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SECTION B: SUPPLIES OR SERVICES AND PRICES/COSTS

B-1 SERVICES BEING ACQUIRED

**CLIN 0001 MANAGEMENT AND OPERATION OF THE NEVADA
NATIONAL SECURITY SITE**

In accordance with the terms and conditions of this Contract, the Contractor shall provide the personnel, equipment, materials, supplies, and services (except as may be furnished by the Government) and otherwise do all things necessary for, or incidental to, the efficient, effective, and safe management and operation of the Nevada National Security Site (NNSS) and at satellite facilities located in North Las Vegas, Nevada; Nellis Air Force Base, Nevada; Andrews Air Force Base Suitland, Maryland; Santa Barbara, California; support offices for Lawrence Livermore National Laboratory in Livermore, California; Los Alamos National Laboratory in Los Alamos, New Mexico, and other locations as required

CLIN 0001A TRANSITION TERM

The Transition Term will be four months, on a cost reimbursement (no fee) basis, with an estimated cost of \$ TBD.

CLIN 0001B BASE TERM

The Base Term is five years of performance on a cost-plus-award-fee basis.

CLIN 0001C OPTION TERM 1

Option Term 1 is one year of performance on a cost-plus-award-fee basis.

CLIN 0001D OPTION TERM 2

Option Term 2 is one year of performance on a cost-plus-award-fee basis.

CLIN 0001E OPTION TERM 3

Option Term 3 is one year of performance on a cost-plus-award-fee basis.

CLIN 0001F OPTION TERM 4

Option Term 4 is one year of performance on a cost-plus-award-fee basis.

CLIN 0001G OPTION TERM 5

Option Term 5 is one year of performance on a cost-plus-award-fee basis.

CLIN 0002 STRATEGIC PARTERNSHIP PROGRAM

The Contractor shall, in accordance with Section J, Appendix A, Chapter II, paragraph 11.1 Strategic Partnership Program (formerly known as Work for Others (WFO) Program), and all other the terms and conditions of this Contract, provide the personnel, equipment, materials, supplies, and services, (except as may be furnished by the Government) and otherwise do all things necessary for, or incident to the effective, efficient, and safe performance all SPP efforts as directed by the Contracting Officer.

CLIN 0002A BASE TERM

The Base Term is five years of performance on a cost-plus-fixed-fee basis.

CLIN 0002B OPTION TERM 1

Option Term 1 is one year of performance on a cost-plus-fixed-fee basis.

CLIN 0002C OPTION TERM 2

Option Term 2 is one year of performance on a cost-plus-fixed-fee basis.

CLIN 0002D OPTION TERM 3

Option Term 3 is one year of performance on a cost-plus-fixed-fee basis.

CLIN 0002E OPTION TERM 4

Option Term 4 is one year of performance on a cost-plus-fixed-fee basis.

CLIN 0002F OPTION TERM 5

Option Term 5 is one year of performance on a cost-plus-fixed-fee basis.

B-2 CONTRACT TYPE AND VALUE

- (a) This is a performance-based Management and Operating (M&O) Contract with cost-plus-award-fee and cost-plus-fixed fee provisions.
- (b) The estimated cost, award fee available, and award fee earned for CLIN 0001 (DOE and NNSA work) is set forth in Table 1 below:

Table 1 -- CLIN 0001 -- Management and Operation of NNS

Contract Period	Estimated Cost	Base Fee	Award Fee Available	Award Fee Earned	Total Fee Earned (Base + Award Fee)
Transition Term	\$ TBD	\$0	\$0	\$0	
Base Term (Year 1)	\$355,965,550	\$0	\$TBD		
Base Term (Year 2)	\$363,083,841	\$0	\$TBD		
Base Term (Year 3)	\$370,345,518	\$0	\$TBD		
Base Term (Year 4)	\$377,752,429	\$0	\$TBD		
Base Term (Year 5)	\$385,307,477	\$0	\$TBD		
Option Term 1 (if exercised)	\$393,013,627	\$0	\$TBD		
Option Term 2 (if exercised)	\$400,873,899	\$0	\$TBD		
Option Term 3 (if exercised)	\$408,891,377	\$0	\$TBD		
Option Term 4 (if exercised)	\$417,069,205	\$0	\$TBD		
Option Term 5 (if exercised)	\$425,410,589	\$0	\$TBD		

- (c) The estimated cost and fixed fee for CLIN 0002 (Strategic Partnership Program -- Section J, Appendix A, Chapter II, paragraph 11.1) are set forth in Table 2 below. The estimated cost and the fixed fee for the Strategic Partnership Program during the Base Term of the Contract and for each Option Term will be established by the NNSA prior to the commencement of the applicable fiscal year and will be revised and incorporated into the Table below through a modification to this clause. The Fixed-Fee for Strategic Partnership Program will be up to (Upon award the Contracting Officer will insert the successful Offeror's Strategic Partnership Program fee rate here, up to a maximum of 5.5% in accordance with Section L, L-16(b) Fee) of the estimated cost of all projects anticipated for the applicable fiscal year.

Table 2 CLIN 0002 -- Strategic Partnership Program

Contract Period	Estimated Cost	Fixed Fee*	Estimated Cost + Fixed Fee
Base Term Year 1	\$90,000,000	\$TBD	\$TBD
Base Term Year 2	\$90,000,000	\$TBD	\$TBD
Base Term Year 3	\$90,000,000	\$TBD	\$TBD
Base Term Year 4	\$90,000,000	\$TBD	\$TBD
Base Term Year 5	\$90,000,000	\$TBD	\$TBD
Option Term 1 (if exercised)	\$90,000,000	\$TBD	\$TBD
Option Term 2 (if exercised)	\$90,000,000	\$TBD	\$TBD
Option Term 3 (if exercised)	\$90,000,000	\$TBD	\$TBD
Option Term 4 (if exercised)	\$90,000,000	\$TBD	\$TBD
Option Term 5 (if exercised)	\$90,000,000	\$TBD	\$TBD

- (d) The total estimated cost and fee (fixed – Strategic Partnership Program) for the Transition Term (CLIN 0001A), Base Term (CLINs 0001B and 0002A), including DOE, NNSA and Strategic Partnership Program is \$TBD.
- (e) The award fee for CLIN 0001 and fixed fee for CLIN 0002 will not be negotiated on an annual basis and are established at contract award.

B-3 CONTRACT FEE STRUCTURES

- (a) CLIN 0001: The available award fee for the Base Term and each Option Term, if exercised by DOE/NNSA, are shown in the tables in paragraph B-2 (b), *Contract Type and Value*. The Contractor shall be eligible to earn award fee of \$TBD during the Base Term (CLIN 0001B), subject to its performance under the annual Award Fee Plan. The award fee decision is a unilateral decision of the Fee Determining Official (FDO) based on the Contractor's performance rating under this Contract in accordance with the Award Fee Plan, and the terms and conditions of the Contract. The award fee earned is payable in accordance with the contract clause DEAR 970.5232-2, Payments and Advances (DEC 2000) ALTERNATE II (DEC 2000) ALTERNATE III (DEC 2000) (NNSA CLASS DEVIATION OCT 2011).
- (b) CLIN 0002: The fixed fee for SPP for the Base Term and each Option, if exercised by DOE/NNSA, are shown in the tables in paragraph B-2 (c), *Contract Type and Value*.

- (c) Payment of Fixed Fee (Strategic Partnership Program) and Provisional Payment of Award Fee
 - (i) The fixed fee (Strategic Partnership Program) for the Base Term of the Contract shall be paid monthly at the rate of one-twelfth (1/12) of the annual fixed fee payable for CLIN 0002. Such payment amounts are to be drawn down by the Contractor from the Contract's special financial institution account in monthly installments on the last day of each month.
 - (ii) The award fee is authorized for draw down by the Contractor from the Contract's special financial institution account as follows:
 - (A) In monthly provisional fee payments equivalent to 3% of the available award fee; or
 - (B) Upon completion of milestones or any other methodology as set forth in the Award Fee Plan and its supporting documentation; and
 - (C) The balance, if any, upon issuance of the Contracting Officer's notification in accordance with Section B, B-5, Performance Evaluation.
 - (D) If the provisional payments made above exceed the Award Fee earned or the Contractor fails to fully accomplish the objective/incentive for which it has received milestone completion or provisional payments, the Contracting Officer will determine if the Contractor is to refund all or part of the provisional fee it has received. Any refund made shall include interest. Interest will be paid at the published prime rate of the financial institution (depository) in which the special account is established or at the interest rate established by the Secretary of the Treasury as provided in Section 12 of the Contract Disputes Act of 1978 (Public Law 95-563), whichever is higher, which is applicable to the period in which any unearned payments were made. Interest paid resulting from this clause is an unallowable cost.
 - (E) The Contractor shall remit any balance due payable to the Government in accordance with directions to be provided by the Contracting Officer.
- (d) Unearned award fee will not be available for future performance periods.

B-4 KEY PERSONNEL REPLACEMENT

Unless approved in advance, in writing, by the Contracting Officer, should any Key Personnel be removed, replaced, or diverted by the Contractor for reasons under the

Contractor's control (other than to maintain satisfactory standards of employee competency, conduct and integrity under the Contract's Section I clause entitled "DEAR 970.5203-3, Contractor's Organization (DEC 2000)"), within the first two years of the period of performance; or for a replacement Key Person within two years of being placed in the position, the Contractor shall forfeit two years of the DOE/NNSA reimbursable annual salary, bonuses and relocation costs as well as associated burdens, for that position for each occurrence.

B-5 PERFORMANCE EVALUATION

- (a) Award Fee Plan. An Award Fee Plan will be developed by NNSA for this Contract which will document strategic performance expectations and the process by which the Contractor's performance will be evaluated. The Parties will strive to reach mutual agreement on expected performance and will work together to establish the Award Fee Plan. In the event the parties cannot come to agreement, NNSA reserves the right to make the final decision and issue the Award Fee Plan unilaterally. The Award Fee Plan once finalized, whether bilaterally or unilaterally, will be incorporated into the Contract at Section J, Appendix B, by a formal contract modification. The Contracting Officer may revise the Plan, consistent with Section J, Appendix A, Statement of Work (SOW), during an evaluation period of performance and will incorporate any revisions through a contract modification. No changes will be made with less than 60 days remaining in the evaluation period.
- (b) Contractor Evaluation Self-Assessment Report. A periodic self-assessment shall be prepared by the Contractor for consideration by the Government no later than seven calendar days after the end of an evaluation period.
- (c) Schedule. Within ten calendar days of the FDO final determination, the Contracting Officer will issue a modification to the Contract identifying the award fee earned, if any, authorizing the payment of earned award fee not already provisionally paid.

B-6 OBLIGATION OF FUNDS

Pursuant to this Section I clause entitled "DEAR 970.5232-4, Obligation of Funds, (DEC 2000)" the total amount obligated by the Government with respect to this Contract is \$____[TBD]_____.

B-7 AVAILABILITY OF APPROPRIATED FUNDS

Except as may be specifically provided to the contrary to Section I clause DEAR 952.250-70, *Nuclear Hazards Indemnity Agreement*, the duties and obligations of the Government hereunder calling for the expenditure of appropriated funds shall be subject to the availability of funds appropriated by the Congress, which DOE/NNSA may legally spend for such purposes.

SECTION C: DESCRIPTION/SPECIFICATIONS/STATEMENT OF WORK

C-1 STATEMENT OF WORK

The work to be performed is set forth in Section J, Appendix A, *Statement of Work*.

SECTION D: PACKAGING AND MARKING

D-1 PACKAGING AND MARKING

Packaging and marking of items to be delivered shall be in accordance with work authorization requirements or other written direction of the Contracting Officer or the Contracting Officer's Representative (COR).

SECTION E: INSPECTION AND ACCEPTANCE

E-1 FAR 52.246-5 INSPECTION OF SERVICES – COST REIMBURSEMENT (APR 1984)

- (a) *Definition.* “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 reperformance, 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-2 INSPECTION AND ACCEPTANCE

Inspection of all activities and acceptance for all work and effort under this Contract shall be accomplished by the Contracting Officer or any other duly authorized representative.

SECTION F: DELIVERIES OR PERFORMANCE

F-1 FAR 52.242-15 STOP-WORK ORDER (AUG 1989) ALTERNATE I (APR 1984)

- (a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either--
 - (1) Cancel the stop-work order; or
 - (2) Terminate the work covered by the order as provided in the Termination clause of this contract.
- (b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule, the estimated cost, the fee, or a combination thereof, and in any other terms of the contract that may be affected, and the contract shall be modified, in writing, accordingly, if--
 - (1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this Contract; and
 - (2) The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.
- (c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.
- (d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

F-2 STOP WORK IN EVENT OF IMMINENT DANGER

The Contractor shall immediately cease any activity that is imminently dangerous to the life or health of the workers, the public, or the environment. In the event of imminent danger, any Federal or Contractor employee is authorized to instruct the Contractor to stop work. The Contracting Officer must be contacted immediately after the event such that a written stop-work order can be issued in accordance with Section F clause FAR 52.242-15, *Stop-Work Order, Alternate I*. Employees of the Contractor shall be apprised of their right to stop work pursuant to this clause. The Contractor shall include this clause in all subcontracts to be performed at the sites.

F-3 PERIOD OF PERFORMANCE

The period of performance of this Contract shall expire five years after completion of the Transition Term, unless sooner reduced, terminated or extended in accordance with this Contract. The period of performance may be extended in increments, or portions thereof, for up to an additional five years of performance. The Contract's maximum period of performance, including the Transition Term and Option Term(s), if exercised, shall not exceed 10 years and four months. The period of performance of this Contract consists of:

- (1) Transition Term: A period of four months beginning on the effective date of the Contract. During the Transition Term, the Contractor shall perform the activities and provide the documents identified in Section F, F-6, *Deliverables During Transition* and Section J, Appendix C, *Transition Plan*. The Contractor's responsibility for management and operation of the Nevada National Security Site shall commence with the Base Term.
- (2) Base Term: A period of five years beginning after completion of the Transition Term.
- (3) Option Term(s): A period from one to five years beginning after completion of the Base Term, if the DOE/NNSA chooses to exercise one or more of the following options:

Option Term 1: If exercised, one year from the end of the Base Term;

Option Term 2: If exercised, one year from the end of Option Term 1;

Option Term 3: If exercised, one year from the end of Option Term 2;

Option Term 4: If exercised, one year from the end of Option Term 3;

Option Term 5: If exercised, one year from the end of Option Term 4;

F-4 PRINCIPAL PLACES OF PERFORMANCE

The work under this Contract is to be carried out at a variety of locations within the United States. The principal place of performance will be the NNSS in Nye County, Nevada. Work is also conducted at satellite facilities listed in clause B-1.

F-5 EVALUATION OF PERFORMANCE AND EXERCISE OF OPTION(S)

The decision to extend this Contract will be a unilateral decision made by DOE/NSA. Exercise of any option shall be in accordance with Section I clause FAR 52.217-9, *Option to Extend the Term of the Contract*. At a minimum, the DOE/NSA will consider the following in determining whether to extend the Contract:

- (1) The Contractor's overall performance, taking into consideration performance evaluations pursuant to the Award Fee Plan;
- (2) The considerations under DEAR 970.1706-1(b) for exercising options under M&O contracts.

F-6 DELIVERABLES DURING TRANSITION

In addition to the transition deliverables identified elsewhere in this Contract, the following deliverables shall be submitted during the Transition Term:

(a) Transition Plan

The Contractor shall provide, for approval by the Contracting Officer, a Transition Plan 10 days after Contract award. The Transition Term is specified in paragraph F-3, *Period of Performance*. The Transition Plan is incorporated into Section J, Appendix C, *Transition Plan*.

(b) Transition Cost Estimate

- (1) The Transition Cost Estimate shall include the costs associated with the Transition Plan and the costs necessary for the Contractor to meet the transition requirements during the Transition Term. A detailed schedule for accomplishment of these tasks during the Transition Term shall also be provided to support the requested cost estimate.
- (2) The Contractor shall provide a cost summary for the Transition Plan that clearly identifies, by cost element, the portion of the cost proposal that pertains to each participant (if a teaming arrangement is proposed), including subcontractors. In addition, each participant and each subcontractor must provide separate exhibits, summary schedules, and

supporting cost information in the same format and level of detail as required below. A transition fee is not allowable.

- (i) Labor: Identify proposed transition labor hours and unburdened labor rates by labor category and or/specific individual, including Key Personnel. Explain the basis for the proposed labor hour and labor rate estimates.
 - (ii) Indirects: Identify the cost elements included in each indirect rate cost pool and allocation base. Explain the basis of estimate for each indirect cost rate proposed and the methods used to derive the proposed rates.
- (c) Conflict of Interest Compliance and Management Plan

The Contractor shall submit a Conflict of Interest Compliance and Management Plan (Plan) to the Contracting Officer for approval within 60 days after the effective date of this Contract. The Plan shall address the Contractor's approach for adhering to Section I clause DEAR 952.209-72, *Organizational Conflicts of Interest (AUG 2009), Alternate I*, and describe its procedures for aggressively self-identifying and resolving both organizational and employee conflicts of interest. The overall purpose of the Plan is to demonstrate how the Contractor will assure that its operations meet the highest standards of ethical conduct, and how its assistance and advice are impartial and objective.

SECTION G: CONTRACT ADMINISTRATION DATA

G-1 GOVERNMENT CONTACTS AND PROCEDURES

- (a) The Patent Counsel for items concerning patent, intellectual property, technology transfer, copyright, open source, licenses and technical data issues is identified below. Correspondence being sent to the DOE/NNSA Patent Counsel should be addressed to:

U.S. Department of Energy, National Nuclear Security Administration
NNSA Patent Counsel
Office of the General Counsel (NA-GC)
P.O. Box 5400
Albuquerque, NM, 87185-5400

- (b) The Contractor may use the Organizational Property Management Officer as a point of contact for guidance and assistance involving property requirements. The Contracting Officer shall be contacted for any matter that involves a change in any of the express terms and conditions of the Contract. Correspondence being sent to the Organizational Property Management Officer should be addressed to:

U.S. Department of Energy, National Nuclear Security Administration
Organizational Property Management Officer (OPMO)
Personal Property Albuquerque
P.O. Box 5400
Albuquerque, New Mexico, 87185-5400

- (c) Technical and Administrative Correspondence:

Technical and administrative correspondence concerning performance of this Contract shall be addressed to the responsible DOE/NNSA Contracting Officer's Representative (COR), with an information copy to the Contracting Officer.

- (d) Designation of Contracting Officer's Representative(s)

The COR's official delegation of authority will be provided by the Contracting Officer to the Contractor. This delegation will describe the COR's authorities in detail. However, it is emphasized that only the Contracting Officer has the authority to modify the terms of this Contract, therefore, in no event will any understanding, agreement, modification, change order, or other matter deviating from the terms of the basic Contract between the Contractor and any other person be effective or binding on the Government. When/If, in the opinion of the Contractor, an effort outside the existing scope of this Contract is requested, the Contractor shall promptly notify the Contracting Officer in writing, before proceeding with the COR direction. No action shall be taken by the Contractor unless the Contracting Officer has issued a formal contractual change.

If an effort under this Contract requires that an Alternate COR perform duties in the absence of the responsible COR, all responsibilities and functions assigned to the COR shall be the responsibility of the Alternate COR acting on behalf of the COR.

(e) Contractual Correspondence/Matters

Correspondence involving contractual matters shall be addressed to the Administrative Contracting Officer (ACO), who is also primarily responsible for all contractual actions required to be taken by the Government under the terms of this Contract. The ACO may be contacted at

Contracting Officer
U.S. Department of Energy/NNSA
Nevada Field Office
P.O. Box 98518, M/S 505
Las Vegas, NV 89193-8518

(f) Marking

To promote timely and effective administration, correspondence submitted under this Contract shall contain a subject line commencing with the Contract number, as illustrated:

SUBJECT: Contract Number [TBD], (insert topic of correspondence after Contract Number)

G-2 MODIFICATION AUTHORITY

Notwithstanding any of the other clauses of this Contract, a Contracting Officer is the only individual authorized, on behalf of the Government, to:

- (a) Accept nonconforming work;
- (b) Waive any requirement of this Contract; or
- (c) Modify any term or condition of this Contract.

G-3 CONTRACTOR CONTACT

The Contractor shall identify to the Contracting Officer the point of contact who has the authority and is responsible for managing, administering, and negotiating changes to the terms and conditions of this Contract as well as executing contract modifications on behalf of the Contractor.

Name: TBD
 Position: TBD
 Company: TBD
 Address: TBD
 Phone: TBD
 E-mail: TBD

G-4 PERFORMANCE GUARANTEE(S)

If the Contractor has organized a separate corporate entity to perform all work under this Contract, the Contractor's parent organization(s) or all member organizations if the Contractor is a joint venture, limited liability company, or other similar entity, where more than one company is involved in a business relationship created for the purpose of performing under the resultant contract, shall guarantee performance as evidenced by the Performance Guarantee Agreement(s) incorporated in Section J, Appendix E, *Performance Guarantee Agreement(s)*. If the Contractor is a joint venture, limited liability company, or other similar entity, where more than one company is involved, the parent or all member organizations shall assume joint and severable liability for the performance of the Contract. In the event any of the signatories to the Performance Guarantee Agreement(s) enters into proceedings related to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the Contracting Officer.

G-5 RECOGNITION OF PERFORMING ENTITY

- (a) The Contractor and the Government recognize that the parties named below form the performing entity on which the award of this Contract was based.

The performing entity is TBD. This entity is comprised of: TBD.

- (b) Accordingly, the Contractor and the Government agree that the Contractor shall take no action to replace the components of the entity named in paragraph (a) of this clause without the prior written approval of the Contracting Officer.

G-6 RESPONSIBLE CORPORATE OFFICIAL

Notwithstanding G-4, *Performance Guarantee(s)*, the Government may contact, as necessary, the single responsible Corporate Official identified below, who is at a level above the senior Contractor official on-site and who is accountable for the performance

of the Contractor. Should the responsible Corporate Official change during the period of the Contract, the Contractor shall promptly notify the Government of the change in the individual to contact.

Name: TBD
Position: TBD
Company: TBD
Address: TBD
Phone: TBD
E-mail: TBD

G-7 INVOICING FOR TRANSITION COSTS

- (a) The Contractor shall submit vouchers electronically through the Oak Ridge Financial Service Center's (ORFSC) Vendor Inquiry Payment Electronic Reporting System (VIPERS) for reimbursement for work performed under CLIN 0001A, *Contract Transition Term*. VIPERS allows vendors to check the payment status of any voucher submitted to the DOE. To obtain access to and use VIPERS, please visit the web page at <https://vipers.oro.doe.gov/>. The Contractor shall contact the Contracting Officer if the Contractor is unable to submit invoices electronically.
- (b) The Contractor shall invoice for work performed, as directed by the Contracting Officer (following the procedures at paragraph (a) of this clause).

SECTION H: SPECIAL CONTRACT REQUIREMENTS

H-1 CONTINUATION OF PREDECESSOR CONTRACTOR'S OBLIGATIONS

Existing contractual agreements and regulatory obligations entered into under Contract DE-AC52-06NA25946 will continue during performance of this Contract. The Contractor shall continue to have responsibility and accountability under this Contract for all existing commercial and regulatory obligations under the predecessor Contract. The contractual agreements shall include, but not be limited to 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.

Additionally, unless otherwise stated in this Contract, management systems, plans, permits, procedures, and other agreements that exist on the effective date of the Contract will continue until the Contractor addresses the applicable requirements contained in this Contract. For changes that require DOE/NNSA approval, the Contractor shall not implement a change until it is formally approved by the Contracting Officer.

H-2 SMALL BUSINESS PARTICIPATION

The Small Business Subcontracting Plan is incorporated in Section J, Appendix I. The Contractor shall submit annual subcontracting goals 60 days prior to the beginning of each fiscal year during the term of this Contract, or by such other date as authorized in writing by the Contracting Officer.

H-3 REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFEROR

The Representations, Certifications, and Other Statements of Offeror completed by the Contractor and dated [TBD], are hereby incorporated in this Contract by reference.

H-4 CONFLICT OF INTEREST COMPLIANCE AND MANAGEMENT PLAN

The Contractor and the Contractor's parent(s) and affiliate(s), if any, shall comply with the provisions of the approved Conflict of Interest Compliance and Management Plan (Plan) in the performance of the Contract and any deviations or amendments to the Plan shall require the express written approval, in advance, from the Contracting Officer. The Contractor shall submit to the Contracting Officer annual Organizational Conflict of Interest (OCI) Disclosure Update Statements beginning November 1st of each year after Contract award. Notwithstanding the annual disclosure requirement, any change in relevant facts since the last OCI Disclosure Update Statement shall be disclosed to the Contracting Officer pursuant to Section I clause DEAR 952.209-72, *Organizational Conflicts of Interest, Alternate I*, paragraph (c)(1), *Disclosure After Award*. Initial notification to the Contracting Officer shall be

accomplished as soon as the facts are known with a full disclosure within 60 days of the initial notification, unless otherwise directed by the Contracting Officer.

H-5 LOBBYING RESTRICTION

The Contractor agrees that none of the funds obligated on this award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. § 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

H-6 PREEXISTING CONDITIONS

- (a) Any liability, obligation, loss, damage, penalty, fine, or claim (including, without limitation, a claim involving strict or absolute liability), action, suit, cost, expense or disbursement which may be incurred, imposed, or asserted by any party and arising out of any act or failure to act which occurred before the date of Contract award, in conjunction with the management and operation of the National Nuclear Security Site (NNSS), shall be deemed incurred under Contract DE-AC52-06NA25946.
- (b) Notwithstanding the provisions of subparagraph (a) above, to the extent the acts or failure to act of the Contractor after date of Contract award, cause or add to any fine, or penalty, or remediation costs resulting from a condition in existence prior to date of Contract award, the Contractor shall be responsible in accordance with the terms and conditions of this Contract. The Contractor has the duty to inspect existing facilities and sites and timely identify to the Government those conditions which it believes could give rise to a liability, obligation, loss, damage, penalty, fine, claim, action, suit, cost, expense, or disbursement or areas of actual or potential noncompliance with the terms and conditions of this Contract or applicable law or regulation, and the responsibility to take corrective action, as directed by the Contracting Officer or as required elsewhere in this Contract.
- (c) The obligations of the Government under this clause are subject to Section I clause DEAR 970.5232-4, *Obligation of Funds*.

H-7 CONFERENCE MANAGEMENT (SEP 2015)

The Contractor agrees that:

- a) The contractor shall ensure that contractor-sponsored conferences reflect the DOE/NNSA's commitment to fiscal responsibility, appropriate stewardship of taxpayer funds and support the mission of DOE/NNSA as well as other sponsors of work. In addition, the contractor will ensure conferences do not include any activities that create the appearance of taxpayer funds being used in a questionable manner.

- b) For the purposes of this clause, “conference” is defined in Attachment 2 to the Deputy Secretary’s memorandum of August 17, 2015 entitled “Updated Guidance on Conference-Related Activities and Spending.” A copy of the memorandum may be found at <http://energy.gov/management/downloads/policy-flash-2015-36-al-2015-09>.
- c) Contractor-sponsored conferences include those events that meet the conference definition and either or both of the following:
 - 1) The contractor provides funding to plan, promote, or implement an event, except in instances where a contractor:
 - i) covers participation costs in a conference for specified individuals (e.g. students, retirees, speakers, etc.) in a total amount not to exceed \$10,000 (by individual contractor for a specific conference) or
 - ii) purchases goods or services from the conference planners (e.g., attendee registration fees, renting booth space).
 - 2) The contractor authorizes use of its official seal, or other seals/logos/ trademarks to promote a conference. Exceptions include non-M&O contractors who use their seal to promote a conference that is unrelated to their DOE contract(s) (e.g., if a DOE IT contractor were to host a general conference on cyber security).
- d) Attending a conference, giving a speech or serving as an honorary chairperson does not connote sponsorship.
- e) The contractor will provide information on conferences they plan to sponsor with expected costs exceeding \$100,000 in the Department’s Conference Management Tool, including:
 - 1) Conference title, description, and date
 - 2) Location and venue
 - 3) Description of any unusual expenses (e.g., promotional items)
 - 4) Description of contracting procedures used (e.g., competition for space/support)
 - 5) Costs for space, food/beverages, audio visual, travel/per diem, registration costs, recovered costs (e.g., through exhibit fees)
 - 6) Number of attendees
- f) The contractor will not expend funds on the proposed contractor-sponsored conferences with expenditures estimated to exceed \$100,000 until notified of approval by the contracting officer.
- g) For DOE-sponsored conferences, the contractor will not expend funds on the proposed conference until notified by the contracting officer.
 - 1) DOE-sponsored conferences include events that meet the definition of a conference and where the Department provides funding to plan, promote, or implement the conference

and/or authorizes use of the official DOE seal, or other seals/logos/ trademarks to promote a conference. Exceptions include instances where DOE:

- i) covers participation costs in a conference for specified individuals (e.g. students, retirees, speakers, etc.) in a total amount not to exceed \$10,000 (by individual contractor for a specific conference) or
 - ii) purchases goods or services from the conference planners (e.g., attendee registration fees; renting booth space); or provide funding to the conference planners through Federal grants.
- 2) Attending a conference, giving a speech, or serving as an honorary chairperson does not connote sponsorship.
 - 3) The contractor will provide cost and attendance information on their participation in all DOE-sponsored conference in the DOE Conference Management Tool.
- h) For *non-contractor sponsored conferences*, the contractor shall develop and implement a process to ensure costs related to conferences are allowable, allocable, reasonable, and further the mission of DOE/NNSA. This process must at a minimum:
- 1) Track all conference expenses.
 - 2) Require the Laboratory Director (or equivalent) or Chief Operating Officer approve a single conference with net costs to the contractor of \$100,000 or greater.
- i) Contractors are not required to enter information on non-sponsored conferences in DOE'S Conference Management Tool.
- j) Once funds have been expended on a non-sponsored conference, contractors may not authorize the use of their trademarks/logos for the conference, provide the conference planners with more than \$10,000 for specified individuals to participate in the conference, or provide any other sponsorship funding for the conference. If a contractor does so, its expenditures for the conference may be deemed unallowable.

H-8 FEDERAL FLEET MANAGEMENT SYSTEM

When the Contracting Officer has issued the Contractor authorization to obtain interagency fleet management system vehicles in performance of the contract, the Contractor shall follow the requirement of the Federal Fleet Management System known as FedFMS (<https://ffms.fas.gsa.gov/ffms/fastart/>). The Contractor shall provide the information needed to satisfy the reporting requirement as stated in FedFMS on a monthly basis using the Fleet Management Information System. The Contractor shall also address any of the data gaps/incomplete records that already exist.

H-9 ACCOUNTABILITY

The Contractor is responsible for the quality of its products and for assessing its operations, programs, projects and business systems and identifying deficiencies and implementing needed improvements in accordance with the terms and conditions of this Contract, regardless of whether NNSA has evaluated the Contractor's performance in any

area of the Contract. The Contractor is encouraged to rely upon parent (as applicable) corporate leadership, systems and processes as well as independent third party assessments in assessing its own performance under this contract. The purpose of NNSA oversight is for assessing the Contractor's performance in meeting its obligations under this Contract. NNSA oversight shall not be relied upon by the Contractor in assessing its performance.

H-10 NNSA OVERSIGHT

- (a) As used in this clause, "NNSA oversight" encompasses activities performed by NNSA organizations to determine the effectiveness of contractor performance of the Scope of Work. Oversight includes onsite reviews, assessments, performance evaluations, and other activities.
- (b) NNSA oversight - NNSA will determine the level of NNSA oversight of all Contractor activities under this Contract, consistent with the Oversight Plan and approved funding levels. NNSA will apply its oversight of the Contractor consistent with the contractor's management systems, the risk level of the work processes, the contractor's performance, and the effectiveness of the Contractor Assurance System. The Contracting Officer will seek input from the contractor on the appropriate type and level of effort of oversight for management systems and processes. The oversight mechanisms will be documented by NNSA, linked to the Contractor Assurance System and subject to modification. In general, NNSA oversight will be consistent with the following concepts:
 - (1) There will be less oversight in areas subject to well-recognized, independent third party assessments, when the third party assessments find that the contractor systems are performing adequately.
 - (2) The level of oversight will take into account whether areas are directly related to critical outcomes of the mission of the NNSS, or areas that are not central to the core mission such as administrative support functions.
 - (3) Oversight will not unduly interfere with contractor efforts to implement industrial standards and/or best commercial practices.
 - (4) Oversight is subject to increase in areas where performance deficiencies exist. However, prior to increasing oversight, the Contracting Officer will consider whether contractor corrective action plans provide sufficient assurance.
- (c) In addition to the rights and remedies provided to the Government under other provisions of the Contract, the Contractor shall fully cooperate with the NNSA oversight personnel and subject matter experts in the performance of their assigned oversight functions, and shall provide complete access to facilities, information and Contractor personnel.

- (d) The Contractor shall continue to be subject to the oversight of independent oversight functions authorized by the Secretary of Energy in the performance of their duties such as the Office of Security and Safety Performance Assurance or the Office of the Inspector General. The Contractor shall not comply with a finding, opinion, or directive of an Independent Oversight Function absent direction from the Contracting Officer.

H-11 UPDATES TO FAR AND DEAR CLAUSES

The Contractor agrees that the Contracting Officer may, from time to time and at any time, unilaterally modify the Contract to revise, add or delete Section I FAR and DEAR clauses due to changes in the regulations or the approval of new deviations. Should there be an impact to the Contractor as a result of any such modification to the Contract, the Contracting Officer will provide appropriate consideration.

H-12 MANAGEMENT TEAM COMPENSATION

Amounts of compensation reimbursed during the first two years of contract performance shall not exceed the total proposed management team costs for any position, as reflected in *Section L Attachment G "Management Team Cost Sheet"* of the Contractor's proposal in response to solicitation No. DE-SOL-0008418. For the remaining years of the Contract, the Key Personnel compensation will be reimbursed in accordance with the Statement of Work, Chapter III, paragraph 3.2.3.

H-13 CONFIDENTIALITY OF INFORMATION (NOV 2009)

(a) To the extent that the work under this Contract requires that the Contractor be given access to or be furnished with confidential or proprietary business, technical, or financial information or data belonging to other entities that is clearly marked as confidential or proprietary, the Contractor shall, after receipt thereof, treat such information in confidence and agrees not to appropriate such information to its own use or to disclose such information to third parties unless specifically authorized in writing by the Contracting Officer. The foregoing obligations, however, shall not apply to:

(1) Information or data that is in the public domain at the time of receipt by the Contractor;

(2) Information or data that is published or otherwise subsequently becomes part of the public domain through no fault of the Contractor;

(3) Information or data that the Contractor can demonstrate was already in its possession at the time of receipt thereof; or

(4) Information or data that the Contractor can demonstrate was received by it from a third party that did not require the Contractor to treat it in confidence.

(b) The Contractor agrees to enter into an agreement, identical in all material respects to the requirements of paragraph (a) above, with each entity supplying such confidential or proprietary information or data to the Contractor under this order and to supply a copy of such agreement to the Contracting Officer. Upon request of the Contracting Officer, the Contractor shall furnish the Government with reports that specify any information or data received as confidential or proprietary and that identify the entity or entities who supplied the Contractor with such information or data.

(c) The Contractor shall obtain the written agreement of each employee permitted access to or furnished with confidential or proprietary business, technical, or financial information or data, whereby the employee agrees that such information or data that the Contractor is obligated to treat in confidence will not be discussed, divulged or disclosed except to those persons within the Contractor's organization directly concerned with the performance of this order or to Government representatives. Notwithstanding the foregoing Contractor-employee agreement, upon request of the Contracting Officer, the Contractor agrees to obtain from each employee a confidentiality agreement acceptable to the Contracting Officer.

(d) This clause, including this paragraph (d) shall be included in subcontracts if there is a requirement or there becomes a requirement that the subcontractor be given access to or be furnished with confidential or proprietary business, technical, or financial information or data.

H-14 CONTRACTOR USE OF GOVERNMENT VEHICLES – WORK TO DOMICILE

(a) Government-owned or leased vehicles shall be used for official purposes only. Official purposes do not ordinarily include transportation of a contractor's employee between domicile and place of employment. However, contractor employees driving government-owned or leased vehicles to their personal residences will be considered to do so for official purposes if all the following conditions exist–

(1) Unusual and special circumstances occur when contractor employees are required to work unusual hours and regular transportation is not available.

(2) The Contractor has defined, in writing, the special and unusual circumstances in which the driving of government-owned or leased vehicles by contractor employees to their personal residences will be considered used for official purposes and the Contracting Officer has approved them.

(3) The Contractor has designated, in writing, specific individuals who are authorized to approve the driving of government vehicles by contractor employees to their personal residences.

(b) The Contractor shall maintain records necessary to clearly establish the extent that home-to-work transportation was for official purposes. The Contractor shall determine, subject to approval of the Contracting Officer, the organizational level at which the records should be maintained and kept. The records shall be available for audit and shall contain information required by the Contracting Officer.

- (c) The Contractor shall establish and enforce penalties for employees who use or authorize the use of Government vehicles for other than official purposes.

H-15 NNSA PRIME CONTRACTS

(a) In accordance with the Contract's Section I Clause entitled "DEAR 970.5243-1, Changes," the Contracting Officer may identify any of the work contemplated by Section J, Appendix A, Statement of Work, of this Contract to be performed either by another Contractor directly contracted by the DOE/NNSA or by Government employees. The Contractor agrees to fully cooperate with such other Contractors and Government employees, carefully fit its own work to such other work as may be directed by the Contracting Officer, and provide reasonable support as required. The Contractor shall not commit or permit any act, which will interfere with the performance of work by any other Contractor or by Government employees. For work identified for performance by another Contractor directly contracted by the NNSA:

- (1) The Government and the Contractor will confer in advance on the strategy for changing responsibility for the work and will do so with the objective of minimum disruption to the site operations.
- (2) The Government may designate the Contractor as the Technical Monitor (not authorized to accept or provide technical direction) for such Contracts that are directly related to the scope of this Contract. The Contractor agrees to perform such monitoring duties as shall be further described in the designation for each such Contract. No designation shall include, and the Contractor shall not perform any function determined to be inherently Governmental. These functions include, but are not limited to:
 - (i) Award, modification, change, or termination of the Contract.
 - (ii) Receipt, processing or adjudication of any claims, invoices, or demands for payment of any form.
- (3) The Technical Monitor shall report to the Contracting Officer, or the Contracting Officer's Representative (COR), any performance of a designated Contract that may not be in compliance with its terms and conditions but is not authorized to take any other action regarding such noncompliance.
- (4) Additionally, the NNSA agrees to insert the clause below entitled "Other Government Contractors Performing Work at the NNS," substantially as written here, in all such Contracts as follows:

OTHER GOVERNMENT CONTRACTORS PERFORMING WORK AT THE NNS

In addition to this Contract, (Insert Contract Number), the Government may undertake or award other Contracts for additional work or services at the NNS.

The Contractor agrees to fully cooperate with the M&O Contractor, other Contractors, and Government employees, and carefully coordinate its own work with other work being performed at the site as may be directed by the Contracting Officer. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other Contractor or by Government employees at the site.

The Government may designate the M&O Contractor to be the Technical Monitor for any right, duty or interest in this Contract. If the M&O Contractor is designated, a copy of the designation letter will be provided to the Contractor by the Government. The Contractor further agrees to fully cooperate with the M&O Contractor for all matters under the terms of the designation.

- (b) In the cases where the Government directly contracts with other entities and retains administration, the Contractor shall fully cooperate with these other entities and provide reasonable support as required.
- (c) Adjustments shall be made to the Contractor's Subcontracting Plan to recognize the changes to the subcontracting base and goals, if appropriate.

H-16 INSTRUCTIONS FOR UPDATING FOREIGN OWNERSHIP, CONTROL OR INFLUENCE (FOCI) INFORMATION (MAY 2014)

(a) In order to submit periodic updates or to report changes to Foreign Ownership, Control or Influence information as required by DEAR 952.204-2, Security, the Contractor shall use the DOE FOCI electronic submission system located at <https://foci.anl.gov>.

(b) New users, when registering to update information under this contract, should select "NNSA Albuquerque Complex - Acquisition and Project Management (NA-APM)" as the FOCI Office that will review the FOCI Submission.

(c) Electronic signatures are not accepted; all FOCI documentation/forms requiring signatures, dates, and company seal (if applicable), must be printed, completed, and uploaded under the Miscellaneous Tab within the e-FOCI system. NOTE: Hard copies of electronic FOCI submission package are no longer required, as indicated in the e-FOCI system. Specific problems maneuvering through the fields within the e-FOCI system can be clarified by contacting the e-FOCI help desk at (630) 252-6566 or fociserver@anl.gov.

H-17 PARENT OVERSIGHT PLAN

(a) If a Parent Oversight Plan is requested by the Contracting Officer pursuant to Section J, Appendix A, Chapter I, 4.4.3, the Parent Oversight Plan will be attached and made part of the Contract at Section J. Elements of the Plan may be incorporated into the Performance Evaluation Plan. The Parent Oversight Plan shall identify the official(s) responsible for administration of the plan.

(b) The Contractor shall provide periodic reports of Parent Oversight activities and costs incurred as required by the Contracting Officer. Costs associated with Plan shall only include: the actual direct labor costs of the persons performing such services; a percentage factor of direct labor costs to cover fringe benefits and payroll taxes; travel; and other direct costs. Any fee or other indirect costs such as allocation for overhead, General and Administrative (G&A), and Cost of Money will not be reimbursed.

(c) Cost limitations set forth in paragraph (b) above shall not be exceeded without prior Contracting Officer approval. The Parties agree that the costs may be reviewed further for appropriateness and scope. In addition, the Parties agree that a tracking process, acceptable to the Contracting Officer, providing sufficient detail for reasonable accountability, shall be implemented. The Parties agree to negotiate in good faith any adjustments to these amounts as a result of empirical information from any such tracking system or reviews.

H-18 CONSTRUCTION PROJECTS

For construction projects, the Contractor agrees that the NNSA will incorporate, as appropriate, construction terms and conditions into the M&O Contract or work authorization for the completion of that project that are not otherwise contained in the M&O Contract. The work authorization will also include specific work requirements in accordance with applicable DOE Orders and the Contract's Section I Clause entitled "DEAR 970.5211-1, Work Authorization."

H-19 CONTRACTOR MULTI-YEAR STRATEGY FOR PERFORMANCE IMPROVEMENT

The Contractor shall develop a multi-year strategy that details (1) its planned efforts and expected accomplishments by year, to continuously improve its management and performance at the NNSA. The multi-year strategy shall also address planned efforts to (1) enhance Contractor communications, cooperation and integration with the NNSA Weapon Complex, with emphasis on NNSA laboratories, NNSA, as well as work for other customers; and, (2) contribute to overall NNSA Weapon Complex improvements in performance. The Contractor shall submit its initial multi-year strategy at the end of the first year of performance. Subsequent annual updates shall be submitted to the Contracting Officer no later than June 15th of each year. Performance measures for these planned efforts and expected accomplishments may be considered for inclusion in the Contract's Performance Evaluation Plan.

H-20 MANAGEMENT AND OPERATING CONTRACTOR (M&O) SUBCONTRACT REPORTING (Sep 2015)

(a) Definitions. As used in this clause—

"First-tier subcontract" means a subcontract awarded directly by the Contractor for the purpose of acquiring supplies or services (including construction) for performance of a prime contract. It does not include the Contractor's supplier agreements with vendors, such as long-term arrangements for materials or supplies that would benefit multiple contracts and/or the costs of

which are normally applied to a Contractor's general and administrative expenses or indirect cost.

"M&O Subcontract Reporting Capability (MOSRC)" means a DOE system and associated processes to collect key information about M&O first-tier subcontracts for reporting to the Small Business Administration.

"Transaction" means any awarded contract, agreement, order, or modification, etc. (other than one involving an employer-employee relationship) entered into by a DOE M&O prime contractor calling for supplies and services (including construction) required solely for performance of the prime contract.

(b) Limited Interim Reporting.

(1) The Contractor shall report no less than the twenty highest dollar value first-tier small business subcontract transactions under the contract by December 1 for the previous fiscal year until the Contractor business systems can report the required data as set forth in paragraph (c) below. Classified subcontracts shall be excluded from the reporting requirement and shall not be counted towards the total number of transactions of the reporting requirement.

(2) Transactions with a corporation, company, or subdivision that is an affiliate of the Contractor are not included in these reports.

(3) The Contractor shall provide the data on first-tier small business subcontract transactions under the contracts, as described in the MOSRC Guide via the Microsoft Excel spreadsheet co-located at <https://max.gov> in the MOSRC Collaboration Center. The spreadsheet will be submitted to HQProcurementSystems@hq.doe.gov.

(c) Full Reporting. The Contractor shall update their business systems and processes to collect and report data to MOSRC in compliance with the MOSRC Guide. The Contractor shall report data in MOSRC for FY17 (and each year thereafter) first-tier small business subcontracting transactions under the contract. Classified subcontracts shall be excluded from the reporting requirements. All Contractor systems shall be updated in order to provide the first FY17 report in November 2016 for October 2016 transactions.

H-21 PERFORMANCE DIRECTION

(a) The Contractor is responsible for the management and operation of the NNSS and satellite facilities in accordance with the Terms and Conditions of the Contract, duly issued Work Authorizations (WAs), and written direction and guidance provided by the Contracting Officer and the Contracting Officer's Representatives (CORs). NNSA/NSO is responsible for establishing the work to be accomplished, the applicable standards and requirements to be met, and overseeing the work of the Contractor. The Contractor shall use its expertise and ingenuity in contract performance to most effectively, efficiently, and safely accomplish the work called for by this Contract.

(b) Only the Contracting Officer may issue, modify, and priority rank WAs.

(c) (1) The Contracting Officer will appoint, in writing, specific NNSA employees as CORs with the authority to issue Performance Direction to the Contractor. CORs are authorized to act within the limits of their delegation letter. A copy of each letter will be provided to the Contractor. COR functions include technical monitoring, inspection, and other functions of a technical nature not involving a change in the scope, cost, or Terms and Conditions of the contract. The COR is authorized to review and approve technical reports, drawings, specifications, and technical information delivered by the Contractor.

(2) The Contractor must comply with written Performance Directions that are signed by the COR and—

(i) Redirect the contract effort, shift work emphasis within a work area or a WA, further define or otherwise serve to accomplish the Statement of Work (SOW) or

(ii) Provide information that assists in the interpretation of drawings, specifications, or technical portions of the work description.

(3) Performance direction does not—

(i) Authorize the Contractor to exceed the funds obligated on the contract

(ii) Authorize any increased cost or delay in delivery in a WA entitle the Contractor to an increase in fee or

(iii) Change any of the terms or conditions of the contract.

(d) The Contractor shall accept only Performance Direction provided in writing by a COR and that is within the SOW and a WA.

(e)

(1) The Contractor shall promptly comply with each duly issued Performance Direction unless the Contractor reasonably believes that the Performance Direction violates this clause. If the Contractor believes the Performance Direction violates this clause, the Contractor shall suspend implementation of the Performance Direction and promptly notify the Contracting Officer of its reasons for believing that the Performance Direction violates this clause. Oral notifications to the Contracting Officer shall be confirmed in writing within ten days of the oral notification.

(2) The Contracting Officer will determine if the Performance Direction is within the SOW and WA. This determination will be issued in writing and the Contractor shall promptly comply with the Contracting Officer's direction. If it is not within the SOW or WA, the Contracting Officer may issue a change order pursuant to the Contract's Section I clause entitled "Changes."

(f) The Contracting Officer and the Contractor agree to maintain full and open communication at all times, and on all issues affecting contract performance, during the term of this Contract.

H-22 INDIRECT RATE MANAGEMENT

(a) Indirect rates

(1) The Contracting Officer and Contractor shall execute a written indirect rate agreement to provide for an interim method of reimbursement for incurred indirect costs at estimated rates subject to adjustment during contract performance. These rates shall also be used as forward pricing rates for Contractor proposals submitted to the government.

(2) The Contractor shall include the Office of Field Financial Management (OFFM) liaison accountants in Contractor meetings and discussions during the budget cycle timeframe (approximately February through June) concerning the Contractor's initial indirect rate proposal for the upcoming Government's Fiscal Year (GFY). Additionally, the Contractor shall include the OFFM liaison accountants in Contractor meetings and discussions concerning any potential indirect rate changes for the immediate GFY.

(3) The Contractor shall submit the initial indirect rate proposal to OFFM through the NNSA Cognizant Contracting Officer (CO) no later than August 1st for each upcoming GFY. An indirect rate change proposal shall be submitted for any proposed rate change no later than 30 days prior to requested implementation of the proposed rate change. The Contractor shall provide adequate supporting data as described in (c) below.

(4) The Contractor shall brief NNSA stakeholders concerning the impact proposed rate changes will have on NNSA programs and projects.

(5) The CO and the Contractor shall negotiate and execute a written indirect rate agreement as promptly as practical after receipt of the Contractor's initial or rate change proposal. The agreement shall specify: 1) the agreed-upon indirect rates; 2) the forecasted pools and bases to which the rates apply, and 3) the period for which the rates apply. The agreement shall not change any monetary ceiling, contract obligation, or specific cost allowance or disallowance provided for in this contract. When agreement cannot be reached, the rates may be unilaterally determined by the CO.

(b) Final annual indirect rates

(1) The Contractor shall submit an adequate final indirect rate proposal to OFFM through the CO no later than 45 days after the end of each GFY. Reasonable extensions for exceptional circumstances only may be requested in writing by the Contractor and granted in writing by the CO. The Contractor shall support its final indirect rate proposal with adequate supporting data as described in (d) below.

(2) The proposed rates shall be based on the Contractor's actual cost experience for the period in which the rates apply. OFFM reviews final annual indirect rates and submits a report to the CO.

(c) Adequate indirect rate proposals (initial and change)

- (1) An adequate indirect rate proposal shall include assumptions, rationale, analysis and cost impacts. The Contractor shall also provide a summary of all indirect rates including pool, base, and calculated indirect rate by major functions, activities, and elements of cost as identified in accounting records unless otherwise specified by the CO. For example:
 - (i). Fringe
 - (ii). Overhead expenses (indirect cost pool)
 - (iii). General and Administrative (G&A) expenses (indirect cost pool)
 - (iv). Other Special Allocations, Costs and Transactions
 - (v). Service Centers (intermediate indirect cost pool)
 - (vi). Application of Overhead and G&A to Special Transactions or Costs
- (2) The following supplemental information shall be included with the submission of an indirect rate proposal:
 - (i). Labor rates
 - (ii). Comparative analysis of indirect rates detailed by account or major cost category of prior GFY to current GFY
 - (iii). Payroll dollars and employee count by function for current FY
 - (iv). Comparative analysis of prior GFY Budget to current GFY Budget at Obligational Control Level
 - (v). Comparative analysis of prior GFY Fee to current GFY Fee
 - (vi). Current year cost model
 - (vii). Current organizational chart
 - (viii). Financial points of contact
 - (ix). Institutional General Plant Projects and Institutional General Purpose Equipment
 - (x). Identification of any significant cost accounting practice changes since the prior indirect rate submission (initial, revised, or final)
 - (xi). Other data as required by the CO or OFFM

(d) Adequate final annual indirect rate proposals

- (1) The proposal shall include the data described in (c) 1 and (c) 2, and the following:
 - (i). Year-end variance analysis and explanation for variances between final actual costs and cost recovery at the end of GFY. Analysis shall include a description of variance methodology used, distribution process, and final variance disposition by major indirect expense pool and internal account references.
 - (ii). Month-end variance analysis shall be provided for the last 3 months of the GFY.
 - (iii). Breakout of total labor cost between direct and indirect.
 - (iv). After OFFM's initial review further detail may be required. For example:
 - (1) Detailed breakout of indirect cost pools at the end of GFY.
 - (2) A narrative describing the key drivers of variance cost in the pools.

H-23 CONTRACTOR COMMUNITY COMMITMENTS

The Contract's Section J Appendix M entitled "Contractor Commitments, Agreements, and Understandings" sets forth the Contractor's Community Commitment Plan consistent with the intent of DEAR 970.5226-3, "Community Commitment". The plan shall describe the Contractor's planned activities as to how it will be a constructive partner to the communities in the State of Nevada. The Contractor is encouraged to consider specific performance goals around maximizing subcontracting to business within Nevada and Strategic Partnerships with Nevada's system of higher education. All costs (direct or indirect) to be incurred by the Contractor in creating the "Contractor Commitments, Agreements, and Understandings" are expressly unallowable and non-reimbursable under this Contract.