, and only limited deactivation is being performed. The ART Project scope includes all activities needed to (1) maintain the facilities within their approved safety Agreement, (2) disposition radioactive and nonradioactive sodium from the designated facilities, (3) remove nuclear materials from the FFTF, (4) remove spent nuclear fuel from the FFTF, (5) remove or stabilize and characterize hazardous and radioactive materials in the designated facilities, (6) make useable facilities available for alternative uses, and (7) establish non-useable facilities in a condition requiring minimal Surveillance and Maintenance (S&M) during the interim period until final D&D is accomplished.

The ART has two missions. One, funded by DOE-EM is to transition assigned, surplus facilities to a safe and compliant, low-cost, stable, deactivated condition (requiring minimal surveillance and maintenance) pending eventual reuse or D&D. Facilities to be transitioned include the 309 Building/Plutonium Recycle Test Reactor (PRTR) and Nuclear Energy (NE) Legacy Facilities.

The second mission, funded by DOE-NE, is to maintain the FFTF and affiliated 400 Area buildings in a safe and compliant standby condition. The condition of the plant hardware, software and personnel is to be preserved in a manner not to preclude a plant restart.

F. Infrastructure

The Contractor shall provide infrastructure services consistent with commercial practices where appropriate, and integrate infrastructure services with site and project mission requirements. Infrastructure support services on the site should be changed in a timely manner commensurate with the mission and infrastructure needs of the Hanford Site and shall include but not be limited to:

Essential Core Infrastructure Maintenance. These activities provide the minimal infrastructure necessary for the Hanford Site to maintain safe operations and progress toward the cleanup mission.

**Surveillance, Maintenance, and Deactivation of Vacant General-Purpose Facilities.**  
These activities provide Surveillance and Maintenance (S&M) of vacant general-purpose facilities, as well as utility isolation of facilities recently vacated. This also includes activities associated with maintaining Resource Conservation and Recovery Act (RCRA) compliance for legacy equipment dispositions.

**Disposition of Uncontaminated, Vacant, General-Purpose Facilities/Mortgage Reduction.**  
These activities provide for demolition of vacant, general-purpose facilities and mortgage reduction opportunities.

Sitewide services include but are not limited to utilities, transportation, facilities, shops, crane and rigging, maintenance, custodial services, labs, information resource management, asset management, solid waste disposal, and emergency services.

#### **C.4 OTHER WORKSCOPE**

##### **A. Safeguards and Security**

The Contractor shall:

- (1) Manage, operate, and integrate all Safeguards and Security services of the Hanford Site, except PNNL. This includes Material Control and Accountability, physical security, personnel security, information security, cyber security, and the Hanford Patrol and K-9 team. Hanford Patrol provides sitewide protective force services, including for Government assets of the PNNL. The K-9 force may be made available on a non mission interference basis to local and regional police departments and to school systems in response to threats of violence. A cost-effective, risk-based approach shall be used to provide for adequate protection of safeguards and security interests involving the use, possession, receipt, shipment, or storage of special nuclear material, classified material, and Government property. These services must interface directly with RL, and in the event of an emergency involving the Site Safeguards and Security Forces, RL may assume command and control of the Forces and the event, if the Emergency Operations Center is activated.
- (2) Ensure that all information or equipment originated or generated under this contract in a classified or potentially classified subject area shall be reviewed in accordance with classification regulations, and that the same shall be true for any subcontract or purchase order issued under this contract.

**B. Site Traffic Manager**

- (1) Serve as the Site Traffic Manager by coordinating onsite and offsite shipments. Serve as the agent for the Government as designated shipper for the site; inspect and sign for outbound hazardous materials to ensure they meet federal, state and local regulations, and inspect inbound shipments to ensure no problems come onto the site. Identify or develop transport containers (casks, etc.) to meet site needs; provide customers with transportation options for shipment either off or on site; manage the Department of Transportation program (DOT-7A) for DOE; relocate household goods for site personnel related to the work performed by the Contractor and subcontractors under this contract; manage the overnight small package delivery; manage export/import services with U.S. Customs and freight rate negotiations with carriers; and interface with DOT/NRC/DOE on containers needing certification.
- (2) Support RL management portion of the DOE Headquarters EM-directed transportation program, including services/activities that are used across the DOE complex such as, container needs assessment, packaging criteria and testing, training, stakeholder forums, and providing audit teams.

**C. Architect Engineer/Construction Management**

The Contractor shall provide architect engineering services via an established pool which can be accessed directly by all site Contractors as needed. Construction management services are provided by the site construction management Contractor. The Contractor shall provide and maintain an independent construction acceptance inspection service to support government inspection of construction.

**D. Environmental Monitoring**

The Contractor shall manage its facilities and operable units to assure compliance with environmental requirements and agreements. This includes providing legally and regulatory required air and liquid effluent and near facility environmental monitoring. The Contractor shall collect, compile, and/or integrate air and liquid effluent monitoring data from operations and activities under its control and from other Hanford Site contractors. The Contractor shall compare the monitoring data with regulatory and/or permit standards and provide reports to the other contractors for their use in assessing compliance with the standards. The data shall also be compiled, collated, and/or consolidated, as necessary, into the mandatory State and Federal environmental reports for the Hanford Site.

PNNL monitors the Hanford environment to protect public safety and Hanford Site ecological and cultural resources. This includes providing real time localized weather information for routine safety operations and emergency response, performing Hanford Site and off-site environmental monitoring, as well as determining radiological exposure to the public and the environment. The Contractor shall provide appropriate environmental data for its facility and operable units to support Hanford Site assessments and preparation of the Hanford Site Environmental Report.

PNNL is responsible for Hanford Site groundwater monitoring. The Contractor will be knowledgeable of actions PNNL completes to develop monitoring plans for Contractor facilities and operable units. The Contractor shall maintain regulatory capability to ensure that compliance for their facility and operable units is maintained, for the groundwater monitoring program by PNNL.

**E. External/Internal Communications**

- (1) The Contractor shall participate in the RL external/internal communications program to ensure that the full range of stakeholders receive information in a timely, accurate, complete, and professional manner. Contractor external/internal communications actions shall comply with DOE's Openness Initiatives and Public Involvement Policy and will be approved in advance by DOE.
- (2) The Contractor shall periodically update the Integrated Hanford Communications Plan. The Contractor shall work with DOE to ensure that external/internal communications activities represent a singular and consistent DOE source of information about the Hanford Site and mission.
- (3) Contractor external/internal communications efforts and/or corporate communications not directly related to the DOE mission at Hanford, and/or approved by DOE, are not allowable costs under this contract.
- (4) The Contractor shall, when approved by DOE, keep the Hanford Site workforce related directly to the work performed by the Contractor and subcontractors under this contract informed in a timely manner of all significant issues that could impact those workers.
- (5) At DOE's direction, the Contractor shall:
  - (a) Provide timely and consistent support for inter-Governmental liaison activities, including activities with Federal, State, local and Native American Governments.

- (b) Provide logistical support for the Hanford Advisory Board and other public meetings.
  - (c) Respond in a timely fashion with information as requested by DOE in support of Freedom of Information Act and/or Privacy Act requests.
- (6) External/Internal Communications activities shall include, but not be limited to:
- (a) Public Information
  - (b) Public Involvement
  - (c) Emergency Communications Activities
  - (d) Media Relations
  - (e) Site Tours, including transportation for tours
  - (f) Preparation/Maintenance of public information Audio/Video Products and Printed Materials
- (7) The Contractor shall provide a portion of the cost support for the Hanford Technical Library run by PNNL. The exact amount will be determined annually by DOE.

F. Training

The Contractor shall:

- (1) Develop, implement, and manage a training program that maintains a qualified workforce in sufficient numbers and skill levels to meet the Hanford Site requirements and that fulfills the *DOE Implementation Plan for Defense Nuclear Facilities Safety Board Recommendation 93-3*. Work scope includes identification of known requirements, definition of training standards, implementation of program training classes, certification of required skills, and verification of ongoing job qualifications. Integrate the training database into "People Soft."
- (2) Manage the Volpentest HAMMER Training and Education Center to provide training and education programs for hazardous material, waste management, and

emergency response. This training is provided to Hanford workers as a first priority but is also for workers nationwide. The facility hosts, brokers, and integrates the capabilities of its partnering organizations to ensure the delivery of state-of-the-art training and educational curricula.

**G. Emergency Preparedness**

The Contractor shall provide technical and administrative emergency management services to Hanford Emergency Preparedness. The work scope includes maintaining the Hanford Emergency Management Plan and Implementing Procedures, managing the Hanford Site Emergency Exercise Program, maintaining the site emergency response organization and facilities, training site emergency response organization members, managing the Radiological Assistance Program, assisting RL in program management and Hanford contractor overview, assisting in the off-site interface program, and assisting with the emergency public information program.

The Contractor shall provide an emergency response capability for facilities under its control that implements the Hanford Emergency Management Plan (DOE/RL-94-02, Rev. 2), as modified from time to time.

**C.5 OTHER PRIME CONTRACTORS**

The Contractor may, from time to time, provide services to and receive services from these other Prime Contractors by memoranda of agreement. The Contractor shall work with the other Prime Contractors in identifying yearly requirements for services.

The Contractor shall also work with each of these Contractors to further the progress in cleaning up the Hanford Site.

**A. Battelle Memorial Institute (BMI)**

Battelle Memorial Institute (BMI), under a separate prime contract, operates the Pacific Northwest National Laboratory (PNNL). PNNL is one of five Office of Science multi-program laboratories which conduct research and development activities under prime contracts to DOE. Some of the programs conducted in the Laboratory are part of the Office of Science laboratory system and require no integration with Hanford's Environmental Management (EM) programs; however, many of the research and technology development programs have direct relevance to the Hanford cleanup mission. As applicable, the Contractor is encouraged to utilize the scientific and technical capabilities available from PNNL and shall work directly with PNNL to maximize the benefit to Hanford from the National research and development program.



Workscope in support of Hanford EM programs conducted by PNNL shall be integrated into site planning and sitewide program and project baselines.

B. Hanford Environmental Health Foundation (HEHF)

The Hanford Environmental Health Foundation (HEHF), under a separate prime contract, manages the Site Occupational Medical Contract to provide occupational health services through health risk management and occupational health services to personnel at Hanford. Through these services, HEHF strives to maximize the health and safety of Hanford personnel while minimizing personal and occupational health risks. HEHF's Health Risk Management program teams with the site in identifying and analyzing the hazards that Hanford personnel face in the work environment and brings an awareness of health and safety issues to Hanford's personnel. In support of DOE and all prime contractors, HEHF's occupational health services provide occupational medicine and nursing, medical surveillance, ergonomics assessment, exercise physiology, case management, psychology and counseling, fitness for duty evaluations, health education, infection control, immediate health care, industrial hygiene, and health, safety, and risk assessments.

C. Lockheed Martin Hanford Corporation (LMHC)

Lockheed Martin Hanford Corporation (LMHC), under a separate prime contract to DOE as managed by the Office of River Protection, is responsible for managing the River Protection Project. Lockheed Martin Hanford is responsible for safely managing and retrieving for disposal the radioactive waste stored in 177 underground tanks and related facilities.

D. BNFL, Inc. (BNFL)

BNFL, Inc. (BNFL), under a separate prime contract to DOE as managed by the DOE Office of River Protection, is responsible for Privatization Project. This is an active measure to reduce the threat to neighboring communities, the environment, and the Columbia River, through the removal of the waste from the tanks, treatment, and its immobilization, constituting a lasting solution to this complex challenge and problem.

E. Bechtel Hanford Incorporated (BHI)

Bechtel Hanford Incorporated (BHI), under a separate prime contract, is the Environmental Restoration Contractor at Hanford Site. BHI plans, manages, executes, and integrates a full range of activities for the cleanup of groundwater, contaminated

soils, and inactive nuclear facilities under DOE's Environmental Restoration Program. These activities include decontamination and decommissioning (D&D) of old production facilities; performing integrated sitewide planning for Groundwater/Vadose Zone Project, managing remedial action projects; developing an Environmental Restoration Disposal Facility (ERDF); and providing technology demonstration projects.

F. Johnson Controls Incorporated (JCI)

Johnson Controls Incorporated (JCI), under a separate prime contract, is responsible for the Energy Savings Performance Contract. JCI is responsible to reduce energy consumption to comply with Executive Order 12902 and Energy Policy Act 1992, replace 50-year-old steam plants and improve ability to measure, monitor and manage energy use. JCI can also propose additional energy conservation measures. These include lighting system upgrades, water system modernization and automation, ventilation systems upgrade and addition of Utility Monitoring and Control Systems.

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## SECTION D

### PACKAGING AND MARKING

#### D.1 PACKAGING

Preservation, packaging, and packing for shipment or mailing of all work delivered hereunder shall be in accordance with good commercial practices and adequate to ensure acceptance by common carrier and safe transportation at the most economical rate(s).

#### D.2 MARKING

- A. Each package, report or other deliverable shall be accompanied by a letter or other document which:
- (1) Identifies the contract by number under which the item is being delivered and;
  - (2) Identifies the deliverable item number or report requirement which requires the delivered item(s).
- B. For any package, report or other deliverable being delivered to a party other than the Contracting Officer, a copy of the document required in A. above shall be simultaneously provided to the office administering the contract, as identified in Section G of the contract.

#### D.3 REPORTS

Except for those reports required under Section F of this contract, where the urgency of receipt of the report by the Government necessitates the use of the most expeditious method of delivery, reports deliverable under this contract shall not utilize certified or registered mail or private parcel delivery service without the advance approval of the Contracting Officer.

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## SECTION E

### INSPECTION AND ACCEPTANCE

#### **E.1 FAR 52-246-4 INSPECTION OF SERVICES - FIXED PRICE (AUG 1996)**

##### **A. Definitions**

"Services," as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.

- B.** The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.
- C.** The Government has the right to inspect and test all services called for by the contract, to the extent practicable, at all times and places during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.
- D.** If the Government performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.
- E.** If any of the services do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by re-performance, the Government may (1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and (2) reduce the contract price to reflect the reduced value of the services performed.
- F.** If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Government may (1) by contract or otherwise, perform the services and charge to the

Contractor any cost incurred by the Government that is directly related to the performance of such service or (2) terminate the contract for default.

**E.2 FAR 52.246-5 INSPECTION OF SERVICES – COST-REIMBURSEMENT  
(APR 1984)**

**A. Definitions**

“Services,” as used in this clause, includes services performed, workmanship, and material furnished or used in performing services.

- B.** The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.
- C.** The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all places and times during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.
- D.** If any of the services performed do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, for no additional fee. When the defects in services cannot be corrected by re-performance, the Government may (1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and (2) reduce any fee payable under the contract to reflect the reduced value of the services performed.
- E.** If the Contractor fails to promptly perform the services again or take the action necessary to ensure future performance in conformity with contract requirements, the Government may (1) by contract or otherwise, perform the services and reduce any fee payable by an amount that is equitable under the circumstances or (2) terminate the contract for default.

**E.3 INSPECTION**

Inspection of all products, reports, or services under this contract shall be accomplished by the DOE Contracting Officer's Representative (COR) identified by the Contracting Officer as responsible for the product, report, or service being delivered, or any other duly authorized

Government representative as designated in writing from time to time by the Contracting Officer, in accordance with Section G of this document.

#### **E.4 ACCEPTANCE**

Acceptance of all work and effort under this contract (including "Reporting Requirements," if any) shall be accomplished by the Contracting Officer, or any duly designated representative, as designated in writing from time to time by the Contracting Officer.

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## **SECTION F**

### **DELIVERIES OR PERFORMANCE**

#### **F.1 PERIOD OF PERFORMANCE**

The period of performance for the work specified in Section C of this contract shall commence October 1, 1996, and continue through September 30, 2001, unless sooner terminated as provided for in other provisions of this contract. The Transition Period shall commence on the date of award and continue through September 30, 1996.

#### **F.2 PRINCIPAL PLACE OF PERFORMANCE**

The principal places of performance of this contract shall be the Hanford Site, near Richland, Washington and other facilities as directed by the Contracting Officer.

#### **F.3 DELIVERIES**

All products, reports, or services under this contract shall be delivered to the Contracting Officer shown in Section G, subsection G.2, or any other duly authorized Government representative, as designated in writing by the Contracting Officer.

#### **F.4 REPORTING REQUIREMENTS**

- A. The Contractor shall develop a reporting system that will provide management information in the form of electronic data bases and will report program performance on the technical work, schedule, and cost profile defined in the program baseline. Management information to be furnished shall include baseline data for the site, all projects and site support activities; performance status and analysis information, including technical, cost, schedule, and funding management data; and identification of relevant issues to DOE Richland Operations Office (RL).
- (1) At the end of each month, a critical path schedule network shall be updated to reflect the progress of that month. Based on this input, the network shall identify all near- and long-term major milestones that show a variance from the expected or target schedule.
  - (2) The Contractor is responsible for integrating reporting from its Subcontractors and other site contractors in a timely manner so that all data bases and reporting is



available to RL no later than 10 working days after the close of the reporting period.

- (3) The Contractor shall provide the information necessary to support DOE in the preparation of reports required by regulatory agreements as the Tri-Party Agreement (TPA) and legislative mandates such as the Baseline Environmental Management Report (BEMR). DOE Headquarters also requires specific data reported to it such as the Project Tracking System (PTS) which must be supported by the reporting system.
  - (4) Cost reporting shall identify month, current fiscal year, and cumulative-to-date planned, earned value, incurred cost, and annual and total estimates at completion. Financial reporting shall identify current fiscal year and cumulative-to-date amounts for budget authority allotted and obligated funds, as well as commitments. Cost data should be in work breakdown structure (WBS) format and funding data should be compatible with the WBS and the DOE budget and reporting classification structure.
  - (5) Cost and schedule variance which exceed thresholds specified by RL shall be addressed as part of the monthly report. The manager responsible for the work in question shall describe the magnitude of the variance, the cause of the variance, and the impact of the variance.
- B. The Contractor shall maintain a reporting system and recommend new and innovative methods of reporting and controlling technical program variance.
- C. Technical reporting is critical to managerial and financial control and shall provide status against technical objectives and requirements. Status reports will compare the technical requirement with a determination of progress and problems encountered in meeting those requirements. The Contractor shall support monthly, quarterly, semi-annual, and annual reports as required by the Contracting Officer or designated representative.
- D. DOE's minimum reporting requirements for the contractor are identified in the list at the end of this section along with frequency of submission. Requirements are subject to change at the discretion of the Contracting Officer.
- E. The Contractor agrees to provide the Contracting Officer, or designated authorized representatives, access to information and documents comprising the Contractor's reporting system described above. The Contractor shall include this requirement in all major subcontracts.

REPORT REQUIREMENTS

The following are reports required of the Contractor. This list is not complete and is subject to change at the discretion of the Contracting Officer or delegated Representative. The distribution list will be determined by the Contracting Officer. Also, the content and format requirements will be determined by the Contracting Officer.

<u>Report Name</u>	<u>Frequency</u>
Management and Integration Plan	Y
Work Breakdown Structure (WBS)	Y,C
WBS Description	Y,C
Integrated Site Baseline	Y,C
Integrated Budget Formulation Package	Y,A
Baseline Status Report	M
Progress Tracking System Input	M
Contract Funds Status Report	M
Baseline Environmental Management Report input	Y,A
Mission Performance Report input	Q
Financial Statements and Footnotes	Y
Depreciation Charges	M
DIMS Report	M
Disclosure Statement	Y
Cost Accounting System Change Reports	A
Allocable Cost Report	A
Outlay Estimates by Appropriation Report	Q
FIVRS Cost Estimating reports	S
Report of Compensation	S
Report of Contractor Hours and Earnings	S
Report of Contractors Expenditures for Supplementary Compensation	S
Public Voucher (SF 1034)	M
Indirect Cost Management Status Report	Q
Pension Plan Actuarial Data	Y
Property Acquisitions and Dispositions	S
Fire Replacement Report	Y
Physical Inventory Report	S

**FREQUENCY CODES:**

<b>A - As Required</b>	<b>Q - Quarterly</b>
<b>C - Change to Contractual Agreement</b>	<b>S - Semi-Annually</b>
<b>F - Final (end of effort)</b>	<b>Y - Yearly or Upon Renewal of Contractual Agreement</b>
<b>M - Monthly</b>	<b>O - Once After Awards</b>

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**DE-AC06-96RL13200**  
**Modification MO86**  
**October 1, 1999**

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## SECTION G

### CONTRACT ADMINISTRATION DATA

#### G.1 CORRESPONDENCE PROCEDURES

To promote timely and effective administration, correspondence submitted under this contract shall include the contract number and shall be subject to the following procedures:

##### A. Technical Correspondence

Technical correspondence shall be addressed to the DOE Contracting Officer's Representative (COR) with an information copy addressed to the DOE Contracting Officer (used herein excludes technical correspondence where patent or technical data issues are involved and correspondence which proposes or otherwise involves waivers, deviations, or modifications to the requirements, terms, or conditions of this contract).

##### B. Other Correspondence

All other correspondence shall be addressed to the DOE Contracting Officer with information copies of the correspondence to the COR and the DOE Patent Counsel (where patent or technical data issues are involved).

#### G.2 CONTRACT ADMINISTRATION

The DOE Contracting Officer and correspondence address is:

Sally A. Sieracki, Contracting Officer  
U.S. Department of Energy  
Richland Operations Office  
Procurement Services Division, MSIN A7-80  
P.O. Box 550  
Richland, WA 99352

#### G.3 BILLING INSTRUCTIONS

- A. The Contractor shall provide monthly electronic invoices (or data supporting letter of credit drawdowns) and cost accrual and accrual reversal records to RL. Within the electronic invoice submission, the contractor shall provide all invoice data elements

required to: a) determine that all costs invoiced by the contractor were necessary and reasonable per the terms and conditions of the contract, and b) properly record all contracts costs and payments in the DOE accounting system. This includes, but is not limited to: Work Breakdown Structure (WBS) numbers, Budget and Reporting (BNR) numbers, fund-type, Activity Data Sheet (ADS), Project Baseline Summaries (PBS) numbers, the fiscal year the funds were provided, the RL project/task number, Object Classes, Cost Elements, Resource types, and plant and equipment line item number (if applicable).

B. Upon request, the contractor shall also provide written documentation to support the electronic invoices to the RL Contracting Officer or his/her designate at the address identified in Section G.2.

C. APPLICABLE TO TRANSITION INVOICES ONLY. EFFECTIVE JULY 1, 1997, invoices shall be submitted as follows:

Originals are to be submitted as follows:

ORIGINAL TO: Department of Energy  
Oak Ridge Financial Service Center  
P.O. Box 4307  
Oak Ridge, TN 37831

EXPRESS COURIER  
ADDRESS: Department of Energy  
Oak Ridge Financial Service Center - RL  
200 Administration Road  
Oak Ridge, TN 37830

Copies are to be submitted as follows:

COPY TO: Contracting Officer's Representative (COR)  
Julie K. Erickson  
Department of Energy  
P.O. Box 550, MS K8-50  
Richland, WA 99352

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**October 1, 1999**

**EXPRESS COURIER  
ADDRESS:**

Julie K. Erickson  
Department of Energy  
3230 Q Avenue, EESB Building  
Room 1630 - MS K8-50  
Richland, WA 99352

**CHANGES IN THE CORs OR COR'S ADDRESS WILL  
BE TRANSMITTED VIA ELECTRONIC MAIL.**

**COPY TO:**

Department of Energy  
Procurement Services Division  
P.O Box 550 - MS A7-90  
Richland, WA 99352

**EXPRESS COURIER  
ADDRESS:**

Department of Energy  
Procurement Services Division  
825 Jadwin Avenue - MS A7-90  
Richland, WA 99352

Original and copies of invoices are to be transmitted simultaneously by the same carrier method. Invoices not simultaneously transmitted to all addressees may be rejected or have payment delayed.

In addition to the information required in the clause titled "PROMPT PAYMENT," the following additional information must be included on each invoice:

BNR breakout (if required)

**D. APPLICABLE TO THE LOCKHEED MARTIN HANFORD COMPANY PRIME  
CONTRACT**

The Contractor shall provide billing and invoicing services for LMHC, effective October 1, 1999 in accordance with the "Withdrawal of TWRS (RPP) Transition Plan" the agreed upon FDH/LMHC/RL Transfer Agreement, and the executed Memorandum of Agreement governing the provision of services between FDH and LMHC. Billing and invoicing instructions will be included in the Transfer Agreement.



#### **G.4 DEFECTIVE OR IMPROPER INVOICES**

Invoices not conforming to paragraph (a)(3) of contract clause FAR 52.232-25, Prompt Payment of Part II, Section I, of this contract, shall be deemed improper and thus defective. The Contractor shall provide the name or names (where practicable), title, phone number, office name, and complete mailing address of officials of the Contractor to be notified when the Government receives a defective or improper invoice below:

The remainder of this section is left blank intentionally.

#### **G.5 DOE PROPERTY ADMINISTRATION**

The point of contact for contract administration relating to Government property is as follows:

U.S. Department of Energy  
Richland Operations Office  
Organizational Property Management Officer  
Site Services Division, MSIN A2-45  
Post Office Box 550 or 825 Jadwin Avenue  
Richland, WA 99352

#### **G.6 CONTRACTING OFFICER'S REPRESENTATIVE (COR) TECHNICAL DIRECTION - NOTIFICATION OF CHANGES**

##### **A. Notice**

The primary purpose of this clause is to obtain prompt reporting of Government conduct that the Contractor considers to constitute a change to this contract.

- B. Performance of the work under this contract shall be subject to the technical direction of the COR. The COR will be designated in writing by the Contracting Officer. The designation letters will include the COR's authority, responsibility, and limitations. Changes in the CORs or CORs' authority will be transmitted via electronic mail. RL shall update, maintain and keep current the listing of CORs via electronic media and make available to the Contractor.

The term "technical direction" is defined to include, without limitation:

- (1) Directions to the Contractor that redirect the contract effort (change control), 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) Provision of written information to the Contractor that assists in the interpretation of drawings, specifications, or technical portions of the work description.
  - (3) Review and, where required by the contract, approval of technical reports, drawings, specifications, and technical information to be delivered by the Contractor to the Government under the contract.
  - (4) Performance of technical monitoring; inspection; approval of shop drawings; testing; approval of samples; engineering evaluation; monitoring schedules and deliverables; and other functions not involving a change in the scope, price, or terms or conditions of a contract.
- A. Technical direction must be within the Statement of Work stated in the contract. The COR does not have the authority to, and may not, issue any technical direction that does the following:
- (1) Constitutes an assignment of additional work outside the Statement of Work;
  - (2) Constitutes a change, as defined in the contract clause entitled "Changes," which requires an adjustment of the estimated cost and/or fee;
  - (3) Changes any of the express terms, conditions, or specifications of the contract; or
  - (4) Interferes with the Contractor's right to perform the terms and conditions of the contract.
- B. All technical directions shall be issued in writing by the COR.
- C. The Contractor shall proceed promptly with the performance of technical directions duly issued by the COR in the manner prescribed by this clause and within his/her authority under the provision of this clause.
- D. If, in the opinion of the Contractor, any instruction or direction (including actions, inactions, and written or oral communications) by the COR falls within one of the

categories defined in paragraphs C.1 through C.4 above, the Contractor shall not proceed but shall notify the Contracting Officer in writing within 5 working days after receipt of any such instructions or direction and shall request the Contracting Officer to modify the contract accordingly. On the basis of the most accurate information available to the Contractor, the notice shall state:

- (1) The date, nature, and circumstances of the conduct regarded as a change;
- (2) The name, function, and activity of each Government individual and Contractor official or employee involved in or knowledgeable about such conduct;
- (3) The identification of any related documents provided by the COR and documentation of any oral communication involved in such conduct;
- (4) In the instance of alleged acceleration of scheduled performance or delivery, the cause for this acceleration;
- (5) The particular elements of contract performance for which the Contractor may seek an equitable adjustment under this clause, including:
  - (a) What contract line items have been or may be affected by the alleged change;
  - (b) What labor or materials or both have been or may be added, deleted, or wasted by the alleged change;
  - (c) To the extent practicable, what delay and disruption in the manner and sequence of performance, and effect on continued performance, have been or may be caused by the alleged change;
  - (d) What adjustments are estimated to contract costs, delivery schedule, and other provisions affected by the alleged change;
- (6) The Contractor's estimate of the time by which the Government must respond to the Contractor's notice to minimize cost, delay, or disruption of performance. Upon receiving the notification from the Contractor, the Contracting Officer shall do one of the following:
  - (a) Advise the Contractor in writing within 30 days after receipt of the Contractor's letter that the technical direction is within the scope of the

contract and does not constitute a change under the "Changes" clause, which requires an adjustment of estimated cost and/or fee;

- (b) Inform the Contractor in writing within 30 days after receipt of the Contractor's letter not to perform under the direction and cancel the direction; or
- (c) Advise the Contractor within a reasonable time that the Government will issue a written change order. The equitable adjustment shall not include increased costs or time extensions for delay resulting from the Contractor's failure to provide notice or to continue performance as provided, respectively, in this subsection.

E. A failure of the Contractor and Contracting Officer to agree that the technical direction is within the Statement of Work of the contract, or a failure to agree upon the contract action to be taken with respect thereto, shall be subject to the contract clause entitled "Disputes - Alternate I."

#### **G.7 MODIFICATION AUTHORITY**

As stated above and notwithstanding any of the other provisions of this contract, a Contracting Officer shall be the only individual on behalf of the Government authorized to:

- Accept non-conforming work;
- Waive any requirement of this contract; or
- Modify any term or condition of this contract.

#### **G.8 REPRESENTATIONS AND CERTIFICATIONS**

The Representations and Certifications, completed as Section K.1 of the solicitation leading to award of this contract, dated March 25, 1996, are hereby incorporated into this contract by reference, with the exception of Part IV – Section K to Solicitation No. DE-RP06-95RL13200, relating to Lockheed Martin Hanford Company (pp. K-1 through K-27) and dated March 25, 1996.

**Fluor Daniel Hanford, Inc.**  
**DE-AC06-96RL13200**  
**Modification MO86**  
**October 1, 1999**

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**PART I - THE SCHEDULE**

**SECTION H  
SPECIAL CONTRACT REQUIREMENTS  
FLUOR DANIEL HANFORD, INC.**

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## **H.1 SEPARATE BUSINESS UNIT**

The work performed by the Contractor under this contract shall be conducted by a separate business unit (division, segment, etc.) from the parent company signing this contract. In addition, the Major Subcontractors shall be separate business units from their parent companies. These business units may report or interface directly with a home office as approved by the Contracting Officer.

## **H.2 PROMISES AND COMMITMENTS**

- A. Detailed below and incorporated into this contract is a list of negotiated promises made by the Contractor in its contract proposal, dated March 25, 1996, which have not been identified elsewhere in this contract as a contract requirement. It is recognized that, as appropriate, these promises and commitments may be covered by a performance measure and/or an incentive fee arrangement. However, whether or not the promises/commitments are ever the subject of a performance measure and/or incentivization, the Contractor is expected to, in good faith, strive to meet the stated objectives as part of contract compliance. The extent to which the Contractor is able to achieve success and the extent to which the promises/commitments have been kept shall be considered by DOE in any determination to exercise the Options provided for in Section B of this contract.

The Contractor agrees to the following:

- (1) In filling employment positions for work under the contract, other than for management positions, the Contractor, including Major Subcontractors, niche or other subcontractors, and outsourced entities agree to hire employees from the workforce of the incumbent contractor and its integrated subcontractors (Westinghouse Hanford Company, ICF Kaiser Hanford, and Boeing Computer Services Richland). The number and type of positions to be established, the salary/pay rate ranges for all positions, and the terms and conditions of such employment, except as noted below, are at the sole discretion of the Contractor or Major Subcontractors.

For purposes of this contract, management positions are defined as those above the first-line managerial/supervisory level and as those typically responsible for subordinate staff, budget oversight, and/or policy-making decisions.

After operations begin, subsequent vacant positions (other than those covered under paragraph (1) above) shall be filled in accordance with the Contractor's normal business practices, subject to any other applicable requirements of this

contract, including Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (see Clauses H.31 through H.33).

- (2) Employees currently employed by the incumbent Contractor and its integrated subcontractors other than management positions who are offered and accept employment with the Contractor and its Major Subcontractors will be paid base salary/pay rates equivalent to the base salary/pay rates they are being paid at the time of the offer if the position for which they are being hired entails duties and responsibilities substantially equivalent to the position last held with the incumbent Contractor.

Employees hired from the previous incumbent Contractor and its integrated subcontractors whose base salaries/pay fall above the maximum rate of the new salary/pay rate range, and who are placed in positions substantially equivalent to their existing position, will be placed in a "red circle" classification. The employees will continue to receive their most recent salary/pay rate paid by the incumbent Contractor or integrated subcontractor, but they shall receive no base salary/pay adjustments until such time as the rate range is increased to include their base salary/pay. They will then be eligible for increases that will result in being paid no more than the maximum of their range.

Employees hired from the previous incumbent Contractor or integrated subcontractors and whose salaries/pay fall below the minimum of the rate range, and who are placed in positions substantially equivalent to their existing positions shall have their salaries/pay rate increased to the minimum of the range.

- (3) The Contractor and Major Subcontractors shall assume the assets, liabilities, and other obligations and continue the defined benefit pension plans (does not include any defined contribution plans) of the incumbent Contractor and integrated subcontractors, on a multiple employer basis for employees of the Contractor and its Major Subcontractors.
- (4) The Contractor and Major Subcontractors shall offer an Internal Revenue Service qualified defined contribution plan(s) for employees of the Contractor and its Major Subcontractors that will accept employee account assets and liabilities from the 401(k) plans of the incumbent Contractor and its integrated subcontractors. The provisions of the plan(s) are at the sole discretion of the Contractor and its Major Subcontractors.
- (5) The Contractor and Major Subcontractors shall credit the length of service of employees currently employed by the incumbent Contractor and its integrated

subcontractors, who are hired for work under this contract or under the subcontracts of Major Subcontractors, toward the service period required for benefits of this contract or subcontracts of Major Subcontractors relating to vacations, sick leave, health insurance, layoff, recall, or other benefits. This includes accepting severance pay credits earned by the employees of the incumbent contractor and integrated subcontractors to the extent that the employees have not exercised any severance pay rights with the incumbent contractor and its integrated subcontractors.

- (6) The Contractor and Major Subcontractors shall respect the right of employees to self-organization; to form, join, or assist labor organizations; to bargain collectively through representatives of their own choosing; and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all of such activities. The Contractor and its Major Subcontractors will be performing substantially similar operations at the same site as the predecessor incumbent Contractor and its integrated subcontractors; and, as a result of the hiring preference, a majority of their potential bargaining unit employees are likely to be former employees of the predecessor incumbent contractor and its integrated subcontractors who had been represented by the respective certified collective bargaining agent. Therefore, the collective bargaining representative of such employees is to be accorded full recognition for negotiating their terms and conditions of employment, and the Contractor shall initially consult with the respective certified collective bargaining agent regarding the initial terms and conditions of employment of those employees who had been represented by the certified collective bargaining agent. The Contractor shall be obligated to recognize and bargain with the certified collective bargaining agent of the predecessor's bargaining unit employees as a successor employer, consistent with the National Labor Relations Act.
- (7) The Contractor shall initially provide for continuity of insurance coverage of employees of the incumbent contractors and their predecessors who are absent and receiving payments under the following programs: Long Term Disability, Short Term Disability, and Workers' Compensation, and including any then current COBRA (Consolidated Omnibus Budget Reconciliation Act) participation in a health benefits insurance program. Such insurance coverage shall be provided under the same terms and conditions as provided in existing programs, including the right of management to change those terms and conditions, where applicable.
- (8) The Contractor shall initially provide for continuity of insurance coverages (health, life, other, as applicable) of employees who have retired from the

incumbent contractors or their predecessors to the extent currently provided by the incumbents. Such insurance coverage shall be provided under the same terms and conditions as provided in existing programs, including the right of management to change those terms and conditions, where applicable.

- (9) The Contractor shall work with DOE and the Tri-Cities to create a local economy which is substantially less dependent on a DOE Hanford payroll. The Contractor commits, with LMHC, to help create 3000 new jobs in the Tri-City area\* by the end of the five year contract period. The Contractor will assume 70% of the balance of jobs, following validation of the cumulative number of jobs created through FY 1999, by RL.

\*As defined by the FY 1999 "Economic Transition Plan for Project Hanford," MP-006.

- (10) The Contractor shall outsource 50% of funds expended by 2001 to other than Major Subcontractors, including outsourcing by the Major Subcontractors, and within five years, 60% of all outsourced dollars shall be directed to local, regional, and Native American businesses. The Contractor shall also establish a SB/SDB loan program. For purposes of this paragraph, outsourcing means contractual commitments to entities other than the Contractor and Major Subcontractors as defined in this contract."
- (11) The Contractor shall leverage local economic benefit from execution of this contract, and from the worldwide industrial and commercial interest of the Contractor and its Major Subcontractors.
- (12) The Contractor shall reduce DOE capital and fixed operations costs.
- (13) The Contractor shall progressively increase the ratio of outsourced jobs to site staff.
- (14) In collaboration with PNNL, the Contractor shall implement technology transfer and intellectual property management programs to stimulate commercialization, privatization, and entrepreneurship.
- (15) The Contractor shall aggressively pursue conversion of valuable Hanford assets (people, intellectual property, equipment, material, facilities) to commercial productive use.

- (16) The Contractor shall mentor local suppliers and Contractors to help bring their systems and deliverables into line with best-in-class criteria and shall create financial incentives that encourage best-in-class suppliers outside the region to establish and serve from a Tri-Cities base of operations.
- (17) The Contractor shall implement the DOE Mentor/Protege program at Hanford, based on the model developed at Fernald.
- (18) The Contractor shall set up a loan program with financing available to the local business community for capital expenditure or mobilization for new work at Hanford. Businesses that are not able to obtain traditional financing shall have access to capital through Prin Vest, using their Project Hanford subcontracts as collateral.
- (19) Incentives shall be a cornerstone of the Contractor's technology transfer program. Inventors will benefit through royalty sharing, equity ownership in license-based new businesses or the opportunity to start a new business. The Contractor shall establish an Entrepreneurial Leave of Absence program. The Contractor shall coordinate with their Purchasing to leverage idle site facilities, equipment, and materials for the benefit of local businesses and new business creation. The Contractor shall market these resources aggressively, and shall work closely with organizations such as the TRIDEC to leverage these assets into jobs.

In the licensing arena, the Contractor will work with PNNL to provide reduced royalty terms and other incentives for licensees who agree to establish businesses in the region.

- (20) The Contractor's technology transfer activity will include industrial and commercial relationships (from CRADAs and licensing to Facility User, Technical Assistance, and Funds-In Agreements).

Working closely with PNNL, the Contractor shall ensure that intellectual property and technologies arising from the PHMC are evaluated for commercial potential and, where appropriate, offered for licensing.

- (21) The Contractor shall perform a Technology Audit and Resource Inventory to produce a database of transferable skills, tools, and capabilities. This continuing process shall promote awareness of Hanford assets, prerequisite to targeting candidates for outsourcing, privatization, licensing, cooperative research and development, technical assistance, facility user agreements, and non-mission asset loan or transfer.

- (22) The Contractor and its Major Subcontractors shall invest a combined total of \$3 million or more during the period from contract award through September 30, 1997, to bring new jobs to the Tri-Cities.

The Contractor's investment in economic transition begins with relocation of six growth-oriented business operations to the area by October 1, 1997. The Contractor's investment continues with the commitment of up to 12 percent of the fees earned above \$7 million, through PHMC performance to benefit the community. This reinvestment shall be structured to leverage the skills, relationships, and purchasing power of the PHMC to the benefit of the Tri-Cities. The proposed step formula for contributions in any given year is:

- 6% of total fees earned between \$7 million and \$14 million
- 8% of total fee over \$7 million if fee is between \$14 million and \$28 million
- 12% of total fee earned over \$7 million if fee is over \$28 million.

The Contractor and its Major Subcontractors shall immediately bring six new subsidiaries or affiliates to the Tri-Cities. By October 1, 1996, 2525 Hanford jobs, and incumbent personnel, shall be outsourced into these organizations, subject to adjustment to reflect actual adjustments in the number of employees, due, for example, to employee elections to accept the retirement package offered by DOE, available through August 30, 1996.

The Contractor commits to the subsequent expansion of these businesses into non-Hanford markets.

The Contractor shall assume major non-billable costs and shall significantly reduce DOE's costs in the first year, with continued savings in the out-years, in the areas of A&E, general engineering, construction management, and procurement. The 1350 personnel performing these functions will reside in a new regional office pursuing work for both Project Hanford and non-Hanford clients, Fluor Daniel Northwest (FDNW). This office shall pursue commercial work to support growth to an additional 125 new jobs above the baseload of 1350 jobs outsourced from Project Hanford. FDNW shall support subcontractor affiliates in their efforts to bring jobs and enterprise to the Tri-Cities. In addition to architect-engineering and construction management, the office shall house regional

business lines providing training, temporary services, systems engineering, and project management.

- (23) The Contractor and Major Subcontractors shall work with local and state governments and economic development groups to target "anchor" industries, evaluate infrastructure development needs, attract targeted businesses, and promote new starts, relocations, and investments in Tri-Cities initiatives. The Contractor shall maintain close ties to corporate executives who are responsible for specific business areas (e.g., foods, pulp and paper, infrastructure, manufacturing, information and communications, environmental, mining, power) to gain access to client and supplier bases.

The Contractor, working with TRIDEC, shall assign and supply experienced people from the Contractor's parent corporation commercial businesses to assist TRIDEC in attracting new businesses and counsel local citizens wishing to start or expand a business. Professionals experienced in developing business plans, financial evaluations, and marketing plans will be made available for this program under TRIDEC auspices.

- (24) The Contractor agrees to form Columbia Basin Ventures, Inc. (CBV) to provide direct investment or third-party financing to business opportunities that offer high potential for regional growth.

The venture will maintain close working ties with the Project Hanford Office of Technology Management and Economic Transition, but shall provide a complementary resource to focus on non-Hanford business and technology. The Contractor and its Major Subcontractors shall establish a \$7.56M investment fund (this number represents the Contractor's share in the \$10M original investment fund) from their private resources for use by CBV. Credit will be given against this fund for prior Contractor participation (without LMHC) in CBV through FY 1999.

CBV shall work through existing local agencies (e.g., TRIDEC, Tri-Cities ports and municipalities, and the Benton Franklin Regional Council), providing personnel from the Contractor's parent corporation commercial businesses to support their initiatives and enhance their effectiveness. Personnel expert in industrial recruitment shall be assigned to TRIDEC. CBV shall exert the corporate leverage developed by these companies. The Contractor shall put this buying power and supplier network to use in efforts to attract industry and broaden the market reach of Hanford spin-off companies. CBV shall provide and attract investment capital for local ventures and shall partner with local academic



(WSU, CBC), research (PNNL), economic development organizations and industry organizations to help create jobs in the Tri-Cities area.

- (25) The Contractor shall partner with the northwestern division of the Associated Western Universities (AWU NW). The Contractor shall broaden the consortium's training activity associated with the University/DOE Laboratory Cooperative Science Education Program (Lab Coop) fellowships at Hanford. The Contractor shall develop an engineering Mentorship Program to bring science and engineering students into contact with the Contractor and Major Subcontractor managers at engineering and environmental remediation projects.

The Contractor shall work with Columbia Basin College (CBC) and Washington State University Tri-Cities (an AWU NW member) to design and implement education/training programs keyed to markets that can use skills acquired at Hanford in order to assist the diverse Hanford workforce transition more effectively into the private sector. This effort will be integrated into the Site-wide Training Program.

- (26) The Contractor shall form a Community Involvement Team to be a primary vehicle for the PHMC civic and regional involvement. The team will be administered by a senior executive of the PHMC's Office of External Stakeholders, and will help mobilize and support personal commitments to community support activity.

PHMC employees will be encouraged to donate their time to instruction in local schools through programs such as MathCounts, Engineer-in-the-Classroom, and partnering with local elementary schools to provide science or computer instruction and supplies. Managers shall be encouraged to donate a minimum of 40 hours/year in community service. This involvement shall be a consideration in manager performance evaluations.

### **H.3 RESERVED**

### **H.4 TRI-PARTY AGREEMENT**

The DOE, the U.S. Environmental Protection Agency Region 10 (EPA), and the Washington State Department of Ecology (Ecology) have entered into the Hanford Federal Facility Agreement and Consent Order, referred to as the Tri-Party Agreement (TPA) to ensure compliance with the Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA). The TPA sets forth certain requirements and milestones for cleanup activities at the Hanford Site. The

Contractor agrees to plan and perform the work under this contract in accordance with DOE direction concerning implementation of the TPA and achievement of current and future milestones in the TPA.

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**H.5 RESERVED**

**H.6 RESERVED**

**H.7 SITEWIDE SAFETY PROGRAM RECOMMENDATIONS**

In order to provide consistency on the Hanford Site, the Contractor shall recommend to DOE those safety programs which are appropriate for Hanford sitewide implementation, to provide the proper emphasis and requirements for safety for both the Contractor and all subcontractors working at the site, including any provisions for sitewide training not currently in place. The Contractor shall include a justification for the programs selected as a part of that recommendation.

**H.8 SITEWIDE QUALIFICATION AND TRAINING PLAN**

A. In order to provide consistency with personnel qualification on the Hanford Site, the Contractor shall submit a Sitewide Qualification and Training Plan (see Section J, Appendix E). This Plan shows how the Contractor will ensure that all personnel working at the Hanford Site meet and maintain qualification and training requirements in accordance with DOE and other applicable regulations. The plan shall include:

- (1) Assignment of responsibilities both with the DOE Richland Operations Office (RL) and any Hanford central training organizations.

- (2) How the Contractor will use a single point of contact project management approach to integrate and track the best available training resources to meet the diverse training needs of the Hanford Site.
- (3) How the Contractor will recognize and use equivalent training and/or reciprocity for training.
- (4) A system to track flowdown of training requirements to subcontractors.
- (5) How the "Best in Class" and "Make or Buy" approach will be used to identify and use high-quality training while eliminating redundant and duplicate programs.
- (6) A system to track training completed (needs to be part of the Human Resources "People Soft" system (see Section C.2.C.(3))).

## H.9 ENVIRONMENTAL RESPONSIBILITY

### A. General

Contractor is required to comply with all environmental laws, regulations, and procedures applicable to the work being performed under this Contract. This includes, but is not limited to, compliance with applicable Federal, State and local laws and regulations, interagency agreements such as the Hanford Federal Facility Agreement and Consent Decree [aka Tri-Party Agreement (TPA)], consent orders, consent decrees, and settlement agreements between DOE and Federal and State regulatory agencies.

### B. Environmental Permits

This clause addresses the following permit scenarios:

(1) where the Contractor is the sole permittee; (2) where the Contractor and DOE are joint permittees; (3) where multiple Contractors are permittees.

- (1) Contractor as Sole Permittee. To the extent permitted by law and subject to other applicable provisions of the contract that impose responsibilities on DOE, and provisions of law that impose responsibilities on DOE or third parties, the Contractor shall be responsible for obtaining in its own name, shall sign, and shall be solely responsible for compliance with all permits, authorizations and approvals from Federal, State, and local regulatory agencies which are necessary for the performance of the work required of the Contractor under this Contract.

Under this permit scenario, that Contractor shall make no commitments or set precedents that are detrimental to DOE or other Contractors. Contractor shall coordinate its permitting activities with DOE, and with other Hanford Site Contractors which may be affected by the permit or precedent established therein, prior to taking the permit action.

- (2) Contractor and DOE as Joint Permittees. Where appropriate, required by law, or required by applicable regulatory agencies, DOE shall sign permits as owner or as owner/operator with Contractor as operator or co-operator, respectively. DOE will co-sign Hazardous Waste permit applications as owner/operator where required by applicable law. In this scenario, the Contractor must coordinate its actions with DOE.
- (3) Multiple Contractors as Permittees. Where appropriate, in situations where multiple Contractors are operators or co-operators of operations requiring environmental permits, DOE shall sign such permits as owner or co-operator and affected Contractors shall sign as operators, or co-operators, respectively. In this scenario, the Contractor must coordinate as appropriate with DOE and other Contractors affected by the permit.

C. Permit Applications

The Contractor shall provide to DOE for review and comment in draft form any permit applications and other regulatory materials and permits submitted to regulatory agencies for the purposes of obtaining a permit. In the event the permit application is required to be co-signed, submitted by DOE, or is related to a permit in which DOE is a permittee, the Contractor shall provide the application for review and comment. All such materials shall be provided to DOE initially not later than 90 days prior to the date they are to be submitted to the regulatory agency. Contractor shall provide final regulatory documents to DOE at least 30 days prior to the date of submittal to the regulatory agencies for DOE's final review and signature or concurrence which shall be performed by DOE in a prompt manner.

D. Financial Responsibility

DOE agrees that if bonds, insurance, or administrative fees are required as a condition for permits obtained by Contractor under this Contract, 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 an acceptable form of financial responsibility. Under no circumstances shall the Contractor or its parent be required to provide any corporate resources or corporate guarantees to satisfy such regulatory requirements.

E. Copies, Technical Information

The Contractor shall provide DOE copies of all environmental permits, authorizations, and regulatory approvals issued to the Contractor by the regulatory agencies. DOE shall, upon request, make available to the Contractor access to copies of all environmental permits, authorizations, and approvals issued by the regulatory agencies to DOE that the Contractor may need to comply with applicable law. The Contractor and DOE shall provide to the other copies of all documentation, such as, letters, reports, or other such materials transmitted either to or from regulatory agencies relating to the contract work. The Contractor and DOE shall maintain all necessary technical information required to support applications for revision of DOE or other Hanford Site Contractor environmental permits when such applications or revisions are related to Contractor's operations. Upon request, Contractor or DOE shall provide to the other access to all necessary and available technical information required to support applications for or revisions to permits or permit applications. The Contractor shall provide to DOE a certification statement relating to such technical information in the form required by the following paragraph.

F. Certifications

The Contractor shall provide a written certification statement attesting that information DOE is requested to sign was prepared in accordance with applicable requirements. The Contractor shall include the following certification statement in the submittal of such materials to DOE:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification statement shall be signed by the individual authorized to sign such certification statements submitted to Federal or state regulatory agencies under the applicable regulatory program. DOE shall provide a similar statement for information provided by DOE to the Contractor to be included in any Contractor permit application.

G. Fines, Penalties, Allowable Costs

The Contractor shall accept, in its own name, service of proposed notices, or notices of correction, penalty, fine, violation, administrative orders, citation, or notice of alleged violations, (e.g., NOC, NOP, NOF, PNOV, NOV, NOAV) and any similar type notices issued by Federal or State regulators to the Contractor resulting from or relating to Contractor's performance of work under this Contract, without regard to liability. The Contractor shall immediately notify DOE of such receipt and shall provide copies or originals of such documents as soon as possible thereafter. The allowability of the costs associated with fines and penalties shall be governed by provisions of this contract and applicable law. The Contractor shall have plenary authority to allocate any fines and penalties among its subcontractors based on criteria developed by Contractor and applied in Contractor's sole discretion. The Contractor shall indemnify and hold harmless DOE and its employees, officers, agents from any costs, claims (including third-party claims for damage to persons or property), demands, fines or penalties, including reasonable legal costs, resulting from any failure of the Contractor to comply with applicable permit or regulatory requirements, or resulting from any obligations DOE may incur as a result of signing defective or non-conforming permit applications or submittals prepared by or under the direction of Contractor.

H. Negotiations

DOE may in its discretion choose to be in charge of, and direct, all negotiations with regulatory agencies regarding permits, fines, penalties, and any other proposed notice, notice, administrative order, and any similar type of notice as described in paragraph G above. As directed or required by DOE, the Contractor shall participate in negotiations with regulatory agencies; however, the Contractor shall not make any commitments or offers to regulators purporting to bind or binding the Government in any form or fashion, including monetary obligations, without receiving written authorization or concurrence from the Contracting Officer or his/her authorized representative prior to making such offers/commitments. Failure to obtain such advance written approval may result in otherwise allowable costs being declared unallowable and/or the Contractor being liable for any excess costs to the Government associated with or resulting from such offers/commitments.

I. Termination, Expiration, Permit Transfer

In the event of expiration or termination of this Contract, DOE may require the Contractor to take all necessary steps to transfer without cost to DOE some or all environmental permits held by the Contractor. DOE will assume responsibility for such permits, with the approval of the regulating agency, and the Contractor shall be relieved

of all liability and responsibility to the extent that such liability and responsibility results from the acts or omissions of a successor Contractor, DOE, or their agents, representatives, or assigns. The Contractor shall remain liable for all unresolved costs, claims, demands, fines and penalties, including reasonable legal costs, arising prior to the date such permits are transferred to another party. Contractor shall not be liable for any such claims occurring after formal transfer unless said claims result from Contractor's action or inaction that occurred prior to transfer.

J. Miscellaneous

The Contractor shall accept assignment or transfer of permits currently held by DOE and its existing Contractor. The Contractor may submit for DOE's consideration, requests for alternate review, comment, or signature schedules for environmental permit applications or other regulatory materials covered by this clause. Any such schedule revision shall be effective only upon written approval from the Contracting Officer.

**H.10 EARNED VALUE MANAGEMENT SYSTEM**

- A. In the performance of this contract, the Contractor shall use an earned value management system (EVMS) that is recognized as meeting the best business practice guidelines provided in ANSI/EIA-748 Standard, Earned Value Management System.
- B. The Contractor shall apply the system to the contract and shall be prepared to demonstrate to the Contracting Officer that the EVMS meets the guideline referenced in paragraph A of this clause.
- C. The Contracting Officer may require integrated baseline reviews. The objective of the integrated baseline review is for DOE and the Contractor to jointly assess areas, such as the Contractor's planning, to ensure complete coverage of the statement of work, logical scheduling of the work activities, adequate resourcing, and identification of inherent risks. The Contractor is responsible for evaluation of its system. This includes self-evaluation of the system, conformity with the standard, and notification to the Contracting Officer of any significant system changes.
- D. The Contractor agrees to provide access to all pertinent records and data requested by the Contracting Officer or duly authorized representative. Access is to permit Government surveillance to ensure that the EVMS complies, and continues to comply, with the criteria referenced in paragraph A of this clause.
- E. The Contractor shall require subcontractors to comply with the requirements of this clause for applicable work scope.

#### **H.11 EMERGENCY CLAUSE**

- A. The RL Manager or designee shall have sole discretion to determine when an emergency situation exists at the Hanford Site, except for RPP facilities, affecting site personnel, the public health, safety, the environment, or security. In the event the RL Manager or designee determines such an emergency exists, the RL Manager or designee will have the authority to direct any and all activities of the Contractor and subcontractors necessary to resolve the emergency situation. The RL Manager or designee may direct the activities of the Contractor and subcontractors throughout the duration of the emergency.
- B. The Contractor shall include this clause in all subcontracts at any tier for work performed at the Hanford Site.

#### **H.12 SHUTDOWN AUTHORIZATION**

- A. In the event of a specific imminent environmental, health, or safety hazard, identified by facility line management, DOE Facility Representatives, operators, or facility health and safety personnel overseeing facility operations, the individual or group identifying the specific imminent hazard situation should immediately take actions to eliminate or mitigate the hazard. This shall be accomplished by directing the operator/implementer of the activity or process causing the imminent hazard to shutdown the activity or the facility or by initiating emergency response actions or other actions to protect the health and safety of the workers and the public and to protect DOE facilities and the environment. (DOE designated Facility Representatives provide technical oversight of operations to help line management ensure that the facilities are operated in a safe, healthful, and environmentally acceptable manner in accordance with DOE Orders and other requirements. As such, they have "Stop Work" and "Shutdown Authorization" authority.)

In the event an imminent environmental, health, or safety hazard is identified, the individual or group that identified the hazard should coordinate with an appropriate Contractor official, who will direct as needed, broader shutdown actions or other actions, as required. Such mitigating actions should subsequently be coordinated with the RL Manager, the facility/site DOE management, and the facility/site Contractor management. The shutdown direction should be promptly confirmed in writing from the cognizant Contracting Officer.

This authority is in addition to the contract clause entitled "Stop-Work Order – Alternate I."



- B. In the event of a non-imminent environmental, health, or safety hazard identified by facility line managers, facility operators, health and safety personnel overseeing facility operations, or by independent oversight organizations, the individual or group identifying the potential environmental, health or safety hazard may recommend corrective action or facility shutdown. However, the recommendation must be coordinated with the Contractor management at the facility, the responsible DOE manager, and the RL Manager. Any written direction to shutdown operations will be issued in coordination with the Contracting Officer.
- C. After shutdown, an operation or facility may become operational only after receiving written authorization from the RL Manager, or his delegated authority, in coordination with the Contracting Officer.
- D. The Contractor shall provide in its purchasing system, required under the contract clause entitled "Subcontracts (Cost Reimbursement and Letter Contracts)," for policies, practices, and procedures for the flowdown of appropriate requirements of this clause to subcontractors performing work on-site at a DOE-owned or -leased facility. Such subcontracts shall provide for the right to stop work under the conditions described herein.

**H.13 RESERVED**

**H.14 RESERVED**

**H.15 INCORPORATION OF REVISED DEPARTMENTAL POLICIES  
AND PROCEDURES**

The parties acknowledge that the DOE has undertaken a review of DOE policies and procedures applicable to contracts for management of Government-owned facilities. This review may result in further deletions, additions, or revisions to existing contract clauses, or other DOE regulations, Orders, or Directives which are issued after the effective date of this contract, and which could conflict with or supersede some aspects of this contract. It is the intent of DOE to modify this contract, as necessary, to incorporate these new or revised clauses, regulations, Orders, or Directives or delete requirements no longer needed. This clause does not imply the right of DOE to unilateral modification to the contract except as may be modified pursuant to, "Laws, Regulations, and DOE Directives."

#### **H.16 WITHDRAWAL OF WORK**

- A. The Contracting Officer reserves the right to have any of the work contemplated by Section C, Statement of Work, of this contract performed by either another Contractor or to have the work performed by Government employees.
- B. Work may be withdrawn. (1) in order for the Government to conduct pilot programs; (2) if the Contractor's estimated cost of the work is considered unreasonable; (3) for less than satisfactory performance by the Contractor; or (4) for any other reason deemed by the Contracting Officer to be in the best interests of the Government.
- C. If the withdrawn work has been authorized under an annual Work Authorization Directive, the work shall be terminated in accordance with the procedures in the contract clause entitled "Termination (Cost-Reimbursement)."
- D. If any work is withdrawn by the Contracting Officer, the Contractor agrees to fully cooperate with the new performing entity and to provide whatever support is required.

#### **H.17 USE OF DOE FACILITIES**

- A. Work for Other Government Agencies
  - (1) DOE may authorize the Contractor to perform non-DOE funded work involving the use of DOE facilities and resources, including Contractor staff, provided that the work is consistent with applicable laws and regulations and satisfies DOE policies regarding mission compatibility and competition with the private and public sectors.
  - (2) When a work request is submitted by a sponsoring, non-DOE entity, the Contractor shall, when requested by DOE:
    - (i) Review the work statement for mission compatibility so as to ensure that the work is consistent with and complementary to the mission of the contract and the facility, will not adversely affect assigned programs, and will not unduly burden mission resources;
    - (ii) Advise the Contracting Officer if the Contractor is aware that performance of the work would result in direct competition with capabilities available in the private or public sectors;

- (iii) Develop a cost estimate for the work to be performed and describe the DOE equipment, facilities, and Contractor staff required to complete the effort; and
  - (iv) Upon receipt of DOE authorization, perform the requested work in accordance with instructions provided by the Contracting Officer.
- (3) The performance of non-DOE funded work shall be subject to the provisions of this contract and to other applicable rules, regulations, and policies as may be specifically directed to the Contractor's attention by the Contracting Officer.

**B. Work for Non-Government Entities**

The Contractor may also propose the use of Government-owned facilities, equipment and other property on a non-interference basis for private work and private work for other entities. The Contractor agrees to reimburse DOE for such use either on a full-cost recovery basis at rates approved by the Contracting Officer or such other basis consistent with federal law, and as approved by the Contracting Officer.

**C. Local Community Assistance**

The Contractor may conduct programs of local community assistance to mitigate adverse impacts of closure or reconfiguration of DOE facilities. Such programs may provide for the lease or transfer of DOE property at less than fair market value in accordance with the Hall Amendment (Public Law 103-160, Sections 3154 and 3155). Any lease or transfer of DOE property under this program must be prior-approved in writing by the Contracting Officer.

**H.18 WORK FOR OTHERS FUNDING AUTHORIZATION**

The Contractor is permitted to provide advanced payment using Contractor funds for reimbursable work to be performed by the Contractor for non-Federal entities in instances where advanced payment from that entity is required pursuant to DOE policy and such an advance cannot be obtained by DOE. The Contractor is also permitted to provide advanced continuation funding using Contractor funds for Federal entities when the term or the funds on a Federal interagency agreement have elapsed. Any uncollectible receivables resulting from the Contractor using its own funding shall be the responsibility of the Contractor, and the United States Government shall not have any liability to the Contractor therefor.

## H.19 MAKE-OR-BUY PROGRAM/ SUBCONTRACTS CONSENT AND CONTRACT CLAUSE FLOW DOWN REQUIREMENTS

### A. Definitions

- (1) "Buy item" means a unit of work effort or a requirement to be produced or performed by an outside source, including a subcontractor or an affiliate, subsidiary, or division of the Contractor.

"Make item" means a unit of work effort or a requirement to be produced or performed by the Contractor using its personnel and other resources at the DOE facility or site.

"Master make-or-buy program" means a Contractor's written program for the contract that identifies work efforts that either are "make items" or "buy items."

### B. Make-or-Buy Program

- (1) **Master Make-or-Buy Program.** The Contractor shall initiate, develop, or adopt a Master Make-or-Buy Program that establishes a preference for buying items and work effort on a least cost basis, subject to specific DOE make-or-buy criteria identified in this contract or otherwise provided by the Contracting Officer. The Contractor shall submit for approval a plan documenting the Master Make-or-Buy Program.
- (2) **Implementation.** Once the Master Make-or-Buy Plan is approved, the Contractor shall perform in accordance with the Master Make-or-Buy Plan.
- (3) **Submission and approval.** The Contractor shall submit the Master Make-or-Buy Plan as part of its Economic Transition and Outsourcing Plan for approval by December 1, 1996.

The following documentation shall be prepared and submitted:

- (a) A description of each major work item, and if appropriate, the identification of the associated Work Authorization or Work Breakdown Structure element;
- (b) The categorization of each work item as "must make," "must buy," or "can make or buy," with the reasons for such categorization in consideration of the program-specific make or buy criteria (including least

cost considerations). For items categorized as "must make," a cost/benefit analysis must be performed for each item;

- (c) A decision to either "make" or "buy" in consideration of the program-specific make or buy criteria (including least cost considerations) for work effort categorized as "can make or buy;"
  - (d) Identification of proposed suppliers and subcontractors, if known, and their location and size status;
  - (e) A recommendation to defer make or buy decisions where categorization of identifiable work effort(s) is impracticable at the time of initial development of the Master Make-or-Buy Plan;
  - (f) The impact of a change in current make-or-buy practices on the existing workforce;
  - (g) Any additional information appropriate to support and explain the Master Make-or-Buy Plan; and
  - (h) To the maximum extent possible, the use of fixed-price subcontracts.
- (4) Changes to the Master Make-or-Buy Plan. The Master Make-or-Buy Plan established in accordance with paragraph (4) above, shall remain in effect for the term of the contract, unless: (1) a lesser period is provided either for the total Master Make-or-Buy Plan or for individual items or work effort; or (2) the circumstances supporting the original make-or-buy decisions change subsequent to the initial approval. At least annually, the Contractor shall review the approved Master Make-or-Buy Plan to ensure that it reflects current conditions.

Changes to the approved Master Make-or-Buy Plan shall be submitted to RL in advance of the proposed effective date of the change in sufficient time to permit review and evaluation. All changes shall be submitted in accordance with instructions provided by the Contracting Officer. Modification of the Master Make-or-Buy Plan to incorporate proposed changes or additions shall be effective upon the Contractor's receipt of the Contracting Officer's written approval.

- C. The Contractor shall include paragraphs A and B of this clause in all subcontracts with Major Subcontractors, altering the clause only as necessary to identify properly the contracting parties.

- D. Prior to the placement of subcontracts and in accordance with the contract clause entitled "Subcontracts (Cost Reimbursement and Letter Contracts), the Contractor shall ensure the following:
- (1) The subcontracts contain all of the clauses of this contract (altered when necessary for proper identification of the contracting parties) which contain a requirement for such inclusion in applicable subcontracts. Particular attention should be directed to the potential flow down applicability of the clauses entitled "Utilization of Small Business Concerns " and "Small Business Subcontracting Plan" contained in PART II, Section I, of the contract;
  - (2) Any applicable subcontractor Certificate of Current Cost or Pricing Data (see FAR 15.403-4) and subcontractor Representations and Certifications are completed (see the document referenced in the contract clause entitled "Representations and Certifications"); and
  - (3) Any required prior notice and description of the subcontract is given to the Contracting Officer, and any required consent is received. Except as may be expressly set forth therein, any consent by the Contracting Officer to the placement of subcontracts shall not be construed to constitute approval of the subcontractor or any subcontract terms or conditions, determination of the allowability of any cost, revision of this contract or any of the respective obligations of the parties thereunder, or creation of any subcontractor privity of contract with the Government.
- E. The Contractor shall also obtain and furnish to the Contracting Officer either an Organizational Conflict of Interest (OCI) Disclosure Statement or Representation form in accordance with DEAR 909.570-7, "Disclosure or representation," from all subcontractors to be used under this contract to perform the types of work identified in DEAR 909.570-4(b). No work shall be performed by the subcontractor until the Contracting Officer has cleared the subcontractor for OCI.
- F. The Contractor shall ensure that all cost-reimbursable type subcontracts placed for a total amount which exceeds \$5 million shall have incentive provisions based on performance measurements, criteria, and success factors.
- G. In compliance with the Government's initiative of "Streamlining Procurement Through Electronic Commerce," and presenting a "singleface" to industry, the Contractor shall strive to implement, within available funding, an Electronic Commerce System that will generate a paperless, automated, integrated procurement/payment system. This system shall, to the maximum practicable extent, subject to DOE approval, allow for electronic

request for quotations, quotations, purchase orders, electronic invoices, and remittance advices; full integration between the procurement, receiving, inventory control and accounting systems; and accounting system programs that compare invoices, receipts, and orders and automatically issue electronic funds transfer payments.

## **H.20 LIMITATION ON SUBCONTRACTOR PERIOD OF PERFORMANCE**

Subcontracts awarded under this contract with Major Subcontractors shall be limited to 2 years, with options for up to 3 additional years (as appropriate), unless awarded on a fixed-price competitive basis. In addition, cost reimbursable subcontracts estimated to exceed \$5,000,000 shall be subject to this limitation unless otherwise approved by DOE. This limitation shall apply to other subcontracts as identified from time to time by the DOE. The Contractor shall include the contract clause entitled, Exercise of Option(s), in its entirety, in all subcontracts awarded subject to this limitation. If at the Government's option the contract is extended for an additional period beyond the initial five year period, then Major Subcontractors whose performance warrants may be extended for an additional two year period with options for up to an additional three years.

## **H.21 ASSIGNMENT OF SUBCONTRACTS**

- A. Existing subcontractor contractual agreements (exclusive of the WHC subcontracts with ICF Kaiser Engineers Hanford and Boeing Computer Services Richland), unless otherwise determined by DOE, shall be assigned to the successor Contractor effective October 1, 1996. The subcontractor contractual agreements shall include all (1) subcontracts and purchase orders, (2) agreements with domestic and foreign research organizations, (3) agreements with universities and colleges, and (4) other similar agreements. This assignment does not include any collective bargaining agreements the predecessor Contractor may have with certified collective bargaining agents.
- B. The Government reserves the right to direct the Contractor to assign to the Government or another Contractor any subcontract awarded under this contract, including sub-tier subcontracts.

## **H.22 INFORMATION**

### **A. Management of Information Resources**

The Contractor shall design and implement Information Resources Management (IRM) capabilities for the Hanford Site in accordance with the Office of Management and Budget (OMB) Circular A-130, Management of Federal Information Resources. The

Contractor shall flow down the provisions of OMB Circular A-130 to all Major Subcontractors.

B. Release of Information

- (1) Working with the RL Office of External Affairs (OEA) and the Records Manager when appropriate, the Contractor shall be responsible for developing, planning, and coordinating proactive approaches to timely dissemination of information regarding DOE unclassified activities onsite and offsite.
- (2) The Contractor shall be responsible for following DOE guidelines and/or procedures for all oral, written and audio/visual information material prepared for public use, including technical information.

C. Unclassified, Controlled, Nuclear Information (UCNI)

Documents originated by the Contractor or furnished by the Government to the Contractor, in connection with this contract, may contain Unclassified, Controlled, Nuclear Information as determined pursuant to Section 148 of the Atomic Energy Act of 1954, as amended. The Contractor shall be responsible for protecting such information from unauthorized dissemination in accordance with DOE regulations and directives and the contract clauses entitled "Security" and "Classification/Declassification."

D. Confidentiality of Information

To the extent that the work under this contract requires that the Contractor be given access to confidential or proprietary business, technical, or financial information belonging to the Government or other companies, the Contractor shall, after receipt thereof, treat such information as confidential and agrees not to appropriate such information to its own use or to disclose such information to third parties unless specifically authorized by the Contracting Officer in writing. The foregoing obligations, however, shall not apply to:

- (1) Information which, at the time of receipt by the Contractor, is in the public domain;
- (2) Information which is published after receipt thereof by the Contractor or otherwise becomes part of the public domain through no fault of the Contractor;



- (3) Information which the Contractor can demonstrate was in its possession at the time of receipt thereof and was not acquired directly or indirectly from the Government or other companies;
- (4) Information which the Contractor can demonstrate was received by it from a third party who did not require the Contractor to hold it in confidence.

The Contractor shall obtain the written agreement, in a form satisfactory to the Contracting Officer, of each employee permitted access to such information, whereby the employee agrees that he will not discuss, divulge or disclose any such information or data to any person or entity except those persons within the Contractor's organization directly concerned with the performance of the contract.

The Contractor agrees, if requested by the Government, to sign an agreement identical, in all material respects, to the provisions of this subparagraph D., with each company supplying information to the Contractor under this contract, and to supply a copy of such agreement to the Contracting Officer. From time to time upon request of the Contracting Officer, the Contractor shall supply the Government with reports itemizing information received as confidential or proprietary and setting forth the company or companies from which the Contractor received such information.

The Contractor agrees that upon request by DOE, it will execute a DOE-approved agreement with any party whose facilities or proprietary data it is given access to or is furnished, restricting use and disclosure of the data or the information obtained from the facilities. Upon request by DOE, such an agreement shall also be signed by Contractor personnel.

- E. The Government reserves the right to require the Contractor to include this clause or a modified version of this clause in any subcontract as directed in writing by the Contracting Officer.

## **H.23 OWNERSHIP OF RECORDS**

### **A. Government's 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 process of the work or, in any event, as the Contracting Officer shall direct upon completion or termination of the

contract. Privileged and confidential legal documents prepared by or for Contractors that are not reimbursed under the contract are excluded.

All occupational health records generated during the performance of Hanford-related activities will be maintained by the Hanford Environmental Health Foundation (HEHF) and are the property of DOE.

All radiation exposure records generated during the performance of Hanford-related activities will be maintained by the Pacific Northwest National Laboratory (PNNL) and are the property of DOE.

**B. Contractor's Own Records**

The following records are considered the property of the Contractor and are not within the scope of paragraph A above:

- (1) Employment-related records such as the following:
  - Personnel files maintained on current individual employees, or Major Subcontractor employees
  - Files maintained on applicants, or Major Subcontractor applicants
  - Qualifications or suitability for employment
  - Allegations, investigations, and resolution of employee misconduct
  - Employee discipline
  - Records on salary and employee benefits
  - Labor negotiations records
  - Employee concern program records
  - Employee assistance program 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 (DEAR) 970.5204-9, Accounts, Records, and Inspection, are described as the property of the Government; and
- (4) 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 1324.5B, Records Management Program and DOE Records Schedules (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. 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. Flow Down

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 (DEAR) 970.5204-2, Integration of Environment, Safety, and Health into Work Planning and Execution, or similar clause.

**H.24 PRIVACY ACT SYSTEMS OF RECORDS**

- A. The Contractor shall design, develop, or adopt the following systems of records on individuals to accomplish an agency function pursuant to the contract clause entitled "Privacy Act."

<u>System No.</u>	<u>Title</u>
DOE-5	Personnel Records of Former Contractor Employees
DOE-11	Emergency Locator Records
DOE-13	Payroll & Locator Records
DOE-14	Report of Compensation
DOE-15	Payroll & Pay-Related Data for Employees of Terminated Contractors
DOE-23	Richland Property System
DOE-28	General Training Records

DOE-31	Firearms Qualifications Requirements
DOE-32	Gov't Motor Vehicle Operator Records
DOE-33	Personnel Medical Records
DOE-35	Personnel Radiation Exposure Records
DOE-40	Contractor Employees Insurance Claims
DOE-43	Personnel Security File
DOE-47	Security Investigations
DOE-51	Employee and Visitor Access Control Records
DOE-53	Access Authorization for ADP Equipment
DOE-58	General Correspondence Files
DOE-81	Counterintelligence Administrative and Analytical Reports
DOE-84	Counterintelligence Investigative Records

- B. The above list shall be revised from time to time by mutual agreement between the Contractor and the Contracting Officer as necessary to keep it current. A formal modification to the contract is not required to incorporate these revisions; but, the revisions become effective upon mutual agreement of the parties. The mutually agreed upon revisions shall have the same effect as if actually listed above for the purpose of satisfying the listing requirement contained in paragraph (a)(1) of the contract clause entitled "Privacy Act." The revisions will be formally incorporated per the next annual contract update modification, unless added sooner by the Contracting Officer.

## H.25 PAYMENTS AND ADVANCES

### A. Payment of Fee Amounts Earned

Fee 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 fee payments may be withdrawn against the letter-of-credit without prior written approval of the Contracting Officer.

### B. Payments on Account of Allowable Costs

Allowable costs, determined in accordance with the cost principles in Subpart 31.2 of the Federal Acquisition Regulation (FAR) as supplemented by Subpart 931.2 of the Department of Energy Acquisition Regulations (DEAR), and other items as approved in writing by the Contracting Officer, shall be made from advances of Government funds limited by Section B.2. "Obligation of 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 therefor 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. Final FDH Incurred Cost Submittal

Proposed charge-out rates for the following fiscal year will be submitted each year in accordance with direction provided in the Baseline Updating Guidance issued in the spring of each year pertaining to the subsequent execution year and outyears.

- (1) The Contractor shall submit an adequate final incurred cost submittal to the Contracting Officer (or cognizant Federal agency official) and auditor within the 6-month period following the expiration of each of its fiscal years. Reasonable extensions, for exceptional circumstances only, may be requested in writing by the Contractor and granted in writing by the Contracting Officer. The Contractor shall support its proposal with adequate supporting data.
  - (i) The submitted cost shall be based on the Contractor's actual cost experience for that period. The appropriate Government representative and the Contractor shall establish the final indirect cost rates incurred costs as promptly as practical after receipt of the Contractor's proposal.
  - (ii) Failure by the parties to agree on final annual incurred cost shall be a dispute within the meaning of the Disputes clause.
- (2) Quick-closeout procedures. Quick-closeout procedures are applicable when the conditions in FAR 42.708(a) are satisfied.

D. Special Financial Institution Account Use

All advances of Government funds shall be withdrawn pursuant to a letter-of-credit in favor of the bank or, at the option of the Government, shall be made by direct payment or any other payment mechanism to the Contractor, and shall be deposited only in the Special Demand Deposit Account referred to in the Special Bank Account Agreement, which is incorporated into this contract included in Section J. No part of the funds in the Special Demand Deposit Account shall be (1) commingled with any funds of the Contractor or (2) used for a purpose other than that of making payments for costs allowable and, if approved, fees earned under this contract or payments for other items

specifically approved in writing by the Contracting Officer. If the Contracting Officer determines that the balance of such Special Demand Deposit Account exceeds the Contractor's current needs, the Contractor shall promptly make such disposition of the excess as the Contracting Officer may direct.

E. Title to Funds Advanced

Title to the unexpended balance of any funds advanced and of any Special Demand Deposit Account established pursuant to this clause shall remain in the Government and be superior to any claim or lien of the bank 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.

F. Certification and Penalties

The Contractor shall prepare and submit a monthly voucher for the total of costs incurred and accrued for the period covered by the voucher. It is anticipated that this will be a monthly submission unless otherwise agreed to by the Contracting Officer. Vouchers must be formatted in a manner approved by the Contracting Officer. Along with Accompanying the annual final indirect incurred cost submission the Contractor shall provide a certification subject to the penalty provisions for unallowable costs as stated in the contract clause, "52.242-3, Penalties for Unallowable Costs."

G. Financial Settlement

The Government shall promptly pay to the Contractor the unpaid balance of allowable costs and earned 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:

- (1) 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 this contract;
- (2) A closing financial statement;

- (3) The accounting for Government-owned property required by the clause entitled "Property;" and
- (4) 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 should provide prompt notice to the Contracting Officer of all potential claims under this clause, whether in litigation or not (see also the contract clause entitled, "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.

In arriving at the amount due the Contractor under this clause, there shall be deducted, (1) any claim which the Government may have against the Contractor in connection with this contract, and (2) deductions due under the term of this contract, and not otherwise recovered by or credited to the Government. The unliquidated balance of the Special Demand Deposit Account may be applied to the amount due and any balance shall be returned to the Government forthwith.

#### H. Claims

Claims for credit against funds advanced for payment shall be accompanied by such supporting documents and justification, as the Contracting Officer shall prescribe.



I. 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.

J. Collections

All collections accruing to the Contractor in connection with the work under this contract, except for the Contractor's fee and royalties 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 and, to the extent consistent with those requirements, shall be deposited in the Special Demand Deposit Account or otherwise made available for payment of allowable costs under this contract, unless otherwise directed by the Contracting Officer.

K. 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 therefor.

**H.26 ASSIGNMENT OF DOE PRIME CONTRACTS**

During the period of performance of this contract it may become necessary for the U.S. Department of Energy (DOE) to transfer and assign (and Contractor agrees to accept) existing or future DOE prime contracts supporting site work to this contract. The transfer of these prime contracts will be for administration purposes and in effect the transferred contracts will become subcontracts to this contract. Details of the transfer will be determined by the DOE prior to the transfer. Any recommendations and/or suggestions on individual transfers should be submitted in writing to the Contracting Officer prior to the transfer or assignment.

**H.27 GOVERNMENT-OWNED PROPERTY**

During the contract period of performance, the Contractor will continue to be accountable for all existing and acquired Government-owned property recordable in the Richland Property System and all special nuclear material as identified in the Nuclear Material Management and

Safeguards System. In addition, the Contractor will be responsible for updating these systems to reflect changes in property or special nuclear materials inventory.

## **H.28 ADVANCE UNDERSTANDING ON PERSONNEL COSTS, POLICIES AND PROCEDURES**

The DOE has reached an advance understanding with the Contractor on certain personnel costs, related expenses, policies, and procedures. These costs are those associated with personnel policies and procedures which the Contractor will apply to work under this contract. Advance review by DOE and written approval by the Contracting Officer of such personnel policies and procedures is required. Any exceptions noted in the Contracting Officer's written approval will govern the Contractor's application of the personnel policies and procedures under this contract. Any deviation from the personnel policies and procedures so approved must have DOE approval before costs occasioned thereby will be considered allowable (either direct or indirect) under the subject contract. In addition, DOE approval will be required for total annual compensation paid to each person designated as Key Personnel and identified in the contract clause entitled "Key Personnel," exclusive of bonus or incentive compensation pay which will not be an allowable cost under this contract. The Advance Understanding will be part of this contract and included in Section J.

## **H.29 LEGAL DEFENSE AND REIMBURSEMENT OF CONTRACTOR PROTECTIVE FORCE OFFICERS**

- A. It is Government policy to have the Contractor defend any Contractor or subcontractor protective force officer if a claim or legal action is brought against the employee as a result of that employee's conduct while performing duties undertaken by the employee in good faith for the purpose of accomplishing and fulfilling the official duties of his/her employment. The prior approval of the Contracting Officer shall be obtained before any such defense is undertaken.
- B. When involved in any claim or legal action covered by this clause, an employee may, with prior approval of the Contracting Officer, be allowed time off with basic pay on scheduled workdays for consultation with counsel, trial attendance, and other matters as are reasonably incident to the claim or legal action.

## **H.30 RESERVED**

## **H.31 RESERVED**

### **H.32 RETRAINING FOR DISPLACED EMPLOYEES**

- A. Salaried and hourly employees whose jobs are likely to be eliminated due to changes in the Contractor's scope of work, budgetary reductions, or efficiencies in performing the mission who are covered by the terms of section 3161 may be offered opportunities for retraining. Retraining programs will be designed to provide occupational skills which are in demand by the Contractor or by other employers locally, regionally, or nationally, as appropriate. Tuition payments for courses to qualify displaced employees for outside employment may be approved by the Contractor. Retraining for outside employment may be conducted during working hours under programs approved by DOE.
- B. When actual or potential employment termination is the result of a work force restructuring plan prepared by the Department pursuant to section 3161, the Contractor shall comply with the DOE approved plan. This plan may prescribe funding amounts for retraining eligible workers for new Contractor jobs in environmental cleanup, and may prescribe funding amounts and procedures for providing displaced workers with tuition reimbursement for training or education that will assist the transition to new careers.

### **H.33 TRANSFER-RELOCATION ALLOWANCE**

- A. An allowance for transfers and relocations accomplished pursuant to section 3161 may be reimbursed with an outbound and an inbound allowance not to exceed the employee's receipted expenses up to 4-1/3 weeks salary, except that a flat amount not to exceed one thousand dollars (\$1,000.00) may be allowed in lieu of receipted expenses.
- B. When actual or potential employment termination is the result of a work force restructuring plan prepared by the Department pursuant to section 3161, the Contractor shall comply with the plan. This plan may prescribe funding amounts for relocating an eligible employee to another company at another DOE site when the employee does not qualify for relocation assistance under the hiring Contractor's policies.

### **H.34 LABOR RELATIONS**

- A. The Contractor, or its Major Subcontractors, will respect the rights of employees (1) to organize, form, join, or assist labor organizations; bargain collectively through representatives of the employees own choosing; and engage in other protected concerted activities for the purpose of collective bargaining, or (2) to refrain from such activities.

- B. To the extent required by law, the Contractor or its Major Subcontractors shall give notice to any lawfully designated representative of its employees for purposes of collective bargaining and, upon proper request, bargain to good faith impasses or agreement, or otherwise satisfy applicable bargaining obligations.
- C. The Contractor shall promptly advise the Contracting Officer of, and provide all appropriate documentation regarding, any labor relations developments at the prime or subcontract level that involve or appear likely to involve:
- (1) Possible strike situations affecting the facility;
  - (2) Referral to the Energy Labor-Management Relations Panel;
  - (3) The National Labor Relations Board at any level;
  - (4) Recourse to procedures under the Labor-Management Act of 1947, as amended, or any other Federal or state labor law; or
  - (5) Any grievance that may reasonably be assumed to be arbitrated under a Collective Bargaining Agreement.
- D. Cost of wages and fringe benefits, to employees represented by collective bargaining units, not in excess of those provided in the collective bargaining agreements listed below, shall be allowable. The costs associated with grievance processing and settlements, arbitration, and arbitration awards shall be allowable in accordance with the provisions of the contract clause entitled "Insurance - Litigation and Claims." All other costs and expenses incurred pursuant to the provision of the collective bargaining agreements and revisions thereto listed below are allowable costs hereunder.

### **H.35 DETERMINATION OF APPROPRIATE LABOR STANDARDS**

DOE shall determine the appropriate labor standards in accordance with the Davis-Bacon Act, which shall apply to work performed under this contract. Where requested by DOE, the Contractor shall provide such information in the form and timeframe required by DOE, as may be necessary for DOE to make such labor standards determinations. The Contractor will then be responsible for ensuring that the appropriate labor standards provisions are included in subcontracts.

### **H.36 SERVICE CONTRACT ACT (SCA) WAGE DETERMINATION**

For any subcontract subject wholly or in part to the provisions of the McNamara-O'Hara Service Contract Act (SCA), the Contractor shall require the subcontractor to pay service employees employed thereunder no less than the minimum wage and fringe benefits set forth in the applicable currently effective wage determination(s). Prior to the beginning of each contract year/option period, the agency Contracting Officer shall file a request for a revised wage determination (WD) with the U.S. Department of Labor. Any revised WD received shall be incorporated into the affected subcontract by modification.

### **H.37 HANFORD SITE STABILIZATION AGREEMENT**

- A. The Site Stabilization Agreement for all construction work for the DOE at the Hanford Site consists of a Basic Agreement dated September 10, 1984, plus an Appendix A. (The Site Stabilization Agreement is available in the DOE Public Reading Room. The Site Stabilization Agreement will be made a part of this contract by reference upon award. The Contractor shall be required to comply with the most current Site Stabilization Agreement, and as modified throughout performance of the contract.)
- B. This clause applies to employees performing work under RL contracts or subcontracts subject to the Davis-Bacon Act, in the classifications set forth in the Site Stabilization Agreement for work performed at the Hanford Site.
- C. Contractors and subcontractors at all tiers who are parties to an agreement(s) for construction work with a Local Union having jurisdiction over RL construction work performed at the Hanford Site, or who are parties to a national labor agreement for such construction work, shall become signatory to the Site Stabilization Agreement and shall abide by all of its provisions, including its Appendix A. Subcontractors at all tiers who have subcontracts with a signatory Contractor or subcontractor shall become signatory to the Site Stabilization Agreement and shall abide by all of its provisions, including its Appendix A.
- D. Contractors and subcontractors at all tiers who are not signatory to the Site Stabilization Agreement and who are not required under paragraph C above to become signatory to the Site Stabilization Agreement shall pay not less and no more than the wages, fringe benefits, and other employee compensation set forth in Appendix A and shall adhere, except as otherwise directed by the Contracting Officer, to the following provisions of the Site Stabilization Agreement:
  - 1. Article VII Employment, Section 2 only

2. Article XII Non-Signatory Contractor Requirements
  3. Article XIII Hours of Work, Shifts, and Overtime
  4. Article XIV Holidays
  5. Article XV Wage Scales and Fringe Benefits,  
Sections 1 & 2 only
  6. Article XVII Payment of Wages-Checking In & Out,  
Section 3 only
  7. Article XX General Working Conditions
  8. Article XXI Safety and Health
- E. The Contractor agrees to make no contributions in connection with this contract to Industry Promotion Funds, or similar funds, except with the prior approval of the Contracting Officer.
- F. The obligation of the Contractor and its subcontractors to pay fringe benefits shall be discharged by making payments required by this contract in accordance with the provisions of the amendments to the Davis-Bacon Act contained in the Act of July 2, 1964, (Public Law 88-349-78 Stat. 238-239) and the Department of Labor regulations in implementation thereof (29 CFR, Parts 1,3,5).
- G. The Contracting Officer may direct the Contractor to pay amounts for wages, fringe benefits, and other employee compensation if the Site Stabilization Agreement, including its Appendix A, is modified by the involved parties.
- H. (1) In the event of failure to comply with paragraphs C, D, E, F, and G above, or failure to perform any of the obligations imposed upon the Contractor and its subcontractors, the Contracting Officer may withhold any payments due to the Contractor and may terminate the contract for default.
- (2) The rights and remedies of the Government provided in this paragraph (1) above shall not be exclusive and are in addition to any other rights and remedies of the Government provided by law or under this contract.
- I. The requirements of this paragraph are in addition to, and shall not relieve the Contractor of any obligation imposed by other clauses of this contract, including those entitled

"Davis-Bacon Act," "Contract Work Hours and Safety Standards Act-Overtime Compensation," "Payrolls and Basic Records," "Compliance with Copeland Act Requirements," "Withholding of Funds," and "Contract Termination--Debarment."

- J. The Contractor agrees to maintain its bid or proposal records showing rates and amounts used for computing wages and other compensation, and its payroll and personnel records during the course of work subject to this paragraph, and to preserve such records for a period of 3 years thereafter for all employees performing such work. Such records will contain the name, address, social security number of each such employee, correct classification, rate of pay, daily and weekly number of hours worked, and dates and hours of the day within which work was performed, deductions made, and amounts for wages and other compensation covered by paragraphs C, D, E, F, and G. of this contract clause. The Contractor agrees to make these records available for inspection by the Contracting Officer and will permit employee interviews during working hours on the job.
- K. The Contractor agrees to insert this clause, including this paragraph K, in all subcontracts for the performance of work subject to the Davis-Bacon Act.

#### **H.38 INSURANCE - LITIGATION AND CLAIMS**

- A. The Contractor may, with the prior written authorization of the Contracting Officer or its designee, 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 or its designee.
- B. The Contractor shall give the Contracting Officer and Chief Counsel RL, 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 or its designee 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 or its designee, shall proceed with such litigation in good faith and as directed from time to time by the Contracting Officer or its designee.
- 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 directed 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."
- 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 clause, 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;



- (2) For which the Contractor has failed to insure or to maintain insurance as required by law, this contract, or by written direction of the Contracting Officer.
- H.
- (1) In addition to the cost reimbursement limitations contained in DEAR 970.3103-3, and notwithstanding any other provision of this contract, the Contractor's liabilities to third persons, including employees but excluding costs incidental to workers' 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.
    - (i) Willful misconduct
    - (ii) Lack of good faith, or
    - (iii) 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.
  - (2) Any costs incurred by the Contractor which are affirmatively established as the direct result of the actions of the Yakama Indian Nation (YIN) performing Fisheries Resource Management (FRM) Program activities shall be deemed allowable costs and reimbursable under the PHMC contract. This authorization relieves the Contractor from obtaining all Government approvals required for the activities conducted by YIN FRM Program; it does not however relieve the Contractor from obtaining all Government approvals required for PHMC activities conducted pursuant to DOE direction.
- 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 (DEAR) 970.5204-21.
  - (5) 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 unreimbursable costs incurred in connection with contract performance.
- K. 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 or its designee 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.

### **H.39 FINANCIAL MANAGEMENT SYSTEM**

- A. The Contractor's accounting system must have the electronic capability to generate and transmit by acceptable mode, the periodic detailed accounting information, at a minimum monthly and at year-end, to the DOE's Primary Accounting System for reporting financial activity under this contract in accordance with DOE requirements.
- B. The Contractor shall maintain and administer a financial management system as described in the Management and Integration Plan that (1) is suitable to provide proper accounting in accordance with Generally Accepted Accounting Principles, and Cost Accounting Standards, except as modified by DOE requirements; (2) provides accurate and reliable financial and statistical data on a timely basis; (3) ensures accountability for all assets; (4) supports financial planning and budget formulation, validation, execution, and the recasting or changing of DOE funding or task codes such as Budget and Reporting Numbers (B&R), activity data sheet numbers (ADS), and local projects/tasks; (5) maintains proper funding authorization; (6) provides sufficient management controls per DEAR 970.5204-20 MANAGEMENT CONTROLS, and internal controls; (7) integrates and reports the financial information for subcontractors; and (8) provides all other necessary financial reports, which shall include accumulating and reporting indirect and support costs by function. The Contractor will be requested, periodically, to provide certain functional cost information not normally provided to DOE on a routine basis, but should be otherwise available through query of the Contractor's accounting system.
- C. The Contractor will assume existing responsibilities for accounting control of special nuclear materials. The Contractor will continue to operate the classified Departmental Inventory Management System (DIMS), which reports the financial aspects of special nuclear material inventory changes and status.
- D. The Contractor shall submit a plan for DOE approval of any substantive change to the financial management system or subsystems at least 60 days in advance of implementation. This plan must identify the cost and schedule for changing from the existing financial systems, and provide a comparison of the capabilities of the new system(s) to the existing system(s).
- E. The financial management systems of Major Subcontractors shall have the same level of detail required of the Contractor and be consistent with the requirements of this clause.

#### H.40 COSTS ASSOCIATED WITH WHISTLEBLOWER ACTIONS

##### A. Definitions

- (1) Adverse Determination means.
  - (i) A judgement of liability against the Contractor and in favor of the employee in an action in a judicial forum;
  - (ii) A recommended decision under 29 CFR 24.6 by an Administrative Law Judge that the Contractor has violated the employee provisions of the statutes or executive orders for which the Secretary of Labor has been assigned enforcement responsibility;
  - (iii) An initial agency decision, under 10 CFR 708.10 that the Contractor has engaged in conduct prohibited by 10 CFR 708.5;
  - (iv) Any decision against the Contractor by the head of an executive agency under § 6006 of the Federal Acquisition Streamlining Act, Pub. L. 103-355 (adding section 315 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251, *et seq.*), see paragraph C);
- (2) Retaliatory or Discriminatory Acts mean(s) discharge, demotion, reduction in pay, coercion, restraint, threats, intimidation or other similar negative action taken against an employee by the Contractor during the term of this contract as a result of activities protected by the statutes enumerated in 29 CFR 24.1(a) or as a result of the employee's disclosure of information, participation in a proceeding or refusal to engage in illegal or dangerous activities as set forth in 10 CFR 708.5(a).
- (3) Employee Action means an action filed in Federal or state court for redress of retaliatory or discriminatory action by the Contractor, any administrative procedure brought by an employee or federal agency under 29 CFR Part 24, or any other complaint filed against the Contractor for retaliatory or discriminatory acts under 10 CFR Part 708 by an employee of any other Contractor or subcontractor which is cognizable under 10 CFR 708.
- (4) Litigation Costs include attorney, consultant, and expert witness fees, but exclude costs of settlements and judgements.

- B. All costs incurred in the investigation and/or defense of an employee action under this contract clause shall be differentiated and accounted for by the Contractor so as to be separately identifiable. Subsequent to an adverse determination, such costs, as well as costs associated with any interim relief which may be granted, may not be paid from any advanced funding provided pursuant to this contract. Notwithstanding the foregoing, the Contracting Officer may, in appropriate circumstances, provide for conditional payment upon provisions of adequate security, or other adequate assurance, and agreements by the Contractor to repay all litigation costs incurred subsequent to an adverse determination, as well as any interim relief cost, plus interest, unless there is a final determination that the Contractor is not liable for any retaliatory or discriminatory acts. The allowance of such costs, notwithstanding any other provision of the contract, will be determined in accordance with this clause.
- C. Litigation costs and settlement costs incurred in connection with the defense of, or a settlement of, an employee action are allowable if incurred by the Contractor before any adverse determination of the employee's claim, if approved as just and reasonable by the Contracting Officer and otherwise allowable under the contract. Costs incurred in pursuit of mediation or other forms of alternative dispute resolution are allowable, if approved as just and reasonable by the Contracting Officer, and no adverse determination of the employee's claim has occurred. Additionally, the Contracting Officer may, in appropriate circumstances, reimburse the Contractor for litigation costs and costs of judgements and settlements which, in aggregate, do not exceed any prior settlement offer approved by the Contracting Officer and rejected by the employee.
- D. Except as provided in paragraphs C, E, and F of this clause, any other cost associated with an employee action (including litigation costs connected with, a judgement resulting from, or settlement subsequent to the employee action) are not allowable unless the Contractor receives a judgement or final determination favorable to the Contractor. In such event, reasonable litigation costs incurred by the Contractor are allowable, and the Contractor may submit a request for reimbursement for all such costs incurred subsequent to the adverse determination.
- E. Costs incurred by the Contractor as a result of an employee action for retaliatory or discriminatory acts that resulted from compliance with either (1) specific terms and conditions of the contract or (2) written instructions from the Contracting Officer shall be allowable.

Reasonable litigation costs and settlement costs incurred by, and judgements entered by the Office of Hearings and Appeals against, the Contractor as a result of an employee action for discrimination under 10 CFR 708 are allowable where the Office of Contractor Employee Protection has issued a proposed disposition denying the relief being sought by

the employee and the employee requests a hearing by the Office of Hearings and Appeals.

- F. The provisions of this clause shall not apply to the defense of suits by employees or ex-employees of the Contractor under FAR 31.205-47.
- G. The Contractor shall insert or have inserted the substance of this clause in all cost reimbursement subcontracts, with respect to work performed at a DOE-owned or -leased facility where 10 CFR 708 is also applicable under provisions of the contract clause entitled "Whistleblower Protection for Contractor Employees."

#### **H.41 PERFORMANCE OBJECTIVES, MEASURES, EXPECTATIONS, AND FEE DISTRIBUTION**

##### **A. Establishment of Baseline Performance Incentives**

The Government will develop performance objectives, measures, and expectations along with related fee distribution for the coming fiscal year which, after discussion with the Contractor, will be unilaterally added to the contract. The performance incentives and fee distribution will reflect the priority and importance that DOE places on accomplishment of key results. The Contractor may propose additional performance objectives, measures, and expectations which may be negotiated prior to placement in the contract. The final determination of incentives and related fee distribution will be made solely by DOE and DOE may unilaterally add any and all of them in a modification to this contract. However, if the Contractor disagrees with the established objectives, measures, expectations, and related fee distribution, the Contractor may appeal the determination to the RL Manager. However, the final decision by the RL Manager shall not be subject to the contract clause entitled "Disputes - Alternate I," or otherwise subject to litigation under the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). The objectives, measures, expectations, and related fee distribution will be set forth in Section J, Appendix D, of this contract.

##### **B. Performance Incentive**

After determination of objectives, measures, expectations, and related fee distribution for a fiscal year, the Contractor and DOE shall execute Performance Incentives in the format included in Section J, Appendix D, for each incentive. The Performance Incentives set forth the agreed upon criteria/specifications for acceptable performance of such objectives, measures, and expectations. The criteria/specifications set forth in the Performance Incentives shall be mutually agreed to by both DOE and the Contractor. In the event the parties cannot mutually agree, the final decision shall be made solely by the

RL Manager, and shall not be subject to the contract clause entitled "Disputes - Alternate I," or otherwise subject to litigation under the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).

C. Interference

In the event the Contractor believes the DOE has interfered with its ability to meet specific performance incentives, it may present evidence to support this position along with a proposed adjustment to the RL Manager. The RL Manager will make a determination and provide a copy of that determination to the Contractor. The RL Manager's determination will be final and not subject to the contract clause entitled, "Disputes-Alternate I," or otherwise subject to litigation under the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).

D. Positive and Negative Incentives

A critical few of the performance objectives, measures, and/or expectations have fee directly assigned to their accomplishment, or have a negative deduction from earned fee for failure to accomplish. A lesser number of the expectations may be incentivized positively and/or negatively over and above the other fee assigned. If fee is assigned to an objective or measure, then in order to receive the fee amount set out for a single objective or measure, all performance expectations supporting that objective or measure must be met. If one or more of the expectations is not met, none of the fee associated with the objective or measure will be paid. If a performance expectation has an incentive level which is met, an incentive fee would be paid in addition to any fee earned for accomplishment of the objective, measure, and/or expectation. In addition, if the incentivized expectation is accomplished, its incentive fee portion would be paid regardless of whether or not the fee was earned on the overall objective or measure. Certain of the objectives, measures, and/or expectations may have a negative deduction set out. If the negative level of performance is not surpassed, no fee will be paid for these objectives, measures and/or expectations and further the negative deduction will be made from other fees earned. In no event, however, would the aggregate of all negative deductions exceed the amount of fee earned for the given Fiscal Year. Furthermore, for FY 1999, and 2000, the aggregate of all negative deductions actually invoked shall not exceed 20% of the total available fee for all Performance Incentives, excluding the FY 1999 fee for the Performance Expectation Plan.

E. Accomplishment of Incentives

In order for any expectation to be considered performed, not only must it meet the criteria of the Performance Incentive, but the work must be accomplished within the approved

cost and schedule thresholds specified in the PI, as modified through the Change Control process.

F. Fee Re-Allocation due to Cancellation or Changes

If, for any reason, DOE cancels an objective, measure, and/or expectation, the fee attached to that objective, measure, and/or expectation shall be reallocated to a new objective, measure, and/or expectation or to existing other objectives, measures, and/or expectations or to both new and existing objectives, measures, and/or expectations. The decision as to the new objective, measure and/or expectation and/or the decision as to which existing objectives, measures, and/or expectations fee may be reallocated, is at DOE's unilateral discretion.

G. Fee Determination at End of Period

At the conclusion of the annual performance period the government shall evaluate the Contractor's performance to determine the performance based fee earned during the year. The evaluation of performance against objectives, measures, and expectations will be a consideration in (1) incentive fee determinations by the RL Manager, (2) in the DOE decision whether or not to exercise the option to extend the contract, and (3) in the DOE decision whether to terminate the contract for default. The final determination on the acceptability of the work performed by the Contractor under this provision and incentive fee determination shall be made solely by the RL Manager.

H. Superstretch Incentives

To challenge the Contractor to accomplish significant, mission critical, superstretch goals that are in the best interest of the Government, significantly accelerates outyear workscope identified in the DOE-approved baseline, and motivate the Contractor to extraordinary performance, the following incentive provision is established:

Performance incentives addressing superstretch goals should be developed prior to the beginning of the fiscal year, but may be developed and implemented during the fiscal year on a limited basis. The Contractor shall coordinate with the RL Manager or designee to identify superstretch goals. The fee for accomplishment of superstretch goals will be paid from a share of the cost of the accelerated work and will be outside the fee pool identified in the clause entitled "Estimated Cost and Fee." The accelerated workscope must be identified and authorized by a duly approved Advanced Work Authorization (AWA) that must be approved by the RL Manager prior to the Contractor beginning work. Once approved, the Contractor shall prepare and submit a Baseline Change Request (BCR) to RL within 15 days. The BCR shall document the scope, cost,



and schedule changes necessary to incorporate the accelerated workscope into the baseline. The superstretch costs will be identified in the BCR and will include fee at the rate up to 20% of the revised BCWS of the accelerated workscope. A copy of the performance incentive shall be attached to the BCR.

The BCR will be processed through the FDH and RL Change Control Boards. When the work is complete, a package documenting completion of the work will be prepared and submitted to DOE for approval. Approval of the completion package by DOE will authorize payment to the Contractor of the fee earned. To earn fee associated with a superstretch incentive, the workscope associated with the superstretch incentive must be completed in the fiscal year that the savings were realized.

The superstretch performance incentives must be performed in accordance with the cost and schedule criteria identified in the performance incentive. The cost savings must be realized through efficiencies and/or workscope deletions and not deferrals.

Fee payments from accomplishment of superstretch goals will be separate from and not subject to or impact the provisional payment of fee limitations described in the clause entitled, "Provisional Payment of Fee."

#### **H.42 SEGREGATION OF COSTS**

- A. Whenever the contract contains both fixed-price and cost-type efforts, the Contractor shall maintain separate accounts for each unique contract type by Contract Line Item Number (CLIN), by task order, or other suitable accounting procedure of all incurred segregable costs of work allocable to the work effort directly related to each contract.
- B. Whenever the contract contains a provision for an incentive for a portion of the work effort under the contract, the Contractor shall maintain separate accounts, by CLIN, task order, or other suitable accounting procedure of all incurred segregable costs of work allocable to the work effort directly related to the incentive.
- C. If the Contractor has initiated work pursuant to the contract clause entitled "Cost Savings Program," if included in this contract, regardless of whether or not a proposal has been accepted, the Contractor, for each cost savings incentive effort/proposal, shall maintain separate accounts, by CLIN, task order or other suitable accounting procedure, of all incurred segregable costs, both changed and not changed, allocable to the changed work effort set forth in the applicable Cost Savings Proposal.

- D. The Contractor shall maintain all such accounts, required pursuant to the paragraphs above, in accordance with this contract, but, in no case, for a period of less than 3 years following the Government's determination of the applicable incentive fee.

#### H.43 AVAILABLE FEE POOL

##### A. Fee Pool Allocation

It is DOE's intention that the Government will pay no more in the total available fee pool across the Hanford Site for the Contractor and its Major Subcontractors (including LMH as a separate prime Contractor to DOE starting in FY 2000) than if a single management and operating Contractor were operating the whole site. The total available fee pool under this contract will be no more than the maximum fee permitted under DEAR 970.1509 and 915.971-5 for a Defense Facility - A (See DEAR 970.1509-8(b)(6)). The Government may also create "superstretch" incentives that would allow the Contractor to earn additional fee outside the fee pool. The fee structure for the period October 1, 1996, through September 30, 1997 is allocated 100% Performance Fee. For each fiscal year thereafter, the Contracting Officer shall allocate the total available fee pool, set forth in Section B, for that fiscal year across the fee structure in accordance with the following:

<u>Fee/Incentive</u>	<u>Percentage</u>
Base Fee	0%
Award Fee	0%
Performance Fee	<u>100%</u>
Total Available Fee Pool	100%

The allocation shall be documented in the annual update to the Fee Plan contained in Section J, Appendix H.

##### B. Fee Pool Adjustment

However, if the estimated cost for that fiscal year, set forth in Section B, differs significantly from the estimated cost being set for that fiscal year following passage of the budget, the corresponding total available fee pool for that fiscal year may be increased or decreased unilaterally by the Contracting Officer. The aforementioned unilateral increase or decrease will be determined as follows:

The fiscal year total available fee pool of Section B will be multiplied by the following:

Estimated Cost Determined from Budget  
Estimated Cost for Fiscal Year in Section B

The estimated cost, total available fee pool and the contract fee structure, as it may be determined from the formulas above, for the new fiscal year shall be set forth in a modification unilaterally executed by the Contracting Officer. The amount of the total available fee pool or fiscal year allocation of the available fee across the fee structure hereunder shall not be subject to the contract clause entitled "Disputes - Alternate I."

If, at any time, the Contracting Officer determines that the amount of fee or fee structure is not commensurate with the scope of work or risk under the contract, the Contracting Officer may unilaterally decide, not subject to the contract clause entitled "Disputes - Alternate I," or otherwise subject to litigation under the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613), to enter into negotiations with the Contractor to determine a revision to the total available fee pool or fee structure.

**H.44 BASE FEE AND AWARD FEE (JUL 1991)**

**NOTE: This clause will not be applicable for FY 1997. In future years, the use of this clause will be subject to approval of the DOE Contracting Officer.**

A. Base Fee and Award Fee

It is herewith agreed that a base fee and an award fee, to be determined in accordance with the provisions of this clause, are available for payment in accordance with the contract clause entitled "Payments and Advances (Modified)."

B. Fiscal Year Fee Amounts

Prior to the beginning of each fiscal year under this contract, the Contracting Officer shall determine the amount of the base and award fee in accordance with the clause entitled "Available Fee Pool." This contract shall be unilaterally modified by the Contracting Officer to reflect fiscal year amounts for base and award fees. It is herein agreed the award fee amount shall be assigned to evaluation periods 6 months in duration. The fiscal year award and base fee amounts shall not be subject to the contract clause entitled "Disputes - Alternate I," or otherwise subject to litigation under the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).

C. Determination of Award Fee Earned

- (1) The Government shall, at the conclusion of each specified evaluation period, evaluate the Contractor's performance for a determination of award fee earned.
- (2) For this contract, the Government Fee Determination Official (FDO) will be the RL Manager. The Contractor agrees that the determination as to the amount of award fee earned will be made by the Government FDO and such determination is binding on both parties and shall not be subject to appeal under the contract clause entitled "Disputes - Alternate I," or otherwise subject to litigation under the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613), or any other appeal clause.
- (3) The evaluation of Contractor performance shall be in accordance with the Performance Evaluation Plan described in subparagraph D below. The Contractor shall be promptly advised in writing of the determination and the reasons why the award fee was or was not earned. While it is recognized that the basis for determination of the fee shall be the evaluation by the Government in accordance with the Performance Evaluation Plan (PEP), the FDO may also consider any information available to him or her which relates to the Contractor's performance of contract requirements identified in the Statement of Work as amended to include annual work authorization plans (or similar documents specifying work scope) regardless of whether or not those requirements are specifically identified in the PEP. To the extent the Contractor does not perform those requirements in accordance with the Statement of Work as amended to include annual work authorization plans (or similar documents specifying work scope), the FDO may reduce the fee determination. In the event that the Contractor's performance is considered unacceptable in any area of contract performance which is specified in the Performance Evaluation Plan, even if no weight or fee is specifically assigned to the particular performance area, the FDO may at his/her discretion determine the Contractor's overall performance to be unacceptable, and accordingly may withhold the entire award fee for the evaluation period.

D. Performance Evaluation Plan

- (1) The Government shall establish unilaterally a Performance Evaluation Plan upon which the determination of award fee shall be based. Such Plan shall include the criteria to be considered under each area evaluated and the percentage of award fee available for each area. A copy of the Plan shall be provided to the Contractor 30 calendar days prior to the start of an evaluation period.

- (2) The Performance Evaluation Plan will set forth the criteria upon which the Contractor will be evaluated for performance relating to any technical, schedule, management, and/or cost objectives selected for evaluation. Such criteria may be objective or subjective. The Plan shall also set forth a performance grading and fee conversion table establishing performance points and the percentage of available award fee earned for each performance point for outstanding, good, satisfactory, marginal, and unsatisfactory performance levels.
- (3) The Performance Evaluation Plan may, consistent with the contract statement of work, be revised unilaterally by the Government at any time during the period of performance. Notification of such changes shall be provided to the Contractor at least 90 calendar days prior to the end of the evaluation period in which the change will apply and at least thirty (30) calendar days prior to the change becoming effective.

E. Contractor Self-Assessment

Following each evaluation period, the Contractor shall submit a self-assessment within 7 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, including the areas within the Business Management Oversight Process. Where deficiencies in performance are noted, the Contractor shall describe the actions planned or taken to correct such deficiencies and avoid their recurrence. The FDO will review the Contractor's self-assessment, if submitted, as part of their evaluation of the Contractor's management during the period. An unrealistic self-assessment will result in lower award fee determinations. The Contractor will not be penalized for a realistic self-assessment, although deficiencies noted by the Contractor may be reflected in the Government's evaluation. The self-assessment itself will not be the basis for the award fee determination.

F. Schedule for Award Determinations

The FDO shall issue the final award fee determination in accordance with the schedule set forth in the Performance Evaluation Plan. However, a determination must be made within 60 calendar days after the receipt by the Contracting Officer of the Contractor's self-assessment discussed in paragraph E above, if required, or 75 calendar days after the end of the evaluation period. If the determination is delayed beyond that date, the Contractor shall be entitled to interest on the determined award fee amount 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 award fee determination amount 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 award fee and be subject to interest if not paid in the succeeding 30-day period.

#### H.45 COST SAVINGS PROGRAM

**Note: This clause will not be applicable for FY 1997. In future years, the use of this clause will be subject to approval of the DOE Contracting Officer.**

##### A. General

It is DOE's intent to have its facilities and laboratories operated in the most efficient and effective manner possible. To this end, the Contractor shall, in the performance of this contract, assess its operations and identify areas where efficiencies would bring cost reductions and savings to operations without adversely affecting the level of performance required by the contract.

The Contractor, to the maximum extent possible, will identify areas where efficiencies/streamlined work processes may result in cost reductions/savings. The Contractor will develop and submit Cost Savings Proposals (CSP) addressing such to the Contracting Officer for review. If accepted, the Contractor shall share in any net (Measurable, Near-Term) savings realized from accepted CSPs in accordance with the incentive sharing arrangement in paragraph G. below. Any CSP submitted pursuant to this clause shall be subject to cost and pricing data (reference contract clauses, "Price Reduction for Defective Cost or Pricing Data;" and "Subcontractor Cost or Pricing Data" of this contract.)

##### B. Definitions

"Measurable, Near-Term Savings" as used in this clause, mean cost savings that revert to DOE control and may be available for deobligation in the immediate fiscal year or that will become available for deobligation in the following fiscal year. Such savings may result from a specific cost reduction/savings effort which is broken out from other efforts and negotiated on a Cost Plus Incentive Fee (CPIF)/Fixed Price Incentive (FPI)/Firm Fixed Price (FFP) basis or may result directly from innovative new or changed designs, processes and/or methods initiated by the Contractor and applied to a specific project or program. Such new or changed designs, processes, and/or methods must demonstrate achievement of cost effectiveness in excess of that anticipated by the "expected

performance" level set forth in the Statement of Work (Work Authorization Directive, Multi-Year Program Plan, or similar document). Measurable, Near-Term Savings are the net savings that result from the difference in the estimated cost of performing an effort/project as originally planned and the actual cost of performing that same effort/project using a revised plan intended to reduce costs, along with any Contractor's Development, Contractor's Implementation and administrative costs (Optional) + DOE costs (Optional) associated with the revised plan. Such savings must result in funding being returned to the direct control of DOE in a separate management reserve account. Savings resulting from formal or informal direction given by DOE will not be considered as Measurable, Near-Term savings for purposes of this clause and will not qualify for incentive sharing. Savings resulting from changes in the mission or routine reorganization of the Contractor due to changes in the budget will not be considered as Measurable, Near-Term Savings for the purposes of this clause and will not qualify for incentive sharing. Measurable, Near-Term Savings shall be limited, for purposes of the sharing rate(s) set forth in paragraph G. below, to a period not to exceed the current fiscal year in which they were initiated and the next fiscal year. In order to qualify for sharing, the savings must be susceptible to deobligation from the instant contract, whether or not such deobligation takes place.

"Contractor's Development Cost," as used here, includes, but is not necessarily limited to, the cost of up front planning, engineering, prototyping, and testing of a design, process or method.

"Contractor's Implementation Cost," as used here, includes, but is not necessarily limited to, the cost of tooling, facilities, documentation, etc. required to effect a design, process or method change once it has been tested and approved.

"DOE costs," as used in this clause, refer to those DOE costs that result directly from implementing the CSP, such as any net increases in the cost of testing, operations, maintenance, and logistics support. The term does not include the normal administrative costs of processing the CSP.

"Administrative Cost," as used here, includes, but is not necessarily limited to, the cost of developing the CSP (or similar cost reductions/savings proposal) and administering cost savings programs.

"Cost reduction" means the amount of the decrease in cost of performance, without deducting any Contractor's development or implementation costs, resulting from using the CRP on this contract.

C. Procedure for Submission of CSPs

- (1) CSPs for Value Engineering (design/process/methods) type changes submitted by the Contractor should contain, at a minimum, the following:
  - (a) Current Method (Baseline). A verifiable description of the current scope of work, cost, and schedule to be impacted by the initiative and supporting documentation.
  - (b) New Method (Baseline). A verifiable description of the new cost, work scope, and schedule; how the initiative will be accomplished and supporting documentation.
  - (c) Feasibility Assessment. A description and evaluation of the proposed initiative and benefits, risks, and impacts of implementation. This evaluation should include an assessment of the difference between the current baseline and proposed new method less implementation costs.
- (2) CSPs for the establishment of stand alone CPIF/FPI/FFP programs not specifically related to Value Engineering (design/process/methods) type changes should contain, at a minimum, the following:
  - (a) Baseline Description. A verifiable description of the current scope of work, cost, and schedule to be impacted by the initiative (must be discretely identifiable in the MYPPs).
  - (b) Proposed Contractual Arrangement. A proposed contractual arrangement and the justification therefor.
  - (c) Estimated Cost and Supporting data. A detailed cost estimate and supporting rationale. If the effort is proposed on an incentive basis, then minimum and maximum cost estimates must be included for any proposed sharing arrangements.

D. Evaluation and Decision

The Contractor shall perform a preliminary evaluation of each proposed cost reduction initiative and submit it for DOE approval. The Contractor may share in savings realized as a result of cost reduction initiatives implemented without prior DOE approval; however, any such sharing of savings shall be a unilateral decision by DOE and not subject to the contract clause of this contract entitled "Disputes - Alternate I" or



otherwise subject to litigation under the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).

E. Calculation of Cost Savings

Estimated net savings shall be calculated by subtracting the total costs of the proposed CSP (New Method Costs + Contractor's Development Cost + Contractor's Implementation Costs + Administrative Costs [Optional] + DOE Costs [Optional]) from the total costs of the existing requirements.

F. Acceptance or Rejection of CSPs

The DOE Contracting Officer will notify the Contractor that a CSP will be accepted or rejected (or deferred) within 60 days of receipt.

The only CSPs that will be considered for acceptance are those that the Contractor can demonstrate will (1) result in a reduction in the total agreed upon estimated cost for authorized work in the sharing period, (2) not reappear as costs in subsequent periods, and (3) not result in any impairment of essential functions. Acceptance or rejection of the CSP is at the discretion of the Contracting Officer. The Contracting Officer's decision is not subject to the contract clause entitled "Disputes - Alternate I" or otherwise subject to litigation under the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).

G. Sharing Rate

In general, if a CSP is accepted, the Contractor's share in net Measurable, Near-Term Savings shall not exceed 15% of the Measurable, Near-Term Savings realized by DOE during the defined sharing period. The Contractor agrees that not less than 15% of the Contractor's share of Measurable, Near Term savings shall be retained at the site to be distributed to those employees involved in identifying and/or achieving the cost reduction/savings. The specific share arrangement (targets, share lines, ceilings, etc.) for effort negotiated on an incentive basis will be set forth in the contractual document authorizing the effort.

H. Validation of Actual Savings

The DOE shall have the right to validate the actual costs of an accepted CSP, to determine the extent of actual Measurable, Near-Term Savings. If, in the opinion of the Contracting Officer, the actual Measurable, Near-Term Savings are significantly more or less than the estimated savings of the CSP or in the reduction of the estimated cost for the sharing period, the amount awarded under the CSP shall be adjusted. The Contracting

Officer's decision on the significance of the actual savings and the adjusted fee amount are not subject to the contract clause entitled "Disputes - Alternate I" or otherwise subject to litigation under the Contract Disputes Act of 1978 (41 U.S.C. 601-613).

I. Relationship to Other Incentives

Only those benefits of an accepted CSP not rewardable under other clauses of this contract shall be rewarded under this clause.

J. Subcontracts

The Contractor may include an appropriate clause similar to this clause in any subcontract. In calculating any estimated net Measurable, Near-Term savings in a CSP under this contract, the Contractor's preparation, submission, testing, development, and implementation costs shall include any subcontractor's allowable costs, and any CSP incentive payments to a subcontractor clearly resulting from the acceptance of such CSP. The Contractor may choose any arrangement for subcontractor CSP incentive payments, provided that the payments shall not reduce the DOE's share of contract net Measurable, Near-Term Savings.

K. Termination

In the event of contract termination, this clause shall not apply. Termination settlements shall be in accordance with the contract clause entitled "Termination (Cost-Reimbursement)."

**H.46 DETERMINATION OF INCENTIVE FEES**

The parties to this contract agree that the incentive fee arrangements under this contract which include incentive types (both cost and performance), number of expectations incentivized, amount available under the various incentives as well as the method for determining fees earned and method of payment are applicable to the existing work scope for the current fiscal year only (unless otherwise specifically stated). At a reasonable time prior to the Contracting Officer's unilateral establishment of the annual fee structure, the Government will examine the benefits received, if any, from the existing incentive fee arrangements and the mechanisms for implementation for effectiveness and ease of administration. The Government shall unilaterally determine if any or all of the incentive fees should continue at all, in part, or in their present form. At that time the Contracting Officer may enter into discussions with the Contractor to determine new or changed fee arrangements.

**H.47 CONDITIONAL PAYMENT OF FEE OR INCENTIVES  
(EXCLUSIVE OF BASE FEE)**

**A. Conditional Payment of Fee or Incentives**

In order for the Contractor to receive a fee or profit payment or share of cost savings, in whole or in part, the following minimum requirements must be met and must have been performed at a satisfactory level. If the following conditions are not met and performed at a satisfactory level, the RL Manager may reduce the fee or profit payment or share of cost savings, in whole or in part, which has otherwise been determined to have been earned under the terms and conditions of this contract. Any determination under this clause is not subject to the contract clause entitled "Disputes - Alternate I" or otherwise subject to litigation under the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). This clause does not apply to any Base Fee included in the contract.

**B. Minimum Requirements**

- (1) **ES&H Program.** The Contractor shall develop, obtain DOE approval of, and implement a comprehensive ES&H Program across the appropriate ES&H functional areas. Such Program will be consistent with the Integrated Environment, Safety and Health Management System Plan (ISMS Plan). The minimal performance requirements of the Program will be set forth in the DOE approved ISMS Plan. The Contractor must achieve the minimum performance requirements of the program in order to receive any otherwise earned fee, profit, or share of cost savings.
- (2) **Catastrophic Event.** If, in the performance of this contract, the Contractor should cause, through negligence or misconduct, a fatality or an event to occur that results in significant damage to the environment, and/or endangers the safety and health of workers and/or the public in excess of government (Federal, State and/or Local) regulated limits (if any), the Manager, Richland Operations Office, may reduce any otherwise earned fees (other than Base Fee,) in whole or in part.
- (3) **Specified Level of Performance.** The level of satisfactory performance associated with this contract is the completion of 76% or more of all individual performance expectations as set forth in Section J, Appendix D, or as modified during contract performance.

The evaluation of the Contractor's achievement of the level of performance shall be unilaterally determined by the Manager, RL. To the extent that the Contractor

fails to achieve the above stipulated performance levels, the specific fee/incentive determination, may be reduced in whole or in part.

(4) Safeguards and Security

If, in the performance of this contract, there is a significant breach of nuclear safeguards or security, the RL Manager may reduce any otherwise earned fee for the evaluation period by an amount up to the amount earned. The minimum performance requirements of the Safeguards and Security program include: (1) No verifiable diversion loss of Category I, II, III, or IV quantities of Special Nuclear Material; (2) No intentional release of classified matter to an unauthorized individual; (3) No verifiable compromise of classified matter that can cause exceptionally grave damage, serious damage, or damage; and (4) No overall unsatisfactory rating on the Annual Safeguards and Security Survey and/or inspection report by the HQ Office of Independent Oversight and Performance Assurance. A graded approach based upon the severity of the incident will be used in determining any diminution of fee, fixed fee, profit, or share of cost savings resulting from an identified significant breach of nuclear safeguards or security. The RL Manager shall consider whether willful misconduct or negligence contributed to the occurrence and any mitigating circumstances presented by the Contractor or other sources.

C. Cost Performance

1. In the case of a performance type fee/award fee/incentive fee, the specific work effort incentivized must be performed within the cost specified for it in the contract/modification which incorporates the incentivized effort. Further, the performance of such work shall not result in an adverse impact to the cost for all other unrelated work effort.
2. In the case of a specific cost savings type fee/award fee/incentive fee on a portion of the contract, the Contractor's performance of such work shall not result in an adverse impact to the cost for all other unrelated work effort. Such cost will be specific in the contract which incorporates the incentivized effort.
3. The Contractor's performance within the stipulated cost performance levels shall be determined by the RL Manager. To the extent that the Contractor fails to achieve the above stipulated cost performance levels, the associated fee/award fee/incentive fee determination may be reduced in whole, in part, or a negative fee may result.

#### **H.48 PROVISIONAL PAYMENT OF FEE**

A. Definition

For purposes of this clause, the word "fee" shall mean performance fee, award fee, base fee, or cost savings share.

- B. If interim payments of fee are paid before the final determination of fee, those payments shall be provisional pending that final determination. Such provisional payments may be made at the discretion of the Contracting Officer on a monthly basis up to a maximum amount for the fiscal year not-to-exceed 70 percent of the performance fee pool.
- C. DOE agrees to pay to the Contractor, at the discretion of the Contracting Officer, on a provisional basis an amount up to 10% of the annual performance fee pool in each of the first two calendar months of each Fiscal Year and 5 % in each calendar month thereafter.
- D. The final fee determination will be made by the Contracting Officer or RL Manager, as appropriate, in accordance with the fee clauses of this contract. In the event that overpayment results from the payment of fee on a provisional basis, the Contractor shall reimburse such overpayment to the Government upon demand, payable with interest in accordance with the contract clause entitled "Interest".

#### **H.49 CONTRACTOR USE OF MANDATORY SOURCES OF SUPPLY**

In accordance with the clause entitled, "Contractor Use of Mandatory Sources of Supply," the following are to be purchased from the Committee for Purchase from People Who are Blind or Severely Disabled or from the Defense Logistics Agency, General Services Administration, or the Department of Veterans Affairs:

*(The Government will identify these items following contract award.)*

#### **H.50 COST SAVINGS PROGRAM EXCLUSION FROM OTHER FEES**

**NOTE: Not applicable for FY 1997. In future years, the use of this clause will be subject to approval of the DOE Contracting Officer.**

Fluor Daniel Hanford and its Major Subcontractors will be rewarded for net cost savings benefits under the Cost Savings Program only if it is not rewardable under other clauses of this contract.

#### **H.51 SHARING EARNED FEES WITH EMPLOYEES**

Fluor Daniel Hanford will establish a merit based employee fee sharing program for the prime contract and its Major Subcontractors. The fee sharing process will be described in a sitewide procedure. Fluor Daniel Hanford and its Major Subcontractors will set aside five percent of their earned fee to be provided to their employees as stipulated in the sitewide procedure.

#### **H.52 CONTRACTOR CONTROLLED INSURANCE PROGRAM**

- A. The Contractor shall procure, at no cost to the DOE, a Contractor Controlled Insurance program (CCIP), as set forth in the Contractor's proposal dated March 25, 1996, to the extent available on a commercially reasonable basis.

The Contractor support the DOE's efforts to improve their insurance program by the collection of insurance claim statistics and information. They will assist the DOE by complying with the insurance reporting requirements as defined by DOE Order 350.1 change 1.

(No changes to the unredacted text)

This clause does not apply to liabilities covered by the Nuclear Hazards Indemnity Agreement.

#### **H.53 FRINGE BENEFIT CEILING**

For employees of the Contractor and its Major Subcontractors who receive corporate fringe benefits, the allowable costs of employee burdens and benefits will not exceed (no change) % as adjusted for changes in statutory payroll tax and insurance requirements.

#### **H.54 INDIRECT COST ALLOCATIONS**

For the base contract period and any extension thereof, allocations of home or corporate office general and administrative (G&A) expenses are unallowable for the Prime Contractor and Major Subcontractor. Such indirect costs may only be allowable when a directly benefiting relationship to the DOE program is demonstrated and approved by the Contracting Officer.

The following are ceiling indirect cost rates for (no change) during the transition period: home office fringe (no change) %, WTS fringe/overhead (no change) %, and SG&A (no change) %.

The following is a ceiling indirect cost rate for (no change) during the transition period: G&A (no change) %.

## H.55 TRANSITIONS AND TRANSFERS - WORK SCOPES

### A. Transition and Transfer: WHC, ICF KH, BCSR, and PHMC

- (1) Purpose. Effective as of 12:01 a.m. on October 1, 1996, Contractor will accept the assignment of certain obligations, rights, title and interest from WHC, ICF KH and BCSR, all as specifically set forth in the Transfer Agreement executed by the DOE, FDH, WHC and ICF KH on September 30, 1996. The purpose of this contract clause H.55A is to set forth certain understandings with respect to transfer and close-out activities.
- (2) Definitions. For purposes of this contract clause H.55A and contract clause H.56A, the following definitions shall apply:

WHC	Westinghouse Hanford Company
ICF KH	ICF Kaiser Hanford Company
M&O Contract	DE-AC06-87RL10930
PHMC Contract	DE-AC06-96RL13200
Transfer Date	October 1, 1996
Transfer Agreement	The Transfer Agreement executed by Westinghouse Hanford Company, Fluor Daniel Hanford, Inc., ICF Kaiser Hanford Company and the DOE, effective as of 12:01 a.m. on October 1, 1996.

Other terms used in this contract clause H.55A and in contract clause H.56A, which are initially capitalized, shall have the meanings defined in the Transfer Agreement.

- (3) Responsibilities. In a manner so as to not interfere with the performance of this PHMC contract, FDH shall provide the following assistance in closing out the M&O contract, the ICF KH subcontract and the BCSR subcontract:
- (i) FDH shall provide necessary indirect support including, but not limited to, emergency services, access and use of the Hanford Site integrated voice-data telecommunication system, access and use of the Hanford Local Area Network, and other Hanford Site resources
  - (ii) FDH shall provide necessary government-owned property including, but not limited to, computers, photocopiers, office furniture, fax machines, office supplies and equipment and similar items.
  - (iii) FDH shall make arrangements with other Hanford Site Contractors, including the Hanford Environmental Health Foundation, necessary for close-out activities.
  - (iv) FDH shall provide, with the DOE Contracting Officer's approval, necessary clerical and secretarial support to support close-out activities.
  - (v) Subject to any DOE restrictions, for purposes of all close-out activities, including litigation, claims, and administrative hearings arising under the M&O contract, the ICF KH subcontract and the BCSR subcontract, FDH shall provide WHC, ICF KH and BCSR on a non-interference basis:
    - (a) Reasonable access to all data, documents and records transferred to FDH that are necessary to the close-out activities including defense or prosecution of such litigation, claims or hearings. Access shall be reasonable considering the urgency of the matter, but whenever possible, FDH shall receive at least one (1) day's advance notice of the need to review records together with a description of the type, nature, and location (if known) of the records requested for review. In addition, FDH shall provide reasonable access, considering the urgency of the matter, to relevant employees including employees of subcontractors who possess, control, or have knowledge of where the records may be located or can provide background information on the records. FDH shall not be required to release documents generated by FDH or its subcontractors which are protected from release by the attorney-client, or work product privilege or without the consent of individuals who hold a legally recognized privacy interest in the record.



- (b) Reasonable access to FDH employees or employees of any of its subcontractors necessary for such close-out activities including the prosecution or defense of any litigation, claims, or hearing (including grievances and arbitrations) not assigned to FDH by the Transfer Agreement and retained by WHC or for legal administrative claims or actions which arise on or after the Transfer Date. FDH shall provide WHC reasonable access considering the urgency of the matter, but whenever possible, FDH shall receive at least one (1) working day's advance notice or as FDH and WHC may further agree. FDH shall receive reasonable access to WHC, ICF KH and BCSR employees to assist FDH in the prosecution or defense of any legal or administrative action, including grievances and arbitrations, transferred or assigned for management purposes to FDH by the Transfer Agreement or which arise on or after the Transfer Date.
- (c) Subject to all security and safety laws, rules, regulations, and internal DOE Orders or Directives, FDH shall provide reasonable access to the Hanford Site as necessary for such close-out activities including the prosecution or defense of any litigation, claims, or hearings.

In the event a requested access is denied, FDH shall immediately notify the DOE providing the reasons for such denial. Final decision on denied access will be made the Manager RL and is not subject to the disputes clause of this PHMC contract.

- (vi) FDH shall cooperate with WHC in the collection of any balance that may be due and owing on any corporate travel and telephone credit card held by a former WHC employee who becomes employed by FDH or its subcontractors.
- (vii) Consistent with the WHC College Educational Reimbursement Program, FDH shall assume and accept all of WHC's current liabilities and obligations for educational expenses for those WHC employees who become employees of FDH or its subcontractors as identified on Attachment 7.L. to the Transfer Agreement, provided however such program(s) may be modified in the future.

- (viii) With respect to certain WHC, ICF KH and BCSR employees who are on domestic assignment at midnight September 30, 1996, FDH agrees to continue the reimbursement of such assignments as set forth in the individual assignment agreement until such time as the employee is returned to the Hanford Site or the assignment is otherwise changed.
- (ix) FDH shall complete all reasonable administrative and other actions necessary to effect the transfers as set forth in the Transfer Agreement.

**B. Transition and Transfer: FDH and LMHC**

- (1) Purpose. Effective as of 12:01 a.m. on October 1, 1999, Contractor will transfer and assign certain obligations, rights, title and interest to Lockheed Martin Hanford Corporation (LMHC), all as specifically set forth in the Transfer Agreement executed by the DOE, FDH, and LMHC on September 30, 1999. The purpose of this contract clause H.55B is to set forth certain understandings with respect to transfer and continuing service activities.
- (2) Definitions. For purposes of this contract clause H.55B and contract clause H.56B, the following definitions shall apply:

FDH	Fluor Daniel Hanford, Inc.
LMHC	Lockheed Martin Hanford Corporation
PHMC Contract	DE-AC06-96RL13200
LMHC Subcontract	80232765-9-K001
LMHC Transfer Date	October 1, 1996
LMHC Transfer Agreement	The Transfer Agreement executed by Fluor Daniel Hanford, Inc., Lockheed Martin Hanford Corporation, and the DOE, effective as of 12:01 a.m. on October 1, 1999.

Other terms used in this contract clause H.55B and in contract clause H.56B, which are initially capitalized, shall have the meanings defined in the LMHC Transfer Agreement.

- (3) Responsibilities. In accordance with the LMHC Transfer Agreement, and in a manner so as to not interfere with the performance of both the PHMC and the LMHC subcontract, FDH shall provide the following assistance:
- (i) FDH shall provide necessary indirect support including, but not limited to, emergency services, access and use of the Hanford Site integrated voice-data telecommunication system, access and use of the Hanford Local Area Network, and other Hanford Site resources.
  - (ii) FDH shall transfer accountability for necessary government-owned property including, but not limited to, real property, waste sites, computers, photocopiers, office furniture, fax machines, office supplies and equipment and similar items.
  - (iii) FDH shall make arrangements with other Hanford Site Contractors and subcontractors, including the Hanford Environmental Health Foundation, necessary to facilitate transition, assignment, and transfer.
  - (iv) FDH shall transfer necessary bargaining unit and professional personnel and staff to support transferred activities.
  - (v) Subject to any DOE restrictions and for purposes of all transfer activities, FDH shall provide LMHC, on a not-to-interfere basis, reasonable access to all data, documents, and records that are necessary to assign activities, including defense or prosecution of litigation, claims or hearings. Access shall be reasonable considering the urgency of the matter, but whenever possible, FDH shall receive at least one (1) day's advance notice of the need to review records together with a description of the type, nature, and location (if known) of the records requested for review. In addition, FDH shall provide reasonable access to LMHC, considering the urgency of the matter, to relevant PHMC employees, including employees of FDH, who possess, control, or have knowledge of where the records may be located or can provide background information on the records. FDH shall not be required to release documents generated by FDH or its subcontractors that are protected from release by the attorney-client, or work product privilege or without the consent of individuals who hold a legally recognized privacy interest in the record. Should FDH require access to LMHC records or employees for any of the above stated matters, FDH shall provide LMHC with at least one (1) day's advance notice, subject to the urgency of the matter.

- (vi) FDH shall cooperate with LMHC in the collection of any balance that may be due and owing on any corporate travel and telephone credit card held by a former PHMC employees who become employed by LMHC.
- (vii) Consistent with the FDH College Educational Reimbursement Program, FDH shall transfer to LMHC all of FDH's current liabilities and obligations for educational expenses for those PHMC employees who become employees of LMHC.
- (viii) With respect to certain PHMC employees who are on domestic assignment at midnight September 30, 1999, FDH agrees to continue the reimbursement of such assignments as set forth in the individual assignment agreement until such time as the employee is returned to the Hanford Site or the assignment is otherwise changed.
- (ix) FDH shall complete all reasonable administrative and other actions necessary to effect the assignments and transfers as set forth in the LMHC Transfer Agreement.
- (x) FDH shall provide services to LMHC as defined in Attachment G to the LMHC Transfer Agreement.

## **H.56 TRANSITIONS AND TRANSFERS - COSTS AND FUNDING**

### **A. Transition and Transfer: WHC, ICF KH, BCSR, and PHMC**

- (1) **Purpose.** The purpose of this contract clause H.56A is to set forth certain terms and conditions that apply to the transition and transfer activities as set forth in the Transfer Agreement executed by the DOE, Contractor, WHC and ICF KH effective as of 12:01 a.m. on October 1, 1996.
- (2) **Assignment of Agreements, Obligations, Rights, Title and Interest.** WHC, ICF KH, and BCSR had certain obligations, rights, title and interest prior to the Transfer Date which were assigned to FDH and its subcontractors pursuant to the provisions of the Transfer Agreement. The DOE and Contractor recognize that the terms, circumstances, regimes, requirements, conditions, and commitments contained in or relating to:
  - (i) Purchase orders, subcontracts, agreements and leases for real property, the Cooperative Research and Development Agreements, the Uranium Sales Request Proposal and the other agreements referred to in Sections 2.A,

2.B, 2.C, 2.D and 2.E of the Transfer Agreement (hereinafter collectively referred to as the "Assigned Agreements"); and

- (ii) Intellectual property, software licenses and confidentiality or non-disclosure agreements referred to in Sections 3.A, 3.B and 3.C of the Transfer Agreement (hereinafter collectively referred to as the "Assigned Intellectual Property Agreements"); and
- (iii) Financial and administrative commitments referred to in Section 7 of the Transfer Agreement (hereinafter collectively referred to as the "Financial Commitments"); and
- (iv) Labor grievances, arbitrations and litigation, and other matters referred to in Sections 8.B., 8.C., 8.D., 8.E., 8.F., and 8.G. of the Transfer Agreement (hereinafter referred to as "Matters"); and
- (v) Environmental or other permits referred to in Section 9 of the Transfer Agreement (hereinafter referred to as the "Environmental Permits"); and
- (vi) Hanford Site Workforce Restructuring Plan referred to in Section 10.A. and 10.B. of the Transfer Agreement (hereinafter referred to as the "Restructuring Plan"); and
- (vii) Enhanced Retirement and Special Voluntary Reduction of Force Programs referred to in Section 10.C. of the Transfer Agreement (hereinafter collectively referred to as the "VRF Programs"); and
- (viii) Pension, savings and benefits plans referred to in Section 11 of the Transfer Agreement (hereinafter collectively referred to as the "Plans"); and
- (ix) The actions and activities referred to in paragraphs D, F and G of this contract clause H.56 (hereinafter collectively referred to as "paragraphs D, F and G"); were entered into in connection with, and/or resulted from the M&O contract, and may not be consistent with the terms and conditions of this PHMC contract. The DOE agrees that Contractor and its subcontractors can administer and act with respect to the above documents, agreements and activities under the terms of the assigned document or agreement and is not required to make modifications thereto in order to achieve conformance with the terms and conditions of this PHMC contract. Contractor and its subcontractors, however, may as they

deem appropriate make such conforming modifications to said documents and agreement without further approval from the DOE.

- (3) **Costs.** The DOE and Contractor agree that all costs of administering the items set forth in paragraph A.2 above and including those incurred by reason of any claim, cost (including attorney's fees, mediation, arbitration or resolution and defense costs), demand, charge, expense, fine, penalty, liability, settlement, damages, including, but not limited to, investigation and remediation of hazardous materials, bodily injury to or death of any person, or damage to or destruction of any real or personal property, benefit plan funding, consequential, incidental, special or indirect damages, including without limitation, loss of profits, interest, product or business interruption, increased costs of operations and maintenance or staffing needs, remedy of employment or reinstatement, costs associated with decisions regarding disputed interpretations, however the same may be caused, and whether discovered before or after the Transfer Date, or similar payment ("Payments") made or due in accordance or in connection with the terms and conditions of or arising out of circumstances relating to the Assigned Agreements, Assigned Intellectual Property Agreements, Financial Commitments, Matters, Environmental Permits, Restructuring Plan, VRF Programs, Plans, or paragraphs D, F, and G, shall be allowable and reimbursed by the DOE to Contractor notwithstanding the terms and conditions of this PHMC contract, and any restrictions or limitations herein, whether or not such Payments relate to events arising before or after the Transfer Date, and howsoever arising; provided, however, that Payments shall not be reimbursed, except as considered appropriate by the Contracting Officer, if they are caused solely as a result of the lack of good faith or the willful misconduct of Contractor's key managerial personnel or are unallowable by federal statute or regulation.
- (4) **Agreements and Leases for Certain Real Property.** The DOE has directed that Contractor or its subcontractor, DynCorp Tri-Cities Services, Inc., accept the assignment of the leases of the following three parcels of real property from WHC: (1) 712 Swift, Suite 4, Richland, Washington, (2) 3090 George Washington Way, Richland, Washington, and (3) 3070 George Washington Way, Richland, Washington, as set forth in Section 2.B. of the Transfer Agreement. As the third-party tenants of the three parcels referred to above, will not be under the control of, or in contractual privity with, Contractor or its subcontractor, DynCorp Tri-Cities Services, Inc., the DOE shall defend, indemnify and hold Contractor and its subcontractor, DynCorp Tri-Cities Services, Inc., harmless from and against any and all claims, costs, suits and damages, including attorney's fees, arising out of, or in connection with, said third-party tenants' occupancy of said parcels, and howsoever arising.

- (5) **Transfer of Government-Owned Real and Personal Property.** Notwithstanding the transfer of the care, custody and control of the government-owned real and personal property referred to in Sections 13.A. and 13.B. of the Transfer Agreement, for the one (1) year period following the Transfer Date, Contractor and its Major Subcontractors shall be entitled to conduct an inventory, survey and assessment of said government-owned real and personal property. Should Contractor or its Major Subcontractors discover any differences between WHC's representations and the actual circumstances with respect to said government-owned real and personal property, said differences shall be considered pre-existing conditions in accordance with the terms of this PHMC contract. Contractor shall not be liable under this PHMC contract for any government-owned real and personal property transferred to Contractor or its Major Subcontractors which is subsequently determined by reconciliations and condition surveys to have been lost, stolen, damaged or otherwise unaccounted for as of the Transfer Date.
- (6) **Personnel.** The DOE and Contractor agree that actions taken under this contract clause H.56 and the Transfer Agreement relating to the employment of personnel, the transfer of benefit plans and other employment related plans and obligations, and the displacement of employees are being accomplished at and in accordance with the directions of the DOE.
- (7) **Mapping.** During the period from August 6, 1996 to September 30, 1996, employees of WHC, ICF KH and BCSR were mapped to FDH and its Subcontractors. The DOE and Contractor agree that during the period from October 1, 1996 through December 31, 1996, some of the former employees of WHC, ICF KH and BCSR who were mapped by FDH or its subcontractors on October 1, 1996, may be remapped among FDH or its subcontractors. For purposes of compliance with contract clause H.2, employees who are remapped pursuant to this Clause H.56 will be treated, with respect to salary and other related provisions, as if such employees had been mapped directly from the incumbent to the final employing subcontractor.
- (8) **Accuracy of Information.** Contractor and its subcontractors will rely upon information supplied by WHC, ICF KH and BCSR or others in performing the work pursuant to the terms of this PHMC contract. The DOE and Contractor agree that the accuracy of such information is not within Contractor's and its subcontractors' control, and that Contractor and its subcontractors shall not be liable for its accuracy, nor for its verification.

- (9) **Drug-Free Workplace.** The DOE and Contractor agree that no drug testing will be required for the former employees of WHC, ICF KH or BCSR who become employed by Contractor or its subcontractors on October 1, 1996. At all other times, Contractor and its subcontractors will follow the drug testing requirements set forth in the program(s) in place pursuant to the provisions of clause I of this PHMC contract.

**B. Transition and Transfer: FDH and LMHC**

- (1) **Purpose.** The purpose of this contract clause H.56B is to set forth certain terms and conditions that apply to the transition and transfer activities as set forth in the LMHC Transfer Agreement executed by the DOE, Contractor, and LMHC effective as of 12:01 a.m. on October 1, 1999.
- (2) **Assignment of Agreements, Obligations, Rights, Title and Interest.** FDH had certain obligations, rights, title and interest prior to the LMHC Transfer Date that were assigned to LMHC pursuant to the provisions of the LMHC Transfer Agreement. The DOE and Contractor recognize that the terms, circumstances, regimes, requirements, conditions, and commitments contained in or relating to:
- (i) Financial and administrative commitments referred to in Section 4 of the LMHC Transfer Agreement (hereinafter collectively referred to as the "Financial Commitments"); and
  - (ii) Labor grievances, arbitrations and litigation, and other matters referred to in Sections 5.B of the LMHC Transfer Agreement (hereinafter referred to as "Matters"); and
  - (iii) Environmental or other permits referred to in Section 10.A, 10.B, and 10.C of the LMHC Transfer Agreement (hereinafter referred to as the "Environmental Permits"); and
  - (iv) The actions and activities referred to in Section 17 of the LMHC Transfer Agreement relating to the provision of services between Contractor and its subcontractors and LMHC (hereinafter referred to as the "Services"); and
  - (v) The actions and activities referred to in paragraphs B(4), B(5), and B(6) of this contract clause H.56 (hereinafter collectively referred to as "paragraphs B(4), B(5), and B(6)"); were entered into in connection with, and/or resulted from the LMHC subcontract being assigned to the DOE, and may not be consistent with the terms and conditions of the PHMC.



The DOE agrees that Contractor and its subcontractors can administer and act with respect to the above documents, agreements and activities under the terms of the assigned document or agreement and the Contractor is not required to make modifications thereto in order to achieve conformance with the terms and conditions of the PHMC. Contractor and its subcontractors, however, as they deem appropriate, may make such conforming modifications to said documents and agreement without further approval from the DOE.

- (3) **Costs.** The DOE and Contractor agree that all costs of administering the items set forth in this paragraph B are allowable in accordance with the clause in this contract entitled, "Payments and Advances," as well as federal statute and regulations, and that actions by third parties are allowable in accordance with the clause entitled, "Insurance - Litigation and Claims".
- (4) **Transfer of Accountability for Government-Owned Real and Personal Property.** Contractor and its Major Subcontractors shall not be liable under the PHMC for any government-owned real, waste, and personal property transferred for accountability purposes to LMHC that is subsequently determined by reconciliations and condition surveys to have been lost, stolen, damaged or otherwise unaccounted for as of or noticed as a pre-existing condition before the LMHC Transfer Date unless damage or loss was caused or exacerbated by Contractor or its subcontractors.
- (5) **Assignments.** During the period from September 17, 1999, to September 30, 1999, bargaining unit employees of Contractor were assigned to LMHC. The DOE and Contractor agree that during the period from October 1, 1999, through December 31, 1999, some of the former employees of the Contractor and its subcontractors may be reassigned. For purposes of compliance with contract clause H.2, employees who are reassigned pursuant to this Clause H.56B will be treated, with respect to salary and other related provisions, as if such employees had been reassigned directly from the incumbent to the final employing party.
- (6) **Drug-Free Workplace.** The DOE and Contractor agree that no drug testing will be required for the former PHMC employees who become employed by LMHC on October 1, 1999. At all other times, Contractor and its subcontractors will follow the drug testing requirements set forth in the program(s) in place pursuant to the provisions of the clause entitled "Workplace Substance Abuse Programs at DOE Sites" of this contract.

#### **H.57 "324/327 FACILITY TRANSFER"**

- A. Reasonable costs incurred by Contractor as a result of PNNL's operations at the 324 Facility shall be allowable.
- B. Reasonable costs incurred to modify the standards for compliance with 10 CFR 835 and 10 CFR 830.120 from the PNNL Radiation Protection Plan and Quality Assurance Implementation Plan to the FDH compliance documents shall be allowable.
- C. Clauses, "Transition and Transfer - Workscope" and "Transitions and Transfers - Costs and Funding," shall be applied to this transfer as appropriate.
- D. DOE's reimbursement obligation contained in Subsection A. of the clause in this contract entitled "Pre Existing Conditions," shall be extended as follows to the 324 and 327 Facilities:
  - (1) With regard to those portions of the 324 and 327 Facilities that Battelle Memorial Institute (Battelle) or any successor does not occupy as of November 1, 1996, the Pre Existing Clause (PEC) date (i.e., the date before which the Contractor is entitled to reimbursement as described in the Pre Existing Conditions clause of this contract shall be November 1, 1996, rather than October 1, 1996.
  - (2) With regard to those portions of the 324 Facility that PNNL occupies as of November 1, 1996 but later quits possession, the PEC date shall be the date on which Contractor assumes, pursuant to written documentation, exclusive possession of and full responsibility for such portions of the 324 Facility.
  - (3) Prior to February 1, 1997, Contractor shall prepare a compliance plan for DOE approval to bring Contractor's operations at the 324 and 327 Facilities into compliance with all applicable and appropriate standards. Therefore, so long as Contractor complies with such compliance plan, the PEC date shall be the date scheduled for compliance or sooner if compliance is sooner achieved.
  - (4) With regard to the complete inventory of nuclear materials referred to in § 5 of the Transfer Agreement, the PEC date shall be the date on which such inventory is completed.

#### **H.58 AUTHORIZATION AGREEMENTS**

In accordance with the Integrated Environment, Safety and Health Management System Plan (ISMS), Authorization Agreements (AAs) will be developed, mutually agreed to and executed

between FDH and DOE-RL. The purpose of an AA is to serve as a mechanism whereby the U.S. Department of Energy, Richland Operations Office (RL) and Fluor Daniel Hanford, Inc., (FDH) jointly clarify and agree to the key conditions for conducting work safely and efficiently in a facility. The AAs will be maintained by FDH. The AAs will not alter any terms and conditions of the Project Hanford Management Contract (PHMC) and do not impose on FDH or its Major Subcontractors any liabilities, fines, or penalties not already imposed under the terms and conditions of the PHMC and current statutes, rules, regulations and ordinances.

#### **H.59 LIFE CYCLE ASSET MANAGEMENT GRADED APPROACH**

This contract clause is applicable to all PHMC Major Subcontractors and DynCorp.

- A. The Contractor shall plan, acquire and dispose of DOE assets in a cost-effective manner to meet the DOE mission. The Contractor shall use industry standards, and a graded approach, in applying these requirements. FDH major site projects may define policies and procedures for implementing this clause within their project or program area. Major site projects are defined as the River Protection Project (formerly the Tank Waste Remediation System), Facility Stabilization, Waste Management, Spent Nuclear Fuels, Infrastructure, HAMMER, and Advanced Reactor Transition. Future major projects may be subject to life cycle asset management, as directed by the RL Contracting Officer or RL Contracting Officer Representative.
- B. The Contractor shall use a process based on a graded approach for physical asset acquisition that is an integrated, systematic approach that shall ensure, but shall not be limited to, the following:
  - (1) Use of a process tool, such as value engineering, to improve efficiency and cost-effectiveness when analyzing physical asset acquisition.
  - (2) Specification of the appropriate state, regional, or national building codes to which physical assets shall be designed and constructed.
  - (3) Consideration of maintainability, operability, disposition, life-cycle costs, and configuration integrity in designs and acquisitions.
  - (4) A project management system based on effective management practices that is sufficiently flexible to allow for the size and complexity of the project. For line item projects, the following requirements are considered minimal:

- (a) Prior to receiving RL approval to commence conceptual design, include the following in project planning
    - (i) minimum technical functional requirements
    - (ii) proposed cost and schedule ranges,
    - (iii) preliminary environmental strategy
    - (iv) identification of project technical and organizational interfaces, and
    - (v) integration with other projects and activities
  
  - (b) Prior to receiving RL approval to commence execution, include the following in project planning:
    - (i) project objectives
    - (ii) scope, schedule, and cost baselines, including contingencies,
    - (iii) life-cycle cost analysis
    - (iv) preliminary safety assessment,
    - (v) project controls, including baseline change control, change control thresholds, and statusing,
    - (vi) verification of performance criteria through test and evaluation, and
    - (vii) design alternatives
  
  - (c) Prior to operation, a plan for turnover of a facility shall be prepared; verification of performance criteria through test and evaluation shall be accomplished; and operational readiness shall be verified.
- C. The requirements in this paragraph C., in part, supplement the Contractor's obligations to manage maintenance programs in accordance with the applicable chapters of DOE Order 4330.4B. The Contractor shall use a process based on a graded approach for the operation and maintenance of physical assets that shall ensure, as a minimum, the following:
- (1) The identification, inventory, and periodic assessment such as Condition Assessment Surveys or an equivalent assessment program, of the condition of physical assets in the maintenance program.
  
  - (2) The establishment of requirements, budgets, and a work management system to maintain physical assets in a condition suitable for their intended use.

- (3) The preventive, predictive, and corrective maintenance to ensure physical asset availability for planning use and/or proper disposition.
- (4) A configuration management process to ensure the integrity of physical assets and system.
- (5) The efficient and effective management and use of energy and utilities.
- (6) A method for the prioritization of infrastructure requirements.
- (7) The management of backlogs associated with maintenance, repair, and capital improvements.
- (8) A method to ensure that prior to the completion of mission activities (e.g., production, research, etc.) actions are implemented to place the facility, systems and materials in safe and stable conditions and to ensure hazards are identified and known pending transfer or disposition. For facilities that have already completed mission activities and are awaiting transfer or disposition, ensure that actions are taken to eliminate or mitigate hazards and provide adequate protection to workers, the public and the environment. In both cases, actions shall be based on an assessment of the remaining hazards at the time when mission activities are completed or prior to transfer or disposition for facilities that have already completed mission activities. The actions shall include but not be limited to:
  - (a) Identifying and characterizing all hazardous and radioactive material and wastes remaining in system/facilities and providing for their stabilization (if necessary), adequate storage until they are removed from the facility, and (unless otherwise agreed to prior to facility transfer) removal.
  - (b) Assessment and adjustment (if necessary) of the facility authorization basis to ensure it continues to reflect conditions in the facility pending disposition.
  - (c) Conducting surveillance and maintenance activities required to maintain the facility and remaining hazardous/radioactive materials and waste in a safe and stable condition pending facility disposition.
  - (d) Identifying and allocating resources needed to maintain safe and stable conditions pending disposition.

- D. The Contractor shall use a process based on a graded approach for the disposition of physical assets that shall ensure, as a minimum, the following:
- (1) Application, as appropriate, of guidelines contained or referenced in DOE-STD-1120-98, INTEGRATION OF ENVIRONMENT, SAFETY AND HEALTH INTO FACILITY DISPOSITION ACTIVITIES.
  - (2) For execution of contaminated facility disposition, as a minimum the following apply:
    - (a) A method to ensure that deactivation, surveillance and maintenance, and decommissioning activities are appropriately planned, conducted, and documented in a manner consistent with the guiding principles and core functions of the Department's integrated safety management and facility disposition policies. The disposition process shall provide for:
      - (i) The collection of baseline data to support a physical, chemical, and radiological characterization, updated as necessary to reflect changes in facility conditions during the disposition process.
      - (ii) Surveillance and maintenance activities that correspond with facility conditions, including changes resulting from disposition activities.
      - (iii) A method for identifying, assessing, and evaluating alternatives for deactivating and/or decommissioning and for selecting and documenting a preferred alternative.
      - (iv) An end-point process in deactivation and decommissioning planning that identifies specific facility end-points and activities needed to achieve those end-points.
      - (v) A method for detailed engineering planning and for plan documentation to execute the preferred deactivation and/or decommissioning alternative.
    - (b) The use of Non-Time-Critical Removal Action as the approach for decommissioning, by using the tailored process negotiated with the Environmental Protection Agency, with continued Defense Nuclear Facilities Safety Board oversight to the extent authorized by law. Non-Time-Critical Removal Action is a type of response action

recognized by the Environmental Protection Agency as appropriate for addressing hazardous substance threats where a planning horizon of six months or more is appropriate. Removal responses, including non-time-critical removals are the subject of 40 CFR 300.410 and 300.415. Under a signed agreement with EPA, the Department uses a non-time-critical removal approach tailored for DOE's decommissioning of contaminated facilities. That approach comprises threat assessment; identification, analysis, and documentation of decommissioning alternatives; opportunities for public participation in the decommissioning decision; and planning and performance of decommissioning activities. Under the DOE/EPA agreement, regulator involvement in decommissioning is determined locally.

- (c) The development of a final report, or equivalent document, for each deactivation and/or decommissioning project. Where deactivation and decommissions are conducted as a single, uninterrupted activity, only one final report, or equivalent, is required.
- E. In the acquisition, operation, maintenance, leasing and disposition of physical assets, the Contractor shall ensure that all applicable Federal, state, and local laws, regulations, and negotiated agreements are followed, and that applicable safeguards and security as well as integrated safety management requirements and policies are followed.

#### **H.60 SPENT NUCLEAR FUELS CONTINGENT FEE**

##### **A. Start of Fuel Removal**

FDH agrees that its retention of any fee paid in excess of \$1 million for fiscal year (FY) 1999 Spent Nuclear Fuel Performance Agreements and any fee paid in excess of \$1 million for FY 2000 Spent Nuclear Fuels Performance Agreements will be contingent upon the successful start of fuel removal from the K Basins by November 30, 2000. In addition, if fuel removal is not successfully started by November 30, 2000, then any fee allocated, in FY 2001, for the start of fuel removal cannot be earned.

As set forth in the Tri-Party Agreement (TPA) Milestone P-34-16 (as of December 2, 1998) and for purposes of this clause, the start of spent nuclear fuel removal is defined as "The Cold Vacuum Drying (CVD) Facility and Canister Storage Building (CSB) shall be ready to receive spent nuclear fuel. The spent nuclear fuel transport system shall be operable. The K West Basin spent nuclear fuel retrieval system shall begin retrieving, cleaning, and packaging spent nuclear fuel, and the First Multi-Canister Over Pack of

spent nuclear fuel will be loaded and transported to the Cold Vacuum Drying Facility for processing.”

If FDH fails to achieve a successful start of fuel removal from the K Basins by November 30, 2000, and therefore FDH fails the condition subsequent to retain the contingent portion of fee paid on Spent Nuclear Fuels Performance Agreements in FY 1999 and FY 2000, then the contingent fee paid will be offset against any FDH fee earned in FY 2001 in accordance with the Schedule below. Furthermore, notwithstanding any other provision in this Contract, including but not limited to, “Performance, Objectives, Measures, Expectations and Fee Distribution,” if FDH’s total earned fee in FY 2001 is insufficient to offset all of the Spent Nuclear Fuel contingent fee paid in FY 1999 and FY 2000, FDH shall reimburse any remaining amount to RL.

**OFFSET SCHEDULE**

Date start of fuel removal is achieved	Offset
On or Before November 30, 2000	None
After November 30, 2000 and On or Before January 31, 2001	33% of the contingent fee paid for FY 1999 and FY 2000 Spent Nuclear Fuels Performance Agreements
After January 31, 2001	100% of the contingent fee paid for FY 1999 and FY 2000 Spent Nuclear Fuels Performance Agreements

**B. Changes, and Termination**

**(1) Identification of Budget and/or Schedule Impacts**

FDH shall treat any DOE direction or action that causes an increase or decrease to the Spent Nuclear Fuel Project budget and/or schedule in accordance with the clause entitled, “Changes—Cost Reimbursement.”



(2) Termination

In the event FDH is terminated for default, any fee that is contingent at that time shall be forfeited

**H.61 LOBBYING RESTRICTION (ENERGY & WATER DEVELOPMENT APPROPRIATIONS ACT, 1999)**

The Contractor or Awardee 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 regulations.

**H.62 LOBBYING RESTRICTION (DEPARTMENT OF INTERIOR & RELATED AGENCIES APPROPRIATIONS ACT, 1999)**

The Contractor or Awardee 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 regulations.