

SOLICITATION, OFFER AND AWARD		1 THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)	RATING DO-E2 (Mod 0069)	PAGE OF PAGES 1 2	
2 CONTRACT NUMBER DE-NA0003624		3 SOLICITATION NUMBER DE-SOL-0008418	4 TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (FB) <input type="checkbox"/> NEGOTIATED (RFP)	5 DATE ISSUED 11/04/2015	6 REQUISITION/PURCHASE NUMBER 17NA001024
7 ISSUED BY NNSA M&O Contracting Operations Div NA-APM-13 Forrestal Building 1000 Independence Avenue, S.W. Washington DC 20585		CODE 05114	8 ADDRESS OFFER TO (If other than Item 7)		

NOTE In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder"

SOLICITATION

9 Sealed offers in original and _____ copies for furnishing the supplies or services in the Schedule will be received at the place specified in item 8, or if hand carried, in the depository located in _____ until _____ (Hour) local time _____ (Date)

CAUTION: LATE Submissions, Modifications, and Withdrawals. See Section L, Provision No 52.214-7 or 52.215-1. All offers are subject to all terms and conditions contained in this solicitation.

10. FOR INFORMATION CALL:	A. NAME Sandra C. Caesar	B. TELEPHONE (NO COLLECT CALLS)		C. E-MAIL ADDRESS sandra.caesar@nnsa.doe.gov
		AREA CODE 202	NUMBER 586-2346	EXT.

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OFFER (Must be fully completed by offeror)

NOTE Item 12 does not apply if the solicitation includes the provisions at 2.21 16, Minimum Bid Acceptance Period

12 In compliance with the above, the undersigned agrees, if this offer is accepted within _____ calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule

13 DISCOUNT FOR PROMPT PAYMENT (See Section Clause No. 52.232 B)	10 CALENDAR DAYS (%) NET 30	20 CALENDAR DAYS (%)	30 CALENDAR DAYS (%)	CALENDAR DAYS (%)
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14 ACKNOWLEDGEMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated)	AMENDMENT NO	DATE	AMENDMENT NO	DATE

15A NAME AND ADDRESS OF OFFEROR MISSION SUPPORT AND TEST SERVICES LLC Attn: JOHN MURRAY 23500 W 105TH ST MD 300 OLATHE KS 660618425	CODE 080083514	FACILITY	16 NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)
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15B TELEPHONE NUMBER AREA CODE NUMBER EXT	15C CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE	17 SIGNATURE	18 OFFER DATE
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AWARD (To be completed by government)

19 ACCEPTED AS TO ITEMS NUMBERED	20 AMOUNT \$2,652,331,395.00	21 ACCOUNTING AND APPROPRIATION See schedule
22 AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION <input type="checkbox"/> 10 U.S.C. 2304 (c) () <input type="checkbox"/> 41 U.S.C. 253 (c) ()	23 SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified)	ITEM
24 ADMINISTERED BY (If other than Item 7) See Schedule G	25 PAYMENT WILL BE MADE BY See Schedule G	CODE 00503
26 NAME OF CONTRACTING OFFICER (Type or print) Ariane S. Kaminsky	27 UNITED STATES OF AMERICA Signature on File (Signature of Contracting Officer)	28 AWARD DATE 05/12/2017

IMPORTANT - Award will be made on this Form, or on Standard Form 26, or by other authorized official written notice AUTHORIZED FOR LOCAL REPRODUCTION Previous edition is unusable

CONTINUATION SHEET

REFERENCE NO. OF DOCUMENT BEING CONTINUED
DE-NA0003624

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NAME OF OFFEROR OR CONTRACTOR
MISSION SUPPORT AND TEST SERVICES LLC

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	<p>Contract Award DE-NA0003624 to the Mission Support and Test Services LLC (MSTS) for the Management and Operation of the Department of Energy National Nuclear Security Administration's Nevada National Security Site.</p> <p>Delivery Location Code: 05002 NNSA/Nevada Site Office U.S. Department of Energy NNSA/Nevada Site Office P.O. Box 98518 Las Vegas NV 89193-8518</p> <p>Payment: OR for NNSA U.S. Department of Energy Oak Ridge Financial Service Center P.O. Box 5807 Oak Ridge TN 37831</p> <p>FOB: Destination Period of Performance: 06/07/2017 to 09/30/2022</p>				

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SECTION B: SUPPLIES OR SERVICES AND PRICES/COSTS**B-1 SERVICES BEING ACQUIRED (Mod 0009, 0033,0042)****CLIN 0001 MANAGEMENT AND OPERATION OF THE NEVADA NATIONAL SECURITY SITE (Mod 0009, 0033, 0042)**

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. *This CLIN includes design and/or construction projects other than a Capital Asset Project(s) for which the parties have agreed to perform under a different fee structure pursuant to CLIN 0003.*

CLIN 0001A TRANSITION TERM (Mod 0009, 0033)

The Transition Term will be four months, on a cost reimbursement (no fee) basis, with a not to exceed price and ceiling amount of \$10,000,000.00.

CLIN 0001B BASE TERM (Mod 0033)

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

CLIN 0001C OPTION TERM 1 (Mod 0009, 0033)

Option Term 1 is ten months of performance on a cost-plus-award-fee basis.

CLIN 0001D OPTION TERM 2 (Mod 0033)

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

CLIN 0001E OPTION TERM 3 (Mod 0033)

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

CLIN 0001F OPTION TERM 4 (Mod 0033)

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

CLIN 0001G OPTION TERM 5 (Mod 0009, 0033)

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

CLIN 0002 STRATEGIC PARTNERSHIP PROJECTS (Mod 0009, 0033, 0069)

The Contractor shall, in accordance with Section J, Appendix A, Chapter II, paragraph 11.1 Strategic Partnership Projects (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 (Mod 0033)

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

CLIN 0002B OPTION TERM 1 (Mod 0009, 0033)

Option Term 1 is ten months of performance on a cost-plus-award-fee basis.

CLIN 0002C OPTION TERM 2 (Mod 0033)

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

CLIN 0002D OPTION TERM 3 (Mod 0033)

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

CLIN 0002E OPTION TERM 4 (Mod 0033)

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

CLIN 0002F OPTION TERM 5 (Mod 0033)

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

CLIN 0002G OPTION TERM 5 (Mod 0009)

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

CLIN 0003: CAPITAL ASSET PROJECTS (Mod 0042)

- (a) When the parties agree that a Capital Asset Project, as defined in the Contract's DOE Order 413.3B "CLIN" (DOE O 413.3B) and having an estimated Total Project Cost greater than \$50 Million, will be performed pursuant to this CLIN, the Contractor shall, in accordance with the Statement of Work and all other applicable 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, effectively, efficiently, and safely, designing, executing and completing authorized design and/or construction of capital projects.
- (b) If the parties do not agree that a Capital Asset Project will be performed pursuant to this CLIN 0003, such projects will be performed under CLIN 0001 terms and conditions.
- (c) All authorized CLIN 0003 projects will be individually identified as SUB-CLINs. Such projects shall be bilaterally negotiated and added as SUB-CLINs via bilateral contract modifications which will consist of, without limitation, a detailed description of work, total project cost, delivery schedule (to include major milestones and/or completion date), utilizing an incentive fee(s) or firm-fixed price type conditions; and, appropriate clauses prescribed in the Federal Acquisition Regulation and/or the Department of Energy Acquisition Regulation in effect at the time the both Parties agree on each SUB-CLIN.
 - (1) Each SUB-CLIN under CLIN 0003 will be negotiated separately and will not be duplicative of the CLIN 0001 Fee (Base Fee and Award Fee) and Fixed Fee contained elsewhere within this Contract.

- (2) Appropriate architect/engineering and construction terms and conditions necessary for the completion of a Capital Asset Project, and not otherwise contained elsewhere under the Contract, will be incorporated and specified in the applicable bilateral contract modification for each SUB-CLIN. Such conditions added via the bilateral contract modification for each SUB-CLIN shall be applicable only to the specified SUB-CLIN(s).
- (3) Capital Asset Projects may be considered for inclusion as a SUB-CLIN under CLIN 0003 at any Critical Decision point (as defined in DOE O 413.3B) as the Parties may agree. If the Parties agree to consider the inclusion of a Capital Asset Project as a SUB-CLIN under CLIN 0003, the Parties agree to attempt to negotiate mutually acceptable pricing and other terms and conditions in good faith. If the Parties do not reach agreement after reasonable good faith negotiations for a particular Capital Asset Project, the Capital Asset Project shall remain under CLIN 0001 and shall continue to be subject to the existing terms and conditions of the Contract. The Parties may agree to reopen negotiations for a particular Capital Asset Project at any time prior to its completion.
- (4) For Contractor performance evaluation purposes, the Contractor's performance directly associated with CLIN 0003 will NOT be considered in evaluating Contractor performance under CLIN 0001.
- (5) The bilateral contract modification for each SUB-CLIN shall address specific work requirements, if any, contained in requirements set-forth in applicable DOE Orders and Work Authorization(s) issued pursuant to the Contract's Section I Clause entitled "DEAR 970.5211-1, *Work Authorization*."

SubCLIN 0003A: 138kV POWER TRANSMISSION SYSTEM REPLACEMENT (PTSR) (Mod 0089)

The Contractor shall, in accordance with Section J, Appendix O, 138kV Project Detail, 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 138kV efforts as directed by the Contracting Officer and mutually agreed upon Terms and Conditions outlined in Section J, Appendix O, 138kV Project Detail.

B-2 CONTRACT TYPE AND VALUE (Mod 0009, 0037, 0042, 0044, 0066, 0069, 0085, 0089)

- (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). The first period of the base term is 10 months to allow succeeding years of the base term to align with the Government's Fiscal Year. The remaining periods of the base term are one year each with a final base period of two months. CLIN 0002 in Table Two is set up identically. Option Term 1 is 10 months; Option Terms 2 through 4 are each one year in length, and the final Option Term 5 is 14 months. **(Mod 0009).**

Table 1 -- CLIN 0001 -- Management and Operation of NNSS (Mod 0009, 0044, 0066, 0096)

Contract Period	Estimated Cost	Actual Cost	Available Award Fee**	Earned Award Fee***	Actual Cost Plus Earned Fee
Base Term (December 1, 2017 - September 30, 2018)	\$345,083,333	\$384,181,999 (Mod 0044)	\$15,183,667	\$13,604,566 (Mod 0044)	\$397,786,565 (Mod 0044)
Base Term (October 1, 2018 - September 30, 2019)	\$418,241,000	\$569,920,581 (Mod 0066)	\$18,402,600	\$17,811,323	\$587,731,904
Base Term (October 1, 2019 - September 30, 2020)	\$422,423,410	\$604,311,966.03 (Mod 0096)	\$25,702,989 (Mod 0096)	\$22,644,333 (Mod 0096)	\$626,956,299.03 (Mod 0096)
Base Term (October 1, 2020 - September 30, 2021)	\$426,647,644	\$TBD	\$18,772,500	\$TBD	\$TBD
Base Term (October 1, 2021 - September 30, 2022)	\$425,685,951	\$TBD	\$18,730,180	\$TBD	\$TBD
Base Term (October 1, 2022 - November 30, 2022)	\$69,016,667	\$TBD	\$3,036,734	\$TBD	\$TBD
Option Term 1 (December 1, 2022 - September 30, 2023)	\$362,686,051	\$TBD	\$15,958,187	\$TBD	\$TBD
Option Term 2 (October 1, 2023 - September 30, 2024)	\$439,575,494	\$TBD	\$19,341,325	\$TBD	\$TBD
Option Term 3 (October 1, 2024 - September 30, 2025)	\$443,971,249	\$TBD	\$19,534,735	\$TBD	\$TBD
Option Term 4 (October 1, 2025 - September 30, 2026)	\$448,410,962	\$TBD	\$19,730,080	\$TBD	\$TBD
Option Term 5 (October 1, 2026 - November 30, 2027)	<u>\$519,937,045</u>	<u>\$TBD</u>	<u>\$22,877,228</u>	<u>\$TBD</u>	<u>\$TBD</u>
Total	\$4,321,678,806	\$TBD	\$197,270,225	\$TBD	\$TBD

**The amounts in this column represent the Available Award Fee that was established at contract award, with the exception of Fiscal Year 2020, which was mutually agreed upon by the parties in modification 0096, and a change from the Fee Determining Official's (FDO) letter dated November 25, 2020. Any future adjustments made pursuant to Clause B-8 of the contract will not be reflected in this table.

***Earned Award Fee may exceed the Available Award Fee expressed in this table pursuant to fee adjustments resulting from Clause B-8, Establishment of Annual Controlled Baseline (ACB).

- (c) The estimated cost and fixed fee for CLIN 0002 (Strategic Partnership Projects -- 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 Projects 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 Projects will be up to 4.25% of the estimated cost of all projects anticipated for the applicable fiscal year.

Table 2 -- CLIN 0002 – Strategic Partnership Projects (SPP) (Mod 0009, 0037, 0044, 0069, 0085)

Contract Period	Estimated Cost	Fixed Fee	Estimated Cost + Fixed Fee
Base Term (10 Months December 1, 2017 - September 30, 2018)	\$67,163,568 (Mod 0044)	\$ 3,128,834	\$70,292,402 (FINAL) (Mod 0044)
Base Term (October 1, 2018 - September 30, 2019)	\$53,199,509 (Mod 0069)	\$ 3,139,089 (Mod 0069)	\$56,338,598 (FINAL) (Mod 0069)
Base Term (October 1, 2019 - September 30, 2020)	\$53,717,026 (Mod 0069)	\$2,282,974 (Mod 0069)	\$56,000,000 (Mod 0069)
Base Term (October 1, 2020 - September 30, 2021)	\$51,798,561 (Mod 0085)	\$2,201,439 (Mod 0085)	\$54,000,000 (Mod 0085)
Base Term (October 1, 2021 - September 30, 2022)	\$TBD	\$TBD	\$TBD
Base Term (October 1, 2022 – November 30, 2022)*	\$TBD	\$TBD	\$TBD
Option Term 1 (December 1, 2022 - September 30, 2023)*	\$TBD	\$TBD	\$TBD
Option Term 2 (October 1, 2023 - September 30, 2024)	\$TBD	\$TBD	\$TBD
Option Term 3 (October 1, 2024 - September 30, 2025)	\$TBD	\$TBD	\$TBD
Option Term 4 (October 1, 2025 - September 30, 2026)	\$TBD	\$TBD	\$TBD
Option Term 5 (October 1, 2026 - November 30, 2027)	\$TBD	\$TBD	\$TBD
Contract Period	Estimated Cost \$147,480,543 (Mod 0037)	Fixed Fee \$ 6,267,923 (Mod 0037)	Estimated Cost + Fixed Fee \$152,748,466 (Mod 0037)

***In the event Option 1 is exercised then the PER will cover OCT 1, 2022 through SEPT 30, 2023 (Base Term 10/1/22 – 11/30/22 + Option 1 12/1/22 – 9/30/23)**

- (d) The total estimated cost and fee (fixed – SPP Program) for the Transition Term (CLIN 0001A), Base Term (CLINs 0001B and 0002A), including DOE, NNSA and SPP is \$TBD.
- (e) The award fee percentage for CLIN 0001 will not be negotiated on an annual basis and are established at contract award. The Fixed Fee percentage for CLIN 0002 will not be negotiated on an annual basis and is established at contract award. **(Mod 0096)**
- (f) For CLIN 0003 CAPITAL ASSET PROJECTS, the contract type for each authorized CLIN 0003 SUB-CLIN will be separately identified based on the contract type negotiated, such as Cost-Plus- Incentive-Fee (CPIF), Firm-Fixed Price (FFP), Fixed-Price-Incentive-Fee (FPIF)

and Fixed-Price with Economic Price Adjustment (FP-EPA). The values of each CLIN0003 SUB-CLIN project shall be separately identified. Each CLIN 0003 SUB-CLIN shall be sequentially numbered (e.g., SUB-CLIN 0001) and added to this Section via bilateral contract modification which shall specify the negotiated terms and conditions to include Project title, contract type, value, description of work, delivery schedule (to include major milestones and/or completion date), Programmatic Technical Requirements, and, associated terms and conditions necessary for the completion of the project and not otherwise contained in the Contract. **(Mod 0042, 0062)**

- (g) CLIN 003a: The total Firm Fixed Price for CLIN 0003A is **\$38,900,000** inclusive of Option 1 and all cost and profit associated with the 138kV PTSR project. The period of performance shall be 941 calendar days from the issuance of the Notice to Proceed. **(Mod 0089)**

B3 CONTRACT FEE STRUCTURES (MOD 0037, 0042, 0089)

- (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 during the Base Term (CLIN 0001B), in accordance with (c)(ii) of this clause and B-5, Performance Evaluation. **(Mod 0037, 0096)**
- (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 (SPP) and Provisional Payment of Award Fee
- (i) The fixed fee (SPP) for the Base Term of the Contract shall be paid monthly on a pro-rata basis for the applicable fee period 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) **Deleted (Mod 0037).**
- (e) For CLIN CAPITAL ASSET PROJECTS, authorized CLIN 0003 SUB-CLINS which are Firm Fixed Price type projects (which include a profit component), the associated payment conditions shall be separately identifiable. **(Mod 0042, 0062)**
- (f) CLIN 0003A: Specifically for CLIN 0003A as a Firm Fixed Price agreement: The Contractor may draw down on the special financial institution account (i.e. "Letter of Credit") for allowable costs in accordance with DEAR clause 970.5232-2 (Payments and Advances (DEC 2000) Alternate II (DEC 2000) Alternate III (DEC 2000) (NNSA Class Deviation OCT 2011)) as costs are incurred, plus profit at the rate of 9.2% up to the total FFP established in paragraph (a) for the completion of SUBCLIN-0003A. In the event that incurred costs plus profit are less than the total FFP at project completion, MSTS may drawdown the remaining funds up to the total FFP. In the event that the incurred costs plus profit exceed the total FFP, MSTS shall use its own funds for the remaining costs of the project, and MSTS shall not be authorized to draw down amounts which exceed the FFP. If MSTS draws down amounts exceeding the FFP, MSTS shall repay DOE/NNSA those amounts within 30 calendar days of receipt of notification from NNSA or within 30 calendar days of MSTS' discovery of the overpayment (whichever is sooner). If the overpayment is not reimbursed to DOE/NNSA within 30 calendar days, the overpayment shall be subject to collection in accordance with FAR Subpart 32.6. **(Mod 0089)**

B4 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.

B5 PERFORMANCE EVALUATION (Mod0037)

- (a) Performance Evaluation and Measurement Plan (PEMP). A PEMP 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 PEMP. In the event the parties cannot come to agreement, NNSA reserves the right to make the final decision and issue the PEMP unilaterally. The PEMP 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 PEMP, 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
 - (1) Award Fee Determination. The amount of Award Fee (AF) earned will be based on the Contractor’s performance as evaluated against the PEMP. This amount of AF earned will be unilaterally determined by NNSA’s Fee Determining Official (FDO), who will document his or her AF determination in a Fee Determination Letter.
 - (2) Contractor Notification. Each year, no later than December 15 (or the first business day thereafter, if December 15 is a Saturday, Sunday, or Federal Holiday), the Contracting Officer will notify the Contractor of the amount of Award Fee earned and provide the Fee Determination Letter.
 - (3) Award Fee Delay. If the Contracting Officer does not notify the Contractor of the amount of AF earned by the date specified in (2), the Contractor shall be entitled to interest on the AF earned, following the procedures outlined at 5 C.F.R. § 1315.10. For purposes of this calculation, the payment due date is considered to be the day after the date specified in (2).
- (d) No Allocation to Future Periods. AF not earned during the evaluation period shall not be allocated to future evaluation periods.

B-6 OBLIGATION OF FUNDS (Mod 0002, 0003, 0004, 0005, 0006, 0010, 0011, 0012, 0013, 0015, 0016, 0017, 0018, 0020, 0021, 0023, 0024, 0025, 0026, 0028, 0029, 0031, 0032, 0033, 0034, 0035, 0036, 0038, 0039, 0040, 0041, 0043, 0045, 0046, 0047, 0048, 0049, 0051, 0053, 0054, 0055, 0057, 0058, 0061, 0063, 0065, 0067, 0068, 0070, 0073, 0074, 0078, 0079, 0081, 0083, 0087, 0090, 0093, 0095, 0101, 0103, 0105, 0107)

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 \$2,743,662,620.52. (Mod 0107).

Mod 0107

	M&O CLIN 0001A	M&O CLIN 0001B	M&O CLIN 0003A	SPP CLIN 0002A	Total Funds Obligated
Funds Obligated in Contract Through Modification No. 0106	\$8,120,016.69	2,450,587,560.61	\$38,900,000.00	\$235,159,842.43	\$2,732,767,419.73
Funding Changed by This Modification No. 0107	\$ -	\$10,538,529.40	\$ -	\$356,671.39	\$10,895,200.79
Total Funds Obligated Through Modification No. 0107	\$8,120,016.69	\$2,461,126,090.01	\$38,900,000.00	\$235,516,513.82	\$2,743,662,620.52

Incremental Funding Obligations by Modification

MOD. #	DATE ISSUED	INCREMENTAL AMOUNT	CUMULATIVE	CUMULATIVE FROM INCEPTION
0000	5/12/2017	\$4,000,000.00	\$0.00	\$4,000,000.00
0002	8/31/2017	\$4,379,530.43	\$4,000,000.00	\$8,379,530.43
0003	9/28/2017	\$96,036,621.83	\$8,379,530.43	\$104,416,152.26
0004	9/29/2017	\$1,620,469.57	\$104,416,152.26	\$106,036,621.83
0005	12/26/2017	\$89,913,111.69	\$106,036,621.83	\$195,949,733.52
0006	12/27/2017	\$80,809,117.82	\$195,949,733.52	\$276,758,851.34
0010	1/31/2018	\$48,810,294.71	\$276,758,851.34	\$325,569,146.05
0011	1/30/2018	\$4,966,362.14	\$325,569,146.05	\$330,535,508.19
0012	2/27/2018	\$119,517,942.70	\$330,535,508.19	\$450,053,450.89
0013	2/27/2018	\$2,314,178.43	\$450,053,450.89	\$452,367,629.32
0015	3/26/2018	\$14,996,619.10	\$452,367,629.32	\$467,364,248.42
0016	3/29/2018	-\$31,689.69	\$467,364,248.42	\$467,332,558.73
0017	4/27/2018	\$230,133,550.80	\$467,332,558.73	\$697,466,109.53
0018	4/27/2018	\$4,227,199.42	\$697,466,109.53	\$701,693,308.95
0020	5/30/2018	\$33,724,786.30	\$701,693,308.95	\$735,418,095.25
0021	5/30/2018	\$3,609,133.13	\$735,418,095.25	\$739,027,228.38
0023	6/27/2018	\$13,116,446.18	\$739,027,228.38	\$752,143,674.56
0024	6/28/2018	\$869,316.81	\$752,143,674.56	\$753,012,991.37
0025	7/30/2018	\$8,506,927.64	\$753,012,991.37	\$761,519,919.01
0026	7/31/2018	-\$9,514,226.76	\$761,519,919.01	\$752,005,692.25
0028	8/27/2018	\$13,319,211.59	\$752,005,692.25	\$765,324,903.84
0029	8/28/2018	\$26,542,759.19	\$765,324,903.84	\$791,867,663.03
0031	9/27/2018	\$12,339,312.21	\$791,867,663.03	\$804,206,975.24
0032	9/27/2018	\$5,325,929.31	\$804,206,975.24	\$809,532,904.55
0034	10/29/2018	\$369,777,762.40	\$809,532,904.55	\$1,179,310,666.95
0035	10/30/2018	\$182,821.30	\$1,179,310,666.95	\$1,179,493,488.25
0038	11/28/2018	\$4,529,090.00	\$1,179,493,488.25	\$1,184,022,578.25
0039	11/28/2018	\$4,520,437.45	\$1,184,022,578.25	\$1,188,543,015.70
0040	12/27/2018	\$46,021,127.27	\$1,188,543,015.70	\$1,234,564,142.97
0041	12/27/2018	\$1,535,711.36	\$1,234,564,142.97	\$1,236,099,854.33
0043	1/30/2018	\$12,069,388.00	\$1,236,099,854.33	\$1,248,169,242.33
0045	1/31/2019	\$4,943,794.36	\$1,248,169,242.33	\$1,253,113,036.69
0046	2/27/2019	\$14,344,335.25	\$1,253,113,036.69	\$1,267,457,371.94
0047	3/28/2019	\$7,264,423.04	\$1,267,457,371.94	\$1,274,721,794.98
0048	4/19/2019	-\$1,879,983.31	\$1,274,721,794.98	\$1,272,841,811.67
0049	4/29/2019	\$8,350,338.06	\$1,272,841,811.67	\$1,281,192,149.73
0051	5/28/2019	\$2,386,227.21	\$1,281,192,149.73	\$1,283,578,376.94

MOD. #	DATE ISSUED	INCREMENTAL AMOUNT	CUMULATIVE	CUMULATIVE FROM INCEPTION
0053	1/30/2018	\$6,634,509.05	\$1,283,578,376.94	\$1,290,212,885.99
0054	7/30/2019	\$34,504,309.40	\$1,290,212,885.99	\$1,324,717,195.39
0057	8/28/2019	\$3,419,341.01	\$1,324,717,195.39	\$1,328,136,536.40
0058	9/26/2019	\$11,615,842.53	\$1,328,136,536.40	\$1,339,752,378.93
0061	10/29/2019	\$68,762,391.90	\$1,339,752,378.93	\$1,408,514,770.83
0063	10/29/2019	\$5,019,373.17	\$1,408,514,770.83	\$1,413,534,144.00
0065	12/20/2019	\$36,646,737.69	\$1,413,534,144.00	\$1,450,180,881.69
0067	1/30/2020	\$279,538,461.77	\$1,450,180,881.69	\$1,729,719,343.46
0068	2/26/2020	\$101,654,810.92	\$1,729,719,343.46	\$1,831,374,154.38
0070	3/31/2020	\$20,233,903.37	\$1,831,374,154.38	\$1,851,608,057.75
0073	4/30/2020	\$25,882,017.37	\$1,851,608,057.75	\$1,877,490,075.12
0074	5/28/2020	\$2,139,854.37	\$1,773,593,307.66	\$1,879,629,929.49
0078	6/30/2020	\$19,187,691.59	\$1,792,780,999.25	\$1,898,817,621.08
0079	7/30/2020	\$30,341,792.01	\$1,823,122,791.26	\$1,929,159,413.09
0081	8/31/2020	\$31,125,460.73	\$1,854,248,251.99	\$1,960,284,873.82
0083	9/25/2020	\$29,946,759.93	\$1,884,195,011.92	\$1,990,231,633.75
0087	10/30/2020	\$105,252,553.20	\$1,989,447,565.12	\$2,095,484,186.95
0090	11/25/2020	\$5,577,264.91	\$1,995,024,830.03	\$2,101,061,451.86
0093	12/18/2020	\$7,818,657.66	\$2,002,843,487.69	\$2,108,880,109.52
0095	12/23/2020	\$1,652,818.44,	\$2,004,496,306.13	\$2,110,532,927.96
0097	1/28/2021	\$380,655,266.32	\$380,655,266.32	\$2,491,188,194.28
0098	2/25/2021	\$104,181,436.12	\$484,836,702.44	\$2,595,369,630.40
0101	3/30/2021	\$51,416,624.54	\$536,253,326.98	\$2,646,786,254.94
0103	4/30/2021	\$66,359,614.40	\$602,612,941.38	\$2,713,145,869.34
0105	5/27/2021	\$19,621,550.39	\$622,234,491.77	\$2,732,767,419.73
0107	6/29/2021	\$10,895,200.79	\$633,129,692.56	\$2,743,662,620.52

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.

B-8 ESTABLISHMENT OF ANNUAL CONTROLLED BASELINE (ACB)

The Contractor shall develop an ACB for all Contractor direct programs and indirect support costs, aligned with the Work Breakdown Structure (WBS) for further granularity in accordance with Section J-Appendix A, Statement of Work, Chapter I, Section 3.3. This clause applies to CLIN 0001 only.

Award Fee Pool Adjustments:

- (a) *The maximum available Award Fee (AF) for the contract Base Term commencing on October 1, 2020, and for each Base or Option Term thereafter (Term), shall be adjusted using one of the following formulas, which shall not be changed unless the Parties mutually agree via a written modification to the Contract:*

If the ACB is greater than the CLIN 0001 Table 1 Estimated Cost for the applicable Term the following formula shall be used:

$$(ACB - CLIN\ 0001\ Table\ 1\ Original\ Estimated\ Costs) * (1 - 0.13) * 0.044 + CLIN\ 0001\ Table\ 1\ Available\ AF = Adjusted\ AF$$

If the ACB is less than the CLIN 0001 Table 1 Estimated Cost for the applicable Term the following formula shall be used:

$$ACB * 0.044 = Adjusted\ AF$$

- (b) *The (ACB) shall be established by mutual agreement of the Parties at the beginning of each Term and shall consist of the following:*

- (1) *The enacted budget amounts corresponding to the work to be performed by the Contractor during the Term; and*
- (2) *Estimated funding obligated for any additional DOE/NNSA work scope to be performed by the Contractor during the Term (to the extent not already included in the enacted budget or excluded by paragraph (c)).*

- (c) *The ACB shall exclude:*

- (1) *Carryover, which is defined as the estimated costs of any work which was included in the fee base or ACB of a previous Term of the Contract or of the predecessor contract;*
- (2) *Estimated costs included in the enacted budget for any work to be performed*

by a DOE/NNSA prime contractor other than MSTS;

- (3) *Estimated costs included in the enacted budget for work which the Parties have agreed via a written Contract modification to perform under CLIN 0003; and*
 - (4) *Estimated costs of Inter-Contractor Purchases placed with MSTS by other DOE or NNSA M&O contractors.*
- (d) *In the event there is no enacted budget at the beginning of the Term, the President’s Budget Request (PBR) shall be used in its place, and the established ACB shall be adjusted unilaterally by NNSA to reflect the enacted budget when it becomes available. At the time, the ACB is adjusted to reflect the enacted budget, the resultant adjustment to fee shall be made in accordance with the formula prescribed in paragraph (a). In the event a budget is not enacted during the Term, the cumulative budget approved through a Continuing Resolution or series of Continuing Resolutions shall control in its place. No other adjustments shall be made to the maximum available AF unless NNSA-approved changes to the ACB result in an approved September 30th ACB¹ reflecting a plus or minus 10 percent change from the established ACB. The 10 percent change threshold shall apply only to scope changes and not to changes caused by cost overruns, changes in the cost of labor, changes in the cost of materials, or other cost changes without a direct nexus to NNSA-approved changes in scope.*
- (e) *The table below shall be updated to reflect prospective fee adjustments made pursuant to this clause:*

¹ The September 30th ACB shall represent the established ACB plus or minus the cost impact of all NNSA-approved scope changes made throughout the Term.

Contract Period	Estimated Cost	Adjusted Fee Base	Available Award Fee	Earned Award Fee
Base Term (October 1, 2018 - September 30, 2019)	\$418,241,000	\$461,050,930	\$20,286,241	\$17,811,323.00
Base Term (October 1, 2019 - September 30, 2020)	\$422,423,410	\$584,158,840	\$25,702,989	\$22,644,333

Note: Only contract terms where an adjustment to the fee is warranted will be shown here.

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 (Mod 0089)**

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).

- (a) The packaging and marking requirements for CLIN 0003A are as follows:
Each package, report or other deliverable shall be accompanied by a letter or other document delivered to the Contracting Officer that:
1. Identifies the Contract number, SubCLIN, Project title, and topic of correspondence under which the item is being delivered.
 2. Identifies the deliverable item number or report requirement which requires the delivered item(s).

SECTION E: INSPECTION AND ACCEPTANCE**E-1 FAR52.246-5 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(APR1984)

- (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 STOPWORK 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 (Mod 0009)

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 ten years. The period of performance of this Contract consists of:

- (1) Transition Term: A period of four months beginning on August 1, 2017. 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, ten months 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 two months 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/NNSA. 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/NNSA 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 Evaluation and Measurement Plan; **(Mod 0037)**
- (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.

F-7 DELIVERIES OR PERFORMANCE FOR CLIN 0003 (Mod 0089)

The period of performance for SubCLINS under this CLIN 0003 are as follows:

SubCLIN 0003A, titled 138kv PTSR: The period of performance shall be 941 calendar days from the issuance of the Notice to Proceed.

SECTION G: CONTRACT ADMINISTRATION DATA**G-1 GOVERNMENT CONTACTS AND PROCEDURES (Mod 0042, 0089)**

- (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 **(Mod 0042, 0089)**

(1) 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.

(2) *For CLINs 0001 and 0002:* The ACO may be contacted at:

Darby Dieterich
U.S. Department of Energy/NNSA
Nevada Field Office
P.O. Box 98518, M/S 505
Las Vegas, NV 89193-
8518 (702) 295-1560
Darby.dieterich@nnsa.doe.gov

(3) (I) *For CLIN 0003:* The ACO may be contacted at:

Tia Scott
Contracting Officer
1000 Independence Ave, SW
Washington, DC 20585
Email: tia.scott@nnsa.doe.gov
Phone: (202) 586-5337

(3) (II) *For SubCLIN 0003A:* The ACO may be contacted at:

Cristina Hayden
Contract Specialist
Nevada Field Office
232 Energy Way
North Las Vegas, NV 89030
Email: cristina.hayden@nnsa.doe.gov
Ph: (702) 295-2060

(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 DE-NA0003624, (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 (Mod 0076)

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: Mark W. Martinez
 Position: President
 Company: Mission Support and Test Services LLC
 Address: P.O. Box 98521, Las Vegas, NV 89193-8521
 Alt. Address: 2621 Losee Road, N. Las Vegas, NV 89030-4129
 Phone: (702) 295-2070
 E-mail: MARTINMW@NV.DOE.GOV

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 (Mod 0052)

- (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 **Mission Support and Test Services LLC**. This entity is comprised of: **Honeywell International, Inc. (Honeywell), Jacobs Engineering Group, Inc. (Jacobs), and HIL Nuclear Inc.**

- (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 (Mod 0008)

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: David C. Johnson
Position: Chairman, Mission Support and Test Services LLC, Board of
Managers Company: Vice President Customer Segment, Honeywell Defense
& Space Address: 1330 W. Warner Rd, Tempe, AZ85284
Phone: (480) 606-9558

G-7 INVOICING FOR TRANSITION COSTS (Mod 0004)

- (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).
- (c) All billed transition costs shall reflect the rates as shown in the transition cost estimate provided on August 25, 2017 and in subsequent supporting documentation submitted thereafter. MSTs shall not exceed \$10,000,000 for CLIN 0001A **(Mod 0004)**

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 November 29, 2016, 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 RESERVED (Mod 0007)**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 (Mod 0096)

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. After the first two years of the contract, bonuses and incentive compensation for Key Personnel are unallowable costs and will not be compensated by the Government.

H-13 CONFIDENTIALITY OF INFORMATION (NOV2009)

(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 (MAY2014)

(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) All FOCI documentation/forms shall be completed within the eFOCI system. NOTE: A completed SF 328, Certificate Pertaining to Foreign Interests, executed in accordance with the instructions on the certification section of the SF328, shall be printed, signed and uploaded into the eFOCI system. The SF 328 is required for first time submissions, any time there are changes to the SF 328, and at the request of the Cognizant Security Authority (CSA). Specific problems maneuvering through the fields within the eFOCI system can be clarified by contacting the eFOCI help desk at (630) 252-6566 or fociserver@anl.gov mailto: 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 LABORATORY, PLANT AND SITE STRATEGIC PLANNING (Mod 0052)

The M&O partner shall submit to DOE/NNSA a laboratory, plant or site strategic plan annually in accordance with the annual strategic planning guidance and the terms and conditions of the contract or as directed by the Contracting Officer. The laboratory, plant, or site M&O management team shall present their plans and engage in discussions with senior DOE/NNSA leadership annually in accordance with the annual strategic planning guidance and as directed by the Contracting Officer.

H-20 MANAGEMENT AND OPERATING CONTRACTOR SUBCONTRACT REPORTING (Nov 2017) (Mod 0009, 0022)

(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 costs.

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

"Transaction" means any contract, order, other agreement or modification thereof (other than one involving an employer-employee relationship) entered into by the Contractor acquiring supplies or services (including construction) required solely for performance of the prime contract.

Reporting. The Contractor shall collect and report data via MOSRC necessary for DOE to meet its agency reporting requirements, as determined by the Small Business Administration, in accordance with the most recent reporting instructions at <https://energy.gov/management/downloads/mosrc-reporting-instructions>. The Contractor shall report first-tier subcontract data in MOSRC. Classified subcontracts shall not be reported. Subcontracts with Controlled Unclassified Information marking shall not be reported if restricted by its category. Contact your Contracting Officer if uncertain of information reporting requirements. The MOSRC reporting requirement does not replace any other reporting requirements (e.g. the Electronic Subcontracting Reporting System or the FFATA Subcontracting Reporting System).

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 WA;
- (iii) Entitle the Contractor to an increase in fee; or
- (iv) 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.

(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."

(e) 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 (Mod 0022)

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. Reasonable costs associated with the development of the plan will be considered allowable, while costs associated with implementing the plan are unallowable.

H-24 DEFINITION OF UNUSUALLY HAZARDOUS OR NUCLEAR RISK AND OTHER TERMS FOR PURPOSES OF FAR CLAUSE 52.250-1, INDEMNIFICATION UNDER PUBLIC LAW 85-804 (APR 1984) ALT I (APR 1984) (Mod 0008, 0060, 0071)

- (a) The term "a risk defined in this contract as unusually hazardous or nuclear" as used in FAR Clause 52.250-1 means the risk of legal liability to third parties (including legal costs as defined in paragraph jj of Section 11 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. Section 2014 jj, notwithstanding the fact that the claim or suit may not arise under Section 170 of said Act), arising from actions or inactions in the course of the following performed by the Contractor, under this contract:
1. Participation in activities in support of a nonproliferation effort on behalf of the United States, outside the United States, as described in (i) through (iii):
 - i. DOE's Nuclear/Radiological Advisory Team ("N/RAT");
 - ii. DOE's Accident Response Group ("ARG")/DOE's Joint Technical Operations Team ("JTOT");
 - iii. Crisis response teams to the extent participation in activities described in subparagraph (i), (ii) or (iii) above involves nuclear emergency response activities involving real or suspected nuclear weapons, nuclear weapons components, or nuclear materials which can be readily utilized either (1) for the production or the fabrication of nuclear weapons without substantial further effort, or (2) for intentional widespread contamination or dispersal of harmful nuclear materials, whether or not such real or suspected weapons, components, or harmful nuclear materials are owned by the United States; and
 2. Other activities relating to non-proliferation, emergency response, anti- terrorism activities, or critical national security activities that involve the use, detection, identification, assessment, control, containment, dismantlement, characterization, packaging, transportation, movement, storage, or disposal of nuclear, radiological, chemical, biological, or explosive material, facilities, or
 3. devices, and nuclear weapons research, design, development, production, testing and maintenance, and development of technology as part of Government programs for nuclear weapons deployment, storage and stockpile stewardship, transportation, demilitarization, dismantlement or disposition, provided such activities are specifically requested or approved, in writing, by the President of the United States, the Secretary of Energy, the Deputy Secretary of Energy, or an Under Secretary, and further provided that the request or

approval specifically identifies a particular project involving one of those activities and makes the indemnity provided by this clause applicable to that particular project under the contract.

4. Participation in tasks or activities by the Contractor or its subcontractors on or after March 13, 2020 through June 30, 2020 that is directed or authorized by the U.S. Department of Energy or the U.S. Department of Energy National Nuclear Security Administration, including work for others, as an element of activities taken now and through June 30, 2020 in response to COVID-19, including but not limited to efforts to test for the presence of COVID-19, to provide equipment and resources to address COVID-19, and to develop treatments and vaccines for COVID-19, to the extent the task or activity is not exempt from liability under the Public Readiness and Emergency Preparedness Act (PREP Act) or other law, or the exemption under the PREP Act or other law is limited in scope or amount which is not sufficient to provide complete protection against the liability to which the contractor is exposed. **(Mod 0071)**
- (b) The unusually hazardous or nuclear risks described above are indemnified only to the extent that they are not covered by the Price-Anderson Act, Section 170d of the Atomic Energy Act of 1954, as amended, (42 U.S.C. Section 2210d) or where the indemnification provided by the Price-Anderson Act is limited by the restriction on Public Liability imposed by Section 170e of the Atomic Energy Act of 1954, as amended (42 U.S.C. Section 2210e) to an amount which is not sufficient to provide complete indemnification for the legal liability to which the contractor is exposed.
 - (c) Additional Definitions of Terms
 1. As used in this H-24 clause, the term "nuclear materials" means source, special nuclear, or byproduct materials as those terms are defined in Section 11 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. Section 2014.
 2. As used in FAR 52.250-1 INDEMNIFICATION UNDER PUBLIC LAW 85-804(APR 1984) (ALTERNATE I) (APR 1984),
 - i. the term "Contractor" except as used in paragraphs (a) and (e) of I-23, FAR 52.250-1 means
 - (A) Mission Support and Test Support, LLC(MSTS),
 - (B) MSTS's parent organizations including: Honeywell International, Inc. (HII), Jacobs Engineering Inc. (JEG) and HII-Nuclear **(Mod 0060)** and each parent organization corporate successors and corporate affiliates, and Employees, officers and directors of (A) and/or (B) above named or threatened to be named as defendants in lawsuits or litigation threatened or initiated by third parties which seek to impose or establish, or which could result in, a risk which is defined in this contract as unusually hazardous or nuclear, on account of actions or inactions of MSTS, or on account of actions or inactions undertaken by the corporations or individuals identified in subparagraph (A) and/or (B) above for, on behalf of, or with respect to, MSTS under this contract; and
 - ii. the term "Contractor" as used in paragraphs (a) and (e) of I-23, FAR 52.250-1 means MSTS;
 - iii. term "Contractor's business" means the management and operation of the Nevada National Nuclear Site (NNSS) and Satellite facilities of DOE/NNSA under this contract;
 - iii. the terms "Contractor's operations at any one plant or separate location in which this contract is being performed" and "a separate and complete major industrial operation in connection with the performance of this contract" mean the NNSS

located in a remote region of southern Nevada; as well as facilities in North Las Vegas, Nevada; Los Alamos and Albuquerque, New Mexico; Livermore and Santa Barbara, California; Nellis Air Force Base (AFB), Las Vegas, Nevada; and Andrews AFB, Suitland, Maryland;

- iv. the term "agency head" means the Secretary of Energy; and
- v. the term "corporate affiliates of MSTs" means the parent companies of MSTs (HII, JEG and HII-Nuclear **(Mod 0022, 0060)** and, if applicable, the parent companies of each) as well as companies, other than MSTs, that directly or indirectly, are owned or otherwise controlled by the parent companies of MSTs.

H-25 AGREEMENTS FOR COMMERCIALIZING TECHNOLOGY (Mod 0022)

This H-clause authorizes the use of the mechanism: Agreements for Commercializing Technology (ACT). In accordance with the requirements specified in this H-clause, the M&O Contractor may conduct third party-sponsored research at the M&O Contractor's risk. While the Department believes ACT has the potential to greatly assist in the commercialization of technologies, it also specifically recognizes that ACT can be used for other engagements with outside entities that are not necessary aimed at commercialization (e.g., technical assistance, training, studies), but which facilitate access to DOE facilities. In performing ACT work, the M&O Contractor may use staff and other resources associated with this M&O contract for the purposes of conducting technical services, training, studies, performing research and development, and/or furthering the technology transfer mission of the Department, only when such work does not interfere with DOE-funded activities conducted as authorized by other parts of this M&O contract. The resources that may be used include Government-owned or leased facilities, equipment, or other property that is either in the M&O Contractor's custody or available to the M&O Contractor under this M&O contract (unless specifically excluded by the Contracting Officer). For M&O Contractor activities conducted under authority of this H-clause, the M&O Contractor shall provide full-cost recovery, assume indemnification and liability as provided in paragraph 9 below, and may assume other risks normally borne by private parties sponsoring research at the DOE national laboratories and production plants. In exchange for accepting such risks, or for other private consideration provided by the M&O Contractor, the M&O Contractor is authorized to negotiate separate ACT agreements with the sponsoring third parties. Under ACT agreements, the M&O Contractor may charge those parties additional compensation beyond the full costs of the work at the facility.

The following applies to all work conducted under the ACT mechanism regardless of the source of funding:

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

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

- c. Except as otherwise excluded in this H-clause, must perform all ACT activities in accordance with the standards, policies, and procedures that apply to performance under this M&O contract, including but not limited to environmental, safety and health, security, safeguards and classification procedures, and human and animal research regulations;
- d. Must maintain and provide when requested by the DOE Contracting Officer, a summary of project information for each active ACT project, consisting of: sponsor name; total estimated costs; project title and description; project point of contact; and estimated start and completion dates;
- e. Is responsible for addressing the following items in ACT agreements as appropriate: disposition of property acquired under the agreement; export control; notice of intellectual property infringement; and a statement that the Government and/or the M&O Contractor shall have the right to perform similar services in the Statement of Work for other Parties as otherwise authorized by this M&O contract subject to applicable data restrictions;
- f. Must include a standard legal disclaimer notice on all publications generated under ACT activities. Each DOE M&O Contractor has its own pre-approved publications statement, and this should be included; and
- g. Must insert the following disclaimer in each agreement under ACT, which must be conspicuous (e.g. bold type, all capital letters, or large font) in all Agreements under ACT so as to meet the standards of due notice.

DISCLAIMER

THIS AGREEMENT IS SOLELY BETWEEN [INSERT NAME OF THE M&O CONTRACTOR] AND [THE OTHER IDENTIFIED PARTY]. THE UNITED STATES GOVERNMENT IS **NOT** A PARTY TO THIS AGREEMENT, THIS AGREEMENT DOES NOT CREATE ANY OBLIGATIONS OR LIABILITY ON BEHALF OF THE GOVERNMENT AND THE GOVERNMENT MAKES NO EXPRESS OR IMPLIED WARRANTY AS TO THE CONDITIONS OF THE RESEARCH OR ANY INTELLECTUAL PROPERTY, GENERATED INFORMATION, OR PRODUCT MADE OR DEVELOPED UNDER THIS AGREEMENT, OR THE OWNERSHIP, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE RESEARCH OR RESULTING PRODUCT; THAT THE GOODS, SERVICES, MATERIALS, PRODUCTS, PROCESSES,

INFORMATION, OR DATA TO BE FURNISHED HEREUNDER WILL ACCOMPLISH INTENDED RESULTS OR ARE SAFE FOR ANY PURPOSE INCLUDING THE INTENDED PURPOSE; OR THAT ANY OF THE ABOVE WILL NOT INTERFERE WITH PRIVATELY OWNED RIGHTS OF OTHERS. THE GOVERNMENT SHALL NOT BE LIABLE FOR SPECIAL, CONSEQUENTIAL, OR INCIDENTAL DAMAGES ATTRIBUTED TO SUCH RESEARCH OR RESULTING PRODUCT, INTELLECTUAL PROPERTY, GENERATED INFORMATION, OR PRODUCT MADE OR DELIVERED UNDER THIS AGREEMENT. THIS DISCLAIMER DOES NOT AFFECT ANY RIGHTS THE GOVERNMENT MAY HAVE AGAINST THIRD PARTIES ARISING FROM WORK CONDUCTED IN CONNECTION WITH THIS AGREEMENT.

4. Contracting Authority.

- a. Subject to DOE approval as described in this paragraph, the M&O Contractor is hereby authorized to negotiate terms and conditions between the M&O Contractor and third parties when entering into ACT agreements. The M&O Contractor will have no authority to bind the Government in any way with such terms and conditions. The Government will have no obligation to the M&O Contractor due to such terms and conditions.
- b. The M&O Contractor shall submit an ACT proposal package (Package) to the Contracting Officer for approval prior to beginning work under an ACT agreement.
 - i. A complete Package will include at a minimum: the identity of the parties to the ACT agreement; the principal place of performance; any foreign ownership or control of the ACT agreement parties; a Statement of Work; an estimate of costs incurred under the M&O contract; an anticipated schedule; identification of key Government equipment and facilities that will be used under the ACT agreement; a list of expected deliverables; identification of the Intellectual Property (IP) lead and proposed selection of IP rights, as defined in DOE Class Waiver W(C)- 2011-013; a signed certification by the private party(ies) that the M&O Contractor offered the option to use CRADA and SPP alternatives (see paragraph 7a) sufficiently such that the private parties are aware of the relative costs and other differences between the ACT agreement and the CRADA and SPP alternatives; source of funds, including a statement that no Federal funds, including pass-through funds received as a subcontractor or partner, are being utilized to fund the agreement except as authorized under the FedACT pilot (see paragraph 14 below); applicable ES&H and NEPA documentation; a statement of consideration, summarizing the risk and/or consideration offered the ACT participants in exchange for charging beyond full cost recovery or for other compensation provided by the participants; and when multiple third parties are parties to the ACT agreement, or as otherwise requested by the Contracting Officer, an IP Management Plan that sets forth the proposed disposition of IP rights, and income and royalty sharing, among the parties to an ACT agreement.
 - ii. If the M&O Contractor, the M&O Contractor's parent, member, subsidiary, or other entity in which the M&O Contractor, the M&O Contractor's parent, member or subsidiary has an equity interest, is a party to the ACT agreement, the M&O Contractor shall include as necessary a project-specific addendum to the Master OCI Plan in the Package to address special circumstances not fully anticipated in the prior approved Master OCI Plan (see paragraph 7).
 - iii. If the ACT agreement includes a foreign entity as a party or the statement of work includes the use of human subjects, animal subjects, classified or sensitive subject matter or describes a work scope involving high risks or hazards including environmental issues, the

M&O Contractor shall include additional information as necessary or as requested by the Contracting Officer.

- c. The Contracting Officer shall use reasonable best efforts to review each complete Package submitted by the M&O Contractor under subparagraph 4.b. of this H-clause within ten (10) business days of receiving the Package and provide the M&O Contractor with approval or non-approval of the Package. The review of the complete Package by the Contracting Officer shall include a determination that the proposed work: (1) is consistent with or complementary to DOE missions and the contract statement of work; (2) will not adversely impact programs under the contract scope of work; (3) will not place the contractor in direct competition with the domestic private sector; and (4) will not create a detrimental future burden on DOE resources.
 - d. Except as conditionally allowed under subparagraph i. below, the Contracting Officer must approve the Package before the M&O Contractor may begin work under the proposed ACT agreement. If the Contracting Officer rejects the Package then the Contracting Officer must provide said rejection to the M&O Contractor in writing including the reasons for the rejection. Upon receipt of the Contracting Officer's written rejection, the M&O Contractor agrees to not further pursue the work described in the package or incur additional costs under the M&O contract for the work described in the Package.
 - i. The M&O Contractor may request a preliminary determination that the proposed scope of work is consistent with the contract statement of work and the Contracting Officer will use his/her best efforts to provide such a determination within three (3) business days. Upon such a determination from the Contracting Officer, the M&O Contractor may begin work under the ACT agreement at the M&O Contractor's risk pending final approval of the complete Package. The M&O Contractor must submit a complete Package, as identified in subparagraph 4.b. above, within (10) business days of the preliminary determination. All costs associated with the performance of work under a preliminary determination are the responsibility of the M&O Contractor, as no Federal funds will be used to fund any work conducted under this H-clause.
 - ii. If the M&O Contractor, the M&O Contractor's parent, member, subsidiary, or other entity in which the M&O Contractor, the M&O Contractor's parent, member or subsidiary has an equity interest, is a party sponsoring work in connection with the ACT agreement, work may not commence until approval of the complete Package by the Contracting Officer.
5. *Advance Payment for ACT Projects.* The M&O Contractor shall be responsible for providing adequate advance payment for ACT work conducted under this H-clause consistent with procedures defined in the Department's Financial Management Handbook. The M&O Contractor shall be solely responsible for collecting payments from third parties for any work conducted under this H-clause and such collections shall be independent of providing advance payment. For such payments and for any costs, obligations, or liabilities arising due to the M&O Contractor's work under this H-clause, the M&O Contractor is entirely at risk and the Government shall have no risk.
6. *Costs.* All direct costs associated with the M&O Contractor's work conducted under this H-clause shall be directly charged to separate and identifiable accounts in accordance with the requirements of the Department's Financial Management Handbook. An allocable portion of indirect costs normally applied to equivalent work under this M&O contract shall also be applied to work conducted under this H-clause in accordance with the requirements of the Financial Management Handbook. As required by the Financial Management Handbook, changes to the Handbook will be incorporated into this H-clause by a unilateral administrative modification to the contract. In addition, all work must be performed at full costs which would include Federal Administrative Charge (FAC).

- a. Work conducted under this H-clause shall be excluded from the M&O contract award fee calculations and such fee shall not be allocable to work conducted under this H-clause.
 - b. Federal funds will not be used to fund work conducted under this H-clause except as authorized under the FedACT pilot (see paragraph 14 below).
7. *Organizational Conflict of Interest.* The M&O Contractor shall conduct work under this H-clause in a manner that minimizes the appearance of conflicts of interest and avoids or mitigates actual conflicts of interest with the M&O Contractor's functions under this M&O contract. Accordingly, the M&O Contractor shall develop an Organizational Conflict of Interest Mitigation Plan (OCI Plan). The OCI Plan should address OCI issues that arise as a result of the M&O Contractor taking a financial interest in ACT projects, especially in cases where the M&O Contractor retains rights in ACT IP. Said OCI Plan shall be provided to the Contracting Officer for review and approval as soon as practicable after execution of the M&O contract modification incorporating this H-clause into the M&O contract. Unless provided otherwise by the Contracting Officer, no work on ACT agreements may commence before Contracting Officer approval of the OCI Plan. In addition to those elements expressly stated in the OCI Plan, the Department may condition any ACT transaction on such other mitigating conditions it determines are appropriate. The OCI Plan shall, at a minimum, include elements that address the following:
- a. *Full Disclosure.* Before work can begin under an ACT transaction, all parties to ACT agreements must sign a DOE-approved certification that they have been fully informed about the availability of SPP agreements and CRADAs in addition to ACT. The certification at a minimum shall briefly describe SPP agreements, CRADAs and ACT, and will include the relative disposition of IP rights and the costs (including identification of any additional costs e.g. insurance, and other compensation to the M&O Contractor under ACT) for each type of agreement for the scope of work being proposed.
 - b. *Priority of Work.* The M&O Contractor shall not give work under ACT any special attention or priority over other work under the DOE M&O contract. Work under ACT shall be approved by the Contracting Officer and assigned the same priority relative to other work under the DOE M&O contract that it would normally have if performed under a non-Federal SPP agreement. The Contracting Officer has discretion to determine the agency's priority of work, considering the M&O Contractor's input.
 - c. *Participation by Contractor-related Entity:* Where the M&O Contractor, the M&O Contractor's parent, member, subsidiary, or other entity in which the M&O Contractor, the M&O Contractor's parent, member or subsidiary has an equity interest, is a party to the ACT agreement, the M&O Contractor shall include as necessary an addendum to the OCI Plan to address special circumstances not fully anticipated in the OCI Plan.
 - d. *Right of Inquiry for ACT IP Designation.* DOE Patent Counsel may inquire into the M&O Contractor's designation of any invention or data as arising under an ACT transaction. The M&O Contractor is responsible for curing any defect identified in such inquiry, and if the M&O Contractor cannot adequately justify the designation or cure the defect, then the parties to the ACT agreement may receive modified rights in the IP to the degree necessary to resolve the issues identified by the inquiry.
8. *Intellectual Property.* Disposition of intellectual property (IP) arising from work conducted under this H-clause shall be governed by Class Waiver W(C)-2011-013 (ACT Class Waiver) which is incorporated herein by reference.
- a. All Contractor ACT inventions shall be reported to DOE pursuant to the requirements of the [cite Patent Rights –M&O contract, Nonprofit Organization or Small Business Firm Contractor]

clause of this M&O contract.

- b. In reporting ACT inventions, the M&O Contractor shall identify the ACT agreement under which the invention was made and specify the rights reserved by the Government pursuant to the ACT Class Waiver.
- c. All technical data identified by the ACT client as Protected ACT Information shall also be marked to identify the ACT agreement under which the data was generated.
- d. The M&O Contractor shall ensure that all rights and obligations concerning ACT IP, including the appropriate IP provisions authorized in the ACT Class Waiver, are clearly provided in ACT agreements, and that all parties granted any rights in ACT IP are informed of the terms of the waived rights, including the rights reserved by the Government.
- e. Where the M&O Contractor receives ownership or license rights to ACT IP, the M&O Contractor may elect to commercialize the ACT IP consistent with the Technology Transfer Mission clause of this M&O contract.
- f. As an alternative to subparagraph e., if the M&O Contractor has an authorized Private Funded Technology Transfer (PFTT) program, the M&O Contractor may elect to retain private ownership of the ACT IP and commercialize the IP under its applicable PFTT clause, using its private funds, where no costs for developing, patenting, and marketing will be allowable under this M&O contract. The M&O Contractor will share royalties collected on ACT IP with inventors in accordance with paragraph (h) of the Technology Transfer Mission clause of this M&O contract.
- g. For ACT projects in which the terms of the Agreement provide that the Government reserves the right to use generated data after the particular project expires, the M&O Contractor must provide to OSTI computer software produced under the Agreement in both source and executable object code format.
- h. Where terms and conditions governing Data and Subject Inventions under this Contract are inconsistent with the terms of the ACT Class Waiver, the ACT Class Waiver will control.

9. *Contractor Liability and Indemnification.*

a. *General Indemnity.*

- (i) The M&O Contractor agrees to indemnify and hold harmless the Government, the Department, and persons acting on their behalf from all liability, including costs and expenses incurred, to any person, including the ACT participants, for injury to or death of persons or other living things or injury to or destruction of property arising out of the performance of an ACT transaction by the Government, the Department, the M&O Contractor, or persons acting on their behalf, or arising out of the use of the services performed, materials supplied, or information given hereunder by any person including the M&O Contractor, and not directly resulting from the fault or negligence of the Government, the Department, or persons (other than the M&O Contractor) acting on their behalf.
- (ii) Subject to Contracting Officer approval, the General Indemnity set forth in (i) above may be modified or waived where: (1) ACT participants are not providing material or equipment to the M&O Contractor to be used in the performance of the Statement of Work under the ACT transaction; and (2) ACT participants are not sending their employees to the M&O facilities as part of the Statement of Work; and (3) the specific activities performed under the ACT transaction are normally performed by the DOE M&O Contractor under the DOE contract.

- (iii) Notwithstanding the provisions in a (i) and a (ii) above, the M&O Contractor shall indemnify and hold harmless the Government, the Department, and persons acting on their behalf for loss, damage, or destruction of Government property resulting from the fault or negligence of the M&O Contractor. Such indemnification shall be subject to a liability limit of \$2,000,000 (two million dollars) per year, or such greater liability limit approved by the cognizant DOE/NNSA Contracting Officer under the DOE contract. Above the applicable liability limit, the M&O Contractor's responsibility to the Government for such loss, damage or destruction, shall be as set forth in the "Property" clause of this contract.
- b. *Intellectual Property Indemnity.* The M&O Contractor shall indemnify the Government, its agents, and employees against liability, including costs, for infringement of any United States patent, copyright, or other intellectual property arising out of any acts required or directed to be performed under the Statement of Work under an ACT transaction to the extent such acts are not already performed at the M&O contract facilities. Such indemnity shall not apply to a claimed infringement that is settled without the consent of the M&O Contractor unless required by a court of competent jurisdiction.
- c. *Product Liability Indemnity.*
- (i) Except for any liability resulting from any negligent acts or omissions of the Government, the M&O Contractor agrees to indemnify the Government for all damages, costs, and expenses, including attorney's fees, arising from personal injury or property damage occurring as a result of the making, using, or selling of a product, process, or service by or on behalf of the ACT participants or the M&O Contractor, their assignees, or licensees, which was derived from the work performed under ACT transactions. With respect to this H-clause, neither the Government nor the M&O Contractor shall be considered assignees or licensees as a result of reserved Government rights in ACT IP. The indemnity set forth in this paragraph shall apply only if the M&O Contractor shall have been informed as soon and as completely as practical by the Government of the action alleging such claim and shall have been given an opportunity, to the maximum extent afforded by applicable laws, rules, or regulations, to participate in and control its defense, and the Government shall have provided all reasonably available information and reasonable assistance requested by the M&O Contractor. No settlement for which the M&O Contractor would be responsible shall be made without the M&O Contractor's consent, unless required by final decree of a court of competent jurisdiction.
- (ii) Where the M&O Contractor assigns the responsibility for indemnifying the Government under subparagraph c (i) above to other ACT participants, the M&O Contractor agrees to seek such indemnification from the other ACT participants.
- d. *Claims and Liabilities.* Claims and liabilities resulting from the M&O Contractor's performance of work under an ACT transaction authorized pursuant to this H-clause shall not be subject to the M&O contract clause entitled "Insurance -Litigation and Claims." In no event shall the M&O Contractor be reimbursed under the M&O contract for liabilities (and expenses incidental to such liabilities, including litigation costs, counsel fees, and judgment and settlements) incurred as a result of third party claims related to the M&O Contractor's performance under this H-clause.
- e. *Government Obligations.* The M&O Contractor shall not include any guarantee or requirement that will obligate the Government to pay or incur any costs or create any liability on behalf of the Government in any ACT agreement or commitment the M&O Contractor executes under authority of this H-clause. The M&O Contractor agrees if the Contractor does include such a guarantee or requirement, it will have no effect on the Government, such that, the M&O Contractor will be responsible for any costs or liability due to such a guarantee or requirement.

- f. *Insurance.* Any cost of insurance to cover risks of the M&O Contractor associated with ACT agreements is unallowable under this contract.
10. *ACT Records.* All records associated with the M&O Contractor's activities conducted under the authority of this H-clause, with the exception of information required under paragraphs 3e, 4.b.i, and 13 shall be treated as M&O Contractor-owned records under the provisions of the Access to and Ownership of Records clause of this M&O contract. The Government or its designees shall use such records in accordance with applicable Federal laws (including the Privacy Act), as appropriate.
11. *Termination.* The Government or the M&O Contractor may terminate ACT authority under this contract by providing written notification of termination to the other party (Contracting Officer or the M&O Contractor) as appropriate, no less than 60 days prior to the requested termination date. In such cases, the M&O Contractor shall provide DOE a comprehensive list of active ACT projects. DOE anticipates work commitments under these agreements will be completed regardless of termination. All costs associated with early termination of any ACT agreements prior to the completion shall be the responsibility of the M&O Contractor.
12. *Successor M&O Contractor.* To minimize the potential for negative Government programmatic impact and to facilitate seamless transition of work to a successor M&O Contractor, ACT agreement(s) executed under this H-clause and any contractual instruments associated therewith may be novated to the successor M&O Contractor with the mutual consent of the M&O Contractor, the successor M&O Contractor, and the parties to the affected ACT agreement(s). If the ACT agreement(s) cannot be novated, then the M&O Contractor as a private sponsor shall be permitted to enter into a Non-Federal SPP agreement with the successor M&O Contractor that will enable completion of the statement of work. Such agreements shall be entered into pursuant to DOE SPP policies. DOE shall make good faith efforts to incorporate the terms of the applicable ACT agreement.
13. *Minimum Reporting requirements.* The M&O Contractor shall maintain records of its activities related to ACT in a manner and to the extent satisfactory to DOE and specifically including, but not limited to the number of ACT agreements, the amount of funds reimbursed to DOE for work under ACT and aggregate funding received beyond costs in the performance of ACT, the number of third party entities engaged through ACT that had not previously sponsored projects under the M&O contract and the number that had not previously sponsored projects under any DOE/NNSA M&O contract, the amount of funds reimbursed to DOE by newly engaged entities, the number of parties and types of entities engaged in each individual ACT agreement, and the number of invention disclosures, licenses and startups arising from ACT. The M&O Contractor shall establish performance metric(s) to measure the time required to negotiate ACT agreements in a manner consistent with the time required to negotiate CRADAs and SPPs. The M&O Contractor shall obtain from each entity engaged in ACT the entity's reason(s) for selecting ACT for performance of work under the M&O contract. Also, the M&O Contractor shall report the above identified data annually to the DOE Contracting Officer and in such a format which will serve to adequately inform DOE of the Contractor's activities under ACT while protecting any data not subject to disclosure under this M&O contract. Such records shall be made available in accordance with the clauses of this M&O contract pertaining to inspection, audit and examination of records.
14. *FedACT Pilot.* Under this paragraph the DOE is authorizing a 3-year pilot program for Federally funded ACT (FedACT). FedACT contracts are ACT agreements between the M&O Contractor and a non-Federal third party partner, where a portion of the project funding originates from a Federal agency (i.e., Federal appropriations). In most cases, the industry partner's original source of funds will have been as a result of a contract or financial assistance award from the Federal agency. Any agreement that includes Federal funds must be performed under the FedACT pilot. Federal funds

used to support a FedACT project must solely be used to carry out the purposes of the Federal award. FedACT does not include agreements directly funded from another Federal agency. DOE and the M&O Contractor recognize that FedACT is a new mechanism and subject to modifications as more data and experience are realized. During the FedACT pilot either party may suggest changes to the program based on the experiences gained. Furthermore, the M&O Contractor recognizes that the Department may decide to end the FedACT pilot at any time and that termination of the FedACT pilot by the Department will be in accordance with this paragraph. During the FedACT pilot the M&O Contractor is permitted to negotiate and execute such agreements, subject to DOE approval, as described in paragraph 4 above and as set forth herein. The following additional requirements apply:

- a. The M&O Contractor agrees, prior to executing such agreements, to submit to DOE for approval a modified ACT procedure for implementing the execution of FedACT.
- b. If the M&O Contractor is charging the third party additional compensation beyond the full costs of the work performed under the M&O contract, the ACT agreement will not be approved unless DOE or the M&O Contractor obtains a written certification from the Federal agency funding the third party that such additional compensation using Federal funds is permissible under the Federal award. In order to maximize the transparency of the transaction to the funding agency, the written certification shall be in the form of a standard template approved by DOE. Such template shall include at a minimum:
 - i. The amount of and explanation for the cost difference between performing the work as an ACT agreement as compared with an SPP or CRADA; and
 - ii. A detailed description of the risk and/or consideration offered the participant by the M&O Contractor in exchange for charging beyond full cost recovery. This information shall also be included in the statement of consideration contained in the ACT proposal package submitted to the Contracting Officer.
- c. M&O Contractor may not agree to any terms and conditions of the Federal award that conflict with this M&O contract.
- d. Notwithstanding any other provision in this H-clause, rights to ACT inventions and copyrights arising from work conducted under this paragraph made by the M&O Contractor shall be governed by the terms of the Patent and Data Rights clauses of this M&O Contract, as well as any applicable PFTT clause. The ACT Class Waiver does not apply to any ACT agreement funded with Federal funds.
- e. DOE's approval to negotiate and execute a FedACT agreement under this paragraph is for the sole purpose of evaluating and considering the M&O Contractor and DOE's processes and procedures for implementing such FedACT agreements and does not in any way provide the Contractor authority beyond the scope of this paragraph or imply that permanent authority shall be forthcoming.
- f. Advance payment requirements in Section 5 equally apply to FedACT agreements.
- g. All work must be performed at full costs which includes a Federal Administrative Charge (FAC).

Termination. The FedACT Pilot implemented by this H-clause will terminate three years from the date AL 2018-07 is issued, unless renewed by the Contracting Officer. The Government may provide the M&O Contractor with written notice to terminate the M&O Contractor's authority to conduct FedACT.

H-26 PAID LEAVE UNDER SECTION 3610 OF THE CORONA VIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT (CARES ACT) TO MAINTAIN EMPLOYEES AND SUBCONTRACTORS IN A READY STATE. (OCTOBER 2020) (Mod 0072, 0086, 0094, 0100)

- (a) The Contractor may submit for reimbursement and the Government (without requiring consideration but precluding additional fee) will treat as allowable (if otherwise allowable per federal regulations) the costs of paid leave (including sick leave) the Contractor or its subcontractors provide to keep employees in a ready state if--
 - (1) The employees: cannot perform work on a site approved by the Federal Government (including a federally-owned or leased facility or site) due to facilities closures or other restrictions; and cannot telework because their job duties cannot be performed remotely during the public health emergency declared on January 31, 2020 for COVID-19.
 - (2) The costs are incurred from January 31, 2020 through September 30, 2021.
 - (3) The costs do not reflect any amount exceeding an average of 40 hours per week for leave.
- (b) Where other relief provided for by the CARES Act or any other Act would benefit the contractor or the contractor's subcontractors, including, but not limited to, funds available under sections 1102 and 1106 of the CARES Act, the contractor should evaluate the applicability of such benefits in seeking reimbursement under the contract.
- (c) The Contractor must represent in any request for reimbursement--
 - (1) Either it: has not received, has not claimed, and will not claim any other reimbursement, including claims for reimbursement via letter of credit, for federal funds available under the CARES Act for the same purpose, including, but not limited to, funds available under sections 1102 and 1106 of the CARES Act; or if it has received, claimed, or will claim other reimbursement, that reimbursement has been reflected, or will be reflected when known, in requests for reimbursement but in no case reflected later than in its final proposal to determine allowable incurred costs.
 - (2) Its request reflects or will reflect as soon as known all applicable credits, including:
 - (i) Tax credits, including credits allowed pursuant to division G of Public Law 116-127; and
 - (ii) Applicable credits allowed under the CARES Act including applicable credits for loan guarantees.

H-27 CORONAVIRUS (COVID-19) VACCINE (Mod 0092)

The Contractor, as an authorized COVID-19 Vaccination Program Provider, may administer COVID-19 vaccinations to Contractor employees, federal employees, NNSA support service contractor employees, employees of other DOE management and operating contractors, and/or

others, in accordance with work authorization requirements, Inter-Contractor Purchase requirements, and/or other written direction provided by the Contracting Officer or the Contracting Officer Representative. The Contractor shall perform such duties in accordance with Federal and State laws, regulations, and guidelines, including direction from any Authority Having Jurisdiction (as that term is defined by relevant Public Readiness and Emergency Preparedness Act Declarations), applicable Vaccination Program Provider Agreements, and any other applicable COVID-19 immunization direction applicable to the Contractor as a condition of receipt of COVID-19 vaccine doses.

H-28 SPECIAL CONTRACT REQUIREMENTS (Mod 0089)

Section H clauses numbers H-28 thru H-35 are being used for Sub CLIN 0003A 138kV project. Clauses are listed in Appendix O, pages 26-29. Specific Section I clauses to 138kV project are also located in Appendix O, pages 30-32.0

PART II – CONTRACT CLAUSES

SECTION I

CONTRACT CLAUSES

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A. FAR CLAUSES INCORPORATED BY REFERENCE (Mod 0008, 0009, 0014, 0022, 0033, 0037, 0044, 0052, 0056, 0060, 0069, 0076, 0080)

The references cited herein are from the Federal Acquisition Regulation (FAR) (48 CFR Chapter 1). The following FAR clauses are hereby incorporated by reference:

FAR NUMBER	CLAUSE TITLE <i>(Any insertions appear below the title in italics)</i>	DATE OF CLAUSE
52.203-3	Gratuities	Apr 1984
52.203-5	Covenant Against Contingent Fees	May 2014
52.203-6	Restrictions on Subcontractor Sales to the Government	Jun 2020 (Mod 0085)
52.203-7	Anti-Kickback Procedures	Jun 2020 (Mod 0085)
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity	May 2014
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity	May 2014
52.203-12	Limitation on Payments to Influence Certain Federal Transactions	Jun 2020 (Mod 0085)
52.203-13	Contractor Code of Business Ethics and Conduct	Jun 2020 (Mod 0085)
52.203-14	Display of Hotline Poster(s) <i>(b)(3) Required poster is: 'DOE Hotline Poster http://energy.gov/ig/downloads/office-inspector-general-hotline-poster'</i>	Jun 2020 (Mod 0085)
52.203-16	Preventing Personal Conflicts of Interest (CLASS DEVIATION MAR 2018)	Jun 2020 (Mod 0085)
52.203-17	Contractor Employee Whistleblower Rights and Requirements to Inform Employees of Whistleblower Rights	Jun 2020 (Mod 0085)
52.203-19	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements	Jan 2017 (Mod 0008)
52.204-4	Printed or Copied Double-Sided on Postconsumer Fiber Content Paper	May 2011
52.204-9	Personal Identity Verification of Contractor Personnel	Jan 2011
52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards	Jun 2020 (Mod 0085)
52.204-13	System for Award Management Maintenance	Oct 2018 (Mod 0069)
52.209-6	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment	Jun 2020 (Mod 0085)
52.209-9	Updates of Publicly Available Information Regarding Responsibility Matters	Oct 2018 (Mod 0069)
52.209-10	Prohibition on Contracting With Inverted Domestic Corporations	Nov 2015

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FAR NUMBER	CLAUSE TITLE <i>(Any insertions appear below the title in italics)</i>	DATE OF CLAUSE
52.210-1	Market Research	Jun 2020 (Mod 0085)
52.211-5	Material Requirements	Aug 2000
52.211-15	Defense Priority and Allocation Requirements	April 2008 (Mod 0069)
52.215-2	Audit and Records -- Negotiation	Jun 2020 (Mod 0085)
52.215-8	Order of Precedence -- Uniform Contract Format	Oct 1997
52.215-12	Subcontractor Certified Cost or Pricing Data	Jun 2020 (Mod 0085)
52.215-13	Subcontractor Certified Cost or Pricing Data -- Modifications	Jun 2020 (Mod 0085)
52.215-15	Pension Adjustments and Asset Reversions	Oct 2010
52.215-17	Waiver of Facilities Capital Cost of Money	Oct 1997
52.215-19	Notification of Ownership Changes	Oct 1997
52.215-22	Limitations on Pass-Through Charges— Identification of Subcontract Effort	Oct 2009
52.215-23	Limitations on Pass-Through Charges	Jun 2020 (Mod 0085)
52.219-8	Utilization of Small Business Concerns	Oct 2018 (Mod 0044)
52.219-9	Small Business Subcontracting Plan, <i>Alt II (Nov 2016)</i> DOE/NNSA Class Deviation (Mar. 16, 2018)	Jun 2020 (Mod 0085)
52.219-16	Liquidated Damages -- Subcontracting Plan	Jan 1999
52.222-1	Notice to the Government of Labor Disputes	Feb 1997
52.222-3	Convict Labor	Jun 2003
52.222-4	Contract Work Hours and Safety Standards Act -- Overtime Compensation	May 2018 (Mod 0037)
52.222-6	Construction Wage Rate Requirements	Aug 2018 (Mod 0069)
52.222-17	Nondisplacement of Qualified Workers	Jun 2020 (Mod 0085)
52.222-21	Prohibition of Segregated Facilities	Apr 2015
52.222-26	Equal Opportunity	Sept 2016
52.222-29	Notification of Visa Denial	Apr 2015
52.222-35	Equal Opportunity for Veterans	Jun 2020 (Mod 0085)
52.222-36	Equal Opportunity for Workers With Disabilities	Jun 2020 (Mod 0085)
52.222-37	Employment Reports on Veterans	Jun 2020 (Mod 0085)

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FAR NUMBER	CLAUSE TITLE <i>(Any insertions appear below the title in italics)</i>	DATE OF CLAUSE
52.222-40	Notification of Employee Rights Under the National Labor Relations Act	Dec 2010
52.222-50	Combating Trafficking in Persons	Jan 2019 (Mod 0044)
52.222-54	Employment Eligibility Verification	Oct 2015
52.222-55	Minimum Wages Under Executive Order 13658	Dec 2015
52.223-2	Affirmative Procurement of Biobased Products Under Service And Construction FAR Contracts	Sep 2013
52.223-3	Hazardous Material Identification and Material Safety Data, Alternate I (Jul 1995) <i>(b) Nothing identified to date.</i>	Jan 1997
52.223-5	Pollution Prevention and Right-to-Know Information, Alternate I (May 2011) – Alternate II (May 2011)	May 2011 (Mod 0008)
52.223-6	Drug Free Workplace	May 2001
52.223-7	Notice of Radioactive Materials <i>“in writing, <u>thirty (30)</u>* days</i>	Jan 1997 (Mod 0008)
52.223-10	Waste Reduction Program	May 2011
52.223-12	Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners	Jun 2016
52.223-13	Acquisition of EPEAT® -Registered Imaging Equipment, (June 2014) Alt I (Oct 2015)	June 2014 (Mod 0008)
52.223-14	Acquisition of EPEAT® -Registered Televisions	June 2014 (Mod 0008)
52.223-15	Energy Efficiency in Energy-Consuming Products	Jun 2020 (Mod 0085)
52.223-16	Acquisition of EPEAT® -Registered Personal Computer Products Alt I (Jun 2014)	Oct 2015
52.223-17	Affirmative Procurement of EPA-Designated Items in Service and Construction Contracts	Aug 2018 (Mod 0052)
52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving	Jun 2020 (Mod 0085)
52.223-19	Compliance With Environmental Management Systems	May 2011
52.224-1	Privacy Act Notification	Apr 1984
52.224-2	Privacy Act	Apr 1984
52.224-3	Privacy Training	Jan 2017 (Mod 0008)
52.244-6	Subcontracts for Commercial Items	Jan 2019 (Mod 0022, 0044)

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FAR NUMBER	CLAUSE TITLE <i>(Any insertions appear below the title in italics)</i>	DATE OF CLAUSE
52.225-1	Buy American—Supplies	May 2014
52.225-8	Duty-Free Entry	Oct 2010
52.225-13	Restriction on Certain Foreign Purchases	Jun 2008
52.227-10	Filing of Patent Applications -- Classified Subject Matter	Dec 2007
52.227-23	Rights to Proposal Data (Technical)	Jun 1987
52.229-8	Taxes -- Foreign Cost-Reimbursement Contracts <i>(a) Name of foreign government is 'the foreign country(ies) referenced in the applicable Work Authorization or as specified by the Contracting Officer'. Name of country is 'exempt under the laws of 'the Country(ies) referenced in the applicable Work Authorization or as specified by the Contracting Officer'.</i>	Mar 1990
52.230-2	Cost Accounting Standards	Jun 2020 (Mod 0085)
52.230-6	Administration of Cost Accounting Standards	Jun 2010
52.232-17	Interest	May 2014
52.232-18	Availability of Funds	Apr 1984
52.232-24	Prohibition of Assignment of Claims	May 2014
52.232-39	Unenforceability of Unauthorized Obligations	Jun 2013 (Mod 0008)
52.232-40	Providing Accelerated Payments to Small Business Subcontractors	Dec 2013
52.233-1	Disputes, Alternate I (Dec 1991)	May 2014
52.233-3	Protest After Award, Alternate I (Jun 1985)	Aug 1996
52.233-4	Applicable Law for Breach of Contract Claim	Oct 2004
52.234-4	Earned Value Management System	May 2014 (Mod 0009, 0060)
52.237-2	Protection of Government Buildings, Equipment, and Vegetation	Apr 1984
52.237-3	Continuity of Services	Jan 1991
52.242-1	Notice of Intent to Disallow Costs	Apr 1984
52.242-5	Payments to Small Business Subcontractors	Jan 2017 (Mod 0008)
52.242-13	Bankruptcy	Jul 1995
52.244-2	Subcontracts, Alternate I (Jun 2020)	Jun 2020 (Mod 0085)
52.244-5	Competition in Subcontracting	Dec 1996
52.244-6	Subcontracts for Commercial Items (Deviation APR 2020) <i>(xix) 52.232-40, Providing Accelerated Payments to Small Business Subcontractors (DEC 2013) (DEVIATION APR 2020)</i>	Jun 2020 (Mod 0033, 0056, 0076, 0085)

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FAR NUMBER	CLAUSE TITLE <i>(Any insertions appear below the title in italics)</i>	DATE OF CLAUSE
52.246-26	Reporting Nonconforming Items	Jun 2020 (Mod 0080)
52.247-1	Commercial Bill of Lading Notations <i>(a) Specific agency is 'U.S. Department of Energy, National Nuclear Security Administration'. Specific agency is 'U.S. Department of Energy, National Nuclear Security Administration'. Contract No. is 'DE- NA0003624. Contact is 'the Contracting Officer'.</i>	Feb 2006
52.247-63	Preference for U.S.-Flag Air Carriers	June 2003
52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels	Feb 2006
52.249-6	Termination (Cost-Reimbursement)	May 2004
52.249-14	Excusable Delays	Apr 1984
52.250-1	Indemnification Under Public Law 85-804, (Apr 1984) Alternate I (Apr 1984)	Apr 1984 (Mod 0008)
52.251-1	Government Supply Sources	Apr 2012
52.251-2	Interagency Fleet Management System Vehicles and Related Services	Jan 1991
52.253-1	Computer Generated Forms	Jan 1991

B. DEAR CLAUSES INCORPORATED BY REFERENCE (Mod 0007, 0052, 0069)

The references cited herein are from the U.S. Department of Energy Acquisition Regulation (DEAR) (48 CFR Chapter 9). The following DEAR clauses are hereby incorporated by reference:

DEAR NUMBER	CLAUSE TITLE <i>(Any insertions appear below the title in italics)</i>	DATE OF CLAUSE
952.203-70	Whistleblower Protection for Contractor Employees	Dec 2000
952.204-70	Classification/Declassification	Sep 1997
952.204-71	Sensitive Foreign Nations Controls	Mar 2011
952.204-75	Public Affairs	Dec 2000
952.204-77	Computer Security	Aug 2006
952.208-7	Tagging of Leased Vehicles	Apr 1984
952.209-72	Organizational Conflicts of Interest, Alternate I <i>(b)(1)(i) Period is 'five (5) years'.</i>	Aug 2009
952.211-71	Priorities and Allocations (ATOMIC ENERGY) Contract rated as DOE-E2	Apr 2008 (Mod 0069)
952.215-70	Key Personnel <i>(a) Cross-reference is 'Section J, Appendix H.'</i>	Dec 2000 (Mod 0052)
952.217-70	Acquisition of Real Property	Mar 2011
952.223-75	Preservation of Individual Occupational Radiation Exposure Records	Apr 1984
952.226-74	Displaced Employee Hiring Preference	Jun 1997
952.235-71	Research Misconduct	Jul 2005
952.242-70	Technical Direction	Dec 2000
952.247-70	Foreign Travel	Jun 2010
952.251-70	Contractor Employee Travel Discounts	Aug 2009
970.5203-1	Management Controls	Jun 2007
970.5203-2	Performance Improvement and Collaboration	May 2006
970.5204-1	Counterintelligence	Dec 2010
970.5204-3	Access to and Ownership of Records (DEVIATION) <i>Paragraph (b): All of the categories (1) - (5) of records are included in the clause.</i>	Oct 2014
970.5208-1	Printing	Dec 2000
970.5211-1	Work Authorization	May 2007
970.5217-1	Strategic Partnership Projects Program	Apr 2015
970.5222-1	Collective Bargaining Agreements-Management and Operating Contracts	Dec 2000
970.5222-2	Overtime Management	Dec 2000
970.5223-1	Integration of Environment, Safety, and Health into Work Planning and Execution	Dec 2000
970.5223-4	Workplace Substance Abuse Programs at DOE Sites	Dec 2010

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DEAR NUMBER	CLAUSE TITLE <i>(Any insertions appear below the title in italics)</i>	DATE OF CLAUSE
970.5223-6	Executive Order 13423, Strengthening Federal Environmental, Energy, and Transportation Management	Oct 2010
970.5223-7	Sustainable Acquisition Program	Oct 2010
970.5225-1	Compliance with Export Control Laws and Regulations	Nov 2015
970.5226-1	Diversity Plan	Dec 2000
970.5226-2	Workforce Restructuring Under Section 3161 of the National Defense Authorization Act for Fiscal Year 1993	Dec 2000
970.5226-3	Community Commitment	Dec 2000
970.5227-4	Authorization and Consent	Aug 2002
970.5227-5	Notice and Assistance Regarding Patent and Copyright Infringement	Dec 2000
970.5227-6	Patent Indemnity-Subcontracts	Dec 2000
970.5227-8	Refund of Royalties	Aug 2002
970.5228-1	Insurance-Litigation and Claims	Jul 2013
970.5229-1	State and Local Taxes	Dec 2000
970.5231-4	Preexisting Conditions, Alternate II (DEC 2000) <i>(a) Date contract began is "December 1, 2017".</i>	Dec 2000 (Mod 0007)
970.5232-1	Reduction or Suspension of Advance, Partial, or Progress Payments	Dec 2000
970.5232-3	Accounts, Records and Inspection	Dec 2010
970.5232-4	Obligation of Funds	Dec 2000
970.5232-5	Liability with Respect to Cost Accounting Standards	Dec 2000
970.5232-6	Strategic Partnership Project Funding Authorization	Apr 2015
970.5232-7	Financial Management System	Dec 2000
970.5232-8	Integrated Accounting	Dec 2000
970.5236-1	Government Facility Subcontract Approval	Dec 2000
970.5242-1	Penalties for Unallowable Costs	Aug 2009
970.5243-1	Changes	Dec 2000
970.5245-1	Property	Aug 2016

C. FAR AND DEAR CLAUSES INCORPORATED IN FULL TEXT

I-1 FAR 52.202-1 DEFINITIONS (NOV 2013) (AS MODIFIED BY DEAR952.202-1)

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

- (a) The solicitation, or amended solicitation, provides a different definition;
- (b) The contracting parties agree to a different definition;
- (c) The part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning; when a solicitation provision or contract clause uses a word or term that is defined in the Department of Energy Acquisition Regulation (DEAR) (48 CFR chapter 9), the word or term has the same meaning as the definition in 48 CFR 902.101 or the definition in the part, subpart, or section of 48 CFR chapter 9 where the provision or clause is prescribed in effect at the time the solicitation was issued, unless an exception in (a) applies; or
- (a) The word or term is defined in FAR Part 31, for use in the cost principles and procedures.

I-1A FAR 52.204-21 BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS (JUN 2016) (Mod 0052)

(a) Definitions. As used in this clause-

“Covered contractor information system” means an information system that is owned or operated by a contractor that processes, stores, or transmits Federal contract information.

“Federal contract information” means information, not intended for public release, that is provided by or generated for the Government under a contract to develop or deliver a product or service to the Government, but not including information provided by the Government to the public (such as on public websites) or simple transactional information, such as necessary to process payments.

“Information” means any communication or representation of knowledge such as facts, data, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual (Committee on National Security Systems Instruction (CNSSI) 4009).

“Information system” means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information (44 U.S.C. 3502).

“Safeguarding” means measures or controls that are prescribed to protect information systems.

(b) Safeguarding requirements and procedures.

(1) The Contractor shall apply the following basic safeguarding requirements and procedures to protect covered contractor information systems. Requirements and procedures for basic safeguarding of covered contractor information systems shall include, at a minimum, the following security controls:

- (i) Limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems).
- (ii) Limit information system access to the types of transactions and functions that authorized users are permitted to execute.
- (iii) Verify and control/limit connections to and use of external information systems.

- (iv) Control information posted or processed on publicly accessible information systems.
- (v) Identify information system users, processes acting on behalf of users, or devices.
- (vi) Authenticate (or verify) the identities of those users, processes, or devices, as a prerequisite to allowing access to organizational information systems.
- (vii) Sanitize or destroy information system media containing Federal Contract Information before disposal or release for reuse.
- (viii) Limit physical access to organizational information systems, equipment, and the respective operating environments to authorized individuals.
- (ix) Escort visitors and monitor visitor activity; maintain audit logs of physical access; and control and manage physical access devices.
- (x) Monitor, control, and protect organizational communications (i.e., information transmitted or received by organizational information systems) at the external boundaries and key internal boundaries of the information systems.
- (xi) Implement subnetworks for publicly accessible system components that are physically or logically separated from internal networks.
- (xii) Identify, report, and correct information and information system flaws in a timely manner.
- (xiii) Provide protection from malicious code at appropriate locations within organizational information systems.
- (xiv) Update malicious code protection mechanisms when new releases are available.
- (xv) Perform periodic scans of the information system and real-time scans of files from external sources as files are downloaded, opened, or executed.

(2) *Other requirements.* This clause does not relieve the Contractor of any other specific safeguarding requirements specified by Federal agencies and departments relating to covered contractor information systems generally or other Federal safeguarding requirements for controlled unclassified information (CUI) as established by Executive Order 13556.

(c) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (c), in subcontracts under this contract (including subcontracts for the acquisition of commercial items, other than commercially available off-the-shelf items), in which the subcontractor may have Federal contract information residing in or transiting through its information system.

I-1B FAR 52.204-25 PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (Aug 2020) (Mod 0056, 0085)

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

Backhaul means intermediate links between the core network, or backbone network, and the small

subnetworks at the edge of the network (*e.g.*, connecting cell phones/towers to the core telephone network). Backhaul can be wireless (*e.g.*, microwave) or wired (*e.g.*, fiber optic, coaxial cable, Ethernet).

Covered foreign country means The People's Republic of China.

Covered telecommunications equipment or services means—

- (1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);
- (2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
- (3) Telecommunications or video surveillance services provided by such entities or using such equipment; or
- (4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Critical technology means—

- (1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;
- (2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled-
 - (i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or
 - (ii) For reasons relating to regional stability or surreptitious listening;
- (3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);
- (4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);
- (5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121

of title 9 of such Code, or part 73 of title 42 of such Code; or

(6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

Interconnection arrangements means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

Reasonable inquiry means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

Roaming means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

Substantial or essential component means any component necessary for the proper function or performance of a piece of equipment, system, or service.

(b) *Prohibition.*

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The Contractor is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR [4.2104](#).

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract, or extending or renewing a contract, with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR [4.2104](#). This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract.

(c) *Exceptions.* This clause does not prohibit contractors from providing—

(1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(d) Reporting requirement.

(1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by

any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information; in the case of the Department of Defense, the Contractor shall report to the website at <https://dibnet.dod.mil>. For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at <https://dibnet.dod.mil>.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause

(i) Within one business day from the date of such identification or notification: the contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) *Subcontracts*. The Contractor shall insert the substance of this clause, including this paragraph (e) and excluding paragraph (b)(2), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial items.

**I-2 FAR 52.208-8 REQUIRED SOURCES FOR HELIUM AND HELIUM USAGE DATA
(APR 2014) (Mod 0052)**

(a) *Definitions*.

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

“Federal helium supplier” means a private helium vendor that has an in-kind crude helium sales contract with the Bureau of Land Management (BLM) and that is on the BLM Amarillo Field Office’s Authorized List of Federal Helium Suppliers available via the Internet at <https://www.blm.gov/programs/energy-and-minerals/helium/partners>.

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

(b) Requirements --

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

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

I-3 FAR 52.216-7 ALLOWABLE COST AND PAYMENT (AUG 2018) (AS MODIFIED BY DEAR 952.216-7) (TAILORED APR 2020) (Mod 0075)

Note: Paragraph (a) applies to transition and contract close-out only.

(a) *Invoicing.*

(1) The Government will make payments to the Contractor when requested as work progresses, but (except for small business concerns) not more often than once every 2 weeks, in amounts determined to be allowable by the Contracting Officer in accordance with Federal Acquisition Regulation (FAR) subpart [31.2](#) as supplemented by subpart 931.2 of the Department of Energy Acquisition Regulations (DEAR) in effect on the date of this contract and the terms of this contract. The Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as the representative may require, an invoice or voucher supported by a statement of the claimed allowable cost for performing this contract.

(2) Contract financing payments are not subject to the interest penalty provisions of the Prompt Payment Act. Interim payments made prior to the final payment under the contract are contract financing payments, except interim payments if this contract contains Alternate I to the clause at [52.232-25](#).

(3) The designated payment office will make interim payments for contract financing on the 30th day after the designated billing office receives a proper payment request.

In the event that the Government requires an audit or other review of a specific payment request to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the specified due date.

(b) *Reimbursing costs.*

(1) For the purpose of reimbursing allowable costs (except as provided in paragraph (b)(2) of the clause, with respect to pension, deferred profit sharing, and employee stock ownership plan contributions), the term *costs* includes only-

(i) Those recorded costs that, at the time of the request for reimbursement, the Contractor has paid by cash, check, or other form of actual payment for items or services purchased directly for the contract;

(ii) When the Contractor is not delinquent in paying costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid, for-

(A) Supplies and services purchased directly for the contract and associated financing payments to subcontractors, provided payments determined due will be made-

(1) In accordance with the terms and conditions of a subcontract or invoice; and

(2) Ordinarily within 30 days of the submission of the Contractor's payment request to the Government;

(B) Materials issued from the Contractor's inventory and placed in the production process for use on the contract;

(C) Direct labor;

(D) Direct travel;

(E) Other direct in-house costs; and

(F) Properly allocable and allowable indirect costs, as shown in the records maintained by the Contractor for purposes of obtaining reimbursement under Government contracts; and

(iii) The amount of financing payments that have been paid by cash, check, or other forms of payment to subcontractors.

(2) Accrued costs of Contractor contributions under employee pension plans shall be excluded until actually paid unless-

(i) The Contractor's practice is to make contributions to the retirement fund quarterly or more frequently; and

(ii) The contribution does not remain unpaid 30 days after the end of the applicable quarter or shorter payment period (any contribution remaining unpaid shall be excluded from the Contractor's indirect costs for payment purposes).

(3) Notwithstanding the audit and adjustment of invoices or vouchers under paragraph (g) below, allowable indirect costs under this contract shall be obtained by applying indirect cost rates established in accordance with paragraph (d) below.

(4) Any statements in specifications or other documents incorporated in this contract by reference designating performance of services or furnishing of materials at the Contractor's expense or at no cost to the Government shall be disregarded for purposes of cost-reimbursement under this clause.

(c) *Small business concerns.* A small business concern may receive more frequent payments than every 2 weeks.

(d) *Final indirect cost rates.*

(1) Final annual indirect cost rates and the appropriate bases shall be established in accordance with subpart [42.7](#) of the Federal Acquisition Regulation (FAR) in effect for the period covered by the indirect cost rate proposal.

(2)(i) The Contractor shall submit an adequate final indirect cost rate proposal 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.

(ii) The proposed rates 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 as promptly as practical after receipt of the Contractor's proposal.

(iii) An adequate indirect cost rate proposal shall include the following data unless otherwise specified by the cognizant Federal agency official:

(A) Summary of all claimed indirect expense rates, including pool, base, and calculated indirect rate.

(B) General and Administrative expenses (final indirect cost pool). Schedule of claimed expenses by element of cost as identified in accounting records (Chart of Accounts).

(C) Overhead expenses (final indirect cost pool). Schedule of claimed expenses by element of cost as identified in accounting records (Chart of Accounts) for each final indirect cost pool.

(D) Occupancy expenses (intermediate indirect cost pool). Schedule of claimed expenses by element of cost as identified in accounting records (Chart of Accounts) and expense reallocation to final indirect cost pools.

- (E) Claimed allocation bases, by element of cost, used to distribute indirect costs.
 - (F) Reserved.
 - (G) Reconciliation of books of account (i.e., General Ledger) and claimed direct costs by major cost element.
 - (H) Schedule of direct costs by Program (B&R) and indirect expense applied at claimed rates, as well as subsidiary schedule of Program participation percentages in each of the allocation base amounts.
 - (I) Schedule of cumulative direct and indirect costs claimed and billed by contract and subcontract, if required by the Contracting Officer.
 - (J) Subcontract information. Listing of subcontracts awarded to companies for which the contractor is the prime or upper-tier contractor (include prime and subcontract numbers; subcontract value and award type; amount claimed during the fiscal year; and the subcontractor name, address, and point of contact information).
 - (K) Reserved.
 - (L) Reserved.
 - (M) Listing of decisions/agreements/approvals and description of accounting/organizational changes.
 - (N) Certificate of final indirect costs (see [52.242-4](#), Certification of Final Indirect Costs).
 - (O) Reserved.
- (iv) The following supplemental information is not required to determine if a proposal is adequate, but may be required during the audit process:
- (A) Comparative analysis of indirect expense pools detailed by account to prior fiscal year and budgetary data.
 - (B) General organizational information and limitation on allowability of compensation for certain contractor personnel. See [31.205-6\(p\)](#). Additional salary reference information is available at <https://www.whitehouse.gov/wp-content/uploads/2017/11/ContractorCompensationCapContractsAwardedBeforeJune24.pdf> and <https://www.whitehouse.gov/wp-content/uploads/2017/11/ContractorCompensationCapContractsAwardedafterJune24.pdf>
 - (C) Identification of prime contracts under which the contractor performs as a subcontractor.
 - (D) Description of accounting system (excludes contractors required to submit a

CAS Disclosure Statement or contractors where the description of the accounting system has not changed from the previous year's submission).

- (E) Procedures for identifying and excluding unallowable costs from the costs claimed and billed (excludes contractors where the procedures have not changed from the previous year's submission).
 - (F) Certified financial statements and other financial data (e.g., trial balance, compilation, review, etc.).
 - (G) Management letter from outside CPAs concerning any internal control weaknesses.
 - (H) Actions that have been and/or will be implemented to correct the weaknesses described in the management letter from subparagraph (G) of this section.
 - (I) List of all internal audit reports issued since the last disclosure of internal audit reports to the Government.
 - (J) Annual internal audit plan of scheduled audits to be performed in the fiscal year when the final indirect cost rate submission is made.
 - (K) Federal and State income tax returns.
 - (L) Securities and Exchange Commission 10-K annual report.
 - (M) Minutes from board of directors meetings.
 - (N) Listing of delay claims and termination claims submitted which contain costs relating to the subject fiscal year.
 - (O) Contract briefings, which generally include a synopsis of all pertinent contract provisions, such as: Contract type, contract amount, product or service(s) to be provided, contract performance period, rate ceilings, advance approval requirements, pre-contract cost allowability limitations, and billing limitations.
- (v) The Contractor shall update the billings on all contracts to reflect the final settled rates and update the schedule of cumulative direct and indirect costs claimed and billed, as required in paragraph (d)(2)(iii)(I) of this section, within 60 days after settlement of final indirect cost rates.
- (3) The Contractor and the appropriate Government representative shall execute a written understanding setting forth the final indirect cost rates. The understanding shall specify (i) the agreed-upon final annual indirect cost rates, (ii) the bases to which the rates apply, (iii) the periods for which the rates apply, (iv) any specific indirect cost items treated as direct costs in the settlement, and (v) the affected contract and/or subcontract, identifying any with advance agreements or special terms and the applicable rates. The understanding shall not change any

monetary ceiling, contract obligation, or specific cost allowance or disallowance provided for in this contract. The understanding is incorporated into this contract upon execution.

- (4) Failure by the parties to agree on a final annual indirect cost rate shall be a dispute within the meaning of the Disputes clause.
- (5) Within 120 days (or longer period if approved in writing by the Contracting Officer) after settlement of the final annual indirect cost rates for all years of a physically complete contract, the Contractor shall submit a completion invoice or voucher to reflect the settled amounts and rates. The completion invoice or voucher shall include settled subcontract amounts and rates. The prime contractor is responsible for settling subcontractor amounts and rates included in the completion invoice or voucher and providing status of subcontractor audits to the contracting officer upon request.
- (6)
 - (i) If the Contractor fails to submit a completion invoice or voucher within the time specified in paragraph (d)(5) of this clause, the Contracting Officer may-
 - (A) Determine the amounts due to the Contractor under the contract; and
 - (B) Record this determination in a unilateral modification to the contract.
 - (ii) This determination constitutes the final decision of the Contracting Officer in accordance with the Disputes clause.
- (e) *Billing rates.* Until final annual indirect cost rates are established for any period, the Government shall reimburse the Contractor at billing rates established by the Contracting Officer or by an authorized representative (the cognizant auditor), subject to adjustment when the final rates are established. These billing rates-
 - (1) Shall be the anticipated final rates; and
 - (2) May be prospectively or retroactively revised by mutual agreement, at either party's request, to prevent substantial overpayment or underpayment.
- (f) *Quick-closeout procedures.* Quick-closeout procedures are applicable when the conditions in FAR [42.708\(a\)](#) are satisfied.
- (g) *Audit.* At any time or times before final payment, the Contracting Officer may have the Contractor's invoices or vouchers and statements of cost audited. Any payment may be (1) reduced by amounts found by the Contracting Officer not to constitute allowable costs or (2) adjusted for prior overpayments or underpayments.
- (h) *Final payment.*

- (1) Upon approval of a completion invoice or voucher submitted by the Contractor in accordance with paragraph (d)(5) of this clause, and upon the Contractor's compliance with all terms of this contract, the Government shall promptly pay any balance of allowable costs and that part of the fee (if any) not previously paid.
- (2) The Contractor shall pay to the Government any refunds, rebates, credits, or other amounts (including interest, if any) accruing to or received by the Contractor or any assignee under this contract, to the extent that those amounts are properly allocable to costs for which the Contractor has been reimbursed by the Government. Reasonable expenses incurred by the Contractor for securing refunds, rebates, credits, or other amounts shall be allowable costs if approved by the Contracting Officer. Before final payment under this contract, the Contractor and each assignee whose assignment is in effect at the time of final payment shall execute and deliver-
- (i) An assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including interest, if any) properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract; and
 - (ii) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, except-
 - (A) Specified claims stated in exact amounts, or in estimated amounts when the exact amounts are not known;
 - (B) Claims (including reasonable incidental expenses) based upon liabilities of the Contractor to third parties arising out of the performance of this contract; provided, that the claims are not known to the Contractor on the date of the execution of the release, and that the Contractor gives notice of the claims in writing to the Contracting Officer within 6 years following the release date or notice of final payment date, whichever is earlier; and
 - (C) Claims for reimbursement of costs, including reasonable incidental expenses, incurred by the Contractor under the patent clauses of this contract, excluding, however, any expenses arising from the Contractor's indemnification of the Government against patent liability.

**I-4 FAR 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT
(MAR 2000)**

- (a) The Government may extend the term of this contract by written notice to the Contractor within 30 days of contract expiration; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the Government to an extension.
- (b) If the Government exercises this option, the extended contract shall be considered to include this option clause.
- (c) The total duration of this contract, including the exercise of any options under this

clause, shall not exceed 10 years.

I-5 FAR 52.223-9 ESTIMATE OF PERCENTAGE OF RECOVERED MATERIAL CONTENT FOR EPA DESIGNATED ITEMS (MAY 2008)

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

“Postconsumer material” means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Postconsumer material is a part of the broader category of “recovered material.”

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

(b) The Contractor, on completion of this contract, shall—

- (1) Estimate the percentage of the total recovered material content for EPA- designated item(s) delivered and/or used in contract performance, including, if applicable, the percentage of postconsumer material content; and
- (2) Submit this estimate to the Contracting Officer.

I-6 FAR 52.223-11 OZONE-DEPLETING SUBSTANCES AND HIGH GLOBAL WARMING POTENTIAL HYDROFLUOROCARBONS (JUN 2016)

(a) Definition. As used in this clause—

“Global warming potential” means how much a given mass of a chemical contributes to global warming over a given time period compared to the same mass of carbon dioxide. Carbon dioxide’s global warming potential is defined as 1.0.

“High global warming potential hydrofluorocarbons” means any hydrofluorocarbons in a particular end use for which EPA’s Significant New Alternatives Policy (SNAP) program has identified other acceptable alternatives that have lower global warming potential. The SNAP list of alternatives is found at 40 CFR Part 82 subpart G with supplemental tables of alternatives available at (<http://www.epa.gov/snap/>).

“Hydrofluorocarbons” means compounds that only contain hydrogen, fluorine, and carbon.

“Ozone-depleting substance,” means any substance the Environmental Protection Agency designates in 40 CFR Part 82 as—

- (1) Class I, including, but not limited to, chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or
- (2) Class II, including, but not limited to, hydrochlorofluorocarbons.

(b) The Contractor shall label products that contain or are manufactured with ozone- depleting substances in the manner and to the extent required by [42 U.S.C. 7671j](#) (b), (c), (d), and (e) and 40 CFR part 82, subpart E, as follows:

WARNING

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

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

(c) Reporting. For equipment and appliances that normally each contain 50 or more pounds of hydrofluorocarbons or refrigerant blends containing hydrofluorocarbons, the Contractor shall—

(1) Track on an annual basis, between October 1 and September 30, the amount in pounds of hydrofluorocarbons or refrigerant blends containing hydrofluorocarbons contained in the equipment and appliances delivered to the Government under this contract by—

- (i) Type of hydrofluorocarbon (e.g., HFC-134a, HFC-125, R-410A, R-404A, etc.);
- (ii) Contract number; and
- (iii) Equipment/appliance;

(2) Report that information to the Contracting Officer for FY16 and to www.sam.gov, for FY17 and after—

- (i) Annually by November 30 of each year during contract performance; and
- (ii) At the end of contract performance.

(d) The Contractor shall refer to EPA's SNAP program (available at <http://www.epa.gov/snap>) to identify alternatives. The SNAP list of alternatives is found at 40 CFR part 82 subpart G with supplemental tables available at <http://www.epa.gov/snap>.

I-7 FAR 52.223-14 ACQUISITION OF EPEAT® -REGISTERED TELEVISIONS (JUN 2014)

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

“Television or TV” means a commercially available electronic product designed primarily for the reception and display of audiovisual signals received from terrestrial, cable, satellite, Internet Protocol TV (IPTV), or other digital or analog sources. A TV consists of a tuner/receiver and a display encased in a single enclosure. The product usually relies upon a cathode-ray tube (CRT), liquid crystal display (LCD), plasma display, or other display technology. Televisions with computer capability (e.g., computer input port) may be considered to be a TV as long as they are marketed and sold to consumers primarily as televisions.

(b) Under this contract, the Contractor shall deliver, furnish for Government use, or furnish for Contractor use at a Federally controlled facility, only televisions that, at the time of submission of proposals and at the time of award, were EPEAT® bronze-registered or higher.

(c) For information about EPEAT®, see www.epa.gov/epeat.

I-8 FAR 52.225-9 BUY AMERICAN—CONSTRUCTION MATERIALS (MAY 2014)

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

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

- (1) Means any item of supply (including construction material) that is—
 - (i) A commercial item (as defined in paragraph (1) of the definition at FAR 2.101);
 - (ii) Sold in substantial quantities in the commercial marketplace; and
 - (iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and
- (2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

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

“Construction material” means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies.

However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

“Cost of components” means--

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

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

“Domestic construction material” means—

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

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

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

(b) Domestic preference.

- (1) This clause implements the 41 U.S.C. chapter 83, Buy American, by providing a preference for domestic construction material. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for construction material that is a COTS item. (See FAR 12.505(a)(2)). The Contractor shall use only domestic construction material in performing this contract, except as provided in paragraphs (b)(2) and (b)(3) of this clause.
- (2) This requirement does not apply to information technology that is a commercial item or to the construction materials or components listed by the Government as follows: **None.**
- (3) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(2) of this clause if the Government determines that
 - (i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the requirements of the Buy American statute is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;
 - (ii) The application of the restriction of the Buy American statute to a particular construction material would be impracticable or inconsistent with the public interest; or
 - (iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

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

- (1)
 - (i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(3) of this clause shall include adequate information for Government evaluation of the request, including—

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

Foreign and Domestic Construction Materials Price Comparison

Construction material description	Unit of measure	Quantity	Price (dollars) *
<i>Item 1</i>			
Foreign construction material			
Domestic construction material			
<i>Item 2</i>			
Foreign construction material			
Domestic construction material			

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

[Include other applicable supporting information.]

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

**I-9A FAR 52.229-10 STATE OF NEW MEXICO GROSS RECEIPTS AND
COMPENSATING TAX (APR 2003) (AS MODIFIED BY DEAR 970.2904- 1(A))
(Mod 0076)**

- (a) Within thirty (30) days after award of this contract, the Contractor shall advise the State of New Mexico of this contract by registering with the State of New Mexico, Taxation and Revenue Department, Revenue Division, pursuant to the Tax Administration Act of the State of New Mexico and shall identify the contract number.
- (b) The Contractor shall pay the New Mexico gross receipts taxes, pursuant to the Gross Receipts and Compensating Tax Act of New Mexico, assessed against the contract fee and costs paid for performance of this contract, or of any part or portion thereof, within the State of New Mexico. The allowability of any gross receipts taxes or local option taxes lawfully paid to the State of New Mexico by the Contractor or its subcontractors will be determined in accordance with the Payments and Advances clause of this contract except as provided in paragraph (d) of this clause.
- (c) The Contractor shall submit applications for Nontaxable Transaction Certificates, Form CSR-3C, to the:
 - State of New Mexico Taxation and Revenue
 - Dept. Revenue Division
 - PO Box 630
 - Santa Fe, New Mexico 87509

When the Type 15 Nontaxable Transaction Certificate is issued by the Revenue Division, the Contractor shall use these certificates strictly in accordance with this contract, and the agreement between the U.S. Department of Energy and the New Mexico Taxation and Revenue Department.

- (d) The Contractor shall provide Type 15 Nontaxable Transaction Certificates to each vendor in New Mexico selling tangible personal property to the Contractor for use in the performance of this contract. Failure to provide a Type 15 Nontaxable Transaction Certificate to vendors will result in the vendor's liability for the gross receipt taxes and those taxes, which are then passed on to the Contractor, shall not be reimbursable as an allowable cost by the Government.
- (e) The Contractor shall pay the New Mexico compensating user tax for any tangible personal property which is purchased pursuant to a Nontaxable Transaction Certificate if such property is not used for Federal purposes.
- (f) Out-of-state purchase of tangible personal property by the Contractor which would be otherwise subject to compensation tax shall be governed by the principles of this clause. Accordingly, compensating tax shall be due from the contractor only if such property is not used for Federal purposes.
- (g) The U.S. Department of Energy may receive information regarding the Contractor from the Revenue Division of the New Mexico Taxation and Revenue Department and, at the discretion of the U.S. Department of Energy, may participate in any matters or proceedings pertaining to this clause or the above-mentioned Agreement. This shall not preclude the

Contractor from having its own representative nor does it obligate the U.S. Department of Energy to represent its Contractor.

- (h) The Contractor agrees to insert the substance of this clause, including this paragraph (h), in each subcontract which meets the criteria in 29.401-4(b)(1) through (3) of the Federal Acquisition Regulation, 48 CFR Part 29.
- (i) Paragraphs (a) through (h) of this clause shall be null and void should the Agreement referred to in paragraph (c) of this clause be terminated; provided, however, that such termination shall not nullify obligations already incurred prior to the date determination.

I-9B FAR 52.232-40 PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (DEC 2013) (DEVIATION APR 2020) (Mod 0076)

- (a)(1) In accordance with 31 U.S.C. 3903 and 10 U.S.C. 2307, upon receipt of accelerated payments from the Government, the Contractor shall make accelerated payments to its small business subcontractors under this contract in accordance with the accelerated payment date established, to the maximum extent practicable and prior to when such payment is otherwise required under the applicable contract or subcontract, with a goal of 15 days after receipt of a proper invoice and all other required documentation from the small business subcontractor.
 - (2) The Contractor agrees to make such payments to its small business subcontractors without any further consideration from or fees charged to the subcontractor.
- (b) The acceleration of payments under this clause does not provide any new rights under the Prompt Payment Act.
 - (c) Include the substance of this clause, including this paragraph (c), in all subcontracts with small business concerns, including subcontracts with small business concerns for the acquisition of commercial items.

I-10 FAR 52.247-67 SUBMISSION OF TRANSPORTATION DOCUMENTS FOR AUDIT (FEB 2006)

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

I-11 FAR 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if

they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

<u>Federal Acquisition Regulations</u>	http://farsite.hill.af.mil/vffara.htm or https://www.acquisition.gov/far/index.html
<u>Federal Acquisition Forms</u>	http://www.gsa.gov/forms/farnumer.htm
<u>Department of Energy Acquisition Regulations</u>	http://energy.gov/management/downloads/searchable-electronic-department-energy-acquisition-regulation http://farsite.hill.af.mil/vfdoea.htm http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=ccc3d607ed1811c91460147ec7521076&mc=true&r=PART&n=pt48.5.952 or http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=ccc3d607ed1811c91460147ec7521076&mc=true&r=PART&n=pt48.5.970

I-12 FAR 52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (APR1984)

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

I-13 DEAR 952.204-2 SECURITY (AUG 2016)

(a) *Responsibility.* It is the Contractor's duty to protect all classified information, special nuclear material, and other DOE property. The Contractor shall, in accordance with DOE security regulations and requirements, be responsible for protecting all classified information and all classified matter (including documents, material and special nuclear material) which are in the Contractor's possession in connection with the performance of work under this contract against sabotage, espionage, loss or theft. Except as otherwise expressly provided in this contract, the Contractor shall, upon completion or termination of this contract, transmit to DOE any classified matter or special nuclear material in the possession of the Contractor or any person under the Contractor's control in connection with performance of this contract. If retention by the Contractor of any classified matter is required after the completion or termination of the contract, the Contractor shall identify the items and classification levels and categories of matter proposed for retention, the reasons for the retention, and the proposed period of retention. If the retention is approved by the Contracting Officer, the security provisions of the contract shall continue to be applicable to the classified matter retained. Special nuclear material shall not be retained after the completion or termination of the contract.

(b) *Regulations.* The Contractor agrees to comply with all security regulations and contract requirements of DOE as incorporated into the contract.

(c) *Definition of classified information.* The term Classified Information means information that is classified as Restricted Data or Formerly Restricted Data under the Atomic Energy Act of 1954, or information determined to require protection against unauthorized disclosure under Executive Order 12958, Classified National Security Information, as amended, or prior executive orders, which is identified as National Security Information.

(d) *Definition of restricted data.* The term Restricted Data means all data concerning design, manufacture, or utilization of atomic weapons; production of special nuclear material; or use of special nuclear material in the production of energy, but excluding data declassified or removed from the Restricted Data category pursuant to 42 U.S.C. 2162 [Section 142, as amended, of the Atomic Energy Act of 1954].

(e) *Definition of formerly restricted data.* The term "Formerly Restricted Data" means information removed from the Restricted Data category based on a joint determination by DOE or its predecessor agencies and the Department of Defense that the information—(1) Relates primarily to the military utilization of atomic weapons; and (2) can be adequately protected as National Security Information. However, such information is subject to the same restrictions on transmission to other countries or regional defense organizations that apply to Restricted Data.

(f) *Definition of national security information.* The term "National Security Information" means information that has been determined, pursuant to Executive Order 12958, Classified National Security Information, as amended, or any predecessor order, to require protection against unauthorized disclosure, and that is marked to indicate its classified status when in documentary form.

(g) *Definition of special nuclear material.* The term "special nuclear material" means—(1) Plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which, pursuant to 42 U.S.C. 2071 [section 51 as amended, of the Atomic Energy Act of 1954] has been determined to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

(h) *Access authorizations of personnel.* (1) The Contractor shall not permit any individual to have access to any classified information or special nuclear material, except in accordance with the Atomic Energy Act of 1954, and the DOE's regulations and contract requirements applicable to the particular level and category of classified information or particular category of special nuclear material to which access is required.

(2) The Contractor must conduct a thorough review, as defined at 48 CFR 904.401, of an uncleared applicant or uncleared employee, and must test the individual for illegal drugs, prior to selecting the individual for a position requiring a DOE access authorization.

(i) A review must—Verify an uncleared applicant's or uncleared employee's educational background, including any high school diploma obtained within the past five years, and degrees or diplomas granted by an institution of higher learning; contact listed employers for the last three years and listed personal references; conduct local law enforcement checks when such checks are not prohibited by state or local law or regulation and when the uncleared applicant or uncleared employee resides in the jurisdiction where the Contractor is located; and conduct a credit check and other checks as appropriate.

(ii) Contractor reviews are not required for an applicant for DOE access authorization who possesses a current access authorization from DOE or another Federal agency, or whose access authorization may be reapproved without a federal background investigation pursuant to Executive Order 12968, Access to Classified Information (August 4, 1995), Sections 3.3(c) and (d).

(iii) In collecting and using this information to make a determination as to whether

it is appropriate to select an uncleared applicant or uncleared employee to a position requiring an access authorization, the Contractor must comply with all applicable laws, regulations, and Executive Orders, including those—(A) Governing the processing and privacy of an individual's information, such as the Fair Credit Reporting Act, Americans with Disabilities Act (ADA), and Health Insurance Portability and Accountability Act; and (B) prohibiting discrimination in employment, such as under the ADA, Title VII and the Age Discrimination in Employment Act, including with respect to pre- and post-offer of employment disability related questioning.

(iv) In addition to a review, each candidate for a DOE access authorization must be tested to demonstrate the absence of any illegal drug, as defined in 10 CFR 707.4. All positions requiring access authorizations are deemed testing designated positions in accordance with 10 CFR part 707. All employees possessing access authorizations are subject to applicant, random or for cause testing for use of illegal drugs. DOE will not process candidates for a DOE access authorization unless their tests confirm the absence from their system of any illegal drug.

(v) When an uncleared applicant or uncleared employee receives an offer of employment for a position that requires a DOE access authorization, the Contractor shall not place that individual in such a position prior to the individual's receipt of a DOE access authorization, unless an approval has been obtained from the head of the cognizant local security office. If the individual is hired and placed in the position prior to receiving an access authorization, the uncleared employee may not be afforded access to classified information or matter or special nuclear material (in categories requiring access authorization) until an access authorization has been granted.

(vi) The Contractor must maintain a record of information concerning each uncleared applicant or uncleared employee who is selected for a position requiring an access authorization. Upon request only, the following information will be furnished to the head of the cognizant local DOE Security Office:

- (A) The date(s) each Review was conducted;
- (B) Each entity that provided information concerning the individual;
- (C) A certification that the review was conducted in accordance with all applicable laws, regulations, and Executive Orders, including those governing the processing and privacy of an individual's information collected during the review;
- (D) A certification that all information collected during the review was reviewed and evaluated in accordance with the Contractor's personnel policies; and
- (E) The results of the test for illegal drugs.

(i) Criminal liability. It is understood that disclosure of any classified information relating to the work or services ordered hereunder to any person not entitled to receive it, or failure to protect any classified information, special nuclear material, or other Government property that may come to the Contractor or any person under the Contractor's control in connection with work under this contract, may subject the Contractor, its agents, employees, or Subcontractors to criminal liability under the laws of the United States (see the Atomic Energy Act of 1954, 42

U.S.C. 2011 et seq.; 18 U.S.C. 793 and 794).

(j) *Foreign ownership, control, or influence.* (1) The Contractor shall immediately provide the cognizant security office written notice of any change in the extent and nature of foreign ownership, control or influence over the Contractor which would affect any answer to the

questions presented in the Standard Form (SF) 328, Certificate Pertaining to Foreign Interests, executed prior to award of this contract. The Contractor will submit the Foreign Ownership, Control or Influence (FOCI) information in the format directed by DOE. When completed the Contractor must print and sign one copy of the SF 328 and submit it to the Contracting Officer. In addition, any notice of changes in ownership or control which are required to be reported to the Securities and Exchange Commission, the Federal Trade Commission, or the Department of Justice, shall also be furnished concurrently to the Contracting Officer.

(2) If a Contractor has changes involving foreign ownership, control, or influence, DOE must determine whether the changes will pose an undue risk to the common defense and security. In making this determination, DOE will consider proposals made by the Contractor to avoid or mitigate foreign influences.

(3) If the cognizant security office at any time determines that the Contractor is, or is potentially, subject to foreign ownership, control, or influence, the Contractor shall comply with such instructions as the Contracting Officer shall provide in writing to protect any classified information or special nuclear material.

(4) The Contracting Officer may terminate this contract for default either if the Contractor fails to meet obligations imposed by this clause or if the Contractor creates a foreign ownership, control, or influence situation in order to avoid performance or a termination for default. The Contracting Officer may terminate this contract for convenience if the Contractor becomes subject to foreign ownership, control, or influence and for reasons other than avoidance of performance of the contract, cannot, or chooses not to, avoid or mitigate the foreign ownership, control, or influence problem.

(k) Employment announcements. When placing announcements seeking applicants for positions requiring access authorizations, the Contractor shall include in the written vacancy announcement, a notification to prospective applicants that reviews, and tests for the absence of any illegal drug as defined in 10 CFR 707.4, will be conducted by the employer and a background investigation by the Federal government may be required to obtain an access authorization prior to employment, and that subsequent reinvestigations may be required. If the position is covered by the Counterintelligence Evaluation Program regulations at 10 CFR part 709, the announcement should also alert applicants that successful completion of a counterintelligence evaluation may include a counterintelligence-scope polygraph examination.

(l) Flow down to subcontracts. The Contractor agrees to insert terms that conform substantially to the language of this clause, including this paragraph, in all subcontracts under its contract that will require subcontractor employees to possess access authorizations. Additionally, the Contractor must require such subcontractors to have an existing DOD or DOE facility clearance or submit a completed SF 328, Certificate Pertaining to Foreign Interests, as required in 48 CFR 952.204-73, Facility Clearance, and obtain a foreign ownership, control and influence determination and facility clearance prior to award of a subcontract. Information to be provided by a subcontractor pursuant to this clause may be submitted directly to the Contracting Officer. For purposes of this clause, subcontractor means any subcontractor at any tier and the term "Contracting Officer" means the DOE Contracting Officer. When this clause is included in a subcontract, the term "Contractor" shall mean subcontractor and the term "contract" shall mean subcontract.

(End of clause)

[74 FR 23124, May 18, 2009, as amended at 74 FR 36368, 36370, July 22, 2009; 76 FR 7694, Feb. 11, 2011; 81 FR 45978, July 15, 2016]

**I-14 DEAR 952.250-70 NUCLEAR HAZARDS INDEMNITY AGREEMENT
(Aug 2016)**

(a) *Authority.* This clause is incorporated into this contract pursuant to the authority contained in subsection 170d. of the Atomic Energy Act of 1954, as amended (hereinafter called the Act.)

(b) *Definitions.* The definitions set out in the Act shall apply to this clause.

(c) *Financial protection.* Except as hereafter permitted or required in writing by DOE, the Contractor will not be required to provide or maintain, and will not provide or maintain at Government expense, any form of financial protection to cover public liability, as described in paragraph (d)(2) below. DOE may, however, at any time require in writing that the Contractor provide and maintain financial protection of such a type and in such amount as DOE shall determine to be appropriate to cover such public liability, provided that the costs of such financial protection are reimbursed to the Contractor by DOE.

(d)(1) *Indemnification.* To the extent that the Contractor and other persons indemnified are not compensated by any financial protection permitted or required by DOE, DOE will indemnify the Contractor and other persons indemnified against (i) claims for public liability as described in subparagraph (d)(2) of this clause; and (ii) such legal costs of the Contractor and other persons indemnified as are approved by DOE, provided that DOE's liability, including such legal costs, shall not exceed the amount set forth in section 170e.(1)(B) of the Act in the aggregate for each nuclear incident or precautionary evacuation occurring within the United States or \$500 million in the aggregate for each nuclear incident occurring outside the United States, irrespective of the number of persons indemnified in connection with this contract.

(2) The public liability referred to in subparagraph (d)(1) of this clause is public liability as defined in the Act which (i) arises out of or in connection with the activities under this contract, including transportation; and (ii) arises out of or results from a nuclear incident or precautionary evacuation, as those terms are defined in the Act.

(e)(1) *Waiver of defenses.* In the event of a nuclear incident, as defined in the Act, arising out of nuclear waste activities, as defined in the Act, the Contractor, on behalf of itself and other persons indemnified, agrees to waive any issue or defense as to charitable or governmental immunity.

(2) In the event of an extraordinary nuclear occurrence which—

(i) Arises out of, results from, or occurs in the course of the construction, possession, or operation of a production or utilization facility; or

(ii) Arises out of, results from, or occurs in the course of transportation of source material, by-product material, or special nuclear material to or from a production or utilization facility; or

(iii) Arises out of or results from the possession, operation, or use by the Contractor or a subcontractor of a device utilizing special nuclear material or by-product material, during the course of the contract activity; or

(iv) Arises out of, results from, or occurs in the course of nuclear waste activities, the Contractor, on behalf of itself and other persons indemnified, agrees to waive—

(A) Any issue or defense as to the conduct of the claimant (including the conduct of persons through whom the claimant derives its cause of action) or fault of persons indemnified, including, but not limited to—

- (1) Negligence;
- (2) Contributory negligence;
- (3) Assumption of risk; or
- (4) Unforeseeable intervening causes, whether involving the conduct of a third person or an act of God;

(B) Any issue or defense as to charitable or governmental immunity; and

(C) Any issue or defense based on any statute of limitations, if suit is instituted within 3 years from the date on which the claimant first knew, or reasonably could have known, of his injury or change and the cause thereof. The waiver of any such issue or defense shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action. The waiver shall be judicially enforceable in accordance with its terms by the claimant against the person indemnified.

(v) The term extraordinary nuclear occurrence means an event which DOE has determined to be an extraordinary nuclear occurrence as defined in the Act. A determination of whether or not there has been an extraordinary nuclear occurrence will be made in accordance with the procedures in 10 CFR part 840.

(vi) For the purposes of that determination, offsite as that term is used in 10 CFR part 840 means away from “the contract location” which phrase means any DOE facility, installation, or site at which contractual activity under this contract is being carried on, and any contractor-owned or controlled facility, installation, or site at which the Contractor is engaged in the performance of contractual activity under this contract.

(3) The waivers set forth above—

(i) Shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action;

(ii) Shall be judicially enforceable in accordance with its terms by the claimant against the person indemnified;

(iii) Shall not preclude a defense based upon a failure to take reasonable steps to mitigate damages;

(iv) Shall not apply to injury or damage to a claimant or to a claimant's property which is intentionally sustained by the claimant or which results from a nuclear incident intentionally and wrongfully caused by the claimant;

(v) Shall not apply to injury to a claimant who is employed at the site of and in connection with the activity where the extraordinary nuclear occurrence takes place, if benefits therefor are either payable or required to be provided under any workmen's compensation or occupational disease law;

(vi) Shall not apply to any claim resulting from a nuclear incident occurring outside the United States;

(vii) Shall be effective only with respect to those obligations set forth in this clause and in insurance policies, contracts or other proof of financial protection; and

(viii) Shall not apply to, or prejudice the prosecution or defense of, any claim or portion of claim which is not within the protection afforded under (A) the limit of liability provisions under subsection 170e. of the Act, and (B) the terms of this agreement and the terms of insurance policies, contracts, or other proof of financial protection.

(f) *Notification and litigation of claims.* The Contractor shall give immediate written notice to DOE of any known action or claim filed or made against the Contractor or other person indemnified for public liability as defined in paragraph (d)(2). Except as otherwise directed by DOE, the Contractor shall furnish promptly to DOE, copies of all pertinent papers received by the Contractor or filed with respect to such actions or claims. DOE shall have the right to, and may collaborate with, the Contractor and any other person indemnified in the settlement or defense of any action or claim and shall have the right to (1) require the prior approval of DOE for the payment of any claim that DOE may be required to indemnify hereunder; and (2) appear through the Attorney General on behalf of the Contractor or other person indemnified in any action brought upon any claim that DOE may be required to indemnify hereunder, take charge of such action, and settle or defend any such action. If the settlement or defense of any such action or claim is undertaken by DOE, the Contractor or other person indemnified shall furnish all reasonable assistance in effecting a settlement or asserting a defense.

(g) *Continuity of DOE obligations.* The obligations of DOE under this clause shall not be affected by any failure on the part of the Contractor to fulfill its obligation under this contract and shall be unaffected by the death, disability, or termination of existence of the Contractor, or by the completion, termination or expiration of this contract.

(h) *Effect of other clauses.* The provisions of this clause shall not be limited in any way by, and shall be interpreted without reference to, any other clause of this contract, including the clause entitled Contract Disputes, provided, however, that this clause shall be subject to the clauses entitled Covenant Against Contingent Fees, and Accounts, records, and inspection, and any provisions that are later added to this contract as required by applicable Federal law, including statutes, executive orders and regulations, to be included in Nuclear Hazards Indemnity Agreements.

(i) *Civil penalties.* The Contractor and its subcontractors and suppliers who are indemnified under the provisions of this clause are subject to civil penalties, pursuant to 234A of the Act, for violations of applicable DOE nuclear-safety related rules, regulations, or orders.

(j) *Criminal penalties.* Any individual director, officer, or employee of the Contractor or of its subcontractors and suppliers who are indemnified under the provisions of this clause are subject to criminal penalties, pursuant to 223(c) of the Act, for knowing and willful violation of the Atomic Energy Act of 1954, as amended, and applicable DOE nuclear safety-related rules, regulations or orders which violation results in, or, if undetected, would have resulted in a nuclear incident.

(k) *Inclusion in subcontracts.* The Contractor shall insert this clause in any subcontract which may involve the risk of public liability, as that term is defined in the Act and further described in paragraph (d)(2) above. However, this clause shall not be included in subcontracts in which the subcontractor is subject to Nuclear Regulatory Commission (NRC) financial protection requirements under section 170b. of the Act or NRC agreements of indemnification under section 170c. or k. of the Act for the activities under the subcontract.

Effective date

() See note II below for instructions related to this section on Effective Date.

Relationship to general indemnity

() See note III below for instructions related to this section on Relationship to General Indemnity.

(End of clause)

Note I

Paragraph (i) of the clause will be replaced with “Reserved” in contracts specifically exempted from civil penalties by section 234 of the Act. That subsection provides that the following DOE contractors are not subject to the assessment of civil penalties:

- (1) The University of Chicago (and any subcontractors or suppliers thereto) for activities associated with Argonne National Laboratory;
- (2) The University of California (and any subcontractors or suppliers thereto) for activities associated with Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Lawrence Berkeley National Laboratory;
- (3) American Telephone and Telegraph Company and its subsidiaries (and any subcontractors or suppliers thereto) for activities associated with Sandia National Laboratories;
- (4) Universities Research Association, Inc. (and any subcontractors or suppliers thereto) for activities associated with FERMI National Laboratory;
- (5) Princeton University (and any subcontractor or suppliers thereto) for activities associated with Princeton Plasma Physics Laboratory;
- (6) The Associated Universities, Inc. (and any subcontractors or suppliers thereto) for activities associated with the Brookhaven National Laboratory; and
- (7) Battelle Memorial Institute (and any subcontractors or suppliers thereto) for activities associated with Pacific Northwest Laboratory.

(End of Note)

Note II

Contracts with an effective date after the date of June 12, 1996, do not require the effective date provision in this clause. Delete the title.

Use the EFFECTIVE DATE title and the following language, for those contracts:

“() This indemnity agreement shall be applicable with respect to nuclear incidents occurring on or after.”

(1) Those that contained an indemnity pursuant to Public Law 85-840 prior to August 20, 1988, include the effective date provision above, inserting the effective date of the contract modification that replaced the Public Law 85-804 indemnity with an interim Price-Anderson based indemnity. Pursuant to the Price-Anderson Amendments Act, this substitution must have taken place by February 20, 1989.

(2) Those that contained, and continue to contain, either of the previous Nuclear Hazards Indemnity clauses, include the effective date provision above, inserting “August 20, 1988.”

(3) Those with an effective date between August 20, 1988, and the date of the Final Rule, that (a) had “interim coverage” or (b) did not have “interim coverage” but have now been determined to be covered under the PAAA, include the effective date provision above, inserting the contract effective date.

Note III

The following alternate will be added to the above Nuclear Hazards Indemnity Agreement clause for all contracts that contain a general authority indemnity pursuant to 950.7101. Caution: Be aware that for contracts that will have this provision added which do not contain an effective date provision, this paragraph shall be marked (1). In the event an Effective Date provision has been included, it shall be marked (m).

“() To the extent that the Contractor is compensated by any financial protection, or is indemnified pursuant to this clause, or is effectively relieved of public liability by an order or orders limiting same, pursuant to 170e of the Act, the provisions of the clause providing general authority indemnity shall not apply.”

(End of note)

**I-15 DEAR 970.5203-3 CONTRACTOR'S ORGANIZATION (DEC 2000)
(CLASS DEVIATION)**

- (a) Organization chart. As promptly as possible after the execution of this contract, the Contractor shall furnish to the Contracting Officer (1) a chart showing the names, duties, and organization of key personnel (see 48 CFR 952.215-70) to be employed in connection with the work, and shall furnish supplemental information to reflect any changes as they occur; and, (2) a chart showing the name and organization of the Contractor's Parent Organization's responsible official for administering the Contractor's Parent Organization's Oversight Plan, and shall furnish supplemental information to reflect any changes as they occur.
- (b) Supervisory representative of Contractor. Unless otherwise directed by the Contracting Officer, a competent full-time resident supervisory representative of the Contractor satisfactory to the Contracting Officer shall be in charge of the work at the site, and any work off-site, at all times. *For purposes of this contract, the Site Manager is the resident supervisory representative of the contractor.*
- (c) Control of employees. The Contractor shall be responsible for maintaining satisfactory standards of employee competency, conduct, and integrity and shall be responsible for taking such disciplinary action with respect to its employees as may be necessary. In the event the Contractor fails to remove any employee from the contract work whom DOE deems incompetent, careless, or insubordinate, or whose continued employment on the work is deemed by DOE to be inimical to the Department's mission, the Contracting Officer may require, with the approval of *the Administrator of the NNSA or the Secretary of Energy*, the Contractor to remove the employee from work under the contract. This includes the right to direct the Contractor to remove its most senior key person from work under the contract for serious contract performance deficiencies. *Furthermore, nothing contained in this paragraph (c) shall in any way impair the statutory or contractual collective bargaining rights of union-represented contractor employees.*
- (d) Standards and procedures. The Contractor shall establish such standards and procedures as are necessary to implement the requirements set forth in 48 CFR 970.0371. Such standards and procedures shall be subject to the approval of the Contracting Officer.
- (e) *Nothing in this clause or its implementation is intended to conflict with 42 U.S.C. §7274p, or to otherwise affect the scientific integrity of persons required to provide independent technical judgments to provide the President or the Congress assurances on the safety, security, reliability, or effectiveness of the US nuclear weapons stockpile.*

I-16 DEAR 970.5204-2 LAWS, REGULATIONS, AND DOE DIRECTIVES (DEC 2000) (CLASS DEVIATION)

- (a) In performing work under this contract, the Contractor shall comply with the requirements of applicable Federal, State, and local laws and regulations (including DOE regulations), unless relief has been granted in writing by the appropriate regulatory agency.
- (b) In performing work under this contract, the Contractor shall comply with the requirements of those Department of Energy directives, or parts thereof, *and National Nuclear Security Administration Policy Letters* identified in the *contract's Section J Appendix entitled "List of Applicable Directives" (the List)*. Except as otherwise provided for in paragraph (d) of this clause, the Contracting Officer may, from time to time and at any time, revise *the List* by unilateral modification to the contract to add, modify, or delete specific requirements. Prior to revising *the List*, the Contracting Officer shall notify the Contractor in writing of the Department's intent to revise *the List* and provide the Contractor with the

opportunity to assess the effect of the Contractor's compliance with the revised list on contract cost and funding, technical performance, and schedule; and identify any potential inconsistencies between the revised list and the other terms and conditions of the contract. Within 30 days after receipt of the Contracting Officer's notice, the Contractor shall advise the Contracting Officer in writing of the potential impact of the Contractor's compliance with the revised list. Based on the information provided by the Contractor and any other information available, the Contracting Officer shall decide whether to revise *the* List and so advise the Contractor not later than 30 days prior to the effective date of the revision of *the* List. The Contractor and the Contracting Officer shall identify and, if appropriate, agree to any changes to other contract terms and conditions, including cost and schedule, associated with the revision of *the* List *and fee may be adjusted* pursuant to the clause of this contract entitled, "Changes."

- (c) Environmental, safety, and health (ES&H) requirements appropriate for work conducted under this contract may be determined by a DOE approved process to evaluate the work and the associated hazards and identify an appropriately tailored set of standards, practices, and controls, such as a tailoring process included in a DOE approved Safety Management System implemented under the clause entitled "Integration of Environment, Safety, and Health into Work Planning and Execution." When such a process is used, the set of tailored (ES&H) requirements, as approved by DOE pursuant to the process, shall be incorporated into *the* List as contract requirements with full force and effect. These requirements shall supersede, in whole or in part, the contractual environmental, safety, and health requirements previously made applicable to the contract by *the* List. If the tailored set of requirements identifies an alternative requirement varying from an ES&H requirement of an applicable law or regulation, the Contractor shall request an exemption or other appropriate regulatory relief specified in the regulation.
- (d) Except as otherwise directed by the Contracting Officer, the Contractor shall procure all necessary permits or licenses required for the performance of work under this contract.
- (e) Regardless of the performer of the work, the Contractor is responsible for compliance with the requirements of this clause. The Contractor is responsible for flowing down the requirements of this clause to subcontracts at any tier to the extent necessary to ensure the Contractor's compliance with the requirements.

I-17 DEAR 970.5215-3 CONDITIONAL PAYMENT OF FEE, PROFIT, AND OTHER INCENTIVES—FACILITY MANAGEMENT CONTRACTS (AUG 2019) (Mod 0069) ALTERNATE II (AUG 2009) (NNSA CLASS DEVIATION OCT 2011) (NNSA CLASS DEVIATION MAY 2016)

Definition of Earned Fee.

For the purposes of this clause, "Earned Fee" means the sum total of all incentive fees, award fees, fixed fees, and share of cost savings earned by the contractor during a performance evaluation period, as determined by the contracting officer or fee determining official (as appropriate). In the NNSA, the Fee Determining Official (FDO) is the Administrator, unless otherwise delegated. Where the contract provides for financial incentives that extend beyond a single performance evaluation period, this amount shall also include: any provisional amounts determined otherwise payable in the evaluation period; and, if provisional payments are not provided for, the allocable amount of any incentive determined otherwise payable at the conclusion of a subsequent performance evaluation period. The allocable amount shall be the total amount of the earned fee divided by the number of evaluation periods over which it was earned.

General.

ES&H means “Environment, safety and health.” The purpose of accident investigations is to identify and understand causes so deficiencies can be addressed and corrected. This, in turn, is intended to promote improved environmental protections, safety, and health of DOE employees, contractors, and the general public. Facility management contracts are management and operating (M&O) contracts, as defined at 48 CFR subpart 17.6.

- (1) The payment of any Earned Fee under this contract is dependent upon—
 - (i) The Contractor's or Contractor employees' compliance with the terms and conditions of this contract relating to environment, safety and health (ES&H), including performance under an approved Safety Management System (SMS); and
 - (ii) The Contractor's or Contractor employees' compliance with the terms and conditions of this contract relating to the safeguarding of Restricted Data and other classified information.
- (2) If the contractor does not meet the performance requirements or terms and conditions of this contract relating to ES&H or related to safeguarding of Restricted Data and other classified information during any performance evaluation period, the contracting officer may unilaterally reduce Earned Fee.
- (3) The ES&H performance requirements of this contract are set forth in its ES&H terms and conditions, including the DOE approved contractor SMS or similar document. Financial incentives for timely mission accomplishment or cost effectiveness shall never compromise or impede full and effective implementation of the SMS and full ES&H compliance.
- (4) The performance requirements of this contract are related to the safeguarding of Restricted Data and other classified information as set forth in the clauses of this contract, entitled DEAR 952.204-2 SECURITY (AUG 2016), “SECURITY,” or its successor, and DEAR 970.5204-2 (DEC 2000) (CLASS DEVIATION), “*Laws, Regulations, and DOE Directives*,” or its successor, as well as in other terms and conditions.

(c) *Reduction amount.*

- (1) The amount of Earned Fee that may be unilaterally reduced is correlated to the severity of the performance failure.
 - (i) Level 1 performance failure: not less than 26% nor greater than 100%;
 - (ii) Level 2 performance failure: not less than 11% nor greater than 25%; and
 - (iii) Level 3 performance failure: not greater than 10%.

(d) *Mitigating Factors.* (1) In determining the amount of the reduction and the applicability of mitigating factors, the contracting officer must consider the Contractor's overall performance in meeting the ES&H or security requirements of the contract. Such consideration must include performance against any site-specific performance criteria/requirements that provide additional definition, guidance for the amount of reduction, or guidance for the applicability of mitigating factors. In all cases, the contracting officer must consider mitigating factors that may warrant a reduction below the applicable range.

- (2) The mitigating factors include, but are not limited to, the following:
- (i) Degree of control the Contractor had over the event or incident.
 - (ii) Efforts the Contractor had made to anticipate and mitigate the possibility of the event in advance.
 - (iii) Contractor self-identification and response to the event to mitigate impacts and recurrence.
 - (iv) General status (trend and absolute performance) of: ES&H and compliance in related areas; or of safeguarding Restricted Data and other classified information and compliance in related areas.
 - (v) Contractor demonstration to the Contracting Officer's satisfaction that the principles of industrial ES&H standards are routinely practiced (e.g., Voluntary Protection Program, ISO 14000).
 - (vi) Event caused by "Good Samaritan" act by the Contractor (e.g., offsite emergency response).
 - (vii) Contractor demonstration that a performance measurement system is routinely used to improve and maintain ES&H performance (including effective resource allocation) and to support DOE corporate decision-making (e.g., policy, ES&H programs).
 - (viii) Contractor demonstration that an Operating Experience and Feedback Program is functioning that demonstrably affects continuous improvement in ES&H by use of lessons-learned and best practices inter- and intra-DOE sites.

(e) *Effect of Reduction.* (1) The Government will effect Earned Fee reductions as soon as practical. If the effective date of the reduction falls after the completion of the fee determination for the evaluation period during which the performance failure occurred, the Government will effect the reduction during a subsequent evaluation period, by issuing a demand for payment or by reducing any Earned Fee, at the contracting officer's sole discretion. If the performance failure occurs during the last evaluation period before termination or completion of the contract, reduction will be effected as soon as practical during contract close-out.

(2) The amount of reduction under this clause, in combination with any reduction made under any other clause in the contract, shall not exceed the amount of Earned Fee.

(f) Environment, Safety and Health (ES&H). Performance failures occur if the Contractor does not comply with the contract's ES&H requirements, standards, terms or conditions (including the DOE/NNSA approved Contractor SMS). The levels of performance failure under which reductions of earned fee are:

- (1) *Level 1:* Performance failures that are most adverse to ES&H. Examples of Level 1 performance failures include, but are not limited to:
- (i) Failure to develop and maintain required DOE/NNSA approval of an SMS;

- (ii) Any action/event that is considered an “Accident” for which an Accident Investigation Board (AIB) is appointed pursuant to DOE Order 225.1B, Accident Investigations, or its successor. Accidents also include those investigated by Joint Accident Investigation Boards (JAIB), in which federal and M&O staff members team up to investigate the incident.;
 - (iii) A combination of two, Level 2 performance failures that are significantly adverse to ES&H occurring during the same evaluation period; and
 - (iv) Contractor actions that result in a breakdown of the safeguards and security management system (SMS), that resulted in great harm to the environmental, safety and health of the general public.
- (2) *Level 2*: Performance failures that are significantly adverse to ES&H. Examples of Level 2 performance failures include, but are not limited to:
- (i) Any action/event that nearly results in an “Accident” for which an AIB is appointed pursuant to DOE Order 225.1B, Accident Investigations, or its successor;
 - (ii) A failure to comply with an approved SMS that results in injury, exposure, or exceedance;
 - (iii) Failure to notify DOE/NNSA (e.g., NNSA Field Office Manager or other authorized official) of an imminent danger situation after discovery, where such notification is a requirement of the contract;
 - (v) Failure to mitigate a dangerous situation that could cause an Accident; and
 - (vi) Contractor actions that result in a breakdown of the SMS that resulted in serious harm to the environmental, safety and health of the general public.
- (3) *Level 3*: Performance failures that reflect a lack of focus on maintaining or improving ES&H. Examples of Level 3 performance failures include, but are not limited to:
- (i) Failure to implement effective corrective actions to address deficiencies/noncompliances documented through: external or internal oversight (e.g., reported per DOE Order 231.1B, Environment, Safety and Health Reporting, or its successor, requirements; DOE Order 232.2A, Occurrence Reporting and Processing of Operations Information, or its successor; of DOE Order 440.1B, Worker Protection Program for DOE/NNSA (including the National Nuclear Security Administration) Federal Employees), or its successor, requirements;
 - (ii) Multiple similar non-compliances identified with ES&H by external oversight that in aggregate indicate a significant programmatic breakdown;
 - (iii) Non-compliance with ES&H requirements, standards, terms or conditions that either have, or may have, significant negative impacts to the worker, the public, or the environment or that indicate a significant programmatic breakdown;
 - (iv) Failure to notify DOE/NNSA, as appropriate, upon discovery of events or conditions where notification is required by the terms and conditions of the contract; and

- (v) Contractor actions that result in a breakdown of the SMS that resulted in harm to the environmental, safety and health of the general public.
- (g) *Safeguarding Restricted Data and/or Other Classified Information.* Performance failures occur if the Contractor does not comply with the terms and conditions of this contract relating to the safeguarding of Restricted Data and/or other classified information. The levels of performance failure under which reductions of earned fee will be determined as follows:
- (1) *Level 1:* Performance failure to comply with applicable law, DOE regulation, or directive, that has resulted in, or that can reasonably be expected to result in, exceptionally grave damage to the national security. Examples of Level 1 performance failures include, but are not limited to:
 - (i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating a risk of, loss, compromise, or unauthorized disclosure of: Top Secret Restricted Data or other information classified as Top Secret, any information in a Special Access Program (SAP) (regardless of classification level), information identified as sensitive compartmented information (SCI), or high-risk nuclear weapons- related data;
 - (ii) Contractor actions that result in a breakdown of the safeguards and security management system that can reasonably be expected to result in the loss, compromise, or unauthorized disclosure of: Top Secret Restricted Data, or other information classified as Top Secret, any information in a SAP (regardless of classification level), information identified as SCI, or high- risk nuclear weapons-related data;
 - (iii) Failure to promptly report the loss, compromise, or unauthorized disclosure of: Top Secret Restricted Data, or other information classified as Top Secret, any information in a SAP (regardless of classification level), information identified as SCI, or high-risk nuclear weapons-related data; and
 - (iv) Failure to timely implement corrective actions stemming from the loss, compromise, or unauthorized disclosure of: Top Secret Restricted Data or other information classified as Top Secret, any information in a SAP (regardless of classification level), information identified as SCI, or high-risk nuclear weapons- related data.
 - (2) *Level 2:* Performance failure to comply with applicable law, DOE regulation, or directive, that has resulted in, or that can reasonably be expected to result in, serious damage to the national security. Examples of Level 2 performance failures include, but are not limited to:
 - (i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating risk of, loss, compromise, or unauthorized disclosure of Secret Restricted Data or other information classified as Secret;
 - (ii) Contractor actions that result in a breakdown of the safeguards and security management system that can reasonably be expected to result in the loss, compromise, or unauthorized disclosure of Secret Restricted Data, or other information classified as Secret;
 - (iii) Failure to promptly report the loss, compromise, or unauthorized disclosure of Restricted Data or other classified information regardless of classification (except for information covered by paragraph (g)(1)(iii) of this clause); and
 - (iv) Failure to timely implement corrective actions stemming from the loss, compromise, or unauthorized disclosure of Secret Restricted Data or other classified information classified as Secret.

- (3) *Level 3*: Performance failure that have been determined, in accordance with applicable law, regulation, or DOE directive, to have actually resulted in, or that can reasonably be expected to result in, undue risk to the common defense and security. In addition, this category includes performance failures that result from a lack of Contractor management and/or employee attention to the proper safeguarding of Restricted Data and other classified information. These performance failures may be indicators of future, more severe performance failures and/or conditions, and if identified and corrected early would prevent serious incidents. Examples of Level 3 performance failures include, but are not limited to:
- (i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating risk of, loss, compromise, or unauthorized disclosure of Restricted Data or other information classified as Confidential;
 - (ii) Failure to promptly report alleged or suspected violations of laws, regulations, or directives pertaining to the safeguarding of Restricted Data or other classified information;
 - (iii) Failure to identify or timely execute corrective actions to mitigate or eliminate identified vulnerabilities and reduce residual risk relating to the protection of Restricted Data or other classified information in accordance with the Contractor's Safeguards and Security Plan or other security plan, as applicable;
 - (iv) Contractor actions that result in performance failures which unto themselves pose minor risk, but when viewed in the aggregate indicate degradation in the integrity of the Contractor's safeguards and security management system relating to the protection of Restricted Data and other classified information; and
 - (v) Contractor actions that result in a breakdown of the safeguards and security management system that resulted in the loss, compromise, or unauthorized disclosure of Secret Restricted Data, or other information classified as Secret.

I-18 DEAR 970.5215-4 COST REDUCTION (AUG 2009) (CLASS DEVIATION MAR 2011)

(a) General. It is the Department of Energy's (DOE's) / National Nuclear Security Administration's (NNSA) intent to have its facilities and laboratories operated in an efficient and effective manner. To this end, the Contractor shall assess its operations and identify areas where cost reductions would bring cost efficiency to operations without adversely affecting the level of performance required by the contract. The Contractor, to the maximum extent practical, shall identify areas where cost reductions may be effected, and develop and submit Cost Reduction Proposals (CRPs) to the Contracting Officer. If accepted, the Contractor may share in any shared net savings from accepted CRPs in accordance with paragraph (h) of this clause.

(b) Definitions.

“Administrative cost” is the Contractor cost of developing and administering the CRP.

“Development cost” is the Contractor cost of up-front planning, engineering, prototyping, and testing of a design, process, or method.

“DOE/NNSA cost” is the Government cost incurred implementing and validating the CRP.

“Implementation cost” is the Contractor cost of tooling, facilities, documentation, etc., required to effect a design, process, or method change once it has been tested and approved.

“Hard savings” means savings that directly reduce the overall cost of operations for the negotiated period of savings. Examples of hard savings include:

- i) Permanently eliminating or reducing recurring costs through innovative product designs, or process improvements;
- ii) Supply chain management activities resulting in actual savings (as opposed to potential or sourcing savings);
- iii) Integration of life cycle approaches for the design and development of systems that minimize costs (e.g. experimental, maintenance and operations);
- iv) Reducing direct or indirect material or labor costs;
- v) Reducing inventory levels of product or material, or reducing the cost of carrying the same levels;
- vi) Reducing utility or natural resource consumption; or
- vii) Reducing or eliminating scrap dollars/rates.

Net Savings means the difference between the estimated cost of performing an effort as originally planned and the actual allowable cost of performing that same effort when implementing a Government approved CRP along with any Contractor development costs, DOE/NNSA cost, implementation costs, and administrative costs associated with the CRP.

Soft Savings means:

- i) savings that cannot be demonstrated to reduce the bottom line operating costs including, for example, labor efficiency improvements that increase productivity but do not reduce total hours worked;
- ii) savings that are intangible and consequently difficult to measure, for example, a wellness plan that is intended to reduce absenteeism, turnover or insurance costs; or
- iii) cost avoidances that cannot be demonstrated to lower cost of products/services based on a comparison against historical results, for example, slowing the rate of a cost increase.

(c) Consideration on Hard Savings

The Government's share of savings shall represent "hard savings" available for reprioritization by the DOE/NNSA. Proposed savings that will not be considered creditable by the Contracting Officer will include:

- (1) Savings resulting from formal or informal NNSA direction or changes in mission, work scope, or routine Contractor adjustments due to budget changes;
- (2) Underruns resulting from anything other than a Contractor efficiency improvement, including but not limited to additional NNSA funding, shifting of work scope to a future fiscal year, (e.g. moving upgrades to facilities or infrastructure to out years with no evidence of savings or computer buys that are routinely purchased on a 3 year bases are deferred for an additional two years) deferred maintenance, re- categorizing direct/indirect costs, or increases in the direct allocation bases;
- (3) Site office initiatives, direction, work scope changes, mission changes, or reorganization, unless the Contractor can demonstrate a significant role in achieving savings resulting from the site office actions;
- (4) Savings that have a negative impact on any existing Contract requirements such as scope, safety, or security;
- (5) Soft savings; and

(6) Savings that have been credited elsewhere under this contract.

(d) Procedure for submission of CRPs.

CRPs submitted by the Contractor shall contain, at a minimum, the following:

- (1) Current Method (Baseline)-A verifiable description of the current scope of work, cost, and schedule to be impacted by the initiative, and supporting documentation.
- (2) New Method (New Proposed Baseline)-A verifiable description of the new scope of work, cost, and schedule, how the initiative will be accomplished, and supporting documentation.
- (3) Feasibility Assessment-A description and evaluation of the proposed initiative and benefits, risks, and impacts of implementation. This evaluation shall include an assessment of the difference between the current method (baseline) and proposed new method including all related costs.

(e) Evaluation and Decision. All CRPs must be submitted to and approved by the Contracting Officer. Included in the information provided by the CRP must be a discussion of the extent the proposed cost reduction effort may—

- (1) Pose a risk to the health and safety of workers, the community, or to the environment;
- (2) Result in a waiver or deviation from DOE requirements, such as DOE Orders and joint oversight agreements;
- (3) Require a change in other contractual agreements;
- (4) Result in significant organizational and personnel impacts;
- (5) Create a negative impact on the cost, schedule, or scope of work in another area;
- (6) Pose a potential negative impact on the credibility of the Contractor or the DOE; and
- (7) Impact successful and timely completion of any of the work in the cost, technical, and schedule baseline.
- (8) Significantly impact internal controls.

(f) Acceptance or Rejection of CRPs. Acceptance or rejection of a CRP is a unilateral determination made by the Contracting Officer based on but not limited to the evaluation criteria established in paragraph (c) and (e). The Contracting Officer will notify the Contractor that a CRP has been accepted, rejected, or deferred within (Insert Number) days of receipt. The only CRPs that will be considered for acceptance are those which the Contractor can demonstrate, at a minimum, will—

- (1) Result in net savings (in the sharing period if a design, process, or method change);
- (2) Not reappear as costs in subsequent periods; and
- (3) Not result in any impairment of essential functions (e.g. safety and security).

(g) The failure of the Contracting Officer to notify the Contractor of the acceptance, rejection, or deferral of a CRP within the specified time shall not be construed as approval.

(h) Sharing Arrangement. If a CRP is accepted, the Contractor may share in the shared net savings. The sharing arrangement shall be as follows:

- (1) 50% of the net savings shall be the Government's share of savings,
- (2) 10% of the net savings shall be share of savings fee payable to the Contractor,

(3) 40% of the shared savings shall remain at the DOE/NNSA site and may be negotiated under the CRP for the following contract activities consistent with the other terms and conditions of this contract:

- i) Program, project, or indirect cost activities to finance additional mission work that has been approved by the HQ office;
- ii) Projects that serve the M&O site as a whole, such as a parking structure, an office building or building a cafeteria that doesn't serve a discrete program and could be built with institutional general plant project funds;
- iii) Employee compensation for non-key personnel in accordance with Appendix

A. For the purposes of this clause, "employee compensation" means a one-time non-base lump sum payment which does not count towards the employee's pensionable earnings.

The specific percentage and sharing period shall be pre-negotiated and set forth in the contractual document and may span multiple years, however, cost sharing in future years will be contingent upon availability of funds and the Contracting Officer certifying each year that the savings have been sustained.

(i) Validation of Shared Net Savings. Each year the Contractor shall certify the amount of savings achieved that year and that the Government's share of savings is available for redirection. The Contracting Officer shall validate actual shared net savings. If actual shared net savings cannot be validated, the Contractor will not be entitled to a share of savings. If the savings are validated, the Government will decide how to redirect its share of the funds.

(j) Relationship to Other Incentives. Only those benefits of an accepted CRP not awardable under other clauses of this contract shall be considered under this clause.

(k) Subcontracts. The Contractor may include a clause similar to this clause in any subcontract. In calculating any estimated shared net savings in a CRP under this contract, the Contractor's administration, development, and implementation costs shall include any subcontractor's allowable costs, and any CRP incentive payments to a subcontractor resulting from the acceptance of such CRP. The Contractor may choose any arrangement for subcontractor CRP incentive payments, provided that the payments not reduce the DOE's share of shared net savings.

**I-19 DEAR 970.5227-2 RIGHTS IN DATA-TECHNOLOGY TRANSFER (DEC 2000)
ALTERNATE I (DEC 2000) (NNSA CLASS DEVIATION OCT2011)**

(a) Definitions.

- (1) Computer data bases, as used in this clause, means a collection of data in a form capable of, and for the purpose of, being stored in, processed, and operated on by a computer. The term does not include computer software.
- (2) Computer software, as used in this clause, means (i) computer programs which are data comprising a series of instructions, rules, routines, or statements, regardless of the media in which recorded, that allow or cause a computer to perform a specific operation or series of operations and (ii) data comprising source code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable the computer program to be produced, created, or compiled. The term does not include computer data bases.

- (3) Data, as used in this clause, means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term "data" does not include data incidental to the administration of this contract, such as financial, administrative, cost and pricing, or management information.
 - (4) Limited rights data, as used in this clause, means data, other than computer software, developed at private expense that embody trade secrets or are commercial or financial and confidential or privileged. The Government's rights to use, duplicate, or disclose limited rights data are as set forth in the Limited Rights Notice of paragraph (h) of this clause.
 - (5) Restricted computer software, as used in this clause, means computer software developed at private expense and that is a trade secret; is commercial or financial and is confidential or privileged; or is published copyrighted computer software, including minor modifications of any such computer software. The Government's rights to use, duplicate, or disclose restricted computer software are as set forth in the Restricted Rights Notice of subparagraph (i) of this clause.
 - (6) Technical data, as used in this clause, means recorded data, regardless of form or characteristic, that are of a scientific or technical nature. Technical data does not include computer software, but does include manuals and instructional materials and technical data formatted as a computer data base.
 - (7) Unlimited rights, as used in this clause, means the rights of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, including by electronic means, and perform publicly and display publicly, in any manner, including by electronic means, and for any purpose whatsoever, and to have or permit others to do so.
 - (8) *Open Source Software, as used in this clause, means computer software that is distributed under a license in which the user is granted the right to use, copy, modify, prepare derivative works and distribute, in source code or other format, the software, in original or modified form and derivative works thereof, without having to make royalty payments. The Contractor's right to distribute computer software first produced in the performance of this Contract as Open Source Software is as set forth in paragraph (f).*
 - (9) *Patent Counsel means the National Nuclear Security Administration (NNSA) Patent Counsel assisting the DOE/NNSA contracting activity.*
- (b) Allocation of Rights.
- (1) *Except as may otherwise expressly provided or directed in writing by the Patent Counsel the Government shall have:*
 - (i) Ownership of all technical data and computer software first produced in the performance of this Contract;
 - (ii) Unlimited rights in technical data and computer software specifically used in the performance of this Contract, except as provided herein regarding copyright, limited rights data, or restricted computer software, and except for data subject to the withholding provisions for protected Cooperative Research and Development Agreement (CRADA) information in accordance with Technology Transfer actions under this Contract, or other data specifically protected by statute for a period of time or, where, approved by DOE/NNSA, appropriate instances of the DOE /NNSA Work for Others Program;
 - (iii) The right to inspect technical data and computer software first produced or specifically used in the performance of this Contract at all reasonable times. The Contractor shall make available all necessary facilities to allow DOE/NNSA personnel to perform such inspection;

- (iv) The right to have all technical data and computer software first produced or specifically used in the performance of this Contract delivered to the Government or otherwise disposed of by the Contractor, either as the contracting officer may from time to time direct during the progress of the work or in any event as the contracting officer shall direct upon completion or termination of this Contract. The Contractor agrees to leave a copy of such data at the facility or plant to which such data relate, and to make available for access or to deliver to the Government such data upon request by the contracting officer. If such data are limited rights data or restricted computer software, the rights of the Government in such data shall be governed solely by the provisions of paragraph (h) of this clause ("Rights in Limited Rights Data") or paragraph (i) of this clause ("Rights in Restricted Computer Software"); and
- (v) The right to remove, cancel, correct, or ignore any markings not authorized by the terms of this Contract on any data furnished hereunder if, in response to a written inquiry by DOE/NNSA concerning the propriety of the markings, the Contractor fails to respond thereto within 60 days or fails to substantiate the propriety of the markings. In either case DOE/NNSA will notify the Contractor of the action taken.
- (2) The Contractor shall have:
- (i) The right to withhold limited rights data and restricted computer software unless otherwise provided in provisions of this clause;
 - (ii) The right to use for its private purposes, subject to patent, security or other provisions of this Contract, data it first produces in the performance of this Contract, except for data in DOE's Uranium Enrichment Technology, including diffusion, centrifuge, and atomic vapor laser isotope separation and except Restricted Data in category C-24, 10 CFR part 725, in which DOE has reserved the right to receive reasonable compensation for the use of its inventions and discoveries, including related data and technology, provided the data requirements of this Contract have been met as of the date of the private use of such data; and
 - (iii) The right to assert copyright subsisting in scientific and technical articles as provided in paragraph (d) of this clause and the right to request permission to assert copyright subsisting in works other than scientific and technical articles as provided in paragraph (e) of this clause.
- (3) The Contractor agrees that for limited rights data or restricted computer software or other technical business or financial data in the form of recorded information which it receives from, or is given access to by DOE, NNSA or a third party, including a DOE or NNSA contractor or subcontractor, and for technical data or computer software it first produces under this Contract which is authorized to be marked by DOE/NNSA, the Contractor shall treat such data in accordance with any restrictive legend contained thereon.
- (c) Copyright (General).
- (1) The Contractor agrees not to mark, register, or otherwise assert copyright in any data in a published or unpublished work, other than as set forth in paragraphs (d) and (e) of this clause.
 - (2) Except for material to which the Contractor has obtained the right to assert copyright in accordance with either paragraph (d) or (e) of this clause, the Contractor agrees not to include in the data delivered under this Contract any material copyrighted by the Contractor and not to knowingly include any material copyrighted by others without first granting or obtaining at no cost a license therein for the benefit of the Government of the same scope as set forth in paragraph (d) of this clause. If the Contractor believes that such copyrighted material for which the license cannot be obtained must be included in the data to be delivered, rather than merely incorporated therein by reference, the Contractor shall obtain the written authorization of the contracting officer to include such material in the data prior to its delivery.

(d) Copyrighted works (scientific and technical articles)

- (1) The Contractor shall have the right to assert, without prior approval of the contracting officer, copyright subsisting in scientific and technical articles composed under this contract or based on or containing data first produced in the performance of this Contract, and published in academic, technical or professional journals, symposia, proceedings, or similar works. When assertion of copyright is made, the Contractor shall affix the applicable copyright notice of 17 U.S.C. 401 or 402 and acknowledgment of Government sponsorship (including contract number) on the data when such data are delivered to the Government as well as when the data are published or deposited for registration as a published work in the U.S. Copyright Office. The Contractor grants to the Government, and others acting on its behalf, a nonexclusive, paid-up, irrevocable, world-wide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government.
- (2) The contractor shall mark each scientific or technical article first produced or composed under this Contract and submitted for journal publication or similar means of dissemination with a notice, similar in all material respects to the following, on the front reflecting the Government's non-exclusive, paid-up, irrevocable, world-wide license in the copyright.

Notice: This manuscript has been authored by Mission Support and Test Services LLC under Contract No. DE-NA0003624 with the U.S. Department of Energy/*National Nuclear Security Administration*. The United States Government retains and the publisher, by accepting the article for publication, acknowledges that the United States Government retains a non-exclusive, paid-up, irrevocable, world- wide license to publish or reproduce the published form of this manuscript, or allow others to do so, for United States Government purposes.

(End of Notice)

- (3) The title to the copyright of the original of unclassified graduate theses and the original of related unclassified scientific papers shall vest in the author thereof, subject to the right of DOE and NNSA to retain duplicates of such documents and to use such documents for any purpose whatsoever without any claim on the part of the author or the contractor for additional compensation.
- (e) Copyrighted works (other than scientific and technical articles and data produced under a CRADA). The Contractor may obtain permission to assert copyright subsisting in technical data and computer software first produced by the Contractor in performance of this Contract, where the Contractor can show that commercialization would be enhanced by such copyright protection, subject to the following:
- (1) Contractor Request to Assert Copyright.
 - (i) For data other than scientific and technical articles and data produced under a CRADA, the Contractor shall submit in writing to Patent Counsel its request to assert copyright in data first produced in the performance of this Contract pursuant to this clause. The right of the Contractor to copyright data first produced under a CRADA is as described in the individual CRADA. Each request by the Contractor must include:
 - (A) The identity of the data (including any computer program) for which the Contractor requests permission to assert copyright, as well as an abstract which is descriptive of the data and is suitable for dissemination purposes,
 - (B) The program under which it was funded,
 - (C) Whether, to the best knowledge of the Contractor, the data is subject to an international treaty or agreement,

- (D) Whether the data is subject to export control,
 - (E) A statement that the Contractor plans to commercialize the data in compliance with the clause of this contract entitled, "Technology Transfer Mission," within five (5) years after obtaining permission to assert copyright or, on a case-by-case basis, a specified longer period where the Contractor can demonstrate that the ability to commercialize effectively is dependent upon such longer period, and
 - (F) For data other than computer software, a statement explaining why the assertion of copyright is necessary to enhance commercialization and is consistent with DOE's and NNSA's dissemination responsibilities.
- (ii) For data that is developed using other funding sources in addition to DOE *or* NNSA funding, the permission to assert copyright in accordance with this clause must also be obtained by the Contractor from all other funding sources prior to the Contractor's request to Patent Counsel. The request shall include the Contractor's certification or other documentation acceptable to Patent Counsel demonstrating such permission has been obtained.
- (iii) Permission for the Contractor to assert copyright in excepted categories of data as determined by DOE/NNSA will be expressly withheld. Such excepted categories include data whose release
- (A) would be detrimental to national security, i.e., involve classified information or data or sensitive information under Section 148 of the Atomic Energy Act of 1954, as amended, or are subject to export control for nonproliferation and other nuclear-related national security purposes,
 - (B) would not enhance the appropriate transfer or dissemination and commercialization of such data,
 - (C) would have a negative impact on U.S. industrial competitiveness,
 - (D) would prevent DOE *or* NNSA from meeting its obligations under treaties and international agreements, or
 - (E) would be detrimental to one or more of DOE's *or* NNSA's programs. Additional excepted categories may be added by the Assistant General Counsel for Technology Transfer and Intellectual Property *and/or* the NNSA Patent Counsel. Where data are determined to be under export control restriction, the Contractor may obtain permission to assert copyright subject to the provisions of this clause for purposes of limited commercialization in a manner that complies with export control statutes and applicable regulations. In addition, notwithstanding any other provision of this Contract, all data developed with Naval Reactors' funding and those data that are classified fall within excepted categories. The rights of the Contractor in data are subject to the disposition of data rights in the treaties and international agreements identified under this Contract as well as those additional treaties and international agreements which DOE *or* NNSA may from time to time identify by unilateral amendment to the Contract; such amendment listing added treaties and international agreements is effective only for data which is developed after the date such treaty or international agreement is added to this Contract. Also, the Contractor will not be permitted to assert copyright in data in the form of various technical reports generated by the Contractor under the Contract without first obtaining the advanced written permission of the contracting officer.

- (2) DOE/*NNSA* Review and Response to Contractor's Request. The Patent Counsel shall use its best efforts to respond in writing within 90 days of receipt of a complete request by the Contractor to assert copyright in technical data and computer software pursuant to this clause. Such response shall either give or withhold DOE/*NNSA*'s permission for the Contractor to assert copyright or advise the Contractor that DOE/*NNSA* needs additional time to respond, and the reasons therefor.
- (3) Permission for Contractor to Assert Copyright.
 - (i) For computer software, the Contractor shall furnish to the DOE designated, centralized software distribution and control point, the Energy Science and Technology Software Center, at the time permission to assert copyright is given under paragraph (e)(2) of this clause:
 - (A) An abstract describing the software suitable for publication,
 - (B) the source code for each software program, and
 - (C) the object code and at least the minimum support documentation needed by a technically competent user to understand and use the software.

The Patent Counsel, for good cause shown by the Contractor, may allow the minimum support documentation to be delivered within 60 days after permission to assert copyright is given or at such time the minimum support documentation becomes available. The Contractor acknowledges that the DOE/*NNSA* designated software distribution and control point may provide a technical description of the software in an announcement identifying its availability from the copyright holder.

- (ii) Unless otherwise directed by the contracting officer, for data other than computer software to which the Contractor has received permission to assert copyright under paragraph (e)(2) of this clause above, the Contractor shall within sixty (60) days of obtaining such permission furnish to DOE's Office of Scientific and Technical Information (OSTI) a copy of such data as well as an abstract of the data suitable for dissemination purposes. The Contractor acknowledges that OSTI may provide an abstract of the data in an announcement to DOE, *NNSA*, its contractors and to the public identifying its availability from the copyright holder.
- (iii) For a five year period or such other specified period as specifically approved by Patent Counsel beginning on the date the Contractor is given permission to assert copyright in data, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable worldwide license in such copyrighted data to reproduce, prepare derivative works and perform publicly and display publicly, by or on behalf of the Government. Upon request, the initial period may be extended after DOE/*NNSA* approval. The DOE/*NNSA* approval will be based on the standard that the work is still commercially available and the market demand is being met.
- (iv) After the period approved by Patent Counsel for application of the limited Government license described in paragraph (e)(3)(iii) of this clause, or if, prior to the end of such period(s), the Contractor abandons commercialization activities pertaining to the data to which the Contractor has been given permission to assert copyright, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable worldwide license in such copyrighted data to reproduce, distribute copies to the public, prepare derivative works, perform publicly and display publicly, and to permit others to do so.

- (v) Whenever the Contractor asserts copyright in data pursuant to this paragraph (e), the Contractor shall affix the applicable copyright notice of 17 U.S.C. 401 or 402 on the copyrighted data and also an acknowledgment of the Government sponsorship and license rights of paragraphs (e)(3) (iii) and (iv) of this clause. Such action shall be taken when the data are delivered to the Government, published, licensed or deposited for registration as a published work in the U.S. Copyright Office. The acknowledgment of Government sponsorship and license rights shall be as follows:

Notice: These data were produced by Mission Support and Test Services LLC under Contract No. DE-NA0003624 with the Department of Energy/*National Nuclear Security Administration*. For (period approved by *NNSA Patent Counsel*) from (date permission to assert copyright was obtained), the Government is granted for itself and others acting on its behalf a nonexclusive, paid-up, irrevocable worldwide license in this data to reproduce, prepare derivative works, and perform publicly and display publicly, by or on behalf of the Government.

There is provision for the possible extension of the term of this license. Subsequent to that period or any extension granted, the Government is granted for itself and others acting on its behalf a nonexclusive, paid-up, irrevocable worldwide license in this data to reproduce, prepare derivative works, distribute copies to the public, perform publicly and display publicly, and to permit others to do so. The specific term of the license can be identified by inquiry made to Contractor or DOE/*NNSA*. Neither the United States nor the United States Department of Energy/*National Nuclear Security Administration*, nor any of their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any data, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights.

(End of Notice)

- (vi) With respect to any data to which the Contractor has received permission to assert copyright, the DOE/*NNSA* has the right, during the five (5) year or specified longer period approved by Patent Counsel as provided for in paragraph (e)(3)(iii) of this clause, to request the Contractor to grant a nonexclusive, partially exclusive or exclusive license in any field of use to a responsible applicant(s) upon terms that are reasonable under the circumstances, and if the Contractor refuses such request, to grant such license itself, if the DOE/*NNSA* determines that the Contractor has not made a satisfactory demonstration that either it or its licensee(s) is actively pursuing commercialization of the data as set forth in subparagraph (e)(1)(A) of this clause. Before licensing under this subparagraph (vi), DOE/*NNSA* shall furnish the Contractor a written request for the Contractor to grant the stated license, and the Contractor shall be allowed thirty (30) days (or such longer period as may be authorized by the contracting officer for good cause shown in writing by the Contractor) after such notice to show cause why the license should not be granted. The Contractor shall have the right to appeal the decision of the DOE/*NNSA* to grant the stated license to the Invention Licensing Appeal Board as set forth in 10 CFR 781.65 --"Appeals."
- (vii) No costs shall be allowable for maintenance of copyrighted data, primarily for the benefit of the Contractor and/or a licensee which exceeds DOE or *NNSA* Program needs, except as expressly provided in writing by the contracting officer. The Contractor may use its net royalty income to effect such maintenance costs.
- (viii) At any time the Contractor abandons commercialization activities for data for which the Contractor has received permission to assert copyright in accordance with this clause, it shall advise OSTI and Patent Counsel and upon request assign the copyright to the Government so that the Government can distribute the data to the public.

- (4) The following notice may be placed on computer software prior to any publication and prior to the Contractor's obtaining permission from the *DOE/NNSA* to assert copyright in the computer software pursuant to paragraph (c)(3) of this section.

Notice: This computer software was prepared by Mission Support and Test Services LLC, hereinafter the Contractor, under Contract DE-NA0003624 with the Department of Energy/*National Nuclear Security Administration* (DOE/NNSA). All rights in the computer software are reserved by DOE/NNSA on behalf of the United States Government and the Contractor as provided in the Contract. You are authorized to use this computer software for Governmental purposes but it is not to be released or distributed to the public.

NEITHER THE GOVERNMENT NOR THE CONTRACTOR MAKES ANY WARRANTY, EXPRESS OR IMPLIED, OR ASSUMES ANY LIABILITY FOR

THE USE OF THIS SOFTWARE. This notice including this sentence must appear on any copies of this computer software.

(End of Notice)

- (5) A similar notice can be used for data, other than computer software, upon approval of Patent Counsel.
- (f) *Open Source Software. The Contractor may release computer software first produced by the Contractor in the performance of this Contract under an open source software license. Such software shall hereinafter be referred to as Open Source Software or OSS, subject to the following:*
- (1) *Obtain Program Approval.*
 - (i) *The Contractor shall ensure that the DOE or NNSA Program or Programs that have provided funding (Funding Source) to develop the software have approved the distribution of the software as OSS. The funding Program(s) may provide blanket approval for all software developed with funding from that Program. However, OSS release for any one such software shall be subject to approval by all other funding Programs which provide a substantial portion of the funds for the software, if any. If approval from the funding Program(s) is not practicable, Patent Counsel may provide approval instead. For software jointly developed under a CRADA or User Facility, or WFO, authorization from the CRADA Participant(s) or User Facility User(s), or WFO, as applicable, shall be additionally obtained for OSS release.*
 - (ii) *If the software is developed with funding from a federal government agency or agencies other than DOE or NNSA, then authorization from all the funding source(s) shall be obtained for OSS release, if practicable. Such federal government agency(ies) may provide blanket approval for all software developed with funding from that agency. However, OSS release of any one of such software shall be subject to approval by all other funding sources for the software, if any. If majority approval from such federal government agency(s) is not practicable, Patent Counsel may provide approval instead.*
 - (2) *Assert Copyright in the OSS. Once the Contractor has obtained Funding Source approval in accordance with subparagraph (1) of this section, copyright in the software to be distributed as OSS, may be asserted by the Contractor, or, for OSS developed under a CRADA or User Facility, or WFO, either by the Contractor, CRADA Participant, or User Facility User, or WFO, as applicable, which precludes marking such OSS as Protected Information.*
 - (3) *Form DOE F 241.4 for OSS to ESTSC. The Contractor must submit the form DOE F 241.4 (or the current form as may be required by DOE or NNSA) to DOE's Energy Science and Technology Software Center (ESTSC) at the Office of Scientific and Technical Information (OSTI). The Contractor shall provide the unique URL on the form for ESTSC to distribute.*

- (4) *OSS Record. The Contractor must maintain a record, available for inspection by DOE or NNSA, of software distributed as OSS. The record shall contain the following information: (i) name of the computer software (or other identifier), (ii) an abstract with description or purpose of the software, (iii) evidence of the funding Program's or source's approval, (iv) the planned or actual OSS location on the Contractor's webpage or other publicly available location (see subparagraph (5) below); (v) any names, logos or other identifying marks used in connection with the OSS, whether or not registered; (vi) the type of OSS license used; and (vii) release version of the software for OSS containing derivative works. Upon request of Patent Counsel, the Contractor shall periodically provide Patent Counsel a copy of the record.*
- (5) *Provide Public Access to the OSS. The Contractor shall ensure that the OSS is publicly accessible as an open source via the Contractor's website, Open Source Bulletin Boards operated by third parties, DOE, NNSA, or other industry standard means.*
- (6) *Select an OSS License. Each OSS will be distributed pursuant to an OSS license. The Contractor may choose among industry standard OSS licenses or create its own set of Contractor standard licenses. To assist the Contractor, the DOE Assistant General Counsel for Technology Transfer and Intellectual Property and/or NNSA Patent Counsel may periodically issue guidance on OSS licenses. Each Contractor created OSS license, must contain, at a minimum, the following provisions:*
 - (i) *A disclaimer or equivalent that disclaims the Government's and Contractor's liability for licensees' and third parties' use of the software; and*
 - (ii) *A grant of permission for licensee to distribute OSS containing the licensee's derivative works subject to trademark restrictions (see subparagraph (10) below). This provision might allow the licensee and third parties to commercialize their derivative works or might request that the licensee's derivative works be forwarded to the Contractor for incorporation into future OSS versions.*
- (7) *Collection of administrative costs is permissible. However, the Contractor may not collect a royalty or other fee in excess of a good faith amount for cost recovery from any licensee for the Contractor's OSS.*
- (8) *Relationship to Other Required Clauses in the Contract. OSS distributed in accordance with this section shall not be subject to the requirements relating to indemnification of the Contractor or Federal Government, U.S. Competitiveness and U.S. Preference as set forth in paragraphs (g) and (h) of the clause within this contract entitled Technology Transfer Mission (DEAR 970.5227-3). The requirement for Contractor to request permission to assert copyright for the purpose of engaging in licensing software for royalties as set forth elsewhere in this clause is not modified by this section.*
- (9) *Performance of Periodic Export Control Reviews by the Contractor. The Contractor is required to follow its Export Control review procedures before designating any software as OSS. If the Contractor is integrating the original OSS with other copyrightable works created by the Contractor or third parties, the Contractor may need to perform periodic export control reviews of the derivative versions.*
- (10) *Determine if Trademark Protection for the OSS is Appropriate. DOE and NNSA Programs and Contractors have established trademarks on some of their computer software. Therefore, the Contractor should determine whether the OSS is already protected by use of an existing trademark. If the OSS is not so protected, then the Program or the Contractor may want to seek trademark protection. If the OSS is protected by a trademark, the OSS license should state that the derivative works of the licensee or other third party may not be distributed using the proprietary trademark without appropriate prior approval.*

- (11) *Government License. For all OSS, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable worldwide license in data copyrighted in accordance with paragraph (f)(2) of this clause to reproduce, distribute copies to the public, prepare derivative works, perform publicly and display publicly, and to permit others to do so.*
- (12) *Availability of Original OSS. The object code and source code of the original OSS developed by the Contractor shall be available to any third party who requests such from the Contractor for so long as such OSS is publicly available. If the Contractor ceases to make the software publicly available, then the Contractor shall submit to ESTSC the object code and source code of the latest version of the OSS developed by the Contractor in addition to a revised DOE F 241.4 form (which includes an abstract) and the Contractor shall direct any inquiries from third parties seeking to obtain the original OSS to ESTSC.*

(g) Subcontracting.

- (1) Unless otherwise directed by the contracting officer, the Contractor agrees to use in subcontracts in which technical data or computer software is expected to be produced or in subcontracts for supplies that contain a requirement for production or delivery of data in accordance with the policy and procedures of 48 CFR Subpart 27.4 as supplemented by 48 CFR 927.401 through 927.409, the clause entitled, "Rights in Data-General" at 48 CFR 52.227-14 modified in accordance with 927.409(a) and including Alternate V. Alternates II through IV of that clause may be included as appropriate with the prior approval of Patent Counsel, and the Contractor shall not acquire rights in a subcontractor's limited rights data or restricted computer software, except through the use of Alternates II or III, respectively, without the prior approval of Patent Counsel. The clause at 48 CFR 52.227-16, Additional Data Requirements, shall be included in subcontracts in accordance with 48 CFR 927.409(h). The Contractor shall use instead the Rights in Data-Facilities clause at 48 CFR 970.5227-1 in subcontracts, including subcontracts for related support services, involving the design or operation of any plants or facilities or specially designed equipment for such plants or facilities that are managed or operated under its contract with DOE/NNSA.
 - (2) It is the responsibility of the Contractor to obtain from its subcontractors technical data and computer software and rights therein, on behalf of the Government, necessary to fulfill the Contractor's obligations to the Government with respect to such data. In the event of refusal by a subcontractor to accept a clause affording the Government such rights, the Contractor shall:
 - (i) Promptly submit written notice to the contracting officer setting forth reasons or the subcontractor's refusal and other pertinent information which may expedite disposition of the matter, and
 - (ii) Not proceed with the subcontract without the written authorization of the contracting officer.
 - (3) Neither the Contractor nor higher-tier subcontractors shall use their power to award subcontracts as economic leverage to acquire rights in a subcontractor's limited rights data and restricted computer software for their private use.
- (h) Rights in Limited Rights Data. Except as may be otherwise specified in this Contract as data which are not subject to this paragraph, the Contractor agrees to and does hereby grant to the Government an irrevocable nonexclusive, paid-up license by or for the Government, in any limited rights data of the Contractor specifically used in the performance of this Contract, provided, however, that to the extent that any limited rights data when furnished or delivered is specifically identified by the Contractor at the time of initial delivery to the Government or a representative of the Government, such data shall not be used within or outside the Government except as provided in the "Limited Rights Notice" set forth below. All such limited rights data shall be marked with the following "Limited Rights Notice:"

Limited Rights Notice

These data contain "limited rights data," furnished under Contract No. DE-NA0003624 with the United States Department of Energy/*National Nuclear Security Administration* which may be duplicated and used by the Government with the express limitations that the "limited rights data" may not be disclosed outside the Government or be used for purposes of manufacture without prior permission of the Contractor, except that further disclosure or use may be made solely for the following purposes:

- (a) Use (except for manufacture) by support services contractors within the scope of their contracts;
- (b) This "limited rights data" may be disclosed for evaluation purposes under the restriction that the "limited rights data" be retained in confidence and not be further disclosed;
- (c) This "limited rights data" may be disclosed to other contractors participating in the Government's program of which this Contract is a part for information or use (except for manufacture) in connection with the work performed under their contracts and under the restriction that the "limited rights data" be retained in confidence and not be further disclosed;
- (d) This "limited rights data" may be used by the Government or others on its behalf for emergency repair or overhaul work under the restriction that the "limited rights data" be retained in confidence and not be further disclosed; and
- (e) Release to a foreign government, or instrumentality thereof, as the interests of the United States Government may require, for information or evaluation, or for emergency repair or overhaul work by such government.

This Notice shall be marked on any reproduction of this data in whole or in part.

(End of Notice)

(i) Rights in Restricted Computer Software.

- (1) Except as may be otherwise specified in this Contract as data which are not subject to this paragraph, the Contractor agrees to and does hereby grant to the Government an irrevocable, nonexclusive, paid-up, license by or for the Government, in any restricted computer software of the Contractor specifically used in the performance of this Contract; provided, however, that to the extent that any restricted computer software when furnished or delivered is specifically identified by the Contractor at the time of initial delivery to the Government or a representative of the Government, such data shall not be used within or outside the Government except as provided in the "Restricted Rights Notice" set forth below. All such restricted computer software shall be marked with the following "Restricted Rights Notice:"
Restricted Rights Notice --Long Form

- (a) This computer software is submitted with restricted rights under Department of Energy/*National Nuclear Security Administration* Contract No. DE-NA0003624. It may not be used, reproduced, or disclosed by the Government except as provided in paragraph (b) of this notice.
- (b) This computer software may be:
 - (1) Used or copied for use in or with the computer or computers for which it was acquired, including use at any Government installation to which such computer or computers may be transferred;
 - (2) Used, copied for use, in a backup or replacement computer if any computer for which it was acquired is inoperative or is replaced;
 - (3) Reproduced for safekeeping (archives) or backup purposes;
 - (4) Modified, adapted, or combined with other computer software, provided that only the portions of the derivative software consisting of the restricted computer software are

to be made subject to the same restricted rights; and

- (5) Disclosed to and reproduced for use by contractors under a service contract (of the type defined in 48 CFR 37.101) in accordance with subparagraphs (b)(1) through (4) of this Notice, provided the Government makes such disclosure or reproduction subject to these restricted rights.
- (c) Notwithstanding the foregoing, if this computer software has been published under copyright, it is licensed to the Government, without disclosure prohibitions, with the rights set forth in the restricted rights notice above.
- (d) This Notice shall be marked on any reproduction of this computer software, in whole or in part.

(End of Notice)

- (2) Where it is impractical to include the Restricted Rights Notice on restricted computer software, the following short-form Notice may be used in lieu thereof: Restricted Rights Notice --Short Form

Use, reproduction, or disclosure is subject to restrictions set forth in the Long Form Notice of DOE/NNSA Contract No. DE-NA0003624 with Mission Support and Test Services LLC.

(End of Notice)

- (3) If the software is embedded, or if it is commercially impractical to mark it with human readable text, then the symbol R and the clause date (mo/yr) in brackets or a box, a [R- mo/yr], may be used. This will be read to mean restricted computer software, subject to the rights of the Government as described in the Long Form Notice, in effect as of the date indicated next to the symbol. The symbol shall not be used to mark human readable material. In the event this Contract contains any variation to the rights in the Long Form Notice, then the contract number must also be cited.
- (4) If restricted computer software is delivered with the copyright notice of 17 U.S.C. 401, the software will be presumed to be published copyrighted computer software licensed to the Government without disclosure prohibitions and with unlimited rights, unless the Contractor includes the following statement with such copyright notice "Unpublished- rights reserved under the Copyright Laws of the United States."
- (j) Relationship to patents. Nothing contained in this clause creates or is intended to imply a license to the Government in any patent or is intended to be construed as affecting the scope of any licenses or other rights otherwise granted to the Government under any patent.

I-20 DEAR 970.5227-3 TECHNOLOGY TRANSFER MISSION (AUG 2002) ALTERNATE II (DEC 2000) (NNSA CLASS DEVIATION OCT 2011)

This clause has as its purpose implementation of the National Competitiveness Technology Transfer Act of 1989 (Sections 3131, 3132, 3133, and 3157 of Pub. L. 101-189 and as amended by Pub. L. 103-160, Sections 3134 and 3160). The Contractor shall conduct technology transfer activities with a purpose of providing benefit from Federal research to U.S. industrial competitiveness.

(a) Authority.

- (1) In order to ensure the full use of the results of research and development efforts of, and the capabilities of, the Facilities, technology transfer, including Cooperative Research and Development Agreements (CRADAs), is established as a mission of the Facilities consistent with the policy, principles and purposes of Sections 11(a)(1) and 12(g) of the Stevenson-Wydler Technology Innovation Act of 1980, as amended ([15 U.S.C. 3710a](#)); Section 3132(b) of Pub. L.

101-189, Sections 3134 and 3160 of Pub. L. 103-160, and of Chapter 38 of the Patent Laws ([35 U.S.C. 200 et seq.](#)); Section 152 of the Atomic Energy Act of 1954, as amended ([42 U.S.C. 2182](#)); Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 ([42 U.S.C. 5908](#)); and Executive Order 12591 of April 10, 1987.

- (2) In pursuing the technology transfer mission, the Contractor is authorized to conduct activities including but not limited to: identifying and protecting Intellectual Property made, created or acquired at or by the *Facilities*; negotiating licensing agreements and assignments for Intellectual Property made, created or acquired at or by the *Facilities* that the Contractor controls or owns; bailments; negotiating all aspects of and entering into CRADAs; providing technical consulting and personnel exchanges; conducting science education activities and reimbursable Work for Others (WFO); providing information exchanges; and making available laboratory or weapon production user facilities. It is fully expected that the Contractor shall use all of the mechanisms available to it to accomplish this technology transfer mission, including, but not limited to, CRADAs, user facilities, WFO, science education activities, consulting, personnel exchanges, assignments, and licensing in accordance with this clause.
- (3) *Nothing in this, or any other section of this contract provides the Contractor with any property right, including the right to license, in data first produced in the performance of this contract, except as expressly provided in the contract or approved in writing by the Contracting Officer.*

(b) Definitions.

- (1) Contractor's Facilities Director means the individual who has supervision over all or substantially all of the Contractor's operations at the facilities.
- (2) Intellectual Property means patents, trademarks, copyrights, mask works, protected CRADA information, and other forms of comparable property rights protected by Federal Law and other foreign counterparts.
- (3) Cooperative Research and Development Agreement (CRADA) means any agreement entered into between the Contractor as operator of the *Facilities*, and one or more parties including at least one non-Federal party under which the Government, through its *Facilities*, provides personnel, services, facilities, equipment, intellectual property, or other resources with or without reimbursement (but not funds to non-Federal parties) and the non-Federal parties provide funds, personnel, services, facilities, equipment, intellectual property, or other resources toward the conduct of specified research or development efforts which are consistent with the missions of the *Facilities*; except that such term does not include a procurement contract, grant, or cooperative agreement as those terms are used in sections 6303, 6304, and 6305 of Title 31 of the United States Code.
- (4) Joint Work Statement (JWS) means a proposal for a CRADA prepared by the Contractor, signed by the Contractor's Facilities Director or designee which describes the following:
 - (i) Purpose;
 - (ii) Scope of Work which delineates the rights and responsibilities of the Government, the Contractor and Third Parties, one of which must be a non-Federal party;
 - (iii) Schedule for the work; and
 - (iv) Cost and resource contributions of the parties associated with the work and the schedule.
- (5) Assignment means any agreement by which the Contractor transfers ownership of *Facilities'* Intellectual Property, subject to the Government's retained rights.

- (6) *Facilities' Biological Materials* means biological materials capable of replication or reproduction, such as plasmids, deoxyribonucleic acid molecules, ribonucleic acid molecules, living organisms of any sort and their progeny, including viruses, prokaryote and eukaryote cell lines, transgenic plants and animals, and any derivatives or modifications thereof or products produced through their use or associated biological products, made under this contract by *Facilities' employees* or through the use of *Facilities' research resources*.
- (7) *Facilities' Tangible Research Product* means tangible material results of research which
- (i) Are provided to permit replication, reproduction, evaluation or confirmation of the research effort, or to evaluate its potential commercial utility;
 - (ii) Are not materials generally commercially available; and
 - (iii) Were made under this contract by *Facilities' employees* or through the use of *Facilities' research resources*.
- (8) Bailment means any agreement in which the Contractor permits the commercial or non-commercial transfer of custody, access or use of *Facilities' Biological Materials* or *Facilities' Tangible Research Product* for a specified purpose of technology transfer or research and development, including without limitation evaluation, and without transferring ownership to the bailee.
- (9) *Privately funded technology transfer* means the prosecuting, maintaining, licensing, and marketing of inventions which are not owned by the Government (and not related to CRADAs) when such activities are conducted entirely without the use of Government funds.
- (c) Allowable Costs.
- (1) The Contractor shall establish and carry out its technology transfer efforts through appropriate organizational elements consistent with the requirements for an Office of Research and Technology Applications (ORTA) pursuant to paragraphs (b) and (c) of Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980, as amended ([15 U.S.C. 3710](#)). The costs associated with the conduct of technology transfer through the ORTA including activities associated with obtaining, maintaining, licensing, and assigning Intellectual Property rights, increasing the potential for the transfer of technology, and the widespread notice of technology transfer opportunities, shall be deemed allowable provided that such costs meet the other requirements of the allowable costs provisions of this Contract. In addition to any separately designated funds, these costs in any fiscal year shall not exceed an amount equal to 0.5 percent of the operating funds included in the Federal research and development budget (including Work For Others) of the *Facilities* for that fiscal year without written approval of the contracting officer.
 - (2) The Contractor's participation in litigation to enforce or defend Intellectual Property claims incurred in its technology transfer efforts shall be as provided in the clause entitled "Insurance -- Litigation and Claims" of this contract.
- (d) Conflicts of Interest -- Technology Transfer. The Contractor shall have implementing procedures that seek to avoid employee and organizational conflicts of interest, or the appearance of conflicts of interest, in the conduct of its technology transfer activities. These procedures shall apply to all persons participating in *the Facilities* research or related technology transfer activities. Such implementing procedures shall be provided to the contracting officer for review and approval within sixty (60) days after execution of this contract. The contracting officer shall have thirty (30) days thereafter to approve or require specific changes to such procedures. Such implementing procedures shall include procedures to:
- (1) Inform employees of and require conformance with standards of conduct and integrity in connection with *research involving nonfederal sponsors and for CRADA* activity in accordance with the provisions of paragraph (n)(5) of this clause;

- (2) Review and approve employee activities so as to avoid conflicts of interest arising from commercial utilization activities relating to Contractor-developed Intellectual Property;
 - (3) Conduct work performed using royalties so as to avoid interference with or adverse effects on ongoing DOE *and* NNSA projects and programs;
 - (4) Conduct activities relating to commercial utilization of Contractor-developed Intellectual Property so as to avoid interference with or adverse effects on user facility or WFO activities of the Contractor;
 - (5) Conduct DOE- *and* NNSA-funded projects and programs so as to avoid the appearance of conflicts of interest or actual conflicts of interest with non- Government funded work;
 - (6) Notify the contracting officer with respect to any new work to be performed or proposed to be performed under the Contract for DOE *or* NNSA or other Federal agencies where the new work or proposal involves Intellectual Property in which the Contractor has obtained or intends to request or elect title;
 - (7) Except as provided elsewhere in this Contract, obtain the approval of the contracting officer for any licensing of or assignment of title to Intellectual Property rights by the Contractor to any business or corporate affiliate of the Contractor;
 - (8) Obtain the approval of the contracting officer prior to any assignment, exclusive licensing, or option for exclusive licensing, of Intellectual Property to any individual who has been a Facilities employee within the previous two years or to the company in which the individual is a principal;
 - (9) Notify non-Federal sponsors of WFO activities, or non-Federal users of user facilities, of any relevant Intellectual Property interest of the Contractor prior to execution of WFOs or user agreements; *and*
 - (10) Notify NNSA prior to *the Contractor's acting in an advisory role for evaluation of a technical proposal for funding by a third party or a DOE or NNSA Program*, when the subject matter of the proposal involves an elected or waived subject invention under this contract or one in which the Contractor intends to elect to retain title under this contract.
- (e) Fairness of Opportunity. In conducting its technology transfer activities, the Contractor shall prepare procedures and take all reasonable measures to ensure widespread notice of availability of technologies suited for transfer and opportunities for exclusive licensing and joint research arrangements. The requirement to widely disseminate the availability of technology transfer opportunities does not apply to a specific application originated outside of the Facilities and by entities other than the Contractor.
- (f) U.S. Industrial Competitiveness.
- (1) In the interest of enhancing U.S. Industrial Competitiveness in its licensing and assignments of Intellectual Property, *the Contractor shall* give preference in such a manner as to enhance the accrual of economic and technological benefits to the U.S. domestic economy. The Contractor shall consider the following factors in all of its *decisions involving* licensing *or* assignment of Facilities' intellectual property where the *Contractor* obtains rights during the course of the Contractor's operation of the Facilities under this contract:
 - (i) whether any resulting design and development will be performed in the United States and whether resulting products, embodying parts, including components thereof, will be substantially manufactured in the United States; or
 - (ii) (A) whether a proposed licensee or an assignee has a business unit located in the United States and whether significant economic and technical benefits will flow to the United States as a result of the license or assignment agreement; and

- (B) in licensing *or assigning* any entity subject to the control of a foreign company or government, whether such foreign government permits United States agencies, organizations or other persons to enter into cooperative research and development agreements and licensing agreements, and has policies to protect United States Intellectual Property rights; *and*
- (C) *if the proposed licensee, assignee, or parent of either type of entity is subject to the control of a foreign company or government, the Contractor, with the assistance of the Contracting Officer, in considering the factors set forth in paragraph (B) herein, may rely upon the following information; (1) U.S. Trade Representative Inventory of Foreign Trade Barriers, (2) U.S. Trade Representative Special 301 Report, and, (3) such other relevant information available to the contracting officer. The Contractor should review the U.S. Trade Representative web site at: <<http://www.ustr.gov>> for the most current versions of these reports and other relevant information. The Contractor is encouraged to utilize other available resources, as necessary, to allow for a complete and informed decision.*
- (2) If the Contractor determines that neither of the conditions in paragraphs (f)(1)(i) or (ii) of this clause is likely to be fulfilled, the Contractor, prior to entering into such an agreement, must obtain the approval of the contracting officer. The contracting officer shall act on any such requests for approval within thirty (30) days.
- (3) The Contractor agrees to be bound by the provisions of [35 U.S.C. 204](#) (Preference for United States industry).
- (g) Indemnity -- Product Liability. In entering into written technology transfer agreements, including but not limited to, research and development agreements, licenses, assignments and CRADAs, the Contractor agrees to include in such agreements a requirement that the U.S. Government and the Contractor, except for any negligent acts or omissions of the Contractor, be indemnified for all damages, costs, and expenses, including attorneys' fees, arising from personal injury or property damage occurring as a result of the making, using or selling of a product, process or service by or on behalf of the Participant, its assignees or licensees which was derived from the work performed under the agreement. The Contractor shall identify and obtain the approval of the contracting officer for any proposed exceptions to this requirement such as where State or local law expressly prohibit the Participant from providing indemnification or where the research results will be placed in the public domain.
- (h) Disposition of Income.
- (1) Royalties or other income earned or retained by the Contractor as a result of performance of authorized technology transfer activities herein shall be used by the Contractor for scientific research, development, technology transfer, and education at the *Facilities*, consistent with the research and development mission and objectives of the *Facilities* and subject to Section 12(b)(5) of the Stevenson-Wydler Technology Innovation Act of 1980, as amended ([15 U.S.C. 3710a\(b\)\(5\)](#)) and Chapter 38 of the Patent Laws ([35 U.S.C. 200](#) et seq.) as amended through the effective date of this contract award or modification. If the net amounts of such royalties and income received from patent licensing after payment of patenting costs, licensing costs, payments to inventors and other expenses incidental to the administration of Subject Inventions during any fiscal year exceed 5 percent of the *Facilities*' budget for that fiscal year, 75 percent of such excess amounts shall be paid to the Treasury of the United States, and the remaining amount of such excess shall be used by the Contractor for the purposes as described above in this paragraph. Any inventions arising out of such scientific research and development activities shall be deemed to be Subject Inventions under the Contract.

- (2) The Contractor shall include as a part of its annual *Facilities* Institutional Plan or other such annual document a plan setting out those uses to which royalties and other income received as a result of performance of authorized technology transfer activities herein will be applied at the *Facilities*, and at the end of the year, provide a separate accounting for how the funds were actually used. Under no circumstances shall these royalties and income be used for an illegal augmentation of funds furnished by the U.S. Government.
 - (3) The Contractor shall *notify* the Contracting Officer of any changes to its policy for making awards or sharing of royalties with Contractor employees, other coinventors and coauthors, including Federal employee coinventors when deemed appropriate by the contracting officer. *Such changes shall be subject to the approval of the Contracting Officer.*
- (i) Transfer to Successor Contractor. In the event of termination or upon the expiration of this Contract, any unexpended balance of income received for use at the *Facilities* shall be transferred, at the contracting officer's request, to a successor contractor, or in the absence of a successor contractor, to such other entity as designated by the contracting officer. The Contractor shall transfer title, as one package, to the extent the Contractor retains title, in all patents and patent applications, licenses, accounts containing royalty revenues from such license agreements, including equity positions in third party entities, and other Intellectual Property rights which arose at the *Facilities*, to the successor contractor or to the Government as directed by the contracting officer.
- (j) Technology Transfer Affecting the National Security.
- (1) The Contractor shall notify and obtain the approval of the contracting officer, prior to entering into any technology transfer arrangement, when such technology or any part of such technology is classified or sensitive under Section 148 of the Atomic Energy Act ([42 U.S.C. 2168](#)). Such notification shall include sufficient information to enable NNSA to determine the extent that commercialization of such technology would enhance or diminish security interests of the United States, or diminish communications within DOE/NNSA's nuclear weapon production complex. NNSA shall use its best efforts to complete its determination within sixty (60) days of the Contractor's notification, and provision of any supporting information, and NNSA shall promptly notify the Contractor as to whether the technology is transferable.
 - (2) The Contractor shall include in all of its technology transfer agreements with third parties, including, but not limited to, CRADAs, licensing agreements and assignments, notice to such third parties that the export of goods and/or Technical Data from the United States may require some form of export control license or other authority from the U.S. Government and that failure to obtain such export control license may result in criminal liability under U.S. laws.
 - (3) For other than fundamental research as defined in National Security Decision Directive 189, the Contractor is responsible to conduct internal export control reviews and assure that technology is transferred in accordance with applicable law.
- (k) Records. The Contractor shall maintain records of its technology transfer activities in a manner and to the extent satisfactory to the DOE/NNSA and specifically including, but not limited to, the licensing agreements, assignments and the records required to implement the requirements of paragraphs (e), (f), and (h) of this clause and shall provide reports to the contracting officer to enable DOE/NNSA to maintain the reporting requirements of Section 12(c)(6) of the Stevenson-Wydler Technology Innovation Act of 1980, as amended ([15 U.S.C. 3710a\(c\)\(6\)](#)). Such reports shall be made annually in a format to be agreed upon between the Contractor and DOE/NNSA and in such a format which will serve to adequately inform DOE/NNSA of the Contractor's technology transfer activities while protecting any data not subject to disclosure under the Rights in Technical Data clause and paragraph (n) of this clause. Such records shall be made available in accordance with the clauses of this Contract pertaining to inspection, audit and examination of records.

- (l) Reports to Congress. To facilitate DOE/NNSA's reporting to Congress, the Contractor is required to submit annually to DOE/NNSA a technology transfer plan for conducting its technology transfer function for the upcoming year, including plans for securing Intellectual Property rights in Facilities innovations with commercial promise and plans for managing such innovations so as to benefit the competitiveness of United States industry. This plan shall be provided to the contracting officer on or before October 1st of each year.
- (m) Oversight and Appraisal. The Contractor is responsible for developing and implementing effective internal controls for all technology transfer activities consistent with the audit and record requirements of this Contract. Facilities Contractor performance in implementing the technology transfer mission and the effectiveness of the Contractor's procedures will be evaluated by the contracting officer as part of the annual appraisal process, with input from the cognizant Secretarial Officer or program office.
- (n) Technology Transfer through Cooperative Research and Development Agreements. Upon approval of the contracting officer and as provided in a NNSA-approved Joint Work Statement (JWS), the Facilities Director, or designee, may enter into CRADAs on behalf of the DOE/NNSA subject to the requirements set forth in this paragraph. *Also, under such circumstances as DOE or NNSA considers appropriate, the DOE or NNSA may waive the following requirements associated with the submission and approval of JWS and CRADA agreements, as legislated by the 2001 National Defense Authorization Act.*
- (1) Review and Approval of CRADAs.
- (i) Except as otherwise directed in writing by the contracting officer, each JWS shall be submitted to the contracting officer for approval. The Contractor's Facilities Director or designee shall provide a program mission impact statement and shall include an impact statement regarding related Intellectual Property rights known by the Contractor to be owned by the Government to assist the contracting officer in the approval determination.
 - (ii) The Contractor shall also include (specific to the proposed CRADA), a statement of compliance with the Fairness of Opportunity requirements of paragraph (e) of this clause.
 - (iii) Within thirty (30) days after submission of a JWS or proposed CRADA, the contracting officer shall approve, disapprove or request modification to the JWS
 - (iv) or CRADA. The contracting officer shall provide a written explanation to the Contractor's Facilities Director or designee of any disapproval or requirement for modification of a JWS or proposed CRADA.
 - (v) Except as otherwise directed in writing by the contracting officer, the Contractor shall not enter into, or begin work under, a CRADA until approval of the CRADA has been granted by the contracting officer. The Contractor may submit its proposed CRADA to the contracting officer at the time of submitting its proposed JWS or any time thereafter.
- (2) Selection of Participants. The Contractor's Facilities Director or designee in deciding what CRADA to enter into shall:
- (i) Give special consideration to small business firms, and consortia involving small business firms;
 - (ii) Give preference to business units located in the United States which agree that products or processes embodying Intellectual Property will be substantially manufactured or practiced in the United States and, in the case of any industrial organization or other person subject to the control of a foreign company or government, take into consideration whether or not such foreign government permits United States agencies, organizations, or other persons to enter into cooperative research and development agreements and licensing agreements;
 - (iii) Provide Fairness of Opportunity in accordance with the requirements of paragraph (e) of this clause; and

- (iv) Give consideration to the Conflicts of Interest requirements of paragraph (d) of this clause.
- (3) Withholding of Data.
- (i) Data that is first produced as a result of research and development activities conducted under a CRADA and that would be a trade secret or commercial or financial data that would be privileged or confidential, if such data had been obtained from a non-Federal third party, may be protected from disclosure under the Freedom of Information Act as provided in the Stevenson-Wydler Technology Innovation Act of 1980, as amended ([15 U.S.C. 3710a\(c\)\(7\)](#)) for a period as agreed in the CRADA of up to five (5) years from the time the data is first produced. The DOE/NNSA shall cooperate with the Contractor in protecting such data.
 - (ii) Unless otherwise expressly approved by the contracting officer in advance for a specific CRADA, the Contractor agrees, at the request of the contracting officer, to transmit such data to other DOE *or* NNSA facilities for use by DOE/NNSA or its Contractors by or on behalf of the Government. When data protected pursuant to paragraph (n)(3)(i) of this clause is so transferred, the Contractor shall clearly mark the data with a legend setting out the restrictions against private use and further dissemination, along with the expiration date of such restrictions.
 - (iii) In addition to its authority to license Intellectual Property, the Contractor may enter into licensing agreements with third parties for data developed by the Contractor under a CRADA subject to other provisions of this Contract. However, the Contractor shall neither use the protection against dissemination nor the licensing of data as an alternative to the submittal of invention disclosures which include data protected pursuant to paragraph (n)(3)(i) of this clause.
- (4) Work for Others and User Facility Programs.
- (i) Work for Others (WFO) and User Facility Agreements (UFAs) *are* available for use by the Contractor in addition to CRADAs for achieving utilization of employee expertise and unique facilities for maximizing technology transfer. The Contractor agrees to inform prospective CRADA participants, who are intending to substantially pay full cost recovery for the effort under a proposed CRADA, of the availability of alternative forms of agreements, i.e., WFO and UFA, and of the Class Patent Waiver provisions associated therewith, *when conditions associated with the activity under the agreement can appropriately be performed under such alternative agreement(s)*.
 - (ii) Where the Contractor believes that the transfer of technology to the U.S. domestic economy will benefit from, or other equity considerations dictate, an arrangement other than the Class Waiver of patent rights to the sponsor in WFO and UFAs, a request may be made to the contracting officer for an exception to the Class Waivers.
 - (iii) Rights to inventions made under agreements other than funding agreements with third parties shall be governed by the appropriate provisions incorporated, with DOE/NNSA approval, in such agreements, and the provisions in such agreements take precedence over any disposition of rights contained in this Contract. Disposition of rights under any such agreement shall be in accordance with any DOE/NNSA class waiver (including Work for Others and User Class Waivers) or individually negotiated waiver that applies to the agreement.

(5) Conflicts of Interest.

- (i) Except as provided in paragraph (n)(5)(iii) of this clause, the Contractor shall assure that no employee of the Contractor shall have a substantial role (including an advisory role) in the preparation, negotiation, or approval of a CRADA, if, to such employee's knowledge:
 - (A) Such employee, or the spouse, child, parent, sibling, or partner of such employee, or an organization (other than the Contractor) in which such employee serves as an officer, director, trustee, partner, or employee –
 - (1) holds financial interest in any entity, other than the Contractor, that has a substantial interest in the preparation, negotiation, or approval of the CRADA;
 - (2) receives a gift or gratuity from any entity, other than the Contractor, that has a substantial interest in the preparation, negotiation, or approval of the CRADA; or
 - (B) A financial interest in any entity, other than the Contractor, that has a substantial interest in the preparation, negotiation, or approval of the CRADA, is held by any person or organization with whom such employee is negotiating or has any arrangement concerning prospective employment.
 - (ii) The Contractor shall require that each employee of the Contractor who has a substantial role (including an advisory role) in the preparation, negotiation, or approval of a CRADA certify through the Contractor to the contracting officer that the circumstances described in paragraph (n)(5)(i) of this clause do not apply to that employee.
 - (iii) The requirements of paragraphs (n)(5)(i) and (n)(5)(ii) of this clause shall not apply in a case where the contracting officer is advised by the Contractor in advance of the participation of an employee described in those paragraphs in the preparation, negotiation or approval of a CRADA of the nature of and extent of any financial interest described in paragraph (n)(5)(i) of this clause, and the contracting officer determination that such financial interest is not so substantial as to be considered likely to affect the integrity of the Contractor employee's participation in the process of preparing, negotiating, or approving the CRADA.
- (o) Technology Transfer in Other Cost-Sharing Agreements. In conducting research and development activities in cost-shared agreements not covered by paragraph (n) of this clause, the Contractor, with prior written permission of the contracting officer, may provide for the withholding of data produced thereunder in accordance with the applicable provisions of paragraph (n)(3) of this clause.
- (p) Technology Partnership Ombudsman.
- (1) The Contractor agrees to establish a position to be known as "Technology Partnership Ombudsman," to help resolve complaints from outside organizations regarding the policies and actions of the contractor with respect to technology partnerships (including CRADAs), patents owned by the contractor for inventions made at the *Facilities*, and technology licensing.
 - (2) The Ombudsman shall be a senior official of the Contractor's *Facilities* staff, who is not involved in day-to-day technology partnerships, patents or technology licensing, or, if appointed from outside the *Facilities*, shall function as such senior official.
 - (3) The duties of the Technology Partnership Ombudsman shall include:
 - (i) Serving as the focal point for assisting the public and industry in resolving complaints and disputes with the *Facilities* regarding technology partnerships, patents, and technology licensing;
 - (ii) Promoting the use of collaborative alternative dispute resolution techniques such as mediation to facilitate the speedy and low cost resolution of complaints and disputes, when appropriate; and

- (iii) Submitting a quarterly report, in a format provided by DOE *and NNSA*, to the Secretary of Energy, the Administrator for Nuclear Security, the Director of the DOE Office of Dispute Resolution, and the Contracting Officer concerning the number and nature of complaints and disputes raised, along with the Ombudsman's assessment of their resolution, consistent with the protection of confidential and sensitive information.
- (q) *Inapplicability of Provisions to Privately Funded Technology Transfer Activities. Nothing in paragraphs (c) Allowable Costs, (e) Fairness of Opportunity, (f) U.S. Industrial Competitiveness, (g) Indemnity -- Product Liability, (h) Disposition of Income, and (i) Transfer to Successor Contractor of this clause are intended to apply to the contractor's privately funded technology transfer activities if such privately funded activities are addressed elsewhere in the contract.*

I-21 DEAR 970.5227-12 PATENT RIGHTS-MANAGEMENT AND OPERATING CONTRACTS, FOR-PROFIT CONTRACTOR, ADVANCE CLASS WAIVER (AUG 2002) ALTERNATE I (NNSA CLASS DEVIATION OCT2011)

- (a) Definitions.
 - (1) DOE licensing regulations means the Department of Energy patent licensing regulations at 10 CFR Part 781.
 - (2) DOE patent waiver regulations means the Department of Energy patent waiver regulations at 10 CFR Part 784.
 - (3) Exceptional Circumstance Subject Invention means any subject invention in a technical field or related to a task determined by the Department of Energy to be subject to an exceptional circumstance under *35 U.S.C. 202(a)(ii)*, and in accordance with 37 CFR 401.3(e).
 - (4) Invention means any invention or discovery which is or may be patentable or otherwise protectable under title 35 of the United States Code, or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (*7 U.S.C. 2321*, et seq.).
 - (5) Made, when used in relation to any invention, means the conception or first actual reduction to practice of such invention.
 - (6) Patent Counsel means *the National Nuclear Security Administration (NNSA)* Patent Counsel assisting the contracting activity.
 - (7) Practical application means to manufacture, in the case of a composition or product; to practice, in the case of a process or method; or to operate, in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.
 - (8) Subject Invention means any invention of the contractor conceived or first actually reduced to practice in the course of or under this contract, provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, *7 U.S.C. 2401(d)*) shall also occur during the period of contract performance.
 - (9) Weapons-Related Subject Invention means any subject invention conceived or first actually reduced to practice in the course of or under work funded by or through defense programs, including Department of Defense and intelligence reimbursable work, or the Naval Nuclear Propulsion Program of the Department of Energy or the National Nuclear Security Administration.

(b) Allocation of Principal Rights.

- (1) Assignment to the Government. Except to the extent that rights are retained by the Contractor by the granting of an advance class waiver pursuant to subparagraph (b)(2) of this clause or a determination of greater rights pursuant to subparagraph (b)(7) of this clause, the Contractor agrees to assign to the Government the entire right, title, and interest throughout the world in and to each subject invention.
- (2) Advance class waiver of Government rights to the Contractor. DOE may grant to the Contractor an advance class waiver of Government rights in any or all subject inventions, *including weapons-related subject inventions*, at the time of execution of the contract, such that the Contractor may elect to retain the entire right, title and interest throughout the world to such waived subject inventions, in accordance with the terms and conditions of the advance class waiver. *The Contractor does not have a right to retain title to any weapons-related subject inventions prior to being granted title by NNSA under the Class Waiver. In its elections of weapons-related subject inventions, the NNSA alone will make the determination that the subject invention is in fact a weapons-related subject invention, and that rights to the Contractor may be granted, based on specific procedural requirements that the Contractor must meet, as enumerated in the Class Waiver.* Unless otherwise provided by the terms of the advance class waiver, any rights in a subject invention retained by the Contractor under an advance class waiver are subject to 35 U.S.C. 203 and the provisions of this clause, including the Government license provided for in subparagraph (b)(3) of this clause, and any reservations and conditions deemed appropriate by the Secretary of Energy or designee.
- (3) Government license. With respect to any subject invention to which the Contractor retains title, either under an advance class waiver pursuant to subparagraph (b)(2) or a determination of greater rights pursuant to subparagraph (b)(7) of this clause, the Government has a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.
- (4) Foreign patent rights. If the Government has title to a subject invention and the Government decides against securing patent rights in a foreign country for the subject invention, the Contractor may request such foreign patent rights from DOE/NNSA, and DOE/NNSA may grant the Contractor's request, subject to 35 U.S.C. 203 and the provisions of this clause, including the Government license provided for in subparagraph (b)(3) of this clause, and any reservations and conditions deemed appropriate by the Secretary of Energy or designee.
- (5) Exceptional circumstance subject inventions. Except to the extent that rights are retained by the Contractor by a determination of greater rights in accordance with subparagraph (b)(7) of this clause, the Contractor does not have the right to retain title to any exceptional circumstance subject inventions and agrees to assign to the Government the entire right, title, and interest, throughout the world, in and to any exceptional circumstance subject inventions.
 - (i) Inventions within or relating to the following fields of technology are exceptional circumstance subject inventions:
 - (A) uranium enrichment technology;
 - (B) storage and disposal of civilian high-level nuclear waste and spent fuel technology; and
 - (C) national security technologies classified or sensitive under Section 148 of the Atomic Energy Act (42 U.S.C. 2168).
 - (ii) Inventions made under any agreement, contract or subcontract related to the following initiatives or programs are exceptional circumstance subject inventions:

- (A) DOE Steel Initiative and Metals Initiative;
 - (B) U.S. Advanced Battery Consortium;
 - (C) any funding agreement which is funded in part by the Electric Power Research Institute (EPRI) or the Gas Research Institute (GRI);
 - (D) *Solid State Energy Conversion Alliance (SECA) if the Contractor is a participant in the “Core Technology Program”;* and
 - (E) *Solid State Lighting Program (SSLP) if the Contractor is a participant in the “Core Technology Program.”*
- (iii) DOE/NNSA reserves the right to unilaterally amend this contract to modify, by deletion or insertion, technical fields, programs, initiatives, and/or other classifications for the purpose of defining DOE/NNSA exceptional circumstance subject inventions.
- (6) Treaties and international agreements. Any rights acquired by the Contractor in subject inventions are subject to any disposition of right, title, or interest in or to subject inventions provided for in treaties or international agreements *identified at* <http://www.state.gov/documents/organization/123747.pdf>. DOE/NNSA reserves the right to unilaterally amend this contract to identify specific treaties or international agreements entered into or to be entered into by the Government after the effective date of this contract and to effectuate those license or other rights which are necessary for the Government to meet its obligations to foreign governments, their nationals and international organizations under such treaties or international agreements with respect to subject inventions made after the date of the amendment.
- (7) Contractor request for greater rights. The Contractor may request greater rights in an identified subject invention, including an exceptional circumstance subject invention, to which the Contractor does not have the right to elect to retain title, in accordance with the DOE patent waiver regulations, by submitting such a request in writing to Patent Counsel with a copy to the Contracting Officer at the time the subject invention is first disclosed to DOE/NNSA pursuant to subparagraph (c)(1) of this clause, or not later than eight (8) months after such disclosure, unless a longer period is authorized in writing by the Contracting Officer for good cause shown in writing by the Contractor. DOE/NNSA may grant or refuse to grant such a request by the Contractor. Unless otherwise provided in the greater rights determination, any rights in a subject invention obtained by the Contractor under a determination of greater rights is subject to 35 U.S.C. 203 and the provisions of this clause, including the Government license provided for in subparagraph (b)(3) of this clause, and to any reservations and conditions deemed appropriate by the Secretary of Energy or designee.
- (8) Contractor employee-inventor rights. If the Contractor does not elect to retain title to a subject invention or does not request greater rights in a subject invention, including an exceptional circumstance subject invention, to which the Contractor does not have the right to elect to retain title, a Contractor employee-inventor, after consultation with the Contractor and with written authorization from the Contractor in accordance with 10 CFR 784.9(b)(4), may request greater rights, including title, in the subject invention or the exceptional circumstance invention from DOE/NNSA, and DOE/NNSA may grant or refuse to grant such a request by the Contractor employee-inventor.
- (9) Government assignment of rights in Government employees' subject inventions. If a DOE or NNSA employee is a joint inventor of a subject invention to which the Contractor has rights, DOE or NNSA, *as applicable*, may assign or refuse to assign any rights in the subject invention acquired by the Government from the DOE or NNSA employee to the Contractor, consistent with 48 CFR 27.304-1(d). Unless otherwise provided in the assignment, the rights assigned to the Contractor are subject to the Government license provided for in subparagraph

(b)(3) of this clause, and to any provision of this clause applicable to subject inventions in which rights are retained by the Contractor, and to any reservations and conditions deemed appropriate by the Secretary of Energy or designee. The Contractor shall share royalties collected for the manufacture, use or sale of the subject invention with the DOE *or* NNSA employee.

- (10) Weapons related subject inventions. Except to the extent that DOE is solely satisfied that the Contractor meets certain procedural requirements and DOE grants rights to the Contractor in weapons related subject inventions, the Contractor does not have a right to retain title to any weapons related subject inventions.

(c) Subject Invention Disclosure, Election of Title, and Filing of Patent Application by Contractor.

- (1) Subject invention disclosure. The Contractor shall disclose each subject invention to Patent Counsel with a copy to the contracting officer within two (2) months after an inventor discloses it in writing to Contractor personnel responsible for patent matters or, if earlier, within six (6) months after the Contractor has knowledge of the subject invention, but in any event before any on sale, public use, or publication of the subject invention. The disclosure to DOE/NNSA shall be in the form of a written report and shall include:
- (i) the contract number under which the subject invention was made;
 - (ii) the inventor(s) of the subject invention;
 - (iii) a description of the subject invention in sufficient technical detail to convey a clear understanding of the nature, purpose and operation of the subject invention, and of the physical, chemical, biological or electrical characteristics of the subject invention, to the extent known by the Contractor at the time of the disclosure;
 - (iv) the date and identification of any publication, on sale or public use of the invention;
 - (v) the date and identification of any submissions for publication of any manuscripts describing the invention, and a statement of whether the manuscript is accepted for publication, to the extent known by the Contractor at the time of the disclosure;
 - (vi) a statement indicating whether the subject invention is an exceptional circumstance subject invention, related to national security, or subject to a treaty or an international agreement, to the extent known or believed by Contractor at the time of the disclosure;
 - (vii) all sources of funding by Budget and Resources (B&R) code; and
 - (viii) the identification of any agreement relating to the subject invention, including Cooperative Research and Development Agreements and Work-for-Others agreements.

Unless the Contractor contends otherwise in writing at the time the invention is disclosed, inventions disclosed to DOE/NNSA under this paragraph are deemed made in the manner specified in Sections (a)(1) and (a)(2) of *42 U.S.C. 5908*.

- (2) Publication after disclosure. After disclosure of the subject invention to the DOE/NNSA, the Contractor shall promptly notify Patent Counsel of the acceptance for publication of any manuscript describing the subject invention or of any expected or on sale or public use of the subject invention, known by the Contractor. The Contractor shall obtain approval from Patent Counsel prior to any release or publication of information concerning an exceptional circumstance subject invention or any subject invention related to a treaty or international agreement.
- (3) Election by the Contractor under an advance class waiver. If the Contractor has the right to elect to retain title to subject inventions under an advance class waiver granted in accordance with subparagraph (b)(2) of this clause, and unless otherwise provided for by the terms of the advance class waiver, the Contractor shall elect in writing whether or not to retain title to any subject invention by notifying DOE/NNSA within two (2) years of the date of the disclosure of

the subject invention to DOE/NNSA, in accordance with subparagraph (c)(1) of this clause. The notification shall identify the advance class waiver, state the countries, including the United States, in which rights are retained, and certify that the subject invention is not an exceptional circumstance subject invention or subject to a treaty or international agreement. If a publication, on sale or public use of the subject invention has initiated the 1-year statutory period under *35 U.S.C. 102(b)*, the period for election may be shortened by DOE/NNSA to a date that is no more than sixty(60) days prior to the end of the 1-year statutory period.

- (4) Filing of patent applications by the Contractor under an advance class waiver. If the Contractor has the right to retain title to a subject invention in accordance with an advance class waiver pursuant to subparagraph (b)(2) of this clause or a determination of greater rights pursuant to paragraph (b)(7) of this clause, and unless otherwise provided for by the terms of the advance class waiver or greater rights determination, the Contractor shall file an initial patent application claiming the subject invention to which it retains title either within one (1) year after the Contractor's election to retain or grant of title to the subject invention or prior to the end of any 1-year statutory period under *35 U.S.C. 102(b)*, whichever occurs first. Any patent applications filed by the Contractor in foreign countries or international patent offices shall be filed within either ten (10) months of the corresponding initial patent application or, if such filing has been prohibited by a Secrecy Order, within six (6) months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications.
 - (5) Submission of patent information and documents. If the Contractor files a domestic or foreign patent application claiming a subject invention, the Contractor shall promptly submit to Patent Counsel the following information and documents:
 - (i) The filing date, serial number, title, and a copy of the patent application (including an English-language version if filed in a language other than English);
 - (ii) An executed and approved instrument fully confirmatory of all Government rights in the subject invention; and
 - (iii) The patent number, issue date, and a copy of any issued patent claiming the subject invention.
 - (6) Contractor's request for an extension of time. Requests for an extension of the time to disclose a subject invention, to elect to retain title to a subject invention, or to file a patent application under subparagraphs (c)(1), (3), and (4) of this clause may be granted at the discretion of Patent Counsel or DOE/NNSA.
 - (7) Duplication and disclosure of documents. The Government may duplicate and disclose subject invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this clause; provided, however, that any such duplication or disclosure by the Government is subject to *35 U.S.C. 205* and *37 CFR Part 40*.
- (d) Conditions When the Government May Obtain Title Notwithstanding an advance Class Waiver.
- (1) Return of title to a subject invention. If the Contractor requests that DOE/NNSA acquire title or rights from the Contractor in a subject invention, including an exceptional circumstance subject invention, to which the Contractor retained title or rights under subparagraph (b)(2) or subparagraph (b)(7) of this clause, DOE/NNSA may acquire such title or rights from the Contractor, or DOE/NNSA may decide against acquiring such title or rights from the Contractor, at DOE/NNSA's sole discretion.
 - (2) Failure to disclose or elect to retain title. Title vests in DOE/NNSA and DOE/NNSA may request, in writing, a formal assignment of title to a subject invention from the Contractor, and the Contractor shall convey title to the subject invention to DOE/NNSA, if the Contractor elects not to retain title to the subject invention under an advance class waiver, or the Contractor fails to disclose or fails to elect to retain title to the subject invention within the times specified in subparagraphs (c)(1) and (c)(3) of this clause.

- (3) Failure to file domestic or foreign patent applications. In those countries in which the Contractor fails to file a patent application within the times specified in subparagraph (c)(4) of this clause, DOE/NNSA may request, in writing, title to the subject invention from the Contractor, and the Contractor shall convey title to the subject invention to DOE; provided, however, that if the Contractor has filed a patent application in any country after the times specified in subparagraph (c)(4) of this clause, but prior to its receipt of DOE/NNSA's written request for title, the Contractor continues to retain title in that country.
 - (4) Discontinuation of patent protection by the Contractor. If the Contractor decides to discontinue the prosecution of a patent application, the payment of maintenance fees, or the defense of a subject invention in a reexamination or opposition proceeding, in any country, DOE/NNSA may request, in writing, title to the subject invention from the Contractor, and the Contractor shall convey title to the subject invention to DOE/NNSA.
 - (5) Termination of advance class waiver. DOE/NNSA may request, in writing, title to any subject inventions from the Contractor, and the Contractor shall convey title to the subject inventions to DOE/NNSA, if the advance class waiver granted under subparagraph (b)(2) of this clause is terminated under paragraph (u) of this clause.
- (e) Minimum Rights of the Contractor.
- (1) Request for a Contractor license. Except for subject inventions that the Contractor fails to disclose within the time periods specified at subparagraph (c)(1) of this clause, the Contractor may request a revocable, nonexclusive, royalty-free license in each patent application filed in any country claiming a subject invention and any resulting patent in which the Government obtains title, and DOE/NNSA may grant or refuse to grant such a request by the Contractor. If DOE/NNSA grants the Contractor's request for a license, the Contractor's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a party and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded.
 - (2) Transfer of a Contractor license. DOE/NNSA shall approve any transfer of the Contractor's license in a subject invention, and DOE/NNSA may determine that the Contractor's license is non-transferable, on a case-by-case basis.
 - (3) Revocation or modification of a Contractor license. DOE/NNSA may revoke or modify the Contractor's domestic license to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions in 37 CFR Part 404 and DOE/NNSA licensing regulations. DOE/NNSA may not revoke the Contractor's domestic license in that field of use or the geographical areas in which the Contractor, its licensees or its domestic subsidiaries or affiliates have achieved practical applications and continues to make the benefits of the invention reasonably accessible to the public. DOE/NNSA may revoke or modify the Contractor's license in any foreign country to the extent the Contractor, its licensees, or its domestic subsidiaries or affiliates failed to achieve practical application in that foreign country.
 - (4) Notice of revocation or modification of a Contractor license. Before revocation or modification of the license, DOE/NNSA shall furnish the Contractor a written notice of its intention to revoke or modify the license, and the Contractor shall be allowed thirty (30) days from the date of the notice (or such other time as may be authorized by DOE/NNSA for good cause shown by the Contractor) to show cause why the license should not be revoked or modified. The Contractor has the right to appeal any decision concerning the revocation or modification of its license, in accordance with applicable regulations in 37 CFR Part 404 and DOE/NNSA licensing regulations.

- (f) Contractor Action to Protect the Government's Interest.
- (1) Execution and delivery of title or license instruments. The Contractor agrees to execute or have executed, and to deliver promptly to DOE *or* NNSA all instruments necessary to accomplish the following actions:
 - (i) establish or confirm the Government's rights throughout the world in subject inventions to which the Contractor elects to retain title;
 - (ii) convey title in a subject invention to DOE/NNSA pursuant to subparagraph (b)(5) and paragraph (d) of this clause; or
 - (iii) enable the Government to obtain patent protection throughout the world in a subject invention to which the Government has title.
 - (2) Contractor employee agreements. The Contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to Contractor personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor, each subject invention made under this contract, and to execute all papers necessary to file patent applications claiming subject inventions or to establish the Government's rights in the subject inventions. This disclosure format shall at a minimum include the information required by subparagraph (c)(1) of this clause. The Contractor shall instruct such employees, through employee agreements or other suitable educational programs, on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.
 - (3) Contractor procedures for reporting subject inventions to DOE/NNSA. The Contractor agrees to establish and maintain effective procedures for ensuring the prompt identification and timely disclosure of subject inventions to DOE/NNSA. The Contractor shall submit a written description of such procedures to the Contracting Officer, upon request, for evaluation and approval of the effectiveness of such procedures by the Contracting Officer.
 - (4) Notification of discontinuation of patent protection. With respect to any subject invention for which the Contractor has responsibility for patent prosecution, the Contractor shall notify Patent Counsel of any decision to discontinue the prosecution of a patent application, payment of maintenance fees, or defense of a subject invention in a reexamination or opposition proceeding, in any country, not less than thirty (30) days before the expiration of the response period for any action required by the corresponding patent office.
 - (5) Notification of Government rights. With respect to any subject invention to which the Contractor has title, the Contractor agrees to include, within the specification of any United States patent application and within any patent issuing thereon claiming a subject invention, the following statement, "This invention was made with Government support under (identify the contract) awarded by the United States Department of Energy/*National Nuclear Security Administration*. The Government has certain rights in the invention."
 - (6) Avoidance of Royalty Charges. If the Contractor licenses a subject invention, the Contractor agrees to avoid royalty charges on acquisitions involving Government funds, including funds derived through a Military Assistance Program of the Government or otherwise derived through the Government, to refund any amounts received as royalty charges on a subject invention in acquisitions for, or on behalf of, the Government, and to provide for such refund in any instrument transferring rights in the subject invention to any party.
 - (7) DOE/NNSA approval of assignment of rights. Rights in a subject invention in the United States may not be assigned by the Contractor without the approval of DOE/NNSA.

- (8) Small business firm licensees. The Contractor shall make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business firms, and may give a preference to a small business firm when licensing a subject invention if the Contractor determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; provided, the Contractor is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision as to whether to give a preference in any specific case is at the discretion of the Contractor.
 - (9) Contractor licensing of subject inventions. To the extent that it provides the most effective technology transfer, licensing of subject inventions shall be administered by Contractor employees on location at the facility.
- (g) Subcontracts.
- (1) Subcontractor subject inventions. The Contractor shall not obtain rights in the subcontractor's subject inventions as part of the consideration for awarding a subcontract.
 - (2) Inclusion of patent rights clause-non-profit organization or small business firm subcontractors. Unless otherwise authorized or directed by the Contracting Officer, the Contractor shall include the patent rights clause at 48 CFR 952.227-11, suitably modified to identify the parties, in all subcontracts, at any tier, for experimental, developmental, demonstration or research work to be performed by a small business firm or domestic nonprofit organization, except subcontracts which are subject to exceptional circumstances in accordance with 35 *U.S.C. 202* and subparagraph (b)(5) of this clause.
 - (3) Inclusion of patent rights clause-subcontractors other than non-profit organizations or small business firms. Except for the subcontracts described in subparagraph (g)(2) of this clause, the Contractor shall include the patent rights clause at 48 CFR 952.227-13, suitably modified to identify the parties and any applicable exceptional circumstance, in any contract for experimental, developmental, demonstration or research work.
 - (4) DOE/NNSA and subcontractor contract. With respect to subcontracts at any tier, DOE/NNSA, the subcontractor and Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and DOE/NNSA with respect to those matters covered by this clause; provided, however, that nothing in this paragraph is intended to confer any jurisdiction under the Contract Disputes Act in connection with proceedings under paragraph (j) of this clause.
 - (5) Subcontractor refusal to accept terms of patent rights clause. If a prospective subcontractor refuses to accept the terms of a patent rights clause, the Contractor shall promptly submit a written notice to the Contracting Officer stating the subcontractor's reasons for such refusal and including relevant information for expediting disposition of the matter; and the Contractor shall not proceed with the subcontract without the written authorization of the Contracting Officer.
 - (6) Notification of award of subcontract. Upon the award of any subcontract at any tier containing a patent rights clause, the Contractor shall promptly notify the Contracting Officer in writing and identify the subcontractor, the applicable patent rights clause, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Contracting Officer, the Contractor shall furnish a copy of a subcontract.
 - (7) Identification of subcontractor subject inventions. If the Contractor in the performance of this contract becomes aware of a subject invention made under a subcontract, the Contractor shall promptly notify Patent Counsel and identify the subject invention, with a copy of the notification and identification to the Contracting Officer.

- (h) Reporting on Utilization of Subject Inventions. Upon request by DOE *or* NNSA, the Contractor agrees to submit periodic reports, no more frequently than annually, describing the utilization of a subject invention or efforts made by the Contractor or its licensees or assignees to obtain utilization of the subject invention. The reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and other data and information reasonably specified by DOE *or* NNSA. Upon request by DOE *or* NNSA, the Contractor also agrees to provide reports in connection with any march-in proceedings undertaken by DOE *or* NNSA, in accordance with paragraph (j) of this clause. If any data or information reported by the Contractor in accordance with this provision is considered privileged and confidential by the Contractor, its licensee, or assignee and the Contractor properly marks the data or information privileged or confidential, DOE *and* NNSA agree not to disclose such information to persons outside the Government, to the extent permitted by law.
- (i) Preference for United States Industry. Notwithstanding any other provision of this clause the Contractor agrees that with respect to any subject invention in which it retains title, neither it nor any assignee may grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, DOE *or* NNSA may waive the requirement for such an agreement upon a showing by the Contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.
- (j) March-In Rights. With respect to any subject invention to which the Contractor has elected to retain or is granted title, DOE *or* NNSA may, in accordance with the procedures in the DOE patent waiver regulations, require the Contractor, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances. If the Contractor, assignee or exclusive licensee refuses such a request, DOE/NNSA has the right to grant such a license itself if DOE/NNSA determines that-
- (1) Such action is necessary because the Contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;
 - (2) Such action is necessary to alleviate health or safety needs that are not reasonably satisfied by the Contractor, assignee, or their licensees;
 - (3) Such action is necessary to meet requirements for public use specified by government regulations and such requirements are not reasonably satisfied by the Contractor, assignee, or licensees; or
 - (4) Such action is necessary because the agreement to substantially manufacture in the United States and required by paragraph (i) of this clause has neither been obtained nor waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.
- (k) Communications. The Contractor shall direct any notification, disclosure, or request provided for in this clause to the Patent Counsel identified in the contract.
- (l) Reports.
- (1) Interim reports. Upon DOE's *or* NNSA's request, the Contractor shall submit to DOE *or* NNSA, no more frequently than annually, a list of subject inventions disclosed to DOE/NNSA during a specified period, or a statement that no subject inventions were made during the specified period; and/or a list of subcontracts containing a patent clause and awarded by the Contractor during a specified period, or a statement that no such subcontracts were awarded during the

specified period. The interim report shall state whether the Contractor's invention disclosures were submitted to DOE/NNSA in accordance with the requirements of subparagraphs (f)(3) and (f)(4) of this clause.

- (2) Final reports. Upon DOE's *or* NNSA's request, the Contractor shall submit to DOE *or* NNSA, prior to closeout of the contract or within three (3) months of the date of completion of the contracted work, a list of all subject inventions disclosed during the performance period of the contract, or a statement that no subject inventions were made during the contract performance period; and/or a list of all subcontracts containing a patent clause and awarded by the Contractor during the contract performance period, or a statement that no such subcontracts were awarded during the contract performance period.
- (m) Facilities License. In addition to the rights of the parties with respect to inventions or discoveries conceived or first actually reduced to practice in the course of or under this contract, the Contractor agrees to and does hereby grant to the Government an irrevocable, nonexclusive, paid-up license in and to any inventions or discoveries regardless of when conceived or actually reduced to practice or acquired by the contractor at any time through completion of this contract and which are incorporated or embodied in the construction of the facility or which are utilized in the operation of the facility or which cover articles, materials, or products manufactured at the facility
- (1) to practice or have practiced by or for the Government at the facility, and
 - (2) to transfer such license with the transfer of that facility. Notwithstanding the acceptance or exercise by the Government of these rights, the Government may contest at any time the enforceability, validity or scope of, or title to, any rights or patents herein licensed.
- (n) Atomic Energy.
- (1) Pecuniary awards. No claim for pecuniary award of compensation under the provisions of the Atomic Energy Act of 1954, as amended, may be asserted with respect to any invention or discovery made or conceived in the course of or under this contract.
 - (2) Patent Agreements. Except as otherwise authorized in writing by the Contracting Officer, the Contractor shall obtain patent agreements to effectuate the provisions of subparagraph (o)(1) of this clause from all persons who perform any part of the work under this contract, except nontechnical personnel, such as clerical employees and manual laborers.
- (o) Classified Inventions.
- (1) Approval for filing a foreign patent application. The Contractor shall not file or cause to be filed an application or registration for a patent disclosing a subject invention related to classified subject matter in any country other than the United States without first obtaining the written approval of the Contracting Officer.
 - (2) Transmission of classified subject matter. If in accordance with this clause the Contractor files a patent application in the United States disclosing a subject invention that is classified for reasons of security, the Contractor shall observe all applicable security regulations covering the transmission of classified subject matter. If the Contractor transmits a patent application disclosing a classified subject invention to the United States Patent and Trademark Office (USPTO), the Contractor shall submit a separate letter to the USPTO identifying the contract or contracts by agency and agreement number that require security classification markings to be placed on the patent application.
 - (3) Inclusion of clause in subcontracts. The Contractor agrees to include the substance of this clause in subcontracts at any tier that cover or are likely to cover subject matter classified for reasons of security.

- (p) Examination of Records Relating to Inventions.
- (1) Contractor compliance. Until the expiration of three (3) years after final payment under this contract, the Contracting Officer or any authorized representative may examine any books (including laboratory notebooks), records, and documents and other supporting data of the Contractor, which the Contracting Officer or authorized representative deems reasonably pertinent to the discovery or identification of subject inventions, including exceptional circumstance subject inventions, or to determine Contractor (and inventor) compliance with the requirements of this clause, including proper identification and disclosure of subject inventions, and establishment and maintenance of invention disclosure procedures.
 - (2) Unreported inventions. If the Contracting Officer is aware of an invention that is not disclosed by the Contractor to DOE/NNSA, and the Contracting Officer believes the unreported invention may be a subject invention, DOE *or* NNSA may require the Contractor to submit to DOE *or* NNSA a disclosure of the invention for a determination of ownership rights.
 - (3) Confidentiality. Any examination of records under this paragraph is subject to appropriate conditions to protect the confidentiality of the information involved.
 - (4) Power of inspection. With respect to a subject invention for which the Contractor has responsibility for patent prosecution, the Contractor shall furnish the Government, upon request by DOE *or* NNSA, an irrevocable power to inspect and make copies of a prosecution file for any patent application claiming the subject invention.
- (q) Patent Functions. Upon the written request of the Contracting Officer or Patent Counsel, the Contractor agrees to make reasonable efforts to support DOE/NNSA in accomplishing patent-related functions for work arising out of the contract, including, but not limited to, the prosecution of patent applications, and the determination of questions of novelty, patentability, and inventorship.
- (r) Educational Awards Subject to 35 U.S.C. 212. The Contractor shall notify the Contracting Officer prior to the placement of any person subject to 35 U.S.C. 212 in an area of technology or task (1) related to exceptional circumstance technology or (2) any person who is subject to treaties or international agreements as set forth in paragraph (b)(6) of this clause or to agreements other than funding agreements. The Contracting Officer may disapprove of any such placement.
- (s) Annual Appraisal by NNSA Patent Counsel. NNSA Patent Counsel may conduct an annual appraisal to evaluate the Contractor's effectiveness in identifying and protecting subject inventions in accordance with DOE *and* NNSA policy.
- (t) Publication. *It is recognized that during the course of the work under this contract, the Contractor or its employees may from time to time desire to release or publish information regarding scientific or technical developments conceived or first actually reduced to practice in the course of or under this contract. In order that public disclosure of such information will not adversely affect the patent interest of DOE or NNSA or the Contractor, timely notification of the release of scientific and technical publications shall be provided to the Contractor personnel responsible for patent matters. Contractor delivery of this data and information to the Patent Counsel shall be considered met if the required data and information is entered into an appropriate database of listed publications and the Patent Counsel has "read-only" access to the database. A copy of this data and information must be made available to the Contracting Officer upon request.*
- (u) Termination of Contractor's Advance Class Waiver. If a request by the Contractor for an advance class waiver pursuant to subparagraph (b)(2) of this clause or a determination of greater rights pursuant to paragraph (c) of this clause contains false material statements or fails to disclose material facts, and DOE *or* NNSA relies on the false statements or omissions in granting the Contractor's request, the waiver or grant of any Government rights (in whole or in part) to the subject invention(s) may be terminated at the discretion of the Secretary of Energy or designee. Prior to termination, DOE *or* NNSA shall provide the Contractor with written notification of the termination, including a statement of facts in support of the termination, and the

Contractor shall be allowed thirty (30) days, or a longer period authorized by the Secretary of Energy or designee for good cause shown in writing by the Contractor, to show cause for not terminating the waiver or grant. Any termination of an advance class waiver or a determination of greater rights is subject to the Contractor's license as provided for in paragraph (f) of this clause.

I-22 DEAR 970.5232-2 PAYMENTS AND ADVANCES (DEC 2000) ALTERNATE II (DEC 2000) ALTERNATE III (DEC 2000) (NNSA CLASS DEVIATION OCT 2011)

- (a) Payment of Total available fee: Base Fee and Performance Fee. The base fee amount, if any, is payable in equal monthly installments. Total available fee amount earned is payable following the Government's Determination of Total Available Fee Amount Earned in accordance with the clause of this contract entitled "Total Available Fee: Base Fee Amount and Performance Fee Amount." Base fee amount and total available fee amount earned payments shall be made by direct payment or withdrawn from funds advanced or available under this contract, as determined by the Contracting Officer. The Contracting Officer may offset against any such fee payment the amounts owed to the Government by the Contractor, including any amounts owed for disallowed costs under this contract. No base fee amount or total available fee amount earned payment may be withdrawn against the payments cleared financing arrangement without the prior written approval of the Contracting Officer.
- (b) Payments on Account of Allowable Costs. The Contracting Officer and the Contractor shall agree as to the extent to which payment for allowable costs or payments for other items specifically approved in writing by the Contracting Officer (for example, negotiated fixed amounts) shall be made from advances of Government funds. When pension contributions are paid by the Contractor to the retirement fund less frequently than quarterly, accrued costs therefore shall be excluded from costs for payment purposes until such costs are paid. If pension contribution are paid on a quarterly or more frequent basis, accrual therefore maybe included in costs for payment purposes, provided that they are paid to the fund within 30 days after the close of the period covered. If payments are not made to the fund within such 30-day period, pension contribution costs shall be excluded from cost for payment purposes until payment has been made.
- (c) Special financial institution account-use. All advances of Government funds shall be withdrawn pursuant to a payments cleared financing arrangement prescribed by DOE in favor of the financial institution or, at the option of the Government, shall be made by direct payment or other payment mechanism to the Contractor, and shall be deposited only in the special financial institution account referred to in the Special Financial Institution Account Agreement, which is incorporated into this contract as Appendix-L. No part of the funds in the special financial institution account shall be commingled with any funds of the Contractor or used for a purpose other than that of making payments for costs allowable and, if applicable, fees earned under this contract, negotiated fixed amounts, or payments for other items specifically approved in writing by the Contracting Officer. If the Contracting Officer determines that the balance of such special financial institution account exceeds the Contractor's current needs, the Contractor shall promptly make such disposition of the excess as the Contracting Officer may direct.
- (d) Title to funds advanced. Title to the unexpended balance of any funds advanced and of any special financial institution account established pursuant to this clause shall remain in the Government and be superior to any claim or lien of the financial institution of deposit or others. It is understood that an advance to the Contractor hereunder is not a loan to the Contractor, and will not require the payment of interest by the Contractor, and that the Contractor acquires no right, title or interest in or to such advance other than the right to make expenditures therefrom, as provided in this clause.

- (e) Financial settlement. The Government shall promptly pay to the Contractor the unpaid balance of allowable costs (or other items specifically approved in writing by the Contracting Officer) and fee upon termination of the work, expiration of the term of the contract, or completion of the work and its acceptance by the Government after—
- (1) Compliance by the Contractor with DOE/NNSA's patent clearance requirements; and
 - (2) The furnishing by the Contractor of—
 - (i) An assignment of the Contractor's rights to any refunds, rebates, allowances, accounts receivable, collections accruing to the Contractor in connection with the work under this contract, or other credits applicable to allowable costs under the contract;
 - (ii) A closing financial statement;
 - (iii) The accounting for Government-owned property required by the clause entitled "Property"; and
 - (iv) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract subject only to the following exceptions—
 - (A) Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible to exact statement by the Contractor;
 - (B) Claims, together with reasonable expenses incidental thereto, based upon liabilities of the Contractor to third parties arising out of the performance of this contract; provided that such claims are not known to the Contractor on the date of the execution of the release; and provided further that the Contractor gives notice of such claims in writing to the Contracting Officer promptly, but not more than one (1) year after the Contractor's right of action first accrues. In addition, the Contractor shall provide prompt notice to the Contracting Officer of all potential claims under this clause, whether in litigation or not (see also Contract Clause, 48 CFR 970.5228-1, "Insurance—Litigation and Claims");
 - (C) Claims for reimbursement of costs (other than expenses of the Contractor by reason of any indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this contract relating to patents; and
 - (D) Claims recognizable under the clause entitled, Nuclear Hazards Indemnity Agreement.
 - (3) In arriving at the amount due the Contractor under this clause, there shall be deducted—
 - (i) Any claim which the Government may have against the Contractor in connection with this contract; and
 - (ii) Deductions due under the terms of this contract and not otherwise recovered by or credited to the Government. The unliquidated balance of the special financial institution account may be applied to the amount due and any balance shall be returned to the Government forthwith.
- (f) Claims. Claims for credit against funds advanced for payment shall be accompanied by such supporting documents and justification as the Contracting Officer shall prescribe.
- (g) Discounts. The Contractor shall take and afford the Government the advantage of all known and available cash and trade discounts, rebates, allowances, credits, salvage, and commissions unless the Contracting Officer finds that action is not in the best interest of the Government.
- (h) Collections. All collections accruing to the Contractor in connection with the work under this contract, except for the Contractor's fee and royalties or other income accruing to the Contractor from technology transfer activities in accordance with this contract, shall be Government property

and shall be processed and accounted for in accordance with applicable requirements imposed by the Contracting Officer pursuant to the Laws, regulations, and DOE directives clause of this contract and, to the extent consistent with those requirements, shall be deposited in the special financial institution account or otherwise made available for payment of allowable costs under this contract, unless otherwise directed by the Contracting Officer.

- (i) Direct payment of charges. The Government reserves the right, upon ten days written notice from the Contracting Officer to the Contractor, to pay directly to the persons concerned, all amounts due which otherwise would be allowable under this contract. Any payment so made shall discharge the Government of all liability to the Contractor therefore.
- (j) Determining allowable costs. The Contracting Officer shall determine allowable costs in accordance with the Federal Acquisition Regulation subpart 31.2 and the Department of Energy Acquisition Regulation subpart 48 CFR 970.31 in effect on the date of this contract and other provisions of this contract.
- (k) Review and approval of costs incurred. The Contractor shall prepare and submit annually as of September 30, a "Statement of Costs Incurred and Claimed" (Cost Statement) for the total of net expenditures accrued (i.e., net costs incurred) for the period covered by the Cost Statement. The Contractor shall certify the Cost Statement subject to the penalty provisions for unallowable costs as stated in sections 306(b) and (i) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256), as amended. DOE, after audit and appropriate adjustment, will approve such Cost Statement. This approval by DOE will constitute an acknowledgment by DOE that the net costs incurred are allowable under the contract and that they have been recorded in the accounts maintained by the Contractor in accordance with DOE accounting policies, but will not relieve the Contractor of responsibility for DOE's assets in its care, for appropriate subsequent adjustments, or for errors later becoming known to DOE.

I-23 DEAR 970.5244-1 CONTRACTOR PURCHASING SYSTEM (JAN 2013) (CLASS DEVIATIONS: AUG 2011, JUN 2013, MAR 2015) (NNSA CLASS DEVIATION MAY 2016)

- (a) *General.* The Contractor shall develop, implement, and maintain formal policies, practices, and procedures to be used in the award of subcontracts consistent with this clause and 48 CFR subpart 970.44. The Contractor's purchasing system and methods shall be fully documented, consistently applied, and acceptable to the Department of Energy (DOE) in accordance with 48 CFR 970.4401-1. The Contractor shall maintain file documentation which is appropriate to the value of the purchase and is adequate to establish the propriety of the transaction and the price paid. The Contractor's purchasing performance will be evaluated against such performance criteria and measures as may be set forth elsewhere in this contract. DOE reserves the right at any time to require that the Contractor submit for approval any or all purchases under this contract. The Contractor shall not purchase any item or service, the purchase of which is expressly prohibited by the written direction of DOE, and shall use such special and directed sources as may be expressly required by the DOE Contracting Officer. DOE will conduct periodic appraisals of the Contractor's management of all facets of the purchasing function, including the Contractor's compliance with its approved system and methods. Such appraisals will be performed through the conduct of Contractor Purchasing System Reviews in accordance with 48 CFR subpart 44.3, or, when approved by the Contracting Officer, through the Contractor's participation in the conduct of the Balanced Scorecard performance measurement and performance management system. The Contractor's approved purchasing system and methods shall include the requirements set forth in paragraphs (b) through (y) of this clause.
- (b) *Acquisition of utility services.* Utility services shall be acquired in accordance with the requirements of subpart 970.41.
- (c) *Acquisition of Real Property.* Real property shall be acquired in accordance with 48 CFR subpart 917.74.
- (d) *Advance Notice of Proposed Subcontract Awards.* Advance notice shall be provided in accordance with 48 CFR 970.4401-3.

(e) Audit of Subcontractors.

(1) The Contractor shall provide for—

- (i) Periodic post-award audit of cost-reimbursement subcontractors at all tiers; and
- (ii) Audits, where necessary, to provide a valid basis for pre-award or cost or price analysis.

(2) Responsibility for determining the costs allowable under each cost-reimbursement subcontract remains with the contractor or next higher-tier subcontractor. The Contractor shall provide, in appropriate cases, for the timely involvement of the Contractor and the DOE Contracting Officer in resolution of subcontract cost allowability.

(3) Where audits of subcontractors at any tier are required, arrangements may be made to have the cognizant Federal agency perform the audit of the subcontract. These arrangements shall be made administratively between DOE and the other agency involved and shall provide for the cognizant agency to audit in an appropriate manner in light of the magnitude and nature of the subcontract. In no case, however, shall these arrangements preclude determination by the DOE Contracting Officer of the allowability or unallowability of subcontractor costs claimed for reimbursement by the Contractor.

(4) Allowable costs for cost reimbursable subcontracts are to be determined in accordance with the cost principles of 48 CFR part 31, appropriate for the type of organization to which the subcontract is to be awarded, as supplemented by 48 CFR part 931. Allowable costs in the purchase or transfer from contractor-affiliated sources shall be determined in accordance with 48 CFR 970.4402-3 and 48 CFR 31.205-26(e).

(f) Bonds and Insurance.

(1) The Contractor shall require performance bonds in penal amounts as set forth in 48 CFR 28.102-2(a) for all fixed-priced and unit-priced construction subcontracts in excess of \$150,000. The Contractor shall consider the use of performance bonds in fixed-price non- construction subcontracts, where appropriate.

(2) For fixed-price, unit-priced and cost reimbursement construction subcontracts in excess of \$100,000, a payment bond shall be obtained on Standard Form 25A modified to name the Contractor as well as the United States of America as obligees. The penal amounts shall be determined in accordance with 48 CFR 28.102-2(b).

(3) For fixed-price, unit-priced and cost-reimbursement construction subcontracts greater than \$35,000, but not greater than \$150,000, the Contractor shall select two or more of the payment protections at 48 CFR 28.102-1(b), giving particular consideration to the inclusion of an irrevocable letter of credit as one of the selected alternatives.

(4) A subcontractor may have more than one acceptable surety in both construction and other subcontracts, provided that in no case will the liability of any one surety exceed the maximum penal sum for which it is qualified for any one obligation. For subcontracts other than construction, a co-surety (two or more sureties together) may reinsure amounts in excess of their individual capacity, with each surety having the required underwriting capacity that appears on the list of acceptable corporate sureties.

(g) *Buy American.* The Contractor shall comply with the provisions of the Buy American as reflected in 48 CFR 52.225-1 and 48 CFR 52.225-9. The Contractor shall forward determinations of non-availability of individual items to the DOE Contracting Officer for approval. Items in excess of \$500,000 require the prior concurrence of the Head of Contracting Activity. If, however, the Contractor has an approved purchasing system, the Head of the Contracting Activity may authorize the Contractor to make determinations of non-availability for individual items valued at \$500,000 or less.

(h) Construction and Architect-Engineer Subcontracts.

(1) *Independent Estimates.* A detailed, independent estimate of costs shall be prepared for all construction work to be subcontracted.

(2) *Specifications.* Specifications for construction shall be prepared in accordance with the DOE publication entitled "General Design Criteria Manual."

(3) *Prevention of Conflict of Interest.*

- (i) The Contractor shall not award a subcontract for construction to the architect- engineer firm or an affiliate that prepared the design. This prohibition does not preclude the award of a "turnkey" subcontract so long as the subcontractor assumes all liability for defects in design and construction and consequential damages.
- (ii) The Contractor shall not award both a cost-reimbursement subcontract and a fixed- price subcontract for construction or architect-engineer services or any combination thereof to the same firm where those subcontracts will be performed at the same site.
- (iii) The Contractor shall not employ the construction subcontractor or an affiliate to inspect the firm's work. The contractor shall assure that the working relationships of the construction subcontractor and the subcontractor inspecting its work and the authority of the inspector are clearly defined.
- (i) *Contractor-Affiliated Sources.* Equipment, materials, supplies, or services from a contractor- affiliated source shall be purchased or transferred in accordance with 48 CFR 970.4402-3.
- (j) *Contractor-Subcontractor Relationship.* The obligations of the Contractor under paragraph (a) of this clause, including the development of the purchasing system and methods, and purchases made pursuant thereto, shall not relieve the Contractor of any obligation under this contract (including, among other things, the obligation to properly supervise, administer, and coordinate the work of subcontractors). Subcontracts shall be in the name of the Contractor, and shall not bind or purport to bind the Government.
- (k) *Government Property.* The Contractor shall establish and maintain a property management system that complies with criteria in 48 CFR 970.5245-1, Property, and 48 CFR 52.245-1, Government Property.
- (l) *Indemnification.* Except for Price-Anderson Nuclear Hazards Indemnity, no subcontractor may be indemnified except with the prior approval of the Senior Procurement Executive.
- (m) *Leasing of Motor Vehicles.* Contractors shall comply with 48 CFR subpart 8.11 and 48 CFR subpart 908.11.
- (n) [Reserved]
- (o) *Management, Acquisition and Use of Information Resources.* Requirements for automatic data processing resources and telecommunications facilities, services, and equipment, shall be reviewed and approved in accordance with applicable DOE Orders and regulations regarding information resources.
- (p) *Priorities, Allocations and Allotments.* Priorities, allocations and allotments shall be extended to appropriate subcontracts in accordance with the clause or clauses of this contract dealing with priorities and allocations.
- (q) *Purchase of Special Items.* Purchase of the following items shall be in accordance with the following provisions of 48 CFR subpart 8.5, 48 CFR subpart 908.71, Federal Management Regulation 41 CFR part 102, and the Federal Property Management Regulation 41 CFR chapter 101:
- (1) Motor vehicles—48 CFR 908.7101
 - (2) Aircraft—48 CFR 908.7102
 - (3) Security Cabinets—48 CFR 908.7106
 - (4) Alcohol—48 CFR 908.7107
 - (5) Helium—48 CFR subpart 8.5
 - (6) Fuels and packaged petroleum products—48 CFR 908.7109
 - (7) Coal—48 CFR 908.7110
 - (8) Arms and Ammunition—48 CFR 908.7111
 - (9) Heavy Water—48 CFR 908.7121(a)
 - (10) Precious Metals—48 CFR 908.7121(b)
 - (11) Lithium—48 CFR 908.7121(c)
 - (12) Products and services of the blind and severely handicapped—41 CFR 101-26.701
 - (13) Products made in Federal penal and correctional institutions—41 CFR 101-26.702
- (r) *Purchase versus Lease Determinations.* Contractors shall determine whether required equipment and property should be purchased or leased, and establish appropriate thresholds for application of lease versus purchase determinations. Such determinations shall be made—

- (1) At time of original acquisition;
 - (2) When lease renewals are being considered; and
 - (3) At other times as circumstances warrant.
- (s) *Quality Assurance.* Contractors shall provide no less protection for the Government in its subcontracts than is provided in the prime contract.
- (t) *Setoff of Assigned Subcontractor Proceeds.* Where a subcontractor has been permitted to assign payments to a financial institution, the assignment shall treat any right of setoff in accordance with 48 CFR 932.803.
- (u) *Strategic and Critical Materials.* The Contractor may use strategic and critical materials in the National Defense Stockpile.
- (v) *Termination.* When subcontracts are terminated as a result of the termination of all or a portion of this contract, the Contractor shall settle with subcontractors in conformity with the policies and principles relating to settlement of prime contracts in 48 CFR subparts 49.1, 49.2 and 49.3. When subcontracts are terminated for reasons other than termination of this contract, the Contractor shall settle such subcontracts in general conformity with the policies and principles in 48 CFR subparts 49.1, 49.2, 49.3 and 49.4. Each such termination shall be documented and consistent with the terms of this contract. Terminations which require approval by the Government shall be supported by accounting data and other information as may be directed by the Contracting Officer.
- (w) *Unclassified Controlled Nuclear Information.* Subcontracts involving unclassified uncontrolled nuclear information shall be treated in accordance with 10 CFR part 1017.
- (x) *Subcontract Flowdown Requirements.* In addition to terms and conditions that are included in the prime contract which direct application of such terms and conditions in appropriate subcontracts, the Contractor shall include the following clauses in subcontracts, as applicable:
- (1) *Construction Wage Rate Requirements (formerly known as the Davis-Bacon Act) clauses prescribed in 48 CFR 22.407.*
 - (2) *Foreign Travel clause prescribed in 48 CFR 952.247-70.*
 - (3) *Counterintelligence clause prescribed in 48 CFR 970.0404-4(a).*
 - (4) *Service Contract Labor Standards clauses prescribed in 48 CFR 22.1006.*
 - (5) *State and local taxes clause prescribed in 48 CFR 970.2904-1.*
 - (6) *Cost or pricing data clauses prescribed in 48 CFR 970.1504-3-1(b).*
 - (7) *Nondisplacement of Qualified Workers clause prescribed by 48 CFR 22.1207.*
 - (8) *Service Contract Reporting clause prescribed in 48 CFR 4.1705.*
 - (9) *Minimum Wages under Executive Order 13658 clause prescribed in 48 CFR 22.1906.*
 - (10) *Rights to Proposal Data (Technical) clause prescribed in 48 CFR 27.409(l).*
 - (11) *Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000 (formerly known as the Walsh-Healy Public Contracts Act) clause prescribed in 48 CFR 22.610.*
 - (12) *Patent Indemnity clause prescribed in 48 CFR 27.201-2(c).*
- (y) *Legal Services.* Contractor purchases of litigation and other legal services are subject to the requirements in 10 CFR part 719 and the requirements of this clause.

I-24 FAR 52.204-23 (Jul 2018) PROHIBITION ON CONTRACTING FOR HARDWARE, SOFTWARE, AND SERVICES DEVELOPED OR PROVIDED BY KASPERSKY LAB AN OTHER COVERED ENTITIES (JUL 2018) (MOD 0030)

52.204–23 Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Jul 2018)

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

Covered article means any hardware, software, or service that—

- (1) Is developed or provided by a covered entity;
- (2) Includes any hardware, software, or service developed or provided in whole or in part by a covered entity; or
- (3) Contains components using any hardware or software developed in whole or in part by a covered entity.

Covered entity means—

- (1) Kaspersky Lab;
- (2) Any successor entity to KasperskyLab;
- (3) Any entity that controls, is controlled by, or is under common control with Kaspersky Lab; or
- (4) Any entity of which Kaspersky Lab has a majority ownership.

(b) *Prohibition.* Section 1634 of Division A of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115–91) prohibits Government use of any covered article. The Contractor is prohibited from—

- (1) Providing any covered article that the Government will use on or after October 1, 2018; and
- (2) Using any covered article on or after October 1, 2018, in the development of data or deliverables first produced in the performance of the contract.

(c) *Reporting requirement.*

(1) In the event the Contractor identifies a covered article provided to the Government during contract performance, or the Contractor is notified of such by a subcontractor at any tier or any other source, the Contractor shall report, in writing, to the Contracting Officer or, in the case of the Department of Defense, to the website at <https://dibnet.dod.mil>. For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at <https://dibnet.dod.mil>.

(2) The Contractor shall report the following information pursuant to paragraph (c)(1) of this clause:

- (i) Within 1 business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; brand; model number (Original Equipment Manufacturer (OEM) number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
- (ii) Within 10 business days of submitting the report pursuant to paragraph (c)(1) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of a covered article, any reasons that led to the use or submission of the covered article, and any additional efforts that will be incorporated to prevent future use or submission of covered articles.

(d) *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts, including subcontracts for the acquisition of commercial items.

PART III – LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS

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CHAPTER I. Objectives, Scope, and Requirements**1.0 OBJECTIVE**

The objective of this Contract is to obtain management expertise and leadership necessary to support National Nuclear Security Administration (NNSA) and broader national security requirements at the Nevada National Security Site (NNSS) and satellite facilities.

The Contractor shall be fully responsible for the performance and integration of the functions required to support NNSA Stockpile Stewardship and Management Program activities, Nuclear Nonproliferation activities, National Emergency Response activities, Nuclear Counter-Terrorism, and Infrastructure, Maintenance, and Recapitalization (including the DOE Nuclear Criticality Safety Program) projects. In addition, the Contractor will also support Environmental Management activities and other activities assigned for Department of Energy (DOE) offices. Beyond DOE/NNSA, the Contractor shall provide unique services to ongoing missions for other Government agencies or privately owned organizations, as appropriate.

In addition to achieving Presidential goals outlined in the April 2010 Nuclear Posture Review, this Contract will strengthen NNSA's vision for a fully integrated and interdependent Nuclear Security Enterprise (NSE), consisting of all eight NNSA sites, by achieving the following three specific objectives:

- (i) Safely and securely executing national security missions for the NNSA, DOE, and other Government Agencies;
- (ii) Reducing the cost of performing work; and
- (iii) Executing actions that support operations for the DOE/NNSA enterprise efficiently integrating NNSS activities with the NNSA National Laboratories, other DOE offices and other government agencies.

2.0 BACKGROUND**2.1 The NNSA Mission**

The NNSA, established by Congress per the NNSA Act (Title XXXII) of the National Defense Authorization Act (NDAA) for Fiscal Year 2000, (Public Law 106-65) as a semiautonomous element within DOE. The NNSA ensures the Nation sustains a safe, secure, and effective nuclear deterrent through the application of science, technology, engineering, and manufacturing. To deal with the changing face of nuclear deterrence and more-widely dispersed nuclear knowledge, NNSA, also ensures the United States (U.S.) maintains excellence in nuclear science and technology that is second to none. Within the NSE, the central mission, which includes maintaining the active stockpile, Life Extension Programs (LEPs) and Weapons Dismantlement, is referred to as the Stockpile Stewardship and Management Program. NNSA also works closely with a wide range of international partners, key U.S. federal agencies, the U.S. national laboratories, and the private sector to secure, safeguard, and/or dispose of dangerous nuclear and radiological material, and detect and control the proliferation of related weapons of mass destruction (WMD) technology and expertise. In addition, NNSA is the U.S. government's primary capability for radiological and nuclear emergency response and for providing security to the nation from the threat of nuclear terrorism by maintaining a high

level of readiness for protecting and serving the U.S. and its allies through the development, implementation and coordination of programs and systems designed to serve as a last line of defense in the event of a nuclear terrorist incident or other types of radiological accident. The NNSA also manages the nation's only multi-purpose criticality experiments facility at the NNSS, which serves multiple missions within the DOE, other government agencies and non-governmental entities.

2.2 The NNSA Organization

The NNSA's nuclear security enterprise spans eight sites, including three national laboratories, four plants, and the NNSS. Each site's technical expertise enables NNSA to accomplish its work across NNSA's four mission areas.

NNSA relies on Management and Operating (M&O) Contractors to manage day-to-day site operations and to adhere to its policies when operating its laboratories, production plants, NNSS, and other facilities in the NSE in compliance with legal requirements and DOE/NNSA policies. NNSA sets the program and performance requirements to be accomplished by the Contractor. The Contractor has the flexibility to use its expertise and ingenuity to determine how the work is to be accomplished and is accountable for assuring safe, secure, effective, and efficient operations, and providing directed deliverables in accordance with the terms and conditions of this Contract.

NNSA also established a system where federally-run field offices oversee the M&O contractors for each site. The field offices provide the conduit between Headquarters (HQ) program and the M&O contractors for oversight and execution of the individual contracts.

2.3 Locations of Performance

The NNSS is a unique expanse of Federally-controlled land and facilities in a remote region of southern Nevada. The primary mission of the NNSS is to provide facilities, infrastructure, and personnel that the national security laboratories and other organizations can use to conduct nuclear and non-nuclear experiments essential to maintaining the nuclear weapons stockpile and national security. It is the primary location with the nuclear security enterprise where experiments using radiological and other high hazard materials are conducted. It is the only location where high explosive (HE) driven plutonium experiments can be conducted. In addition, to perform this national security work development and deployment of state of the art diagnostics and instrumentation, data analysis, storage of programmatic materials, conduct of criticality, counterterrorism, and counter-proliferation activities and experiments must be successfully achieved. The NNSS represents the US' unique capability to support the underground nuclear test readiness program by executing the complex dynamic experiments that involve Special Nuclear Materials or hazardous materials. The NNSS is also home to the US' unique criticality experiments capability at the National Criticality Experiments Research Center.

The approximately 1,375 square miles that make up the NNSS are surrounded by the U.S. Air Force Nellis Test and Training Range and unpopulated land controlled by the Bureau of Land Management. The biological, geological, hydrological, meteorological, and radiological environments are well characterized. The Final Environmental Impact Statement for the Nevada Test Site and Off-Site Locations in the State of Nevada and the

associated Record of Decision allow for the execution of a variety of complex and unique projects and experiments while ensuring the protection of the public and the environment. In addition, work is also performed at satellite facilities in Los Alamos and Albuquerque, New Mexico (NM); Livermore and Santa Barbara, California (CA); Nellis Air Force Base (AFB), Las Vegas, Nevada (NV); and Andrews AFB, Suitland, Maryland (MD).

3.0 SCOPE

This Contract is comprehensive with an objective to perform and integrate all necessary operational, coordination, and management functions at the NNS and satellite facilities required to support NNSA and broader national security missions assigned to these facilities. This includes, but is not limited to, all ongoing missions and functions, as well as those that may be assigned during the term of the Contract.

The Contractor shall be fully responsible and accountable for the safe and secure accomplishment of all work, whether performed by its own personnel, team members, or subcontractors. The Contractor shall be responsible for all integration, planning and coordination of activities; management and execution of all programs; support and execution of large and small projects; and completing operations and other activities as described in this Statement of Work (SOW).

3.1 Mission

The work structure and functional activities of the site is defined in Section J, Appendix A, Chapter II Work Scope Structure.

The Contractor shall provide support and infrastructure for experiments and activities at the NNS and Satellite facilities. The Contractor shall be responsible for integrating and executing a wide range of facility and operational activities in support of DOE/NNSA missions that includes: nuclear, nuclear explosive, high explosive and high/moderate hazard operations; remote field experiment; support for the operation of critical assemblies; system design, fabrication, installation, and implementation; physical and environmental science; nuclear waste management systems and technology; design and fabrication of electronic, mechanical, optical and structural systems; remote and robotic sensing; management of multi-laboratory facilities, mining, engineering, and construction operations; chemical, explosives, and hazardous materials systems and technologies; and waste management for various categories of waste. The Contractor shall be responsible for a wide-range of nuclear, high hazard, and non-nuclear facilities, laboratories, and systems that support the custom design, construction, and fielding of experimental systems ranging from small electronic and remote sensing packages that are fielded in complex systems in hostile environments for use throughout the world. The term “nuclear facilities’ is defined as those facilities, activities, or operations that involve, or will involve, radioactive and/or fissionable materials in such form and quantity that a nuclear hazard potentially exists to workers, the public, or the environment. “High hazard” are those facilities, activities, and operations such as detonation of high explosives, planned chemical releases, and live fire exercises. “Nonnuclear

facilities” are those facilities, activities, or operations where a nuclear hazard potential does not exist.

In performing work under this Contract, the Contractor shall establish and maintain a cooperative working relationship with the National Security Laboratories and other Government Agencies and their associated Contractors.

At a minimum the Contractor shall:

- (i) Serve as the Site operator and integrator for all activities, performed by all parties, on the NNSS;
- (ii) Provide the nuclear and non-nuclear test beds, infrastructure, appropriate scientific, engineering, experimental platforms, and technical staff to support defense and national security-related nuclear and nonnuclear experiments at the NNSS and offsite locations, including maintaining the NNSS capability to conduct an underground nuclear test within the required readiness time;
- (iii) Provide nuclear facility safety management and conduct of operations at NNSS nuclear facilities such as the Device Assembly Facility (DAF), the U1a Complex, the Joint Actinide Shock Physics Experimental Research (JASPER) facility, and Area 3/5 Waste Management Sites;
- (iv) Provide radiological, high hazard and non-nuclear facility operations and safety management at NNSS radiological, high hazard, and non-nuclear facilities, tunnels, and operations on the NNSS, including management of the land, facilities, personal property and emergency planning and preparedness;
- (v) Design, develop, test and deploy state of the art new technologies and experimental platforms to advance U.S. capability of technical collections systems for national security applications.
- (vi) Provide laboratory and field capabilities to assess threats and manage radiological emergencies involving a variety of hazardous situations;
- (vii) Provide expertise, remote sensing and site safety management of underground activities including seven active tunnel systems, large scale above ground HE experiments, chemical/biological simulant and radiological controlled releases, and aerial operations that include runways and airdrops;
- (viii) Provide response and detection for a broad array of ground and airborne (fixed- and rotary-winged aircraft) capabilities to assigned National Emergency Response programs;

- (ix) Perform the onsite physical environmental restoration (in conjunction with the Environmental Restoration contractor) and waste management programs including staging, storage, treatment, transportation, and disposal of wastes, including classified waste, generated through operation and environmental restoration programs at the NNSS or other DOE or NNSA locations;
- (x) Capitalize on the unique resources and capabilities available at the NNSS and satellite facilities to manage and perform, compatible with NNSA work, a variety of reimbursable work for other governmental organizations in support of national security goals and programs;
- (xi) Provide air space management coordination and support for “Special Use” airspace for all air traffic;
- (xii) Participate in the testing and development of all types of Unmanned Aerial Systems UASs for various customers;
- (xiii) Conduct safeguards and security programs (excluding protective force services), including but not limited to, physical and technical security planning, classified information and cyber security, and personnel security; and
- (xiv) Maintain, operate, modernize, and/or dispose of NNSS base, common, or shared infrastructure, including Maintenance, Operations of Facilities, Safety Operations, Recapitalization, and Construction, as appropriate.

The Contractor is expected to move to a higher level of performance throughout the term of the Contract by making the following process enhancements:

Improve integration, partnering, and support among the Nevada Enterprise (NvE) Contractors to promote early on-site problem solving and assist in NvE site issues, consolidation of business and management elements, and drive verifiable cost efficiencies that can be reinvested to better enable mission;

- (i) Develop and deploy effective strategic planning and communication for the mission in the environment of changing budgets and technical and regulatory requirements;
- (ii) Ensure that the infrastructure and facilities are efficiently operated in a safe, secure, and compliant posture, and that an acceptable defined level of readiness is sustained at all facilities;
- (iii) Demonstrate a culture of continuous improvement for required disciplines (such as cross-functional skill development, flexibility in job classifications, outsourcing of appropriate products, quality, scheduling for continuous output, cost controls) and the associated metrics to demonstrate performance; and

- (iv) Assure effective human resource management and the availability of critical skills and capabilities. Ensure operations are performed timely and efficiently that are responsive to programmatic shifts and priorities.

3.2 Operational Excellence

Operational excellence is the expected underlying philosophy and mindset for operating the NNS and satellite facilities. This incorporates the principle that compliance with regulations and standards shall be accomplished while performing missions on time, at a reasonable cost, while protecting human health and the environment, and conserving the Government's assets. Operational excellence shall include a focus on the requisite rigor and discipline in all aspects of Contractor activities and, in particular, holding management and staff accountable to commitments. To achieve this operational excellence, it is essential that operations at the NNS be performed in a manner that meets DOE mission and regulatory objectives. Therefore, a disciplined, effective and efficient management system to meet and exceed current industry performance in productivity, safety, and security is a significant objective of this Contract.

3.3 Scope and Financial Management (Mod 0096)

The Contractor shall support the DOE/NNSA Planning, Programming, Budgeting and Evaluation (PPBE) process. In supporting PPBE, the Contractor shall provide financial data for Government systems, such as:

- Standard Accounting and Reporting System (STARS)
 - STARS information is provided under the Institutional Cost Reporting Categories
- iMANAGE
- Enterprise Portfolio Analysis Tool (EPAT)
- Facilities Information Management System (FIMS)
- Enterprise Management Information System, Generation 2 (G2)

The Contractor shall maintain financial cost reporting systems to provide detailed cost reports for cost, scope, and schedule for direct and indirect costs for all work performed under this Contract. The cost reports shall include labor costs, leave/hours not worked, staff augmentation, fringe, pension, legacy, materials, services-subcontractors, direct service centers, other expenses, capital, labor category, and full-time equivalent (FTE) resource usage for all direct and indirect costs and use cost benefit analyses to determine the appropriate level of support functions and risks. The Contractor shall provide NNSA transparency into those financial cost reporting systems and shall provide routine reports to allow NNSA visibility into program and cost management supporting reports to external sources (see Section J, Appendix K Program Management and Cost Reports). The Contractor's financial cost reporting systems shall support the DOE STARS, iMANAGE, EPAT and support systems, such as FIMS, as well as other Government systems as they are developed and implemented.

The NNSA will provide the initial cost information, FTE data and scope framework on the effective date of the Contract. The Contractor shall develop an

Annual Controlled Baseline (ACB) for all Contractor direct programs and indirect support costs, in accordance with DOE institutional cost reporting categories. The baseline will be constructed at a level that provides the ability to report the baseline and any changes to the baseline, programmatically and by resource organization. The baseline shall include cost, scope of work, and schedule and be fully consistent with directive and planning documents, budget requests, and progress reporting such as earned value management systems. The ACB will be under configuration management and control, with all changes formally documented. The ACB should be maintained in a manner consistent with and reconcilable to approved work authorizations, funding levels, and any programmatic reporting including EVMS or EVMS-like systems and any changes to the ACB should be based on changes in scope or formal direction from NNSA. The ACB will be submitted annually by August 15th unless otherwise agreed to in advance by the Contracting Officer. Administrative changes initiated by the Contractor should be net zero cost changes or otherwise must be approved by the Contracting Officer.

The Contractor shall have tools in place to: 1) manage mission and indirect changes in scope, cost, and schedule; 2) compare actual costs of work performed (ACWP) to budgeted costs of work performed (BCWP); 3) accurately forecast estimated costs to complete (ETC) and estimated total costs at completion (EAC); and 4) document deviations from the baselines described above in this paragraph and, on a timely basis, notify the Contracting Officer of such changes. The Contractor shall not make retroactive changes to records pertaining to work performed that will change previously-reported costs, except for correction of errors and routine accounting adjustments and shall not make retroactive changes for funding fluctuations or revisions in EAC.

3.4 Enterprise Success

The Contractor shall actively identify and participate with NNSA and other NNSA M&O Contractors as part of an “enterprise organization” to evaluate, plan, develop and implement strategic initiative activities that optimize mission and business operations across the NSE. The goal of these initiatives is to increase the efficiency and cost effectiveness from a business and mission perspective.

The Contractor shall lead and/or participate in strategic business and management initiatives that result in:

- Improved partnering collaborations with the National Security Laboratories to integrate more effectively and efficiently;
- Improved cost estimation practices for all Contractor work;
- Streamlined business operations and reduced operational costs enterprise-wide;
- Implement best practices enterprise wide for efficient, safe, secure high-paced parallel nuclear operations;
- Improved risk-management practices, including risk-informed, mission supportive, cost-efficient, safety basis processes.
- More consistent work practices and operational processes;

- Better pricing, better products, more timely delivery;
- Reduced administrative costs and lead times for both the Contractor and the DOE/NNSA;
- Greater standardization and interchangeability of processes and priorities across the NSE; and
- Increased awards to small business entities.

NNSA expects these and other initiatives to result in a shift to an enterprise focus, based on the Contractor who possesses the most expertise and experience level within the NSE.

The Contractor shall cooperate with NNSA and NSE Contractors in identifying potential cross-NSE benefits to be derived from implementing common practices and goals across the NSE in the areas of mission workload and enterprise functional support.

The Contractor and NNSA shall establish performance incentives with performance measures and targets for strategic efforts that result in enterprise performance improvement overall for the Government.

4.0 ADMINISTRATIVE AND TECHNICAL REQUIREMENTS

4.1 Integrated Safety Management (ISM), Integrated Safeguards and Security Management (ISSM), Environmental Management System (EMS), and Quality Assurance Systems (QAS)

The Contractor shall ensure that the principles of ISM, ISSM, EMS, and QAS are integrated into its operations and that its Contractor Assurance System (CAS) reflects Contractor integrated performance related to these systems.

4.2 Work Authorization (WA) System

Specific work requirements under this Contract will be established annually and updated as needed by the Contracting Officer in accordance with DOE Order 412.2 entitled "Work Authorization System" and the Contract's Section I Clause entitled "Department of Energy Acquisition Regulation (DEAR) 970.5211-1, Work Authorization."

4.3 Information Technology (IT) and Cybersecurity

The Contractor shall support NNSA's efforts to optimize the efficiency of the NvE by consolidating IT infrastructure/services and eliminate redundant systems, to increase efficiency through mobility and cloud computing, and to improve business processes to better integrate across sites. To accomplish these goals, the Contractor shall develop a single, integrated "to-be" vision that uses the best available technologies and management practices from both Government and commercial sources to improve and achieve performance excellence, including fiscal efficiency. Desktop and back-office computing capabilities shall be compatible with those used by NNSA. Back-office functions shall include, but not be limited to, payroll, finance, project management, and human resources.

In the area of cybersecurity, the Contractor shall ensure data confidentiality,

integrity, and availability; and implement technology designs that provide effective network monitoring, limit an intruder's ability to traverse the network and mitigate new vulnerabilities in a timely manner. The Contractor shall develop enhanced information security protection tools for information systems, applications, and networks within both classified and unclassified environments; and ensure compliance with NNSA's defense-in-depth cybersecurity strategy.

All deliverables that involve information technology that use internet protocol shall comply with Internet Protocol version 6 (IPv6) standards, the Homeland Security Presidential Directive-12 (HSPD-12), and interoperate with both IPv6 and IPV4 systems and products. If the Contractor plans to offer a deliverable that involves IT that is not initially compliant, the Contractor shall (1) obtain Contracting Officer's approval before starting work on the deliverable; (2) provide a migration path and firm commitment to upgrade to IPv6 and HSPD-12 compatibility for all application and product features, and (3) have IPv6 technical support for fielded product management, development and implementation available.

The Contractor, prior to using any Contractor-owned software and systems where reimbursement is expected, shall obtain the Contracting Officer's approval. Per the Section I clause DEAR 970.5227-2 Rights in Data - Technology Transfer (Dec 2000) Alternate I (Dec 2000) (NNSA Class Deviation Oct 2011), the Contractor agrees to and does hereby grant to the Government an irrevocable, nonexclusive, paid-up license by or for the Government, in any Contractor-owned software and systems brought in and used. Said license shall be limited to the continued work by successor Contractors.

4.4 Governance

Governance is the system of management and controls exercised in the stewardship of the organization. The governance system shall be consistent with NNSA governance documents. Contractors must self-govern and deliver mission results in a safe and secure manner. The Contractor shall implement governance through a collaborative partnership with NNSA to form the self-governance framework by which the mission is accomplished in an effective and efficient manner. The governance framework invokes trust and confidence between parties, defines expectations and authorities and verifies performance by using objectives, requirements, assessments, metrics and rewards. The Contractor will focus on NNSA transformation activities that maximize the ability to complete the mission in a way that ensures effective and efficient stewardship of the taxpayers' money. The Contractor shall streamline operations and reduce costs to maximize mission accomplishment through a common understanding of expectations and performance accountability, supported by a strong Contractor Assurance System (CAS). The Contractor shall have a CAS as a subordinate and supporting feature of Governance as described in 4.4.1 below.

4.4.1 Contractor Assurance System: The Contractor shall have a Contractor designed and used system to manage performance consistent with Contract requirements. The CAS shall be a primary tool used by Contractor management to measure and improve performance, ensure that mission objectives and Contract requirements are met; ensure that

workers, the public and the environment are protected; and ensure that operations, facilities, and business systems are efficiently and effectively operated and maintained. An effective CAS integrates Contractor management, supports corporate parent governance and facilitates Government oversight systems. NNSA oversight shall not be relied upon by the Contractor as the primary feedback in assessing its performance. The Contractor is fully accountable for performing its own assessment of these areas and to provide transparency of the system information to the Field Office for use in its oversight activities.

4.4.2 Standards and Directives Reform: The Contractor shall submit a plan within 180 days after start of Base Term that identifies standards (e.g., International Organization for Standardization (ISO) 9001, 14001, 18001, or other international or industry standards) to be used to replace other DOE requirements and provide the ability for the Contractor to operate with industry best practices. The plan shall describe how quickly the Contractor will achieve ISO certifications or other recommended standards but commit to completion no later than by the end of the second year of the Base Term. In addition, the Contractor, as part of its governance, shall continuously evaluate and examine DOE directives, orders, and requirements to propose needed exemptions or modifications to allow the Contractor to operate in the most effective and efficient manner and to assist in delivering cost savings to the Government.

4.4.3 Parent Organization(s)

(i) The Contractor is encouraged to identify opportunities for the use of parent corporate systems and corporate home and branch office personnel for site operations for the purposes of monitoring site performance, assisting the site in meeting its mission and operational requirements, streamlining the Contractor's administrative and business systems, improving performance, and adapting private sector expertise to site issues.

(ii) The term "systems" means any discrete process, procedure, program, document or instrument where cost of use under this contract can be identified and quantified to the parent corporation.

(iii) The Contractor, prior to using any parent corporate systems or home and branch office personnel where reimbursement is expected, shall submit a plan to the Contracting Officer for review and approval. In reviewing the plan, the Contracting Officer will consider the extent to which each separate element of the Plan is more efficient in meeting mission and operational requirements; represents an overall cost savings to the Government; brings value-added expertise; assists the monitoring of performance; and whether data is readily transferable to a successor Contractor.

(iv) Per the Section I clause DEAR 970.5227-2 Rights in Data-Technology

Transfer (Dec 2000) Alternate I (Dec 2000) (NNSA Class Deviation Oct 2011), the Contractor hereby grants the Government an irrevocable, nonexclusive, paid-up license, by or for the Government, in any Contractor-owned software and systems brought in and used in the performance of this Contract. Said license shall be limited to the continued operations of the NNSS by successor Contractors.

- (v) The parent organization(s) shall establish an oversight entity, independent and autonomous from NNSS management that shall ensure successful contract performance by identifying opportunities for the parent organization(s) to engage with NNSS management to address NNSS performance issues and demonstrate resolution of those issues. The parent organization shall discuss oversight mechanism results and initiatives with senior NNSA leadership each quarter.
- (vi) The parent organization(s) shall also establish an audit entity (e.g., audit committee), independent and autonomous from NNSS management, that shall perform financial reporting, risk management, internal control, ethics, compliance with laws and regulations and the site code of conduct, and the internal audit and external audit and review processes. The audit entity shall be established consistent with best practices identified by the Institute of Internal Auditors (IIA) and The Sarbanes Oxley Act of 2002, Section 301.

The audit entity shall provide the Contracting Officer with annual reports of its activities. On an annual basis, the audit entity shall brief the Contracting Officer, or other delegate, as to its perspective on the:

- (1) Health of the Contractor's control environment;
- (2) Effectiveness of corrective action plans resulting from audit and review findings;
- (3) Significant financial and operational risk facing the organization; and
- (4) Adequacy of the Contractor's internal audit activity and staffing.

4.4.4 Award Fee Plan: The Contractor shall participate in the formulation of Performance Evaluation Management Plans (PEMP) that covers a defined period of time. The PEMP shall include performance objectives, goals, and measures.

4.4.5 Performance Metrics: The Contractor shall propose a list of performance metrics that provide Contractor and NNSA management an overall assessment of the "health of the operation" quickly and accurately. Once established, the metrics shall be part of the CAS and be provided with transparency to aid in the identification and understanding of significant performance issues. The metrics should be updated as required and flowed through the CAS system.

4.5 Contractor Human Resources and Labor Relations

The Contractor shall have the flexibility to restructure the workforce and make changes to employee benefits throughout the term of the Contract, as may be permitted by this Contract and applicable law, to maximize efficiencies. The Contractor shall be responsible for identification and maintenance of critical skills and for the employment of all professional, technical, skilled, and other personnel engaged and to be engaged by the Contractor in the work hereunder, and for the training of personnel, including apprentice programs. Persons employed by the Contractor or its subcontractors or consultants shall not be deemed employees of the Government. The Contractor shall follow the Human Resources (HR) requirements pertaining to workforce transition and management in accordance with Section J, Appendix A, Chapter III, Human Resources. The Contractor shall maintain, refresh, and provide qualified personnel to successfully implement the scope of work of the contract.

The Contractor shall provide labor relations management support for all matters relating to bargaining unit employees and collective bargaining agreements, including such activities as hiring and terminations; work rules development and administration; dispute resolution; wage and fringe benefits; and labor agreement negotiations and compliance.

4.6 Environmental Permits and Applications

In recognition of the Contractor's responsibility to operate in compliance with all applicable environmental requirements, the Contractor is responsible for signing environmental permits and applications as "operator or co-operator" at the sites.

- (i) If bonds, insurance, or administrative fees are required as a condition for such permits, such costs shall be allowable. In the event that such costs are determined by NNSA to be excessive or unreasonable, NNSA shall provide the regulatory agency with an acceptable form of financial responsibility.
- (ii) The Contractor shall accept, in its own name, service of notices of violations or alleged violations (NOVs/NOAVs) issued by Federal or State regulators to the Contractor resulting from the Contractor's performance of work under this Contract, without regard to liability. The allowability of the costs associated with fines and penalties shall be subject to clauses of this Contract. The Contractor shall notify the Contracting Officer promptly when it receives service from the regulators of NOVs/NOAVs and fines and penalties. Nothing stated above shall affect the Contractor's right to challenge or contest the applicability or validity of such NOVs/NOAVs and fines and penalties.
- (iii) In the event of termination or expiration of this Contract, NNSA will require the new Contractor to accept transfer of all environmental permits executed by the Contractor.
- (iv) When providing NNSA with permits and applications that are to be signed or co- signed by NNSA, the Contractor will accompany such document with a certification statement, signed by the appropriate Contractor corporate officer, attesting to NNSA that the document has been prepared in accordance with all applicable requirements and the information is, to the best of its knowledge

and belief, true, accurate, and complete.

4.7 Defense Nuclear Facilities Board and Other Government Agencies Support and Liaison

The Contractor shall support NNSA in interacting with various Government agencies and regulatory/oversight bodies such as the Defense Nuclear Facilities Safety Board (DNFSB), Department of Defense (DOD), Inspector General (IG), General Accounting Office (GAO), national and state regulatory agencies, congressional and senate bodies and members. The Contractor shall conduct activities in accordance with those DOE commitments to the DNFSB and other government agencies and regulatory/oversight bodies as contained in implementation plans and other DOE correspondence. The Contractor shall support preparation of responses to issues and recommendations, which affect or can affect Contract work. The Contractor shall fully cooperate with the DNFSB and other government agencies and regulatory/oversight bodies to provide access to such work areas, personnel, and information as necessary. The Contractor shall maintain a document process consistent with the applicable DOE manual on interface with the DNFSB and other regulatory/oversight bodies. The Contractor shall be accountable for ensuring that subcontractors adhere to these requirements.

4.8 Interfaces with Other Site Users

Within the NNSA and satellite locations, there are multiple Contractors responsible for a variety of broad-based programs. Within 90 calendar days after the start of the transition period, the Contractor shall submit, for NNSA approval, an Interface Management Plan (IMP) for the affected sites to identify and manage site interfaces/services between DOE, NNSA, DOE/NNSA Contractors, and tenant entities engaged in onsite activities. The IMP should identify any costs related to other site users. For the various sites/entities, services that require interface agreements shall be provided in accordance with existing or newly developed Memoranda of Understanding (MOU) or other appropriate agreements. The Contractor will provide input to the Nevada Field Office (NFO) regarding effective support toward common site operational objectives, training, access, and reporting.

4.9 Privacy Act System of Records

The Contractor shall design, develop, and maintain a system of records on individuals to accomplish an agency function in accordance with the Contract's Section I Clauses entitled "Federal Acquisition Regulation (FAR) 52.224-1 Privacy Notification" and "FAR 52.224-2, Privacy Act." The applicable systems of records are available on the Federal Register. A list of applicable records will be finalized after contract award.

CHAPTER II. Work Scope Structure**1.0 INTRODUCTION**

Specific work requirements under this Contract will be established annually by the Contracting Officer in accordance with the Chapter I, Section 4.2 above entitled "Work Authorization System." The Contracting Officer will issue Work Authorizations for each major work area to be accomplished in a given year. These Work Authorizations will conform to the Scope of Work of this Contract and further affect the General Requirements specified in this section.

2.0 GENERAL REQUIREMENTS**2.1 Programs**

The Contractor shall provide the nuclear and non-nuclear test beds, infrastructure, and appropriate scientific, engineering, and technical staff to support defense-related nuclear and nonnuclear experiments at the NNSS and offsite locations as well as other national security programs, including maintaining the NNSS capability to conduct an underground nuclear test within the required readiness time.

2.2 DOE and NNSA Strategic Planning Process

The Contractor shall contribute to NNSA's strategic planning process by participating in the PPBE process, including but not limited to development of planning budgets, programmatic implementation plan input, and milestones of execution. The goal of the DOE and NNSA planning processes is to safely and securely integrate programmatic work to maximize scientific and technical work accomplishment, while minimizing duplication between programs and sites and providing for major investments in facilities within essentially fixed budgets. The Contractor shall conduct strategic planning processes incorporating risk management and develop appropriate plans consistent with NNSA missions and goals.

2.3 Technology and Business Integration

The Contractor shall use available technology and management practices from both Government and commercial sources to improve and achieve excellence. The Contractor shall propose and participate with other NNSA Contractors and other Federal Contractors and agencies to support these efficiencies. If a stockpile stewardship function were centralized at a single site, the Government would provide these centralized materials and services to the other sites. Therefore, the DOE reserves the right to reassign missions, both core and non-core responsibilities, when it is in the best interest of the Government, and require the Contractor to propose and support such initiatives.

2.4 Site Directed Research, Development and Demonstration (SDRD) Program

The Contractor shall conduct a DOE approved Site Directed Research, Development and Demonstration (SDRD) Program that supports NNSA and other government agency national security goals and requirements to encourage advanced research, development, and demonstration work to enhance the science and technology capabilities and core competencies required to fulfill the NNSS

mission. Associated with this program, the Contractor shall annually prepare proposal(s) to for submission during the annual call for DOE Nuclear Safety Research and Development (NSRD) proposals to further advance the technical basis and efficiency of nuclear safety as applied to the NSE mission.

2.5 Project Management

The Contractor shall establish, maintain, and use a project management system, including an Earned Value Management System (EVMS) meeting the requirements of the American National Standards Institute (ANSI) standard ANSI/EIA-748 (American National Standards Institute/Electronic Industry Alliance). The Contractor shall apply the project management system, using a graded approach, to all projects. The Contractor shall develop, plan, and execute projects to ensure all mission objectives are appropriately controlled and successfully achieved. When requested, the Contractor shall provide project management support to NNSA or an Other Government Agency (OGA).

3.0 DEFENSE PROGRAM REQUIREMENTS

The Office of Defense Programs (DP) for the NNSA ensures the Nation sustains a safe, secure, and effective nuclear deterrent through the application of science, technology, engineering, and manufacturing through the science-based Stockpile Stewardship and Management Program (SSMP). To deal with the changing face of nuclear deterrence and more-widely dispersed nuclear knowledge, the SSMP, also requires excellence in nuclear science and technology by replacing the functions of nuclear tests with a combination of nonnuclear and nuclear experiments, highly accurate physics modeling, and improved computational power to simulate and predict nuclear weapon performance over a wide range of conditions and scenarios. The Stockpile Stewardship (SS) portion of the SSMP provides the necessary tools to assess the stockpile, maintain its performance, continuously improve safety, respond to technological surprise and support future treaties. The SS includes research, development, computer simulation, and inertial confinement fusion activities to maintain the safety, security and effectiveness of the nuclear weapons stockpile; provides a technical basis for the annual assessment; develops modernization options, such as multipoint safety; and quantifies and mitigates the effects of aging on the stockpile.

The DP work is defined in two major categories:

- **Directed Stockpile Work:** activity that supports ongoing stockpile maintenance and refurbishment, dismantlement, and Life Extension work as well as the scientific understanding and engineering development capabilities necessary for the refurbishment and certification of the stockpile; and
- **Research, Development, Technology and Experimentation (RDT&E):** activity that conducts new scientific research and combines it with existing data from stockpile surveillance, past nuclear tests, and computer simulations to improve and validate NNSA's models of nuclear weapons performance and physics and to certify the nuclear weapons stockpile. Activities advance the understanding of weapon physics, combined with improved computing power, leading to higher-fidelity predictive models that allow the NNSA complex to confidently conduct annual assessments, develop new technologies for LEPs, and support non-stockpile national

security missions.

The Contractor shall provide the nuclear and non-nuclear facilities, test beds, infrastructure, and the most advanced diagnostic data recovery platforms for nuclear and non-nuclear experimental work, and assigned NNSA activities in support of the nuclear weapons stockpile, which includes, but is not limited to:

- Providing the integrating function for work including non-nuclear and nuclear test beds, experimental work, and other operational activities;
- Providing the scientific and technical expertise and experimental platforms that support assessment of the stockpile, including fundamental physics and application of the knowledge and experimental tools to assessments of emerging nuclear threats;
- Establish, exercise, and execute a sustainable dynamic plutonium experimental capability at NNSS to assess the effects of aging and manufacturing process on proposed approaches to stockpile LEPs, significant finding investigations (SFIs), and other issues that affect the viability of the current and future stockpile;
- Supporting nuclear and non-nuclear experiments at the NNSS and offsite locations at the National Nuclear Weapon Laboratories to validate codes, models, and databases for weapons assessment;
- Executing experiments and NNSA assigned work for primary and secondary reuse and LEP options;
- Continuously developing, advancing, fabricating (ruggedize), and delivering (including but not limited to) next generation diagnostics for assigned nuclear and non-nuclear experimental work that advance data capture, including subcritical, hydrodynamic, and dynamic materials experiments,, and deploy into the experimental platform at the NNSS and offsite locations Technologies for advancement, include but are not limited to: streak cameras and solid state fast digital imaging; control, timing and firing systems; neutron diagnosed systems; multi-axis, multi-pulse, radiography; software detection and analysis; signal process and transmission systems; and radiation, chemical, high explosive, biological sensors;
- Providing calibration services for diagnostic equipment supporting NNSA and national security assigned missions;
- Providing re-analysis capability of past underground test data that incorporate system response and quantitative error estimation;
- Conducting experiments on surrogate materials to optimize future platform potential with documentation of accuracy; and,
- Maintaining the NNSS capability to conduct an underground nuclear test within the required readiness timeframe.

4.0 DEFENSE NUCLEAR NONPROLIFERATION REQUIREMENTS

The Office of Defense Nuclear Nonproliferation (DNN) works closely with a wide range of international partners, key U.S. federal agencies, the U.S. national laboratories, and the private sector to secure, safeguard, and/or dispose of dangerous nuclear and radiological material, and detect and control the proliferation of related WMD technology and expertise.

The Contractor shall support U.S. national and nuclear security objectives in reducing global nuclear security threats through the innovation of unilateral and multi-lateral technical capabilities to detect, identify, and characterize: 1) foreign nuclear weapons programs, 2) illicit diversion of special nuclear materials, and 3) global nuclear detonations. In supporting U.S. national and nuclear security objectives in reducing global nuclear security threats, requirements include, but are not limited to:

- Designing, developing, testing and potential deploying of new technologies to advance U.S. capabilities to monitor nonproliferation and arms control treaty and agreement implementation;
- Providing unique training and capacity-building programs;
- Removing, eliminating, securing, safeguarding, and managing dangerous materials;
- Developing technologies to detect nuclear and radiological proliferation worldwide and global detonations; and
- Collaborating internationally to ensure the secure and safe expansion of global nuclear energy and other peaceful uses.

Specifically, many DNN activities involve experimentation and/or operations at NNSS for material and arms control monitoring and nuclear nonproliferation. The Contractor shall execute work, as a minimum, for:

- Nuclear Test Monitoring: Develop test beds and technical integration capabilities to perform real-world testing and validation of technologies and processes for 1) monitoring foreign nuclear weapons program activities for compliance with nuclear arms control treaties; and 2) improving the effectiveness of an On-Site Inspection capability.
- Nuclear Warhead Monitoring: Develop test beds and technical integration capabilities to perform real-world testing and validation of technologies and processes for 1) detecting and tracking nuclear weapons and material movement, monitoring its storage, or detecting and tracking its diversion; and 2) conducting realistic arms control-related scenarios, including international participation and red teaming, where appropriate.
- Nuclear Proliferation Detection: Develop test beds and technical integration capabilities for 1) detecting the use of nuclear material production equipment or processes; 2) detecting activities associated with a foreign nuclear weapons development process; and 3) improving the accuracy and decreasing the timeline for nuclear forensics analyses, geared to properly and promptly inform decision makers in a post-detonation scenario.

5.0 NATIONAL INCIDENT RESPONSE REQUIREMENTS

NNSA's National Incident Response (NIR) (formerly National Emergency Response) Program is the U.S. government's primary capability for radiological and nuclear emergency response and for providing security to the nation from the threat of nuclear terrorism. The NIR program maintains a high level of readiness for protecting and serving the U.S. and its allies through the development, implementation and coordination of programs and systems designed to serve as a last line of defense in the event of a nuclear terrorist incident or other types of radiological accident. This readiness level provides the U.S. government with quickly deployable, dedicated resources capable of

responding rapidly and comprehensively to nuclear or radiological incidents worldwide. The NIR program for the Contractor focuses on the following key areas:

- **Radiological search** – detecting nuclear or radiological materials during a particular event.
- **Render safe** – disabling a potentially yield-producing nuclear device by gaining access and performing diagnostics and disablement operations. Also, safely disposing of the components and supporting nuclear forensics
- **Consequence management** – addressing the consequence of a nuclear or radiological incident, including a terrorist attack, on people and the environment.

In support of the NIR program, the Contractor shall maintain and/or support a variety of emergency response assets and capabilities. These assets and capabilities encompass four core competencies: core knowledge of U.S. nuclear weapons, “dirty bombs” and crude nuclear devices; core knowledge of use and interpretation of specialized radiation detection equipment; core technical operations; and core technical support requirements. The assets and capabilities that the Contractor shall maintain include, but are not limited to:

- Aerial Measuring System (AMS): characterizing ground-deposited radiation from aerial (fixed- and rotary-wing aircraft) platforms with radiological measuring equipment, computer analysis of aerial measurements, and equipment to locate lost radioactive sources, conduct aerial surveys, or map large areas of contamination.
- Accident Response Group (ARG)/Joint Technical Operations Team (JTOT) support: providing technical response element comprised of scientists, technical specialists, crisis managers, and equipment ready for short-notice dispatch to the scene of a U.S. nuclear weapon accident.
- Federal Radiological Monitoring and Assessment Center (FRMAC): coordinating the interagency entity for federal offsite radiological monitoring and assessment activities for nuclear accidents or incidents and is responsible for providing a single source of compiled, quality controlled monitoring and assessment data to the lead federal agency involved in the national incident response.
- Radiological Assistance Program (RAP): providing advice and radiological assistance for incidents involving radioactive materials that pose a threat to public health and safety or the environment by providing field deployable teams of health physics professionals equipped to conduct radiological search, monitoring, and assessment activities.
- Radiation Emergency Assistance Center/Training Site (REAC/TS): providing medical advice, specialized training, and onsite assistance for the treatment of all types of radiation exposure accidents.
- Emergency Communications Network (ECN): providing mobile and stationary classified network (equipment & personnel) support for onsite and deployed Emergency Response assets.
- National Technical Nuclear Forensics (NTNF): providing technical specialists, equipment and facilities for conducting Pre-Detonation and Post-Detonation operations related to Improvised Nuclear Devices and/or Radiological Dispersal Devices.

- Nuclear/Radiological Advisory Team (NRAT): providing scientific advisory support in the areas of Nuclear Physics and Radiation for deployed NNSA/HQ Nuclear Incident Team and technical specialists and equipment in the area of radiological/nuclear search supporting other federal agencies.

6.0 INFRASTRUCTURE AND SAFETY REQUIREMENTS

6.1 Operations of Facilities

Operation of NNS nuclear and non-nuclear facilities, including, but not limited to, labor, equipment, utilities, general services, leases, operation of equipment, Environment, Safety, Health & Quality (ESH&Q), nuclear safety, configuration management, and waste management activities required to run NNSA facilities in a safe and secure manner. Current facilities include:

- 6.1.1** Major Nuclear Facilities at NNS JASPER, DAF, U1a Complex, Area 3/5 (requiring specialists (including but not limited to) in radiological, conventional high explosive, system engineering, mining, fire protection, material control and accountability, fissile material handling, safety basis, operational readiness, waste management, security, classification)
- 6.1.2** Radiological Facilities such as Radiological/Nuclear Countermeasures Test and Evaluation Complex (RNCTEC) (requiring some of the same expertise as mentioned in 6.1.1)
- 6.1.3** High Hazard Facilities such as Nonproliferation Test and Evaluation Complex (NPTEC)/Port Gaston (requiring expertise (including but not limited to) in various forms of high explosives, biological simulant, both hazardous and nonhazardous chemicals, mining)
- 6.1.4** Tunnels (requiring expertise (including but not limited to) in mining, ground support, industrial hygiene).
- 6.1.5** Low Hazard such as Shipping/Receiving, Warehouses, Cafeteria, Office Buildings, and facilities with activities such as classified machining, component dismantlement and disposition, detonator testing.

6.2 Maintenance

Recurring day-to-day work that is required to sustain and preserve plant, property, assets, systems, roads, and equipment in a condition suitable for it to be used for its designated purpose and to maintain retired facilities to adequately mitigate risk until disposition. The Contractor shall reduce deferred maintenance across the NNS.

6.3 Recapitalization

Enhancements which include improvements to property, plant, and equipment (PP&E) that result in better quality, higher capacity, or an extended useful life, or work to accommodate regulatory and other requirement changes. Includes non-line item required infrastructure improvements for aged infrastructure such as Mercury and forward redevelopment and NNS road, power, communications

and security improvements.

6.4 Line Item Construction

Large construction projects to replace obsolete or unreliable infrastructure to reduce safety and program risk as well as improve productivity and sustainability.

6.5 National Criticality Safety Program

The Contractor shall safely and efficiently support NCERC operations.

7.0 DEFENSE NUCLEAR SECURITY REQUIREMENTS

The Office of Defense Nuclear Security (DNS) develops and sets requirements for the NNSA security programs to protect, control, and account for materials, information, and facilities across the nuclear security enterprise.

The Contractor shall implement all security programs employed at NNSA and satellite offices. This responsibility includes the physical and technical security planning, materials control and accounting, classified and sensitive information protection and classification/declassification, personnel, technical, and cyber security programs. The Contractor shall interact effectively with the NNSA/NFO Protective Force Contractor to fully integrate safeguards and security at the NNSA and satellite offices. At some satellite offices, the Contractor shall conduct operations security, entry and access control, and security education and awareness. The Contractor shall establish and maintain best practices for all security programs.

8.0 MANAGEMENT AND ADMINISTRATION REQUIREMENTS

The Contractor shall provide management and administrative capabilities to maintain the NNSA and satellite offices. Maintaining this state of readiness requires the Contractor to provide the following administrative and technical capabilities, and to provide an assessment of its Readiness to DOE each year.

8.1 General Management, Administration, and Oversight

The Contractor shall be fully responsible and accountable for the safe, efficient and effective accomplishment of all work, whether performed by its own personnel or onsite subcontractors. The Contractor shall be responsible for planning, integrating, managing and executing the programs, projects, operations and other activities as described in this scope of work such that all functions are fully integrated and work is accomplished safely and securely. The Contractor shall provide general management and program management functions that include: legal services, audit services, business systems management, human resources, property management, labor relations, information resources, financial services, safeguards and security (including cybersecurity), public information and external communications activities, intergovernmental affairs, community relations, information technology, strategic planning, training, procurement, and industrial relations.

The Contractor shall provide and maintain other administrative services such as communications systems; diversity management programs; employee assistance programs; transportation and traffic management; a records management system; and a system of records for individuals, including those related to personnel

radiation exposure information, medical, safety, and health.

The Contractor shall prepare, submit, disseminate, or otherwise publish financial, schedule, scientific, technical plans and reports, and other information and deliverables consistent with the needs of the various programmatic sponsors and other customers or as required elsewhere in the contract or as specifically required by the Contracting Officer.

The Contractor shall establish clear Environmental, Safety, and Health (ES&H) priorities and manage activities in proactive ways that comply with human health, safety and environmental regulations; minimize wastes; and comply with applicable regulatory requirements and DOE directives.

The Contractor shall continuously analyze site activities to identify commercial standards and practices that may be substituted for DOE Orders and Directives or for current site business practices. The Contractor shall evaluate the benefits of incorporation of those standards and practices into facility operations, and develop proposals that define the transition timelines and metrics to be used in monitoring the success of those substitutions that are approved by NNSA. The Contractor shall integrate the concepts of continuous improvement, such as independent quality certification, safety and environmental management systems, and total quality management into all aspects of site operations.

8.2 Waste Management/Energy Efficiency

The Contractor shall manage and perform waste minimizations and waste management activities, including pollution prevention and recycling, to support site operations. The Contractor shall assist DOE through direct participation and support in achieving DOE's energy efficiency goals and objectives in electricity, water, and thermal consumption, conservation, and savings.

8.3 Construction (Mod 0042)

- (a) The Contractor shall ensure the construction of facilities is safe, secure, reliable and cost effective. In doing so, the Contractor shall:
 - (1) Perform design and construction activities for all projects as assigned;
 - (2) Adhere to project management requirements in accordance with DOE Order 413.3B, *Program and Project Management for the Acquisition of Capital Assets*, or its successor; only if applicable.
 - (3) Cooperate, collaborate, and interface with other NNSA Contractors to maximize efficiencies:
 - (4) Perform initial project development (for all projects regardless of dollar value), project management, design, and construction management activities in accordance with required DOE Orders; and
 - (5) Maintain project baselines, comply with required reporting, develop Documented Safety Analyses, if applicable; define quality requirements, ensure National Environmental Policy Act compliance, provide quarterly reports to the NNSA for assigned

projects, support external reviews, and meet other requirements as defined in the Contract and as directed by the Contracting Officer.

- (b) The Contractor shall effectively use an Earned-Value/resource loaded Project Management System across the Site to deliver projects on schedule, within budget, and to meet mission performance. The Contractor shall provide design

and risk analysis, value engineering, configuration management, conceptual designs, preliminary designs, material testing, and surveying in support of engineering designs (Title I); final designs and construction drawings (Title II); and as-built drawings pursuant to construction inspections surveying and material testing (Title III) services for activities supporting NNSA and its programmatic customers. The Contractor shall provide the skills necessary to accomplish this work to the safety and quality levels required for all facilities up to and including nuclear facilities, as applicable, while meeting agreed upon customer time constraints and milestones.

8.4 Real Property and Asset Management

The Contractor shall perform management of government-owned/leased and Contractor-leased real property, facilities and equipment including, but not limited to: overall integrated planning, acquisition support, maintenance, operation, management, and disposition of Government-owned/leased real property and Contractor-leased facilities and infrastructure. In doing so shall provide, as a minimum, the following:

8.4.1 Planning/Engineering/Support

The Contractor shall manage government-owned, leased, or controlled real property and attendant facilities under this Contract. Specific activities include land and facility use planning, real property management, construction project management, utility management, maintenance management, configuration management, and support of the DOE/NNSA missions.

The Contractor shall provide design and risk analysis, value engineering, configuration management, conceptual designs, preliminary designs, material testing, and surveying in support of engineering designs (Title I); final designs and construction drawings (Title II); and as-built drawings pursuant to construction inspections, surveying, and material testing (Title III) services for activities supporting NNSA/NSO and its programmatic customers. The Contractor shall provide the skills necessary to accomplish this work to the safety and quality levels required for all facilities up to and including nuclear facilities, as applicable, while meeting demanding customer time constraints and milestones.

8.4.2 Utility Operations

The Contractor shall manage utility operations that include support for all electric service, fuel oil, natural gas, potable water/sewer service, purified water, nitrogen, steam, chilled water, and non-potable hot water operations

and utility services, whether contracted for by the Contractor or DOE. Included in the Contractor's responsibilities is the operation of boiler/chiller plants, utility systems, procured utilities, utilities to other federal tenants, and managing the facility in an energy efficient manner per developed energy management plans.

8.4.3 Maintenance

The Contractor shall manage maintenance activities, including but not limited to: facilities, custodial services, and energy repairs and/or projects, modifications, and special project services for facilities. The Contractor shall perform periodic condition assessments of the property to determine any deterioration or technical obsolescence that may threaten performance or safety, per DOE/NNSA requirements.

8.5 Site Services

The Contractor shall provide the following site services, comparable to best-in-industry practices. In some cases where National Laboratory partners have their own programs at the NNSA the responsibility is to integrate with these programs providing assurance that they meet the intent of the programs (e.g. ESH, QA) established by the Contractor.

8.5.1 Environmental, Safety, & Health Programs

The Contractor shall manage and integrate ES&H programs for the purpose of ensuring that current and future site operations do not negatively impact the environment, or the health and safety of the public, employees, and property. ES&H programs include, but are not limited to, accident prevention; criticality safety, nuclear safety, nuclear explosive and explosive safety; firearms safety; electrical, industrial, construction, and aviation safety; hazards identification; safety analysis and risk management; fire prevention and protection/suppression, hazardous material and nuclear explosive packaging and transportation operations, safety training, industrial hygiene, health physics, occupational safety, radiological protection, air emissions; storm-water, sanitary, and waste water discharges.

8.5.2 Quality Assurance

The Contractor shall meet appropriate quality assurance requirements, including those for nuclear activities.

8.5.3 Security

The Contractor shall implement all security programs employed at NNSA and satellite offices including but not limited to the physical, materials control and accounting, classified and sensitive information protection, personnel, technical, and cyber security programs. In the area of cybersecurity, the Contractor shall ensure data confidentiality, integrity, and availability; and implement technology designs that provide effective network monitoring, limit an intruder's ability and mitigate new

vulnerabilities in a timely manner. The Contractor shall develop enhanced information security protection tools for information systems, applications, and networks within both classified and unclassified environments.

8.5.4 Emergency Services

The Contractor shall manage onsite emergency management and emergency operations programs, including but not limited to, emergency planning and preparedness activities for all NNS and satellite facilities as well as Emergency Fire and Rescue Response services. The Contractor shall manage the NNSA/NSO Emergency Operations Center (EOC). The Contractor shall provide trained and qualified personnel to provide emergency fire and rescue response services, including firefighters and paramedics. Firefighters shall meet applicable National Fire Protection Association standards. Ambulance service shall be a state of Nevada permitted industrial ambulance service. Paramedic service and cooperative medical and fire and rescue response to surrounding areas is covered by NNSA/NSO MOU. The Contractor shall maintain and operate fire stations, fire alarm and fire suppression systems, and various fire-fighting and rescue equipment at the NNS.

8.5.5 Medical Services

The Contractor shall provide personnel who are graduates of approved programs and licensed by their respective boards in the State of Nevada to provide emergency, non-occupational palliative, and occupational medical services to all workers and visitors of the NNS and maintain adequate documentation of services provided.

8.5.6 Site Operations

The Contractor shall coordinate, schedule, and de-conflict all operations and activities occurring external to facilities at the NNS including, but not limited to, site access coordination, air space and ground use, incident and emergency notifications, and emergency response dispatch.

8.6 Other Site Services

The Contractor shall provide other site services that are incidental or related to this SOW as directed and funded by DOE/NNSA. These support services include onsite and offsite activities that are complementary to the NNSA mission and enable DOE/NNSA to accomplish its integrated nuclear weapons mission.

The Contractor shall provide assistance to the Nevada Field Office (NFO) National Environmental Policy Act (NEPA) compliance program upon request. This assistance may include, but is not limited to, development and implementation of NEPA compliance policies and procedures; development and implementation of employee training; assistance with the preparation of NEPA documentation and supporting studies; records management; and NEPA project tracking systems. The Contractor shall ensure that NEPA review is initiated early

in the planning process and fully integrated with work planning and control processes at all levels. The Contractor shall conduct periodic reviews of NEPA compliance efforts at the policy and line levels as part of its performance assurance program. The Contractor shall not undertake on DOE's behalf an

action that is subject to NEPA until DOE has notified the Contractor that DOE has satisfied applicable NEPA requirements.

The Contractor shall promptly review Freedom of Information Act (FOIA) requests and provide timely and quality responses consistent and compliant with Federal law and regulations (including DOE regulations), the NNSA FOIA program as implemented by the NNSA FOIA Officer, 10 CFR 1004, or as may otherwise be directed by the Contracting Officer.

9.0 FUNCTIONAL SUPPORT REQUIREMENTS

The Contractor shall provide:

9.1 General Support

General management and program management functions including: executive direction, strategic planning, human resources, financial support services, procurement, labor relations, legal services, centralized administrative services, training, program and project controls, information outreach, information technology services, records management, real and personal property management and other general support functions.

9.2 Mission Support

Mission support functions including environmental, safety and health, quality assurance, nuclear materials management, nuclear and non-nuclear packaging and transportation, facilities management, maintenance, utilities, engineering, safeguards and security, logistics support, project management, quality assurance, and laboratory/technical support.

9.3 Conduct and Formality of Operations

The Contractor shall conduct operations with appropriate formality and discipline applying an NNSA/NSO approved graded approach, up to and including nuclear facility rigor where required.

9.4 Communications, Public Affairs, Community Relations

9.4.1 The Contractor shall conduct communications, information, and public affairs programs, including internal and external communications; community involvement and outreach; interactions with the media, business, and the scientific and technical community; and liaison with Congressional offices and local, state, and Federal Agencies. The Contractor shall also provide public affairs functions necessary to support the NIR programs for NNSA.

9.4.2 The Contractor shall develop and foster relationships and support with state, county and local community organizations. The Contractor shall initiate a technical cooperative program with the Nevada state universities system that builds technical capability in the universities based on programmatic funding and deliverables and fosters a resource pool for next generation of staff to support the national security missions.

9.5 Site Specific Support

Site specific support includes management and incentive fee administration, state and local taxes, and direction of a DOE-approved SDRD Program.

10.0 OTHER DOE SUPPORT REQUIREMENTS

10.1 Office of Environmental Management

The Contractor will execute Environmental and Waste Management at the NNSS that address the environmental legacy from historic nuclear weapons-related activities, while ensuring the health and safety of works, the public, and the environment through investigation and implementation of appropriate risk informed, cost-effective corrective actions related to contaminated groundwater, facilities, and soils; permanent disposal of low-level and mixed low-level radioactive waste generated by environmental cleanup activities across the DOE complex; and environmental protection, compliance, and monitoring of the air, water, plants, animals, and cultural resources at the NNSS. The Contractor, in close working relationships with the Environmental Restoration contractor and other DOE/NNSA stakeholders, shall perform the onsite physical environmental restoration and waste management programs. In addition, the Contractor shall manage the staging, storage, treatment, transportation, and disposal of waste generated through operational and environmental restoration programs at the NNSS or other NNSA locations. The Contractor shall minimize waste through pollution prevention and recycling activities.

10.2 Intelligence and Counterintelligence

The Contractor shall support the requirements of the Intelligence (IC) and Counterintelligence communities. The Contractor will support the DOE's Office of Intelligence and Counterintelligence and the broader IC mission requirements, including but not limited to, acting as a lead integrator of multiple technologies, developed elsewhere in the community, into complete systems.

11.0 OTHER NON-DOE SUPPORT

The Contractor shall manage and execute other assigned programs related to the NNSS mission.

11.1 Strategic Partnership Program (SPP) and Strategic Intelligence Partnership Program (SIPP)

The Contractor shall conduct a Strategic Partnership Program (SPP) and Strategic Intelligence Partnership Program (SIPP) in accordance with the Contract. The Contractor shall capitalize on the unique resources and capabilities available at

the NNSS and satellite facilities to perform and manage, compatible with NNSA missions, a variety of reimbursable work for other government agencies in support of a broad range of national security goals and programs. The Contractor shall support the requirements of the IC as well as other federal agency sponsors such as the DOD, Federal and State agencies, and academia. All such work shall be consistent with and complementary to the approved missions of the NNSS.

11.2 Technology Partnerships Program

The Contractor shall support or establish Technology Partnerships for the transfer of technology to American-owned businesses as required. This work takes advantage of partnerships with industry through cooperative research and development agreements, outreach and direct assistance programs, user agreements and facilities, and education and training. All projects must enhance the NNSA's ability to meet mission requirements and improve the industrial competitiveness and national security of the United States.

11.3 Potential Mission Expansion Areas

The Contractor shall provide and manage facilities, test beds, technical and other services necessary to support future expansion of the NNSS and satellite facilities services to current and future customers as directed by the Contracting Officer.

CHAPTER III. Human Resources**1.0 DEFINITIONS**

Incumbent Employees are the employees in good standing of National Security Technologies, LLC (NSTec) under Contract DE-AC52-06NA25946 as of the effective date of the Contract. Non-Incumbent Employees are new hires, i.e., employees other than Incumbent Employees who are hired by the Contractor upon the beginning of the Base Term of the contract.

2.0 WORKFORCE TRANSITION

The following are requirements the Contractor shall carry out during the Transition Term prior to the beginning of the Base Term. After the effective date of the Contract, the Contractor may propose alternate due dates for the deliverables described in **2.1 Staffing Plan**, **2.2 Pay & Benefits**, and **2.3 Incumbent Employees Right of First Refusal**, and **2.4 Personnel Appendix (Section J Appendix G)**. The Contracting Officer may approve such changes provided the deliverable dates make transition more effective and efficient for both parties.

2.1 Staffing Plan

No later than 30 calendar days after the effective date of the Contract the Contractor shall provide NNSA its plan for achieving the right workforce size and skills mix and an estimate of the number of employees at each site to whom it expects to make employment offers. This staffing plan shall highlight essential skills and personnel that must be retained, by position, to ensure continuity of essential mission, safety, security, and safeguards programs.

2.2 Pay & Benefits

Consistent with the requirements identified in 3.0 COMPENSATION and 4.0 BENEFITS below, the Contractor shall develop and submit for NNSA approval a pay and benefits program to cover non-bargaining unit Incumbent and non-bargaining unit Non-Incumbent Employees. It is expected that the benefits program will be developed using best practice and market-based design concepts to achieve maximum efficiency and lower cost.

2.2.1 No later than 45 calendar days after the effective date of the Contract, the Contractor shall submit for NNSA approval all proposed benefit plans including but not limited to retirement plans, disability, healthcare, and paid time off. The submission shall include all plan documents that will describe benefits provided to employees including existing plans to which the Contractor becomes a sponsor at the beginning of the Base Term (with proposed changes to existing plans) as well as newly proposed plans.

The submission shall also include an “Employee Benefits Value Study” comparing the proposed benefits for non-bargaining unit Incumbent Employees and non-bargaining unit Non-Incumbent Employees using the Consolidated Employee Benefit Value Study methodologies and comparator companies, to be provided by the Contracting Officer, described in 4.1.5 below. Contracting Officer’s approval of the Contractor’s benefits program will be contingent on the net benefit value not exceeding the comparator group by more than five percent.

2.2.2 No later than 90 calendar days after the effective date of the Contract, the Contractor shall submit a plan with a timeline for implementing a Compensation system that meets the criteria defined **3.0 COMPENSATION** below.

2.3 Incumbent Employees Right of First Refusal

The Contractor shall use the Transition Term to make hiring decisions. The Contractor shall give a right of first refusal of employment for every position identified by the Contractor as necessary for completing the requirements of the Contract (other than positions occupied by Key Personnel and managers who directly reported to them) under this Contract to Incumbent Employees as defined in **1.0 DEFINITIONS** who meet the qualifications for a particular position. The Contractor shall provide a written offer of employment that identifies the individual's pay and a summary of the benefits package that will be available to the individual. Incumbent Employees offered the same position shall be provided their same base salary/pay rate in existence (provided by the incumbent Contractor) at the time the offer is made. Incumbent Employees offered a different position than the position they are performing at the time the offer is made shall be provided pay commensurate with the offered position. Such offers shall be provided to employees as soon as possible, however, no later than 90 calendar days after the effective date of the Contract.

2.4 Personnel Appendix

The Personnel Appendix (*Section J Appendix G*) sets forth certain Contractor Human Resources Management policies and related expenses that have cost implications under this Contract and are not covered explicitly in the FAR or DEAR cost principles. No later than 120 days after the effective date of the Contract, the Contractor shall submit a plan to address the open items in the

Personnel Appendix Section J- Appendix G, which include but may not be limited to 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, 7.0, 7.2, 8.2, 11.1 and 11.2. The Contractor shall obtain CO approval of Personnel Appendix proposals before implementation.

3.0 COMPENSATION

The Contractor, in a cost effective manner, shall recruit and retain a highly-skilled, motivated, and experienced workforce in a cost effective manner capable of carrying out the technical and other requirements set forth elsewhere in this SOW.

3.1 Total Compensation System

Consistent with the requirement in 2.2, Pay and Benefits, the Contractor shall establish a market based pay and benefit program. The objective is to provide a level of total compensation, which, within available funds, attracts, motivates and retains a highly competent workforce and maintains a competitive position in the applicable labor markets.

The Contractor shall develop, implement and maintain formal policies, practices and procedures to be used in the administration of its compensation system

including a compensation system Self-Assessment Plan consistent with FAR 31.205-6 and DEAR 970.3102-05-6; “Compensation for Personal Services (Total Compensation System). In addition, the Contractor’s Total Compensation System shall include the following components:

- (i) Philosophy and strategy for all pay delivery programs;
- (ii) System for establishing a job worth hierarchy;
- (iii) Method for relating internal job worth hierarchy to external market;
- (iv) System that includes a documented method and process for evaluating individual job performance and that bases individual and/or group compensation decisions on individual performance and Contractor performance as appropriate. In addition, the system must show the link to the annual evaluation of Contractor performance for individual compensation actions as appropriate;
- (v) Method for planning and monitoring the expenditure of funds;
- (vi) System for internal controls and self-assessment; and
- (vii) System to ensure that reimbursement of compensation, including stipends, for employees who are on joint appointments with a parent or other organization shall be pro-rated according to the amount of time the employee spent performing work under this Contract.

Any changes to the Total Compensation System shall be submitted to the Contracting Officer 60 days prior to implementation. Changes that impact current or future costs shall be approved by the Contracting Officer prior to implementation.

3.2 Cash Compensation (Mod 0096)

The Contractor shall submit the following to the Contracting Officer for a determination for cost allowability for reimbursement under the Contract:

- 3.2.1** Any proposed major compensation program design changes prior to implementation.
- 3.2.2** An Annual Compensation Increase Plan (CIP). The CIP shall be provided to the Contracting Officer on October 1 annually and shall include the following components and data:
 - (i) Comparison of average pay to market average pay;
 - (ii) Information regarding surveys used for comparison;
 - (iii) Aging factors used for escalating survey data and supporting information;
 - (iv) Projection of escalation in the market and supporting information;
 - (v) Information to support proposed structure adjustments, if any;
 - (vi) Analysis to support special adjustments;
 - (vii) Funding requests and supporting analysis for each pay structure to include breakouts of merit, promotions, variable pay, special adjustments, and structure movement;

- A. The proposed plan totals shall be expressed as a percentage of the payroll for the end of the previous plan year.
- B. All pay actions granted under the CIP are fully charged when they occur regardless of time of year in which the action transpires and whether the employee terminates before year end.
- C. Specific payroll groups (e.g., exempt, nonexempt) for which CIP amounts are intended shall be defined by mutual agreement between the Contractor and the Contracting Officer.
- D. The Contracting Officer may unilaterally adjust the CIP amount after approval based on major changes in factors that significantly affect the plan amount (for example, in the event of a major reduction in force or significant ramp-up).
- E. The Contractor is authorized to make minor shifts (up to 10%) in funds between payroll groups without prior Contracting Officer approval. The Contractor shall notify the Contracting Officer at the time funds are shifted.

- (viii) A discussion of the impact of proposed CIP on the site budget; and
- (ix) Discussion of relevant factors other than market average pay (e.g., turnover and offer-to-acceptance statistics, collective bargaining provisions, geographic considerations, total compensation).

- 3.2.3** When any Key Personnel Person is replaced, the compensation for the replacement shall be submitted for approval by the Contracting Officer. The top contractor official (i.e., General Manager or equivalent) salary
- 3.2.4** actions including merit pay increases shall be submitted annually to the Contracting Officer for approval. The top contractor official's approved reimbursed base salary will not exceed the benchmark referenced in FAR 31.2056(p) (3) and will serve as the maximum allowable salary reimbursement under the Contract. With these proposed compensation actions, the Contractor shall submit supporting justification related to internal and external equity, individual performance and the Application for Contractor Compensation Approval Form (DOE 3220.5). This documentation shall be provided to the Contracting Officer at least 30 days before the proposed effective date of the action.
- 3.2.5** For any proposed establishment of an Incentive Compensation Plan (variable pay plan/pay-at-risk), documentation shall be provided to the Contracting Officer, no later than 60 days prior to proposed implementation. No person in a Key Personnel position or acting in a Key Personnel position may participate in any Incentive Compensation Plan or other bonus plan that is a reimbursed cost under this Contract. Such proposal must contain:
 - (i) The design of the Incentive Compensation Plan, the funding methodology, and linkage to Contract performance measures;
 - (ii) Requirement for approval of Incentive Compensation Plan design changes by the Contracting Officer prior to implementation;

- (iii) Requirement for an annual approval, prior to the performance period, of the total dollar amount of the pool, the eligible positions, and linkage to Contract performance goals;
- (iv) Requirement for policy that provides a specific passover rate, i.e., percent of participants who will not receive an incentive;
- (v) Requirement for an annual summary report on distributions made under an Incentive Compensation Plan; and
- (vi) For any Executive Incentive Plans, a requirement for pay at risk.

3.2.6 Assignments of individuals outside of their normal duty station for which the NNSA/DOE will reimburse all or some of their compensation or other expenses shall be approved by the Contracting Officer prior to beginning the assignment. Requests shall be submitted 30 days prior to the desired start date. The Contractor shall submit a report of all such assignments, to include the total cost of each assignment, reason for assignment, location, duration, and cost-share arrangement to the Contracting Officer by January 30 of each year unless otherwise specified.

3.2.7 The Contractor shall submit a severance plan within 60 days of the effective date of the base term, which must include the notification period, pay-in-lieu policy, and the severance schedule. Supporting documentation must include information regarding standards from nationally recognized sources and or comparator firms (including corporate parents). Severance Pay is not payable to an employee under this Contract if the employee:

- (i) Voluntarily separates, resigns or retires from employment, except that in the event the Contractor conducts an NNSA approved voluntary separation program;
- (ii) Is offered employment with a successor/replacement Contractor;
- (iii) Is offered employment with a parent or affiliated company; and/or
- (iv) Is discharged for cause; or
- (v) Is currently in a Key Personnel position

Service Credit for purposes of determining severance pay does not include any period of prior service for which severance pay has been previously paid through a DOE cost-reimbursement contract.

3.3 Reports and Information: Compensation

The Contractor shall provide the Contracting Officer with the following reports and information with respect to pay and benefits provided under this Contract:

- (i) An Annual Contractor Salary-Wage Increase Expenditure Report to include, at a minimum, breakouts for merit, promotion, variable pay, special adjustments, and structure movements for each pay structure, showing actual against approved amounts, no later than 90 days after Compensation Increase Plan Year expenditures; and
- (ii) Other compensation reports as requested by the Contracting Officer.

4.0 BENEFITS

4.1 Assumption of Existing Pension and Benefit Plans and Establishment of New Pension and/or Benefit Plans

The Contractor will be required to become a sponsor of the existing pension and other Post Retirement Benefit Plans (PRB), as applicable, with responsibility for management and administration of the plans, including maintaining the qualified status of those plans. The Contractor shall carry over the length of service credit and leave balances for Incumbent Employees accrued as of the date of the Base Term.

4.1.1 To the extent the Contractor seeks to establish new benefit plans or change existing benefit plans at the time of Contract transition, the Contractor shall provide written justification to the Contracting Officer for all new benefit plans and for all changes to existing benefit plans, plan design, or funding methodology. Changes that increase costs must also include cost impact, and the basis of determining cost. The Contractor must obtain approval from the Contracting Officer no later than 60 days prior to implementation of benefit plans that are 1) either new or first time for the site; 2) would have a significant impact to employees; or 3) increase cost or 4) which may set a precedent for the DOE/NNSA contractor system.

4.1.2 Cost reimbursement for pension and other benefit programs sponsored by the Contractor for non-bargaining and bargaining unit employees will be based on conformance with the “Employee Benefits Value Study” and an “Employee Benefits Cost Survey Comparison” requirements as described in 4.1.5.1 and 4.1.5.2 below.

4.1.3 If the Contractor seeks to terminate any benefit plan during the term of the Contract, the Contractor must obtain Contracting Officer approval for such termination. In addition, a Contractor proposal to terminate a pension plan must be provided to the Contracting Officer at least 60 days prior to the scheduled date of plan termination.

4.1.4 Service Credit for cost reimbursement for employee benefits to include PRB eligibility will be determined in accordance with NNSA Supplemental Directive NA SD O 350.1, M&O Contractor Service Credit Recognition.

4.1.5 Unless otherwise stated, or as directed by the Contracting Officer, the Contractor shall submit the studies required in paragraphs 4.1.5.1 and 4.1.5.2 below. In addition, the Contractor shall submit updated studies to the Contracting Officer for approval prior to the adoption of any change to a pension or other benefit plan that will increase costs.

4.1.5.1 The Consolidated Employee Benefits Value Study for non-bargaining unit employees, must be completed every two years or

as directed by the Contracting Officer. An Employee Benefits Value Study is an actuarial study of the relative value (RV) of the benefits programs offered by the Contractor to employees measured against the RV of benefit programs offered by comparator companies. The Contractor will use the comparator companies previously used in the last Consolidated Benefit Value Study. If any of the comparator companies no longer participate, the Contractor will recommend replacement companies for approval by the Contracting Officer. The Contractor shall include major non-statutory benefit plans offered by the Contractor, including qualified defined benefit (DB) and defined contribution (DC) retirement; capital accumulation plans; and death, disability, health, and paid time off welfare benefit programs in the Value Study. To the extent that the value studies do not address postretirement benefits other than pensions, the Contractor shall provide a separate cost and plan design data comparison for the postretirement benefits other than pensions using external benchmarks derived from nationally recognized and Contracting Officer approved survey sources.

An Employee Benefits Value Study for bargaining unit employees shall be completed six months prior to the end of the collective bargaining agreement. The Benefits Value Study for bargaining unit employees must include at least 15 comparator companies approved by the Contracting Officer. The Value Study must include major non-statutory benefit plans offered by the

Contractor, including qualified DB & DC retirement; capital accumulation plans; and death, disability, health, and paid time off welfare benefit programs. To the extent that the value study does not address post-retirement benefits other than pensions, the Contractor shall provide a separate cost and plan design data comparison for the post-retirement benefits other than pensions using external benchmarks derived from nationally recognized and Contracting Officer approved survey sources.

- 4.1.5.2** When the average net benefit value for all employees (including different tiers of benefits or groups of employees) exceeds the comparator group average by more than five percent, the Contractor shall submit a corrective action plan to the Contracting Officer no later than 60 days after the Benefit Value Study is conducted.
- 4.1.5.3** An Employee Benefits Cost Study Comparison for non-bargaining and bargaining unit employees, must be completed annually. The cost Survey must use a professionally recognized measure approved by the Contracting Officer that analyzes the Contractor's employee benefits cost for employees on a per capita basis per full time equivalent employee and compares it with appropriate comparator data.

4.1.5.4 When the average of the Employee Benefits Cost Study total benefit per capita cost for each evaluated cohort exceeds the comparator group's per capita cost by more than five percent, the Contractor shall submit an analysis of the specific plan costs that are above the per capita cost range or total benefit cost as a percent of payroll and a corrective action plan to the Contracting Officer no later than 60 days after the Benefits Cost Study is conducted.

4.1.5.5 Within two years of Contracting Officer approval of the Contractor's corrective action plan for non-bargaining employees, or upon the next collective bargaining period for bargaining unit employees, the Contractor shall attempt to align employee benefit programs with the benefit value and per capita cost range as approved by the Contracting Officer.

4.2 Reports and Information: Benefits

The Contractor shall provide to the Contracting Officer:

- (i) All data requested to be entered into DOE's iBenefits management system, including but not limited to the Report of Contractor Expenditures for Employee Supplemental Compensation.

4.3 Workers' Compensation

4.3.1 The Contractor, unless workers' compensation coverage is provided through a state funded arrangement or a corporate benefits program, shall submit to the Contracting Officer for approval all new workers' compensation policies and all initial proposals for self-insurance (Contractors shall provide copies to the Contracting Officer of all renewal policies for workers compensation).

4.3.2 Workers' compensation loss income benefit payments when supplemented by other programs (such as salary continuation, short term disability) are to be administered so that the total benefit payments from all sources shall not exceed 100% of employee's net pay.

4.4 Pension Plans

The Contractor will be required to become a sponsor of the existing pension plans and other Post Retirement Benefit Plans (PRB), as applicable, with responsibility for management and administration of the plans, including maintaining the qualified status of those plans. The Contractor shall carry over the length of service credit and leave balances for Incumbent Employees accrued as of the date of the Base Term.

For cost allocability and reimbursement purposes, any defined benefit (DB) or defined contribution (DC) pension plans established by the Contractor and may

DB or DC plans for which the Contractor assumes sponsorship upon the start of the Base Term, shall be maintained consistent with the requirements of the Internal Revenue Code (IRC), Employee Retirement Income Security Act of 1974 (ERISA) as amended and any other applicable laws.

- 4.4.1** Any pension plan maintained by the Contractor, for which NNSA reimburses costs, shall be maintained as a separate pension plan distinct from any other pension plan which provides credit for service not performed under this Contract. Each Contractor pension plan shall be subjected to a limited-scope audit annually that satisfies the requirements of Employee Retirement Income Security Act (ERISA) section 103, except that every third year the Contractor shall conduct a full-scope audit satisfying ERISA section 103. Alternatively, the Contractor may conduct a full-scope audit satisfying ERISA section 103 annually. In all cases, the Contractor shall submit the audit results to the Contracting Officer within 30 days from the completion of the audit. In years in which a limited scope audit is conducted, the Contractor shall provide the Contracting Officer with a copy of the qualified trustee or custodian's certification regarding the investment information that provides the basis for the plan sponsor to satisfy reporting requirements under ERISA section 104.
- 4.4.2** The Contractor will be reimbursed for pension contributions in the amounts necessary to ensure that the plans are funded to meet the annual minimum required contribution under ERISA, as amended. If an additional pension contribution over and above the minimum required contribution would have the effect of avoiding benefit restrictions to defined benefit plan participants, the Contractor shall notify the Contracting Officer at least 60 days prior to the date a payment would be due. Reimbursement above the annual ERISA required minimum contribution will require prior approval of the Contracting Officer. The Contracting Officer will take into consideration all pre-funding balances and funding standard carryover balances when evaluating whether to approve reimbursement above the minimum required contribution. The timing and amount of contributions to the plan will be made to satisfy the Section 430 of the Internal Revenue Code and Section 302 of ERISA and avoiding any penalties associated with contributions made after a required installment date.
- 4.4.3** The Contractor shall obtain the advance written approval of the Contracting Officer for any proposed changes to DB and/or DC plans that are not required by law and which may increase costs or liabilities. The Contractor shall submit the proposal at least 60 days prior to the effective date of the proposed changes. In addition any proposed special programs (including, but not limited to, plan-loan features, employee contribution refunds, or ancillary benefits) shall be submitted to the Contracting Officer for prior approval with an analysis of the impact of special programs on the actuarial accrued liabilities of the pension plan, and on relative benefit value, or cost per capita, if applicable. The analysis should also describe

the potential impact on the plan's qualified status at present and the potential impact of the special programs on the qualified status through the duration of the Contract.

4.4.3.1 For proposed changes to DB and DC plans that are not mandated by law and which increase plan costs and/or liabilities, the Contractor shall provide the following to the Contracting Officer:

- (i) A clean copy of the current plan document (as conformed to show all prior plan amendments), with the proposed new amendment indicated in redline/strikeout;
- (ii) An analysis of the impact of any proposed changes on actuarial accrued liabilities and an analysis of relative benefit value and a cost study index;
- (iii) Except in circumstances where the Contracting Officer indicates that it is unnecessary, a legal explanation of the proposed changes from Contractor legal counsel for purposes of compliance with all legal requirements applicable to private sector DB and DC plans;
- (iv) The Summary Plan Description; and
- (v) Any such additional information as requested by the Contracting Officer.

4.4.3.2 When changes to DB and/or DC plans are required by law, or the changes do not increase costs or liabilities under the plan(s), the Contractor must provide a copy of the current plan document (as conformed to show all prior plan amendments), with the proposed

new amendment indicated in redline/strikeout no later than 60 days before the new amendment is to take effect.

4.4.4 When operations at a designated NNSA facility are terminated and no further work is to occur under the prime Contract, the following apply.

4.4.4.1 No further benefits for service shall accrue.

4.4.4.2 The Contractor shall provide a determination statement in its settlement proposal, defining and identifying all liabilities and assets attributable to the NNSA Contract.

4.4.4.3 The Contractor shall base its DB pension liabilities attributable to NNSA Contract work on the market value of annuities or dispose of such liabilities through a competitive purchase of annuities. The Contractor, as pension plan sponsor, must adhere to Department of Labor guidance set forth at 29 CFR 2509.95-1 regarding selection of an annuity provider for the purpose of benefit distributions from a DB pension plan.

4.4.4.4 Assets shall be determined using the “accrual-basis market value” on the date of termination of operations.

4.4.4.5 NNSA and the Contractor shall establish an effective date for spinoff or plan termination. On the same day as the Contractor notifies the Internal Revenue Service (IRS) of the spinoff or plan termination, all NNSA assets assigned to a spun-off or terminating plan shall be placed in a high-yield, fixed-income portfolio until the successor trustee, or an insurance company, is able to assume stewardship of those assets. The portfolio shall be rated no lower than Standard & Poor's “AA.”

4.4.5 Terminating Plans

4.4.5.1 If the Contractor seeks to terminate any pension plan during the term of the Contract, the Contractor must obtain Contracting Officer approval for such termination. In addition, a Contractor proposal to terminate a pension plan must be provided to the Contracting Officer at least 60 days prior to the scheduled date of plan termination.

4.4.5.2 To the extent possible, the Contractor shall satisfy plan liabilities to plan participants by the purchase of annuities through competitive bidding on the open annuity market, or through lump sum payouts. The Contractor, as pension plan sponsor, must adhere to Department of Labor guidance set forth at 29 CFR 2509.95-1 regarding selection of an annuity provider for the purpose of benefit distributions from a DB pension plan. With respect to standard plan terminations, the Contractor must adhere to all Pension Benefit Guaranty Corporation regulations regarding the termination of a pension plan.

4.4.5.3 Funds to be paid or transferred to any party as a result of settlements relating to pension plan termination or reassignment shall accrue interest from the effective date of termination or reassignment until the date of payment or transfer.

4.4.5.4 If ERISA or Internal Revenue Code (IRC) rules prevent a full transfer of excess NNSA reimbursed assets from the terminated plan, the Contractor shall pay any deficiency directly to NNSA according to a schedule of payments to be negotiated by the parties.

4.4.5.5 On the same day as the Contractor notifies the IRS of the plan termination, all NNSA assets will be placed in a low-risk liability matching portfolio until full disposition of the terminating plan’s liabilities. The portfolio shall be rated no lower than Standard & Poor’s “AA.”

4.4.5.6 NNSA liability to a commingled pension plan shall not exceed that portion which corresponds to participants' service accrued for their work under an NNSA Contract. The NNSA shall have no other liability to the plan, to the plan sponsor, or to the plan participants.

4.4.5.7 After all liabilities of the plan are satisfied, the Contractor shall return to NNSA an amount equaling the asset reversion from the plan termination and any earnings, which accrue on that amount because of a delay in the payment to NNSA. Such amount and such earnings shall be subject to NNSA audit. To affect the purposes of this paragraph, NNSA and the Contractor may stipulate to a schedule of payments.

4.4.6 Post Contract Responsibilities for Pension and Other Benefit Plans

4.4.6.1 If this Contract expires or terminates and NNSA has awarded a contract under which the new contractor becomes a sponsor and assumes responsibility for management and administration of the pension or other benefit plans covering active or retired Contractor employees with respect to service, the Contractor shall cooperate and transfer to the new contractor its responsibility for sponsorship, management and administration of the plans consistent with direction from the Contracting Officer. If a comingled plan is involved, the Contractor shall:

- (i) Spin off the NNSA portion of any comingled plan that provides benefits for employees working at the NNSA facility into a separate plan. The new plan shall provide benefits similar to those provided by the comingled plan and shall carry with it the NNSA assets on an accrual basis market value, including NNSA assets that have accrued in excess of NNSA liabilities.
- (ii) Bargain in good faith with NNSA or the successor Contractor to determine the assumptions and methods for establishing the liabilities involved in a spinoff. NNSA and the Contractor(s) shall establish an effective date of spinoff. On the same day as the Contractor notifies the IRS of the spinoff, all NNSA assets assigned to a spun-off plan shall be placed in a high-yield, fixed income portfolio until the successor trustee is able to assume stewardship of those assets. The portfolio shall be rated no lower than Standard & Poor's "AA."

4.4.6.2 If this Contract expires or terminates and NNSA has not awarded a contract to a new contractor under which the new contractor becomes a sponsor and assumes responsibility for management and administration of the Plans, or if the Contracting Officer

determines that the scope of work under the Contract has been completed (any one such event may be deemed by the Contracting Officer to be "Contract Completion" for purposes of this paragraph), whichever is earlier, and notwithstanding any other obligations and requirements concerning expiration or termination elsewhere in this Contract, the following actions shall occur regarding the Contractor's obligations regarding the Plans at the time of Contract Completion:

- (i) Subject to paragraph 4.4.6.2(ii) below, and notwithstanding any legal obligations independent of the Contract the Contractor may have regarding responsibilities for sponsorship, management, and administration of the Plans, the Contractor shall remain the sponsor of the Plans, in accordance with applicable legal requirements.
- (ii) The parties shall exercise their best efforts to reach agreement on the Contractor's responsibilities for sponsorship, management and administration of the Plans prior to or at the time of Contract Completion. However, if the parties have not reached agreement on the Contractor's responsibilities for sponsorship, management and administration of the Plans prior to or at the time of Contract Completion, unless and until such agreement is reached, the Contractor shall comply with written direction from the Contracting Officer regarding the Contractor's responsibilities for continued provision of pension and welfare benefits under the Plans, including but not limited to continued sponsorship of the Plans, in accordance with applicable legal requirements. To the extent that the Contractor incurs costs in implementing direction from the Contracting Officer, the Contractor's costs will be reimbursed pursuant to applicable Contract provisions.

4.4.7 Reports and Information - Retirement Plans: For each DB and DC pension plan as applicable or portion of a pension plan for which NNSA reimburses costs, the Contractor shall provide the Contracting Officer with the following information within nine months of the last day of the current pension plan year except for the Pension Management Plan which must be submitted by January 30 of each year.

4.4.7.1 The annual actuarial valuation report for each NNSA-reimbursed pension plan. When a pension plan is commingled, the Contractor shall submit separate reports for NNSA's portion and the plan total.

4.4.7.2 Copies of IRS Forms 5500 with Schedules for each NNSA-funded pension plan, no later than that submitted to the IRS.

4.4.7.3 Copies of all forms in the 5300 series submitted to the IRS that document the establishment, amendment, termination, spin-off, or merger of a plan submitted to the IRS.

4.4.7.4 The annual Pension Management Plan as described below (**4.5 Pension Management Plan**) by January 30 of each year.

4.5 Pension Management Plan

4.5.1 The Contractor shall submit a plan for management and administration (Pension Management Plan) for each defined benefit pension plan (Plan) for which the Department has a continuing obligation to reimburse pension contributions that is consistent with the terms of this Contract.

4.5.2 The Pension Management Plan, shall be submitted annually on January 30, shall include:

4.5.2.1 The Contractor's best estimate of the contributions which it will be legally obligated to make to the Plan(s), beginning with the required contributions for the current fiscal year, based on the latest actuarial valuation, and continuing for the following four fiscal years. This estimate will be based upon compliance with all applicable legal requirements relating to the determination of contributions and upon the assumptions set out in the Plan document(s). All contribution calculations should reflect payments made during DOE fiscal years, beginning October 1, through September 30, and the next succeeding six fiscal years. Please include a summary of the key actuarial assumptions used to determine the required contribution. All estimates must be based upon the most recently available asset information for the Plan.

For example, for a Plan with a July 1 valuation date, project the July 1, value of assets for the current year to be used in the calculation from the actual January 1, value of assets from the same year.

4.5.2.2 If the actuarial valuation submitted pursuant to the annual Pension Management Plan update indicates that the sponsor of the Plan must impose benefit restrictions, the Contractor shall provide the following information:

- (i) The type of benefit restriction that will take place;
- (ii) The number of Contractor employees that potentially could be impacted and the nature of the restriction (e.g., financial impact) by imposition of the required benefit restriction;
- (iii) The amount of money that would need to be contributed to the Plan and the timing of such contribution to avoid legally required benefit restrictions; and
- (iv) A recommendation regarding whether the additional money should be contributed to the Plan and the rationale for the recommendation.

4.5.2.3 A detailed discussion of how the Contractor intends to manage the Plan(s) to maximize contribution predictability (i.e. forecasting accuracy) and to contain current and future costs, to include the rationale for selection of all Plan assumptions (i.e., actuarial experience studies) that determine the required contributions and which impact the level and predictability of required contributions. As part of the Contractor's plan to maximize contribution predictability, the Contractor may propose funding strategies other than ERISA minimums for NNSA's consideration and approval. The Contractor shall submit the following for NNSA to consider in deciding on the alternate funding strategy:

- (i) Identify whether the current year additional amount can be absorbed within the current operating budget;
- (ii) Discuss the integration of Plan's funding strategy and investment strategy taking into consideration the plan's demographic profile, liability duration, and impact of current year funding decisions on future year contribution requirements;
- (iii) Discuss the strategy for achieving fully funded status and protecting against erosion of the Plan's funded status;
- (iv) Discuss the strategy for specifically protecting any pension funding contributions reimbursed in excess of the minimum required contribution against the risk of significant loss;
- (v) Discuss whether the plan has a prefunding or funding standard carryover balance that could be used to improve the plan's AFTAP without requiring additional

contributions. Provide a rationale regarding the recommended use of the available balance(s).

4.5.2.4 An assessment to evaluate the effectiveness of the Contractor's Plan(s) investment management/results. The assessment must include at a minimum: a review and analysis of Plan investment objectives and asset allocations; results of the most recent asset liability study and investment policy review; the strategies employed to achieve the Plan's investment objectives; and the methods used to monitor execution of those strategies and the achievement of the investment objectives. The Contractor shall also identify its plans, if any, for revising any aspect of its Pension Management Plan based on the results of the review.

Within 30 days after the date of the submission, appropriate Contractor representatives will meet with the Contracting Officer and other DOE/NNSA representatives to discuss the Contractor's proposed Pension Management Plan. The Contractor must be prepared to discuss any differences between the prior fiscal year's estimated pension contributions for future fiscal years and the most

recent projected pension contributions for future fiscal years and the rationale for any such discrepancies. In addition, discrepancies between the actual contributions made for the most recent fiscal year preceding the meeting and the projected contributions for that fiscal year and the rationale for any such discrepancies, and funding strategies for the Plan will be discussed.

5.0 LABOR RELATIONS

- 5.1 The Contractor shall comply with the National Labor Relations Act, DEAR Subpart 970.2201, and all applicable Federal and State labor laws.
- 5.2 No later than 60 days before the commencement of bargaining, the Contractor shall provide to the Contracting Officer in writing: 1) the proposed changes to the current collective bargaining agreement that will increase costs over and above the current collective bargaining agreement costs; 2) the proposed savings to the current collective bargaining agreement; 3) the dollar amounts associated with the proposed changes to reflect a total cost and total net cost (or savings). Cost increase figures shall be provided for each of the following distinct categories if relevant: wages, health benefits, retirement benefits and all other benefits that increase costs under the existing collective bargaining agreement. Upon the request of the Contracting Officer, provide the full financial impact of the proposed wage increases, including but not limited to the impact on overtime and shift differential costs and an estimate of overhead burden increases that will occur as a result of the proposed wage and benefit increases over the life of the collective bargaining agreement.

The Contractor will provide regional wage survey information, Benefits Value study information (if applicable), Cost Study information and any other relevant geographic economic comparators to support the collective bargaining cost figures set forth in the Contractor's proposal no later than 60 days prior to the commencement of bargaining.

Prior to the commencement of collective bargaining, the Contracting Officer will communicate in writing to the Contractor the total approved, aggregate cost ceiling for the cost associated with the successor collective bargaining agreement. Once the aggregate threshold is determined and provided to the Contractor, no further approval of economic parameters is required unless: 1) the changes would exceed the aggregate figure or, 2) the changes proposed are contrary to Departmental policy or written instructions. To the extent the Contractor assumes savings from new negotiation positions not set forth in the Contractor's initial cost proposal, the Contractor must notify the Contracting Officer of such assumed savings by no later than 15 days after the collective bargaining agreement is executed. **(Mod 0037)**

- 5.3 The Contractor shall provide an electronic copy of the bargaining agreement and the "Report of Settlement" to the Contracting Officer 30 days after formal ratification. The Contractor shall provide information requested by the Contracting Officer regarding ratified collective bargaining agreements to which the Contractor is a party. The Contractor shall enter information, including but

not limited to the executed collective bargaining agreements, into the iBenefits system quarterly or upon Contracting Officer request.

- 5.4 The Contractor shall notify the Contracting Officer in a timely fashion of labor relations issues that may cause a significant impact to the workforce and/or impact the ability of the Contractor to perform the work under the Contract.
- 5.5 The Contractor shall immediately advise the Contracting Officer of the following:
- 5.5.1 Possible strike situations or other actions affecting the continuity of operations including work stoppages and picketing;
 - 5.5.2 Formal action by the National Labor Relations Board (NLRB) including but not limited to issuance of a complaint against the Contractor. Copies of complaints, settlement agreements, judgments and any other documents issued in connection with Contractor actions with respect to labor practices shall be provided to the Contracting Officer;
 - 5.5.3 Recourse to procedures under the Labor-Management Relations Act of 1947 as amended or any other state law;
 - 5.5.4 Any grievance scheduled for arbitration under any collective bargaining agreement that has the potential for significant economic or other impact as well as the decision of the arbitrator; and
 - 5.5.5 Other significant issues that may involve review by other federal or state agencies.

6.0 WORKFORCE PLANNING

6.1 Workforce Planning – General

The Contractor shall annually analyze workforce requirements consistent with current mission requirements and future mission requirements identified to Contractor. The Contractor will describe in a written document how it will ensure it employs a sufficient number of employees who possess the appropriate skills to perform the current mission work and the anticipated, identified mission work. The description of how the Contractor will ensure it employs sufficient employees to perform the work may include a discussion of the following topics: future hiring needs in certain critical skill areas, recruitment and retention of individuals possessing certain critical skills and the impact of anticipated retirements/attrition. The document will also describe the amount and type of work the Contractor anticipates performing during the following calendar year pursuant to [Strategic Partnership Projects \[Formerly Known as Work for Others \(Non-Department of Energy Funded Work\)\]](#). This analysis shall be provided to the Contracting Officer no later than November 30th each year.

6.2 Reductions in Contractor Employment – Workforce Restructuring (Mod 0076)

6.2.1 Voluntary Separations: In order to minimize the number of involuntary separations and mitigate the impact on affected employees, the Contractor will consider in consultation with the Contracting Officer, the use of a Voluntary Separation Program (VSP) before consideration is given to conducting an Involuntary Separation Program (ISP) when workforce restructuring is necessary. The Contractor shall submit the VSP for approval by the Contracting Officer prior to implementation regardless of the number of employees involved. No reimbursement of costs associated with VSPs will be allowable if not approved by the Contracting Officer prior to implementation.

6.2.2 Involuntary Reductions in Contractor Employment

6.2.2.1 If the restructuring involves between 10-99 employees in a rolling twelve month period, the Contractor shall notify the Contracting Officer no later than 15 days in advance of the action. For purposes of determining whether the Contractor's restructuring actions meet the thresholds set forth in this section 6.2.2.1 and Section 6.2.2.2, the Contractor shall exclude Bargaining Unit employees who are terminated pursuant to the provisions of a collective bargaining agreement and who do not receive severance pay upon termination.

6.2.2.2 For restructuring actions that involve separating between 50-99 employees, the Contractor shall prepare a specific workforce restructuring plan and submit the plan to the Contracting Officer for informational purposes. In addition, the Contractor shall perform an adverse impact analysis and provide a copy of the analysis to the NNSA Field Counsel for any restructuring actions that involve 50 or more employees within a 12-month period.

If the restructuring may involve the separation of 100 or more employees within a 12-month period, the Contractor shall submit a specific workforce restructuring plan for approval by the Contracting Officer, to enable compliance with Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 at a minimum, no later than 90 days in advance of the date the Contractor needs to begin notification to employees in accordance with the law and its attendant timeframes to effect the separations.

6.2.2.3 All notifications to the NNSA must contain pertinent information such as reasons, costs, dates, and numbers of impacted employees.

6.2.2.4 The Contractor may submit a multi-year workforce restructuring plan for consideration and approval.

6.2.3 Any payment of benefits beyond those already approved in the Contract must be approved by the Administrator, NNSA, through the Contracting

SECTION J

APPENDIX B

PERFORMANCE EVALUATION & MANAGEMENT PLAN (PEMP)

(Mod 0009, 0033, 0064, 0085)

**Fiscal Year 2021
DOE/NNSA Strategic Performance Evaluation and Measurement Plan (PEMP)**

Mission Support & Test Services, LLC

MANAGEMENT AND OPERATION OF THE

Nevada National Security Site

Contract Number: DE-NA0003624

Performance Evaluation Period: October 01, 2020 through September 30, 2021

**Mark W.
Martinez**

Mark W. Martinez Date
President
Mission Support & Test Services, LLC

**David R.
Bowman**

David R. Bowman Date
Acting Field Office Manager
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Contracting Officer
Nevada Field Office
National Nuclear Security Administration

September 2, 2020

FY 2021 PERFORMANCE EVALUATION AND MEASUREMENT PLAN

DOCUMENT REVISION HISTORY

Revision	Date	Change Description
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INTRODUCTION

The Nevada National Security Site (NNSS) is a site owned by the United States Government, under the custody of the Department of Energy (DOE), herein referenced as “NNSS,” and is managed and operated by Mission Support & Test Service, LLC (MSTS). Pursuant to the terms and conditions of the Contract, this NNSA Performance Evaluation and Measurement Plan (PEMP) sets forth the criteria by which NNSA will evaluate MSTS’ performance and upon which NNSA shall determine of the amount of award fee earned. The available award fee amounts for FY 2021 are specified in Section B, *Supplies or Services and Prices/Costs*, of the Contract. This PEMP promotes a strategic Governance and Management Framework in support of the NNSA’s Strategic Vision. The significant challenges of this Vision requires MSTS’ performance in meeting mission milestones of key mission objectives and support in addressing significant management challenges identified by NNSA.

PERFORMANCE BASED APPROACH

The performance-based approach evaluates the MSTS performance through a set of Goals. Each Goal, and its associated Objectives and Key Outcomes (KOs), will be measured against authorized work in terms of cost, schedule, and technical performance, and the respective outcomes, demonstrated performance, and impact to the DOE/NNSA mission.

MISSION

MSTS shall provide support and infrastructure for experiments and activities at the NNSS and satellite facilities. MSTS shall be responsible for a wide range of activities in support of DOE/NNSA missions that include the following: nuclear explosives operations; remote field experiments and operations; physical and environmental science; nuclear waste management systems and technology; design and fabrication of electronic, mechanical, and structural systems; remote and robotic sensing; management of multi-laboratory facilities, mining, engineering, and construction operations; chemical, explosives, and hazardous materials systems and technologies; intelligence-related work; and waste management for various categories of waste. MSTS shall be responsible for a wide-range of facilities, laboratories, and equipment that support the custom design, construction, and fielding of experimental systems ranging from small electronic and remote sensing packages to fielding complex systems in hostile environments for use anywhere in the world.

MISSION PERFORMANCE

MSTS is accountable for and will be evaluated on successfully executing program work in accordance with applicable DOE/NNSA safety and security requirements consistent with the terms and conditions of the Contract. Protection of worker and public safety, the environment, and security are essential and implicit elements of successful mission performance. Accordingly, MSTS shall plan safety and security improvements and accomplishments as an integral component of mission performance contributing to meeting the affected programmatic Goals. The model for this PEMP is to rely on MSTS leadership to use appropriate DOE contractual requirements and recognized industrial standards based on consideration of assurance systems, and the related measures, metrics, and evidence. **MSTS is expected to manage in a safe, secure, efficient, effective, results-driven manner, with appropriate risk management and transparency to the government, while taking appropriate measures to minimize costs that do not compromise core objectives and mission performance.** Products and services are expected to be delivered on-schedule and within budget.

CONSIDERATION OF CONTEXT IN PERFORMANCE EVALUATION

The evaluation of performance will consider “context” such as unanticipated barriers (e.g., budget restrictions, rule changes, circumstances outside MSTS’ control), degree of difficulty, significant accomplishments, and other events that may occur during the performance period. A significant safety or security event may result in an overall limitation to adjectival ratings. Such impacts may be balanced by the response to the incident, and by other initiatives to improve overall safety or security performance. MSTS is encouraged to note significant safety and security continuous improvements.

PERFORMANCE RATING PROCESS

DOE/NNSA will review performance throughout the performance evaluation period, and provide tri-annual feedback to MSTS highlighting accomplishments and/or issues. At the end of the performance evaluation period, an evaluation of MSTS’ performance will be completed based on contractor oversight against the criteria in the PEMP. Sources of oversight data include, but are not limited to, DOE/NNSA formal assessments, contractor self-assessments, internal and external audits, inspections, program and project reviews, operational awareness activities, contractor assurance system, etc.

This evaluation will be documented in a Performance Evaluation Report (PER) and will include the performance ratings and award fee earned for the subject performance evaluation period. Objectives and KOs (if any) will be assessed in the aggregate to determine an adjectival performance rating for each Goal. DOE/NNSA will consider MSTS’ end of year self-assessment report in the performance evaluation. The performance ratings will be determined in accordance with FAR 16.401(e) (3) yielding ratings of Excellent, Very Good, Good, Satisfactory, or Unsatisfactory. The Goals will then be considered in the aggregate to provide an overall rating and percentage of award fee earned for the contract.

Notwithstanding the overall strategic framework, any significant failure in any goal may impact the overall rating and award fee earned. **Dollar values contained in the PEMP are provided as guidelines for developing a recommendation of fee allocation to the Fee Determining Official (FDO). The final determination as to the amount of fee earned is a unilateral determination made by the FDO.**

MSTS may request a face-to-face meeting with the FDO to highlight its strategic performance at the end of the performance evaluation period. This meeting should occur within the first two weeks after the end of the period.

PEMP CHANGE CONTROL

It is essential that a baseline of performance expectations be established at the beginning of the performance period to equitably measure performance, and that changes to that baseline are carefully managed. Any change to the PEMP requires concurrence by the appropriate program office and the NNSA Senior Procurement Executive prior to the Field Office Manager and Contracting Officer signatures. While recognizing the unilateral rights of DOE/NNSA as expressed in the contract terms and conditions, bilateral changes are the preferred method of change whenever possible.

FEE ALIGNMENT AND “AT-RISK” AWARD FEE ALLOCATION

This table is provided for information only and does not change the terms and conditions of the contract. “At-Risk” Award Fee (AF) is applied to goals 1, 2, 5, and 6 and *Fixed Fee (FF)* is applied to goals 3 and 4. Goal 3 displays total estimated fee attributable to DOE work. The sum of dollars available for goals 1, 2, 5, and 6 equals total AF for both DOE and NNSA work. The dollars available for goal 4 is the total FF for both DOE and NNSA work. All goals, including those with FF, will receive an adjectival assessment as a part of the Corporate Performance Evaluation Process (CPEP).

Fixed Fee (FF), Award Fee (AF), SPP Fixed Fee (SPP FF)

Goal	Fee Amount	Fee Type
Goal-1: Mission Execution: Nuclear Weapons	\$ 5.633M	Award Fee (At-Risk)
Goal-2: Mission Execution: Global Nuclear Security	\$ 3.754M	Award Fee (At-Risk)
Goal-3: DOE and Strategic Partnership Projects (SPP)	*DOE – TBD SPP - TBD	*DOE – (FF + AF) SPP – Fixed Fee
Goal-4: Mission Execution: Science, Technology, and Engineering (ST&E)	\$ -0-	Fixed Fee
Goal-5: Mission Enablement	\$ 5.633M	Award Fee (At-Risk)
Goal-6: Mission Leadership	\$3.754M	Award Fee (At-Risk)

**Display of total estimated fee attributable to DOE work.*

The amounts are based on estimated values for FY2021 and could change slightly as actual values for various categories of work are established with FY2021 budgets.

UNEARNED FEE

DOE/NNSA reserves the right to withdraw and redistribute DOE/NNSA unearned fees.

AWARD TERM INCENTIVE (N/A)

INNOVATIVE SOLUTIONS

MSTS will recommend innovative, technology/science-based, systems-engineering solutions to the most challenging problems that face the nation and the globe. MSTS will also provide evidence to support programmatic needs and operational goals tempered by risk. DOE/NNSA will take into consideration all major functions including safety and security contributing to mission success. In addition, DOE/NNSA expects MSTS to recommend and implement innovative business and management improvement solutions that enhance efficiencies.

Goal-1: Mission Execution: Nuclear Weapons

Successfully execute the cost, scope, and schedule of the Nuclear Stockpile mission work for Defense Programs work in a safe and secure manner in accordance with DOE/NNSA priorities, Work Authorizations, and Execution/Implementation Plans.

Objectives:

- Objective-1.1: Complete programs work requirements and activities that 1) integrate quality requirements into an effective quality assurance site-wide program; 2) and maintain resilient supplier base; 3) improve modeling and analysis capabilities to accurately measure production; 4) improve production capability, material accountability, quality, and cost per unit work performance; 5) implement measures for improving responsiveness and resilient of required production capabilities; 6) meet transportation requirements; and, 7) execute design, development, production and delivery in a safe, secure, reliable, and cost effective environment.

- Objective-1.2: Execute production modernization processes and activities to sustain and improve production capabilities, equipment, and infrastructure for 1) War Reserve (WR) production site-to-site interface controls; 2) components (primary, secondary, non-nuclear) modernization and production; 3) strategic materials capabilities and productions; and 4) improve safety margins, technology maturation strategies, and qualification, logistics, and security plans collaboratively across the NSE.

- Objective-1.3: Provide the knowledge and expertise to maintain confidence in the nuclear stockpile without additional nuclear explosive testing by developing, maturing, and applying innovative strategies and technologies to sustain a robust stockpile and improve science and engineering capabilities, facilities and essential skills to support existing and future nuclear security enterprise requirements.

- Objective-1.4: Execute stockpile system maintenance, production, limited-life component exchanges, weapon containers, surveillance, assessment, development studies/capability improvements, weapon program planning/support and dismantlement and disposition activities to meet DoD commitments and deliver the annual stockpile assessment.

- Objective-1.5: Work as a team on stockpile modernization program scope to 1) build margin in program delivery schedules that lower risk to achieving First Production Unit (FPU), Initial Operational Capability (IOC), and Final Operational Capability (FOC); 2) improve manufacturability and supply chain execution; and 3) control costs.

Key Outcome(s):

- KO 1.1 TRIAD, LLNS, NTESS, and MSTs will collaborate to execute subcritical experiments to provide data relevant to improving our predictive capability and for certification of the current and future stockpile.

Goal-2: Mission Execution: Global Nuclear Security

Successfully execute the cost, scope, and schedule of the authorized global nuclear security mission work in a safe and secure manner to include the Defense Nuclear Nonproliferation, Nuclear Counterterrorism and Counterproliferation, and Incident Response missions in accordance with DOE/NNSA priorities, Work Authorizations, and Execution/Implementation Plans,

Objectives:

Objective-2.1 Support efforts to secure, account for, and interdict the illicit movement of nuclear weapons, weapons-useable nuclear materials, and radiological materials.

Objective-2.2 Support U.S. national and nuclear security objectives in reducing global nuclear security threats through the innovation of unilateral and multi-lateral technical capabilities to detect, identify, and characterize: 1) foreign nuclear weapons programs, 2) illicit diversion of special nuclear materials, and 3) global nuclear detonations.

Objective-2.3 Support efforts to achieve permanent threat reduction by managing and minimizing excess weapons-useable nuclear materials and providing nuclear materials for peaceful uses.

Objective-2.4 Support efforts to prevent proliferation, ensure peaceful nuclear uses, and enable verifiable nuclear reductions in order to strengthen the nonproliferation and arms control regimes.

Objective-2.5 Sustain and improve nuclear counterterrorism and counterproliferation science, technology, and expertise; execute unique emergency response missions, implement policy in support of incident response and nuclear forensics missions, and assist international partners/organizations.

Key Outcome(s):

KO 2.1 Sustain Field Operations – Support all Nuclear Emergency Support Team (NEST) objectives by maintaining the capability to deploy technically trained staff, as well as train, provide watch-bill support, organize, and equip the NEST field elements.

Goal-3: DOE and Strategic Partnership Projects Mission Objectives

Successfully execute high-impact work for DOE and Strategic Partnership Project Mission Objectives safely and securely. Demonstrate the value of the work in addressing the strategic national security needs of the U.S. Government.

Objectives:

Objective-3.1 Pursue and perform high-impact work for DOE that strategically integrates with the DOE/NNSA mission, and leverages, sustains and strengthens unique science and engineering capabilities, facilities, and essential skills.

Objective-3.2 Pursue and perform high-impact Strategic Partnership Projects that strategically integrates with the DOE/NNSA mission, and leverages, sustains and strengthens unique science and engineering capabilities, facilities, and essential skills in support of national security mission requirements.

Goal-4: Mission Execution: Science, Technology, and Engineering (ST&E)

Successfully advance national security missions and advance the frontiers of ST&E. Effectively manage Site Directed Research and Development (SDRD) and Technology Transfer, etc. in a safe and secure manner in accordance with DOE/NNSA priorities, Work Authorizations, and Execution/Implementation Plans.

Objectives:

- Objective-4.1 Execute a research strategy that is clear and aligns discretionary investments (e.g., SDRD with NNSS' strategy and supports DOE/NNSA priorities.)
- Objective-4.2 Ensure that research is relevant, enables the national security missions, and benefits DOE/NNSA and the nation.
- Objective-4.3 Ensure that research is transformative, innovative, leading edge, high quality, and advances the frontiers of science and engineering.
- Objective-4.4 Maintain a healthy and vibrant research environment that enhances technical workforce competencies and research capabilities.
- Objective-4.5 Research and develop high-impact technologies through effective partnerships and technology transfer mechanisms that support the NNSS' strategy, DOE/NNSA priorities and impact the public good; ensure that reporting and publishing (via DOE's Public Access Plan) requirements for broad availability of federally funded scientific research are implemented.

Goal 5: Mission Enablement

Effectively and efficiently manage the safe and secure operations of the NNSS in accordance with cost, scope and schedule while maintaining an NNSA enterprise-wide focus; demonstrating accountability for mission performance and management controls; successfully executing cyber, technical, informational, and physical security requirements, and assure mission commitments are met with high-quality products and services while partnering to improve the site infrastructure. Performance will be measured by the contractor's assurance system, NNSA metrics, cost control, business and financial operations, project baselines, implementation plans, assessment and audit results, etc., with a focus on mission enablement.

Objectives:

- Objective-5.1 Deliver effective, efficient, and responsive environment, safety, health and quality (ESH&Q) management and processes.
- Objective-5.2 Execute design and construction projects to achieve the scope on schedule and on budget with no significant quality or safety issues while partnering with NNSA to achieve balanced cost and schedule risk through effective acquisition approaches and processes.
- Objective-5.3 Deliver effective, efficient, and responsive safeguards and security.
- Objective-5.4 Manage NNSA infrastructure to maintain, operate and modernize DOE/NNSA facilities, infrastructure, and equipment in an effective, energy efficient, resilient manner that minimizes operational, security, and safety risks. Improve site conditions via: 1) disposition of unneeded infrastructure and excess hazardous materials, 2) increasing the viable use of facilities and equipment, and 3) delivering cost efficient improvements, and 4) focus on the amount of predictive/preventive maintenance work being performed to reduce corrective maintenance and risks of disruption to mission operations. Demonstrate progress to advance the Department of Energy's crosscut initiative to halt the growth of deferred maintenance and support arresting the declining state of infrastructure while working collaboratively with NNSA to implement management improvements (e.g., G2, MDI, BUILDER, and AMPs). Improve progress and results in meeting NNSA's sustainability goals with a focus on maximizing energy efficiency for enduring infrastructure and supporting the use of Energy Savings Performance Contracts and Utility Energy Service Contracts.
- Objective-5.5 Deliver efficient, effective, responsible and transparent financial management operations and systems including financial integration reporting; budget formulation and execution; and internal controls.
- Objective-5.6 Deliver efficient and effective management of legal risk and incorporation of best legal practices.
- Objective-5.7 Deliver effective, efficient, and responsive information technology systems and cybersecurity that provides for a comprehensive mission and functional area delivery through the completion of the implementation factors established in the NA-IM IT and Cybersecurity Program Execution Guidance.
- Objective-5.8 Deliver effective, efficient, and responsive site emergency management programs in support of the DOE/NNSA Emergency Management Enterprise.

Objective-5.9 Deliver efficient, effective, and compliant business operations including, but not limited to, procurement, human resources, and property systems, in support of NNSA missions. Focus areas to include: major acquisitions; subcontractor evaluation, selection, and management; achievement of small business and socioeconomic goals; support provided to the NSE Workforce Recruitment Strategy; strategic management of integrated recruiting, retention, and diversity programs; and cost effective compensation and benefits programs.

Key Outcome(s):

KO 5.1 Plan and execute projects, including the MSTs assigned projects in the Enhanced Capabilities for Subcritical Experiments portfolio and the U1a Complex Enhancements Project, in accordance with scope, cost, and schedule baselines. Emphasis will be placed on risk management, resource utilization, cost estimation, cross-functional communication, effective procurement, cost control, quality, and integration of safety and security practices into all project aspects.

KO 5.2 Negotiate in good faith to successfully conclude an agreement on a firm fixed price contract baseline for the 138kV project.

KO 5.3 Authorization Basis

Develop, manage and implement the NNS authorization basis process for work performed by the NvE (e.g., General Use & Operations, Siting & Screening, REOP, nuclear safety basis, security, emergency management, and environmental & waste compliance processes) using a quality assurance process that promotes efficiency and increases the likelihood of successfully delivering on goals and objectives with minimal rework.

Goal-6: Mission Leadership

Successfully demonstrate leadership in supporting the direction of the overall DOE/NNSA mission, cultivating a Performance Excellence Culture that encompasses all aspects of operations and continues to emphasize safety and security, improving the responsiveness of MSTs' leadership team to issues and opportunities for continuous improvement internally and across the Enterprise, and parent company involvement/commitment to the overall success of the NNSA and the Enterprise.

Objectives:

- Objective-6.1 Define and implement a realistic strategic vision for the NNSA, in alignment with the NNSA Strategic Vision, which demonstrates enterprise leadership and effective collaborations across the NNSA enterprise to ensure DOE/NNSA success.

- Objective-6.2 Demonstrate performance results through the institutional utilization of a Contractor Assurance System and promoting a culture of critical self-assessment, transparency, and accountability through the entire organization, while also leveraging parent company resources and expertise.

- Objective-6.3 Demonstrate collaborative activities/deliverables to other partners that provide tangible benefits to reducing the risk meeting Goal 1 requirements. This includes—1) Develop, integrate, communicate and implement enterprise-wide plans; 2) provide solutions and actions that improve Design Agency and Production Agency teaming; 3) drive cultural changes with measureable and sustainable improvements; 4) optimize make/buy decisions and processes to qualify in-house and COTS components; 5) plan, manage, and execute small projects critical to mission success; and, 6) achieve life cycle efficiencies throughout the DOE/NNSA complex.

- Objective-6.4 Exhibit professional excellence in performing roles/responsibilities while pursuing opportunities for continuous learning and demonstrated improvements.

FAR 16.401 (e) (3) AWARD FEE ADJECTIVAL RATINGS AND SUPPLEMENTAL DEFINITIONS

Excellent	91%-100%	<p>Contractor has exceeded almost all of the significant award-fee criteria and has met overall cost, schedule, and technical performance requirements of the contract in the aggregate as defined and measured against the criteria in the award-fee plan for the award-fee evaluation period.</p> <p><i>This performance level is evidenced by at least one significant accomplishment, or a combination of accomplishments that significantly outweigh very minor issues, if any. No significant issues in performance exist.</i></p>
Very Good	76% - 90%	<p>Contractor has exceeded many of the significant award-fee criteria and has met overall cost, schedule, and technical performance requirements of the contract in the aggregate as defined and measured against the criteria in the award-fee plan for the award-fee evaluation period.</p> <p><i>This performance level is evidenced by accomplishments that greatly outweigh issues. No significant issues in performance exist.</i></p>
Good	51% - 75%	<p>Contractor has exceeded some of the significant award-fee criteria and has met overall cost, schedule, and technical performance requirements of the contract in the aggregate as defined and measured against the criteria in the award-fee plan for the award-fee evaluation period.</p> <p><i>This performance level is evidenced by accomplishments that slightly outweigh issues. No significant issues in performance exist.</i></p>
Satisfactory	No greater than 50%	<p>Contractor has met overall cost, schedule, and technical performance requirements of the contract in the aggregate as defined and measured against the criteria in the award-fee plan for the award-fee evaluation period.</p> <p><i>This performance level is evidenced by issues that slightly outweigh accomplishments.</i></p>

Unsatisfactory	0%	<p>Contractor has failed to meet overall cost, schedule, and technical performance requirements of the contract in the aggregate as defined and measured against the criteria in the award-fee plan for the award-fee evaluation period.</p> <p><i>This performance level is evidenced by issues that significantly outweigh accomplishments, if any.</i></p>
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Definitions:

An **Accomplishment** is an achievement or success in the performance of contract requirements that exceeds standards or expectations. Examples might be performing full contract requirements under budget while meeting or beating schedule baselines or performing additional scope within the initial cost targets with no negative effect on requirements or other programs, indicating continued performance improvement.

An **Issue** is a point in question or a matter that raises concerns regarding successful performance of contract requirements within scope, cost (budget), and schedule baselines or concern of negative effect on requirements or other programs, indicating a decline in performance that needs attention and improvement.

SECTION J

APPENDIX C

TRANSITION PLAN

Plan: [To be inserted by the Contracting Officer.]

Requirements: In accordance with Section F, *Deliverables During Transition*, the Contractor shall submit a Transition Plan for the Contracting Officer's approval 10 days after Contract award. The Transition plan shall describe the process, details, schedule, and cost for providing an orderly transition during the Contract's Transition Term stated in Section F, F-3 *Period of Performance*. The Transition Plan shall be in accordance with the guidance herein for all elements of Section J, Appendix A, *Statement of Work*.

The objectives of the Transition Plan are to:

- (i) Minimize the impacts on continuity of operations;
- (ii) Maintain communication with staff and affected communities;
- (iii) Identify key issues; and
- (iv) Overcome barriers to transition.

The Contractor is responsible for performing due diligence to ensure that all the transition activities are identified, negotiated, and completed during the Transition Term. The Contractor shall establish a transition management team capable of providing overall management and logistical support for all transition activities. The Contractor shall develop a resource-loaded project management schedule using software that is capable of integrating with the incumbents' and DOE/NNSA software. Milestones and measurable commitments will be included in the schedule. The Contractor shall regularly report status to DOE/NNSA at periodic meetings and through regular written reports. The Contractor may also be called upon periodically to brief the local communities.

The proposed transition activities and schedule will be finalized with the Contractor and approved by the Contracting Officer prior to commencement of the Transition Plan activities. A Transition Cost Estimate shall be provided in accordance with Section F, F-6, *Deliverables During Transition*. The Contractor shall invoice for reimbursement of Transition Plan costs in accordance with Section G, G-7, *Invoicing for Transition Costs*, paragraph (b). After completion of these activities and such other Transition Plan activities as may be planned by the Contractor and as authorized by the Contracting Officer, the Contractor shall advise the Contracting Officer that it is ready to assume full responsibility for the Nevada National Security Site. Upon receipt of written notification from the Contracting Officer that the transition activities are considered complete, the Contractor shall assume full responsibility for the Nevada National Security Site, effective 12:01 a.m. at the start of the Base Term of the Contract.

SECTION J

APPENDIX D

SENSITIVE FOREIGN NATIONS CONTROL

1. Pursuant to the Contract Section I Clause 952.204-71 entitled “Sensitive Foreign Nations Controls,” “sensitive foreign nations” is one of the countries listed below:

Algeria	Armenia
Azerbaijan	Belarus
China (People's Republic of China)	Cuba
Georgia	Hong Kong
India	Iran
Iraq	Israel
Kazakhstan	Kyrgyzstan
Libya	Moldova
North Korea (Democratic People's Republic of)	Pakistan
Russia	Sudan
Syria	Taiwan
Tajikistan	Turkmenistan
Ukraine	Uzbekistan

2. Due to the dynamic nature of world events, other countries may, at any time, become sensitive. Therefore, caution should be exercised with citizens of countries not listed above to assure that sensitive information, although unclassified in nature, is not inadvertently disclosed. This would include nuclear and other U.S. technology and economic information. The Contracting Officer may (i) update the above list by providing the Contractor a periodic written notice or (ii) update the above list via a unilaterally Contract modification.

3. The Contract’s Appendix F “List of Applicable Directives”, DOE Order 142.3A “UNCLASSIFIED FOREIGN VISITS AND ASSIGNMENTS PROGRAM” contains definitions associated with DOE’s Unclassified Foreign Visits and Assignments Program.

SECTION J

APPENDIX E

PERFORMANCE GUARANTEE AGREEMENT(S)

Honeywell International Inc.



MSTS

MISSION SUPPORT AND TEST SERVICES LLC

Honeywell International Inc.
115 Tabor Road
Morris Plains, NJ 07950

PERFORMANCE GUARANTEE AGREEMENT

For value received, and in consideration of, and in order to induce the United States (the Government) to enter into Contract _____ for the management and operation of the Nevada National Security Site (the "Contract") dated October 1, 2016, by and between the Government and Honeywell International Inc. (Contractor), the undersigned, Honeywell International Inc. (Guarantor), a corporation incorporated in the State of Delaware with its principal place of business at Morris Plains, New Jersey 07950 hereby unconditionally guarantees to the Government (a) the full and prompt payment and performance of all obligations, accrued and executory, which Contractor presently or hereafter may have to the Government under the Contract, and (b) the full and prompt payment and performance by Contractor of all other obligations and liabilities of Contractor to the Government, fixed or contingent, due or to become due, direct or indirect, now existing or hereafter and howsoever arising or incurred under the Contract, and Guarantor further agrees to indemnify the Government against any losses the Government may sustain and expenses it may incur as a result of the enforcement or attempted enforcement by the Government of any of its rights and remedies under the Contract, in the event of a default by Contractor thereunder, and/or as a result of the enforcement or attempted enforcement by the Government of any of its rights against Guarantor hereunder.

Guarantor has read and consents to the signing of the Contract. Guarantor further agrees that Contractor shall have the full right, without any notice to or consent from Guarantor, to make any and all modifications or amendments to the Contract without affecting, impairing, or discharging, in whole or in part, the liability of Guarantor hereunder.

Guarantor hereby expressly waives all defenses which might constitute a legal or equitable discharge of a surety or guarantor, and agrees that this Performance Guarantee Agreement shall be valid and unconditionally binding upon Guarantor regardless of (i) the reorganization, merger, or consolidation of Contractor into or with another entity, corporate or otherwise, or the liquidation or dissolution of Contractor, or the sale or other disposition of all or substantially all of the capital stock, business or assets of Contractor to any other person or party, or (ii) the institution of any bankruptcy, reorganization, insolvency, debt agreement, or receivership proceedings by or against Contractor, or adjudication of Contractor as a bankrupt, or (iii) the assertion by the Government against Contractor of any of the Government's rights and remedies provided for under the Contract, including any modifications or amendments thereto, or under any other document(s) or instrument(s) executed by Contractor, or existing in the Government's favor in law, equity, or bankruptcy.

Guarantor further agrees that its liability under this Performance Guarantee Agreement shall be continuing, absolute, primary, and direct, and that the Government shall not be required to pursue any right or remedy it may have against Contractor or other Guarantors under the Contract, or any modifications or amendments thereto, or any other document(s) or instrument(s) executed by Contractor, or otherwise. Guarantor affirms that the Government shall not be required to first

Honeywell International Inc.
115 Tabor Road
Morris Plains, NJ 07950

commence any action or obtain any judgment against Contractor before enforcing this Performance Guarantee Agreement against Guarantor, and that Guarantor will, upon demand, pay the Government any amount, the payment of which is guaranteed hereunder and the payment of which by Contractor is in default under the Contract or under any other document(s) or instrument(s) executed by Contractor as aforesaid, and that Guarantor will, upon demand, perform all other obligations of Contractor, the performance of which by Contractor is guaranteed hereunder.

Guarantor agrees to assure that it shall cause this Performance Guarantee Agreement to be unconditionally binding upon any successor(s) to its interests regardless of (i) the reorganization, merger, or consolidation of Guarantor into or with another entity, corporate or otherwise, or the liquidation or dissolution of Guarantor, or the sale or other disposition of all or substantially all of the capital stock, business, or assets of Guarantor to any other person or party, or (ii) the institution of any bankruptcy, reorganization, insolvency, debt agreement, or receivership proceedings by or against Guarantor, or adjudication of Guarantor as a bankrupt.

Guarantor further warrants and represents to the Government that the execution and delivery of this Performance Guarantee Agreement is not in contravention of Guarantor's Articles of Organization, Charter, by-laws, and applicable law; that the execution and delivery of this Performance Guarantee Agreement, and the performance thereof, has been duly authorized by the Guarantor's Board of Directors, Trustees, or any other management board which is required to participate in such decisions; and that the execution, delivery, and performance of this Performance Guarantee Agreement will not result in a breach of, or constitute a default under, any loan agreement, indenture, or contract to which Guarantor is a party or by or under which it is bound.

No express or implied provision, warranty, representation or term of this Performance Guarantee Agreement is intended, or is to be construed, to confer upon any third person(s) any rights or remedies whatsoever, except as expressly provided in this Performance Guarantee Agreement.

In witness thereof, Guarantor has caused this Performance Guarantee Agreement to be executed by its duly authorized officer, and its corporate seal to be affixed hereto on November 12, 2015.

Honeywell International Inc.

[Redacted signature area]

John J. Tus, Vice President and Treasurer

Treasury Log#: 2015_077_NSS_Energy



(CP)

Honeywell International Inc.
115 Tabor Road
Morris Plains, NJ 07950



CORPORATE SEAL

ATTESTATION INCLUDING
APPLICATION

OF SEAL BY AN OFFICIAL OF

GUARANTOR AUTHORIZED TO
AFFIX

Solicitation No: DE-SOL-0008418

December 12, 2016

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Jacobs Engineering Group Inc.



MSTS

MISSION SUPPORT AND TEST SERVICES LLC

Figure 10: Jacobs Engineering Group Inc. Performance Guarantee Agreement

Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal.

SECTION L, ATTACHMENT A
PERFORMANCE GUARANTEE AGREEMENT

For value received, and in consideration of, and in order to induce the United States (the Government) to enter into Contract _____ for the management and operation of the Nevada National Security Site (the "Contract") dated _____, by and between the Government and **Mission Support and Test Services, LLC** (Contractor), the undersigned, **Jacobs Engineering Group Inc.** (Guarantor), a corporation incorporated in the State of **Delaware** with its principal place of business at **155 North Lake Ave, Pasadena, California 91101** hereby unconditionally guarantees to the Government (a) the full and prompt payment and performance of all obligations, accrued and executory, which Contractor presently or hereafter may have to the Government under the Contract, and (b) the full and prompt payment and performance by Contractor of all other obligations and liabilities of Contractor to the Government, fixed or contingent, due or to become due, direct or indirect, now existing or hereafter and howsoever arising or incurred under the Contract, and Guarantor further agrees to indemnify the Government against any losses the Government may sustain and expenses it may incur as a result of the enforcement or attempted enforcement by the Government of any of its rights and remedies under the Contract, in the event of a default by Contractor thereunder, and/or as a result of the enforcement or attempted enforcement by the Government of any of its rights against Guarantor hereunder.

Guarantor has read and consents to the signing of the Contract. Guarantor further agrees that Contractor shall have the full right, without any notice to or consent from Guarantor, to make any and all modifications or amendments to the Contract without affecting, impairing, or discharging, in whole or in part, the liability of Guarantor hereunder.

Guarantor hereby expressly waives all defenses which might constitute a legal or equitable discharge of a surety or guarantor, and agrees that this Performance Guarantee Agreement shall be valid and unconditionally binding upon Guarantor regardless of (i) the reorganization, merger, or consolidation of Contractor into or with another entity, corporate or otherwise, or the liquidation or dissolution of Contractor, or the sale or other disposition of all or substantially all of the capital stock, business or assets of Contractor to any other person or party, or (ii) the institution of any bankruptcy, reorganization, insolvency, debt agreement, or receivership proceedings by or against Contractor, or adjudication of Contractor as a bankrupt, or (iii) the assertion by the Government against Contractor of any of the Government's rights and remedies provided for under the Contract, including any modifications or amendments thereto, or under any other document(s) or instrument(s) executed by Contractor, or existing in the Government's favor in law, equity, or bankruptcy.

Guarantor further agrees that its liability under this Performance Guarantee Agreement shall be continuing, absolute, primary, and direct, and that the Government shall not be required to pursue any right or remedy it may have against Contractor or other Guarantors under the Contract, or any modifications or amendments thereto, or any other document(s) or instrument(s) executed by Contractor, or otherwise. Guarantor affirms that the Government shall not be required to first commence any action or obtain any judgment against Contractor before enforcing this Performance Guarantee Agreement against Guarantor, and that Guarantor will, upon demand, pay the Government any amount, the payment of which is guaranteed hereunder and the payment of which by Contractor is in default under the Contract or under any other document(s) or instrument(s) executed by Contractor as aforesaid, and that Guarantor will, upon

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HII Nuclear, Inc. (Mod 0033)



MSTS

MISSION SUPPORT AND TEST SERVICES LLC



Figure 11: HII Nuclear, Inc. Performance Guarantee Agreement (Mod 0033)

SECTION L

ATTACHMENT A

PERFORMANCE GUARANTEE AGREEMENT

for value received, and in consideration of, and in order to induce the United States (the Government) to enter into Contract awarded based on DE-NA0003624 for the management and operation of the Nevada National Security Site (the "Contract") dated May 12, 2017, by and between the Government and Mission Support and Test Services, LLC (Contractor), the undersigned, HII Nuclear Inc. (Guarantor), a corporation incorporated in the State of Delaware with its principal place of business at 105 Technology Drive, Suite 190, Broomfield, CO hereby unconditionally guarantees to the Government (a) the full and prompt payment and performance of all obligations, accrued and executory, which Contractor presently or hereafter may have to the Government under the Contract, and (b) the full and prompt payment and performance by Contractor of all other obligations and liabilities of Contractor to the Government, fixed or contingent, due or to become due, direct or indirect, now existing or hereafter and howsoever arising or incurred under the Contract, and Guarantor further agrees to indemnify the Government against any losses the Government may sustain and expenses it may incur as a result of the enforcement or attempted enforcement by the Government of any of its rights and remedies under the Contract, in the event of a default by Contractor thereunder, and/or as a result of the enforcement or attempted enforcement by the Government of any of its rights against Guarantor hereunder.

Guarantor has read and consents to the signing of the Contract. Guarantor further agrees that Contractor shall have the full right, without any notice to or consent from Guarantor, to make any and all modifications or amendments to the Contract without affecting, impairing, or discharging, in whole or in part, the liability of Guarantor hereunder.

Guarantor hereby expressly waives all defenses which might constitute a legal or equitable discharge of a surety or guarantor, and agrees that this Performance Guarantee Agreement shall be valid and unconditionally binding upon Guarantor regardless of (i) the reorganization, merger, or consolidation of Contractor into or with another entity, corporate or otherwise, or the liquidation or dissolution of Contractor, or the sale or other disposition of all or substantially all of the capital stock, business or assets of Contractor to any other person or party, or (ii) the institution of any bankruptcy, reorganization, insolvency, debt agreement, or receivership proceedings by or against Contractor, or adjudication of Contractor as a bankrupt, or (iii) the assertion by the Government against Contractor of any of the Government's rights and remedies provided for under the Contract, including any modifications or amendments thereto, or under any other document(s) or instrument(s) executed by Contractor, or existing in the Government's favor in law, equity, or bankruptcy.

Guarantor further agrees that its liability under this Performance Guarantee Agreement shall be continuing, absolute, primary, and direct, and that the Government shall not be required to pursue any right or remedy it may have against Contractor or other Guarantors under the Contract, or any modifications or amendments thereto, or any other document(s) or instrument(s) executed by Contractor, or otherwise. Guarantor affirms that the Government shall not be

required to first commence any action or obtain any judgment against Contractor before enforcing this Performance Guarantee Agreement against Guarantor, and that Guarantor will, upon demand, pay the Government any amount, the payment of which is guaranteed hereunder and the payment of which by Contractor is in default under the Contract or under any other document(s) or instrument(s) executed by Contractor as aforesaid, and that Guarantor will, upon demand, perform all other obligations of Contractor, the performance of which by Contractor is guaranteed hereunder .

Guarantor agrees to assure that it shall cause this Performance Guarantee Agreement to be unconditionally binding upon any successor(s) to its interests regardless of (i) the reorganization, merger, or consolidation of Guarantor into or with another entity, corporate or otherwise, or the liquidation or dissolution of Guarantor, or the sale or other disposition of all or substantially all of the capital stock, business, or assets of Guarantor to any other person or party, or (ii) the institution of any bankruptcy, reorganization, insolvency, debt agreement, or receivership proceedings by or against Guarantor, or adjudication of Guarantor as a bankrupt.

Guarantor further warrants and represents to the Government that the execution and delivery of this Performance Guarantee Agreement is not in contravention of Guarantor's Articles of Organization, Charter, by-laws, and applicable law; that the execution and delivery of this Performance Guarantee Agreement, and the performance thereof, has been duly authorized by the Guarantor's Board of Directors, Trustees, or any other management board which is required to participate in such decisions; and that the execution, delivery, and performance of this Performance Guarantee Agreement will not result in a breach of, or constitute a default under, any loan agreement, indenture, or contract to which Guarantor is a party or by or under which it is bound.

No express or implied provision, warranty, representation or term of this Performance Guarantee Agreement is intended, or is to be construed, to confer upon any third person(s) any rights or remedies whatsoever, except as expressly provided in this Performance Guarantee Agreement.

In witness thereof, Guarantor has caused this Performance Guarantee Agreement to be executed by its duly authorized officer, and its corporate seal to be affixed hereto on September 13, 2018.

HII Nuclear Inc.

NAME OF CORPORATION

(Signed)

Official Name: D. R. Wyatt

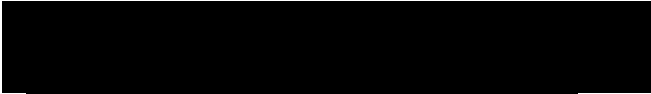
NAME AND POSITION OF OFFICAL

Official Title: Treasurer

EXECUTING PERFORMANCE

ATTESTATION INCLUDING APPLICATION OF SEAL BY AN OFFICIAL OF GUARANTOR AUTHORIZED TO AFFIX CORPORATE SEAL

GUARENTEE AGREEMENT ON BEHALF OF GUARANTOR



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Section J Appendix F**List of Applicable Laws, Regulations, and DOE Directives**

(Mod 0008, 0014, 0022, 0027, 0033, 0037, 0044, 0052, 0056, 0059, 0064, 0069, 0076, 0084, 0085)

In addition to the list of applicable directives referenced below, the Contractor shall also comply with supplementary directives (e.g., manuals), which are invoked by a Contractor Requirements Document (CRD) attached to a directive referenced below. This List excludes directives that have been granted an exemption from the CRD in whole or in part. For those Directives whereby the Contractor has been granted an exemption from the CRD, the Contractor shall comply only with the Operating Requirements identified in Appendix F-1. Directives identified in Appendix F-1 are for reference purposes only and are not inclusive of all of the Directives that will be incorporated into the contract.

DIRECTIVE NUMBER			DATE	DOE DIRECTIVE TITLE	MOD #
DOE	O	130.1	9/29/1995	Budget Formulation	
DOE	O	140.1A	6/15/2020	Interface with the Defense Nuclear Facilities Safety Board	0085
DOE	O	142.3A Chg 1 Chg 2 (LtdChg)	10/14/2010 1/18/2017 12/13/2019	Unclassified Foreign Visits and Assignments Program	0069
DOE	O	144.1 Admin Chg 1	11/6/2009	Department of Energy American Indian Tribal Government Interactions and Policy	0085
DOE	O	150.1A	3/31/2014	Continuity Programs	
DOE	O	151.1D Chg1 (Min Chg)	8/11/2016 10/4/2019	Comprehensive Emergency Management System	0064
DOE	O	153.1	6/27/2007	Department Radiological Emergency Response Assets	
DOE	O	205.1C	5/15/2019	Department of Energy Cyber Security Program	0052
NNSA	SD	205.1	7/6/2017	Baseline Cybersecurity Program	0014
DOE	M	205.1-3 Chg 1	12/20/2012	Telecommunications Security Manual	
DOE	O	206.1 Chg 1	1/16/2009 Chg 1 dated 11/5/2018	Department of Energy Privacy Program	0052
NNSA	SD	206.1	6/22/2018	Privacy Program	0033
NNSA	SD	206.2	4/20/2018	Implementation of Personal Identity Verification for Uncleared Contractors [Implementation as set forth in MSTs Letter S620-PS-19-0046, <i>IMPLEMENTATION PLAN FOR NNSA SD 206.2, IMPLEMENTATION OF PERSONAL IDENTITY VERIFICATION FOR UNCLEARED CONTRACTORS</i> , dated September 14, 2019]	0059

DIRECTIVE NUMBER			DATE	DOE DIRECTIVE TITLE	MOD #
DOE	O	206.2	2/19/2013	Identity, Credential, and Access Management (ICAM) (Implementation to be completed per NSTec Implementation Plan FP00-RL-15-008 dated 7/8/15. Activities in paragraphs 1.a(1)(c), 1.b(2), and 2.b(1) will be implemented as set forth in the plan after funding is received.)	
NAP		220.1	6/19/2018	Internal Affairs Program	0033
DOE	O	210.2A	4/8/2011	DOE Corporate Operating Experience Program	
DOE	O	221.1B	9/27/2016	Reporting Fraud, Waste, and Abuse to the Office of the Inspector General	
DOE	O	221.2A	2/25/2008	Cooperation with The Office Of Inspector General	
DOE	O	225.1B	3/4/2011	Accident Investigation	
DOE	O	226.1B	4/25/2011	Implementation of Department of Energy Oversight Policy	
DOE	O	226.1C	10/1/2019	NNSA Site Governance	0064
DOE	O	227.1A Chg 1	1/21/2020	Independent Oversight Program	0085
DOE	O	231.1B Admin Chg 1	6/27/2011 11/28/2012	Environment, Safety and Health Reporting	
DOE	O	232.2A Chg1 (MinChg)	1/17/2017 10/4/2019	Occurrence Reporting and Processing of Operations Information	0064
DOE	O	241.1B Admin Chg 1	12/31/2010 CHG 1 DATED 4/26/2016	Scientific and Technical Information Management	
DOE	O	243.1B Admin Chg 1	3/11/2013 Chg 1 dated 7/8/2013	Records Management Program	
NFO	O	251.1	4/24/2013	NNSA/NFO Directives System	
NNSA	SD	251.1A	1/17/2018	Directives Management	0014
DOE	O	252.1A Admin Chg 1	2/23/2011 3/12/2013	Technical Standards Program	
NNSA	SD	350.1	2/5/2009	M&O Contractor Service Credit Recognition	
DOE	O	350.2B	5/31/2011	Use of Management and Operating or Other Facility Management Contractor Employees for Services to DOE in the Washington, D.C. Area	
DOE	O	410.2 Admin Chg 1	8/7/2009 4/10/2014	Management of Nuclear Materials	
NSO	O	410.XC	8/11/2011	Task Plan and Change Control Process	0052
NFO	O	410.X1	10/9/2013	Nevada National Security Site and North Las Vegas Facilities General Use and Operations Requirements	
DOE	O	411.2	1/4/2017	Scientific Integrity	
NFO	O	412.X1 ICN-22167	6/27/2016 6/11/2019	Real Estate/Operations Permit	0059
NAP		413.1	6/3/2019	Data Collection for Cost Estimating	0056
DOE	O	413.1B	10/28/2008	Internal Control Program	

DIRECTIVE NUMBER			DATE	DOE DIRECTIVE TITLE	MOD #
DOE	O	413.3B Min Chg 5	11/29/10 Chg 5 dated 4/20/18	Program and Project Management of the Acquisition of Capital Assets	0037
DOE	O	414.1D Admin Chg 1	4/25/2011 5/8/2013	Quality Assurance	
DOE	O	415.1 Chg 2	12/3/2012 Chg 1 dated 1/16/2013 Chg 2 dated 1/13/2017	Information Technology Project Management	
NNSA	SD	415.1	9/3/2014	Project Oversight for Information Technology (PO-IT)	
DOE	O	420.1C Min Chg 2 Chg 3 (LtdChg)	2/27/2015 <i>Chg 1 dated 12/4/2012</i> Chg 2 (Min Chg) dated 7/26/2018 Chg 3 dated 11/14/2019	Facility Safety Reference NFO Letter AMNS:KDL-13010, dated 11-06-2012 – <i>APPROVAL OF THE REQUEST FOR PERMANENT EXEMPTION FROM THE FIRE PROTECTION REQUIREMENTS DESIGNATED IN DOE O 420.1B AND DOE-STD-1066-99 FOR THE UIA COMPLEX IN AREA 1 OF THE NEVADA NATIONAL SECURITY SITE (NNS)</i> <i>Implementation of Change 2 is to be completed as set forth in MSTs Letter S620-PS-19-0034, IMPLEMENTATION PLAN FOR DOE O 420.1C, CHANGE 2, UNDERGROUND FIRE SUPPRESSION, dated June 14, 2019.</i>	0069
DOE	O	420.2C	7/21/2011	Safety of Accelerator Facilities	
NFO	O	421.X1 Rev 2	5/4/2020	Nuclear Facility Safety Management NOTE: <i>Full implementation to be accomplished no later than January 31, 2021 for CRD paragraphs 1. and 5a.</i>	0085
DOE	O	422.1 Chg1 Chg2 Chg3 (MinChg)	6/29/2010 6/25/2013 12/3/2014 10/4/2019	Conduct of Operations	0064
DOE	O	425.1D Admin Chg 1 Chg2 (MinChg)	4/16/2010 4/2/2013 10/4/2019	Verification of Readiness to Start Up or Restart Nuclear Facilities	0064
DOE	O	426.2 Admin Chg 1	4/21/2010 Chg 1 dated 7/29/2013	Personnel Selection, Training, Qualification and Certification Requirements for DOE Nuclear Facilities	
NNSA	SD	430.1	1/28/2017	Real Property Asset Management	0033
DOE	O	433.1B Admin Chg 1	4/21/2010 Chg 1 dated 3/12/2013	Maintenance Management Program for DOE Nuclear Facilities	
DOE	M	435.1-1 Admin Chg 2	7/9/1999 Chg 1 dated 6/19/01 Chg 2 dated 6/08/2011	Radioactive Waste Management	

DIRECTIVE NUMBER			DATE	DOE DIRECTIVE TITLE	MOD #
DOE	O	435.1 Chg 1	7/9/1999 Chg 1 dated 8/28/2001	Radioactive Waste Management	
DOE	O	436.1	5/2/2011	Department Sustainability	0033
DOE	O	440.2C, Chg 1	6/22/2011	Aviation Management and Safety	
DOE	M	441.1-1 Admin Chg 1	3/7/2008 2/24/2016	Nuclear Material Packaging Manual	0064
DOE	O	442.1B	1/31/19	DOE Employee Concerns Program	0052
DOE	O	442.2 Chg 1	7/29/2011 Chg 1 dated 10/4/2016	Differing Professional Opinions for Technical Issues Involving Environmental, Safety & Health Technical Concerns	
DOE	O	443.1C	11/26/2019	Protection of Human Research Subjects	0085
NFO	O	450.X5	10/16/2020	Subcritical Experiment Program	0076
NFO	M	450.X2-1	5/30/2007	Underground Nuclear Testing, Test Readiness, and the Threshold Test Ban Treaty Verification Program	
DOE	O	452.1E	1/26/2015	Nuclear Explosive and Weapon Surety Program	
DOE	O	452.2F	7/27/2020	Nuclear Explosive Safety NOTE: <i>Full implementation to be accomplished no later than January 31, 2021</i>	0085
NNSA	SD	452.2	11/17/2014	Nuclear Explosive Safety Evaluation Process	
DOE	M	452.2-1A Admin Chg 1	4/14/2009 Chg 1 dated 7/10/2013	Nuclear Explosive Safety Manual	
DOE	M	452.2-2 Admin Chg 1	4/14/2009 Chg 1 dated 7/10/2013	Nuclear Explosive Safety Evaluation Process	
DOE	O	452.3	6/8/2005	Management of the Department of Energy Nuclear Weapons Complex	
NA SD	M	452.3-1A	2/25/2016	Defense Programs Business Process System (DPBPS)	
NNSA	SD	452.3-2	1/19/2017	Phase 6.x Process	
DOE	O	452.4C	8/28/2015	Security and Use Control of Nuclear Explosives and Weapons	
DOE	O	452.6A	5/14/2009	Nuclear Weapon Surety Interface with the DOD	
DOE	O	452.7 Chg 1 (Admin Chg)	5/29/2020	Protection of Use Control Vulnerabilities and Designs	0085
DOE	O	452.8	7/21/2011	Control of Nuclear Weapon Data	
DOE	O	456.1A	7/15/2016	The Safe Handling of Unbound Engineered Nanoparticles	
DOE	O	457.1A	8/26/2013	Nuclear Counterterrorism	
DOE	O	458.1 Admin Chg 3	2/11/2011 1/15/2013	Radiation Protection of the Public and the Environment	
DOE	O	460.1D	12/20/2016	Hazardous Material Packaging and Transportation Safety	
DOE	O	460.2A	12/22/2004	Departmental Materials Transportation and Packaging Mgmt.	
DOE	M	460.2-1A	6/4/2008	Radioactive Material Transportation Practices Manual	

DIRECTIVE NUMBER			DATE	DOE DIRECTIVE TITLE	MOD #
DOE	O	461.1C Chg1 (MinChg)	7/20/2016 10/4/2019	Packaging and Transportation for Office Shipment of Materials of National Security Interest	0064
DOE	O	461.2	11/1/2010	Onsite Packaging and Transfer of Materials of National Security Interest	
DOE	O	462.1 Admin Chg 1	11/20/2008 7/10/2013	Import and Export of Category 1 and 2 Radioactive Sources and Aggregated Quantities	
DOE	O	470.3B	8/12/2008	Graded Security Protection (GSP) Policy	
		470.3C	11/23/2016	Design Basis Threat (DBT) Order	
		NOTE: DOE O 470.3B, GSP, will remain in effect until full implementation of DOE O 470.3C, DBT is achieved, DOE O 470.3C is applicable to the contract consistent with the analysis requirements defined in the Defense Nuclear Security Design Basis Threat Implementation Plan dated February 2017 and NNSA/NFO memorandum, Design Basis (DBT) Implementation (IP) dated June 9, 2017.			
NNSA	SD	470.4-2	6/23/2018	Enterprise Safeguards and Security Planning and Analysis Program	0037
DOE	O	470.4B, Chg 2	1/17/2017	Safeguards and Security Program	
DOE	O	470.5	6/2/2014	Insider Threat Program	
DOE	O	470.6	9/2/2015	Technical Security Program	
NNSA	ACD	470.6	7/15/2019	Use of Mobile Devices within National Nuclear Security Administration Secure Spaces	0059
DOE	O	471.1B	3/01/2010	Identification and Protection of Unclassified Controlled Nuclear Information	
DOE	O	471.3 Admin Chg 1	4/9/2003 Chg 1 dated 1/13/2011	Identifying and Protecting Official Use Only Information	
DOE	M	471.3-1 Admin Chg 1	4/9/2003 Chg 1 dated 1/13/2011	Manual for Identifying and Protecting Official Use Only Information	
DOE	O	471.5	3/29/2011	Special Access Programs	
NNSA	SD	471.6	12/26/2019	Operations Security Program <i>NOTE: Full implementation of CRD paragraphs 5.b. and 5.m will be accomplished upon receipt of additional funding to support the hiring of an additional FTE</i>	0085
DOE	O	471.6 Chg 2 Chg 3 (Admin Chg)	5/15/2015 9/12/2019	Information Security	0064
DOE	O	472.2 Chg 1	7/21/2011 Chg 1 dated 7/9/2014	Personnel Security	
DOE	O	473.3A Min Chg 1	3/23/2016 Chg 1 dated 1/2/2018	Protection Program Operations <i>NOTE: The requirements under Attachment 3, Section A, Chapter VII.I.c, and Attachment 3, Section A, Chapter IX.3, are not applicable. Deviations to these requirements are in process.</i>	0037

DIRECTIVE NUMBER		DATE	DOE DIRECTIVE TITLE	MOD #	
DOE	O	474.2 Chg 4	6/27/2011 Chg 2 dated 11/19/2012 Chg 3 dated 5/15/2015 Chg 4 dated 09/13/2016	Nuclear Material Control and Accountability	
DOE	O	475.1	12/10/2004	Counterintelligence Program	
DOE	O	475.2B	10/3/2014	Identifying Classified Information	
DOE	M	481.1-1A, Chg 1	1/3/2001	Reimbursable Work for Non-Federal Sponsors Process Manual	
DOE	O	483.1B	12/20/2016	DOE Cooperative Research and Development Agreements	
DOE	O	486.1A	9/4/2020	Foreign Government Sponsored or Affiliated Activities	0084
DOE	O	522.1A	8/2/2018	Pricing of Departmental Materials and Services	0044
DOE	O	534.1B	1/6/2003	Accounting	
DOE	O	550.1 Chg 1 (Ltd Chg)	5/2/2019	Official Travel	0069
DOE	O	5639.8A	7/23/1993	Security of Foreign Intelligence Information and Sensitive Compartmented Information Facilities	
DOE	O	5670.1A	1/15/1992	Management and Control of Foreign Intelligence	
NAP		412.1	2/11/2019	Financial Integration	0052
NAP		401.1	11/24/2015	Weapon Quality Policy	0064
NAP		476.1 Admin Chg 1	2/13/2012 2/9/2015	Atomic Energy Act Control of Import and Export Activities	0064
NAP		520.1 Admin Chg1	10/10/2013	Management and Operating Contractor Business Meals and Light Refreshments	0064
NAP		540.2	11/22/2016	NNSA M&O Off-Site Extended Duty Assignments as supplemented by DOE Acquisition Letter 2018- 08 (May 3, 2018(0064
QP		100-1	3/1/2013	Quality Plan 100-1 (QP-100) Amendment 4, Application of Quality Requirements to UK and US Procurement Contracts and Loan Authorizations for Research, Design & Development	

Appendix F-1 – Operating Requirements
January 26, 2011 (Mod 0033)

The Contractor shall comply with the Operating Requirements listed herein. *The identified directives are listed for reference purposes only, i.e., only those provisions set forth herein constitute binding Operating Requirements.* The following referenced memorandum grants an exemption to the Directives:

Reference 1: Thomas P. D’Agostino (Administrator, NNSA) August 16, 2010 Memorandum for Patty Wagner (Manager, Sandia Site Office) and Stephen Mellington, (Manager, Nevada Site Office):
 Subject: Strengthening Oversight Through Improving Contractor Requirements Documents in the National Nuclear Security Administration Management and Operating Contracts; Attachment: Contractor Requirements Document (CRD) Crosswalk Form

Reference 2: Thomas P. D’Agostino (Administrator, NNSA) December 9, 2010 Memorandum for Patty Wagner (Manager, Sandia Site Office) and Stephen Mellington, (Manager, Nevada Site Office);
 Subject: Strengthening Oversight Through Improving Contractor Requirements documents in the National Nuclear Security Administration Management and Operating Contracts; Attachment: Contractor Requirements Document (CRD) Crosswalk Form

The contractor is responsible for flowing down requirements in Appendix C-1 and other contract requirements, when applicable, to ensure compliance with the terms and conditions of the prime contract.

LIST OF DOCUMENTS

The paragraph numbering under each heading below corresponds to the Contractor Requirements document (CRD) in the referenced directive for ease of traceability.

■ **Information Technology Management**

(Reference: *DOE O 200.1A, Information Technology Management, Effective Date: 12/23/2008; Reference 2, NNSA Administrator’s December 9, 2010 Memorandum*)

1. Information Technology Strategic Planning. Maintain a strategic plan that coordinates IT planning and investment decisions and links to the Departmental strategic plan.
2. Capital Planning and Investment Control. Develop, implement, and maintain a Capital Planning and Investment Control (CPIC) process.
 - a. Support Department-wide CPIC efforts.
3. Enterprise Architecture. Maintain an Enterprise Architecture for the life-cycle management of information resources and related IT investments funded by or operated for DOE.
4. Hardware and Software Acquisition.
 - b. Implement a Software Quality Assurance (SQA) program.
5. Ensure that information published to Federal service-to citizens public websites are accessible to the public and individuals with disabilities.

■ **DOE O 484.1 – Reimbursable Work for the Department of Homeland Security**

(Reference: DOE O 484.1, Reimbursable Work for the Department of Homeland Security, Effective Date: 8/17/2006; Reference 2, NNSA Administrator’s December 9, 2010 Memorandum)

Establish, maintain and implement, through the contractor’s management system, the assurance that all requirements applicable to reimbursable work for DHS are satisfied to include ensuring:

- DHS-funded work at a DOE national laboratory or site will be performed on an equal basis to other missions at the laboratory or site and not on a non-interference basis with other missions of such laboratory or site; and
- No added administrative or personnel charges in excess of those paid by DOE will be charged for DHS work.

■ **Pricing of Departmental Materials and Services** ~~DELETED MOD.0033~~

SECTION J
APPENDIX G
PERSONNEL APPENDIX
(Replaced Mod 0027; Modified 0033, 0076)

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1.0 INTRODUCTION

The allowability of personnel and other related costs incurred pursuant to the NNSS Prime Contract is governed by the following:

- a. NNSS Prime Contract DE-NA0003624
- b. Federal Acquisition Regulation (FAR) Part 31, “Contract Cost Principles and Procedures”
- c. U.S. Department of Energy Acquisition Regulation (DEAR) Part 931, “Contract Cost Principles and Procedures”
- d. DEAR 970.30, “Cost Accounting Standards Administration”

Appendix G, “Personnel Appendix,” (hereafter Personnel Appendix) sets forth personnel and other related policies that have cost implications under this Contract and are not covered explicitly in FAR or DEAR cost principles. This Personnel Appendix identifies those costs deemed reasonable and allowable for reimbursement when incurred in the performance of Contract work. MSTS shall seek approval of the U.S. Department of Energy, National Nuclear Security Administration (NNSA) Contracting Officer prior to incurring costs not specifically identified as allowable in this Contract. MSTS shall identify and treat all unallowable costs and directly associated unallowable costs in accordance with the criteria set forth in FAR 52.230-2, “Cost Accounting Standards,” including but not limited to placing unallowable costs in appropriate allocation bases.

MSTS shall obtain prior Contracting Officer approval of changes within the scope of the Personnel Appendix when such changes are expected to increase costs to the government. In situations where changes may set a precedent among the NNSA Contractors, MSTS shall consult with the Contracting Officer regarding program cost reimbursement prior to implementation, even if there is no expected increase in cost. This requirement is not intended to prohibit MSTS from taking advantage of efficiency gains realized from new and innovative approaches in providing Human Resource services.

MSTS shall use effective management review procedures and internal controls to assure that the allowable costs set forth herein are not exceeded. In addition, MSTS shall ensure that cost items that require prior approval of the NNSA Contracting Officer are reviewed and approved prior to incurrence of costs.

Either party may request revisions to this Personnel Appendix. Both the parties agree to give consideration in good faith to any such request. When revisions to this Personnel Appendix are made, a contract modification shall be executed to effect the changes.

This Personnel Appendix is for the exclusive benefit and convenience of the parties hereto. Nothing contained herein shall be construed as granting, vesting, creating, or conferring any right of action or any other right or benefit upon past, present, or future employees of MSTS, or upon any other third party.

2.0 DEFINITIONS

1. Accredited Service

- a. Employees who transfer directly to MSTS from the predecessor contractor will retain the site service date and continuous service date recognized by the predecessor contractor. Employees who are hired by MSTS with predecessor contractor service will be given credit for Nevada National Security Site (NNSS) service for benefit purposes, if there has not been a break in service longer than 3 years. Vested and credited service in the 401(k) Plan and Pension Plan are subject to Employee Retirement Income Security Act of 1974 (ERISA) service rules.

- b. Transfers from parent companies:
- i. *Prior to January 1, 2013*, National Security Technologies, LLC (NSTec), employees transferring directly from Northrop Grumman, AECOM, CH2M Hill, or Nuclear Fuel Services will retain the continuous or credited service date recognized by the NSTec parent companies from which they transfer for the purpose of eligibility for benefits, including service awards, paid time off (PTO), and 401(k) and pension plan vesting.
 - ii. *After January 1, 2013 and prior to December 1, 2017*, NSTec employees who transferred directly from Northrop Grumman, AECOM, CH2M Hill, or Nuclear Fuel Services retained the continuous or credited service date recognized by the NSTec parent companies from which they transferred for the following purposes:
 - a. Service with a parent organization not under DOE or NNSA Management and Operating (M&O) or Site Management contract: PTO eligibility and accrual only.
 - b. Service with a parent organization under DOE or NNSA M&O or Site Management Contract:
 - PTO eligibility and accrual
 - Eligibility for leaves of absence
 - Eligibility for vesting and employer contributions to market-based retirement plans (but not for determination of benefit)
 - Eligibility for retiree medical, dental, and life insurance benefits (when the individual worked at least the 5 years prior to retirement under DOE or NNSA M&O or facilities management cost reimbursement contracts)
 - Eligibility and/or determination of benefit for long- and short-term disability
 - Determination of severance benefits (for service for which severance has not already been paid)
 - iii. Employees transferring directly from The Babcock & Wilcox Company without prior Nuclear Fuel Services service will be credited with continuous service as of January 5, 2009 (the date The Babcock & Wilcox Company acquired Nuclear Fuel Services), or their actual service date as established by Babcock & Wilcox, whichever is later. Eligibility for benefits based on that credited service date will be in accordance with paragraph ii above.
 - iv. After November 30, 2017, MSTS employees who transferred directly from Honeywell International Inc., Jacobs Engineering Group, Inc., or Stoller Newport News Nuclear, Inc. (now HII-Nuclear, Inc [Mod 033]), retain the continuous or credited service date recognized by the MSTS parent companies from which they transferred for the following purposes:
 - a. Service with parent organization not under DOE or NNSA M&O or Site Management contract: PTO eligibility and accrual only.
 - b. Service with the parent organization under DOE or NNSA M&O or Site Management contract:
 - PTO eligibility and accrual

- Eligibility for leaves of absence
- Eligibility for vesting and employer contributions to market-based retirement plans (but not for determination of benefit)
- Eligibility for retiree medical, dental, and life insurance benefits (when the individual worked at least the 5 years prior to retirement under DOE or NNSA M&O or facilities management cost reimbursement contracts)
- Eligibility and/or determination of benefit for long- and short-term disability; and determination of severance benefits (for service for which severance has not already been paid)

2. Bargaining Unit Employees (Union Employees)

Employees whose wages, hours of work, and working conditions have been negotiated into labor contracts.

3. Base Pay

The compensation of an exempt or nonexempt employee, exclusive of premium pay or other type of compensation. The base pay is expressed as an hourly, weekly, or annual rate.

4. Basic Workweek

Non-bargaining employees: A 40-hour workweek consisting of five consecutive basic workdays of 8 hours each.

5. Casual Employee

Employment status of an employee hired to provide manpower when temporary employees are needed for a specific project or to respond to an immediate need. Casual employees have a variable work schedule are called to work when needed and work as many hours per week as necessary. All hours worked will be compensated as nonexempt, non-bargaining employees. Casual employees may work for MSTs a maximum of 900 hours per calendar year. Any casual employee who works less than 40 hours in a 9-month period may be administratively terminated. Casual employees are covered by legally required benefits, but do not receive or participate in any other type of employee benefit program, group insurance plans, or paid absences. Casual employees will not be eligible to receive benefits provided under the Defense Authorization Act, Section 3161, upon termination.

6. Casual Overtime

Work in excess of the basic workweek that cannot be scheduled in advance.

7. CFR

Code of Federal Regulations

8. Compensation Increase Plan (CIP)

A plan for establishing need and specifying distribution of maximum dollar amounts and/or percentage of base payroll on an annualized basis, to be allocated to employee groups for base pay increases or lump sum payments during a pay year. The amounts approved are for granting merit, promotion, adjustment, and reclassification increases.

9. Compressed Workweek

A work period designed to allow employees to fulfill work requirements in fewer days by increasing the number of hours worked in a single workday. A compressed workweek is expressed as 4/10 (four consecutive work days of 10 hours each to total 40 hours worked in a 1-week period resulting in 3 consecutive days off during each workweek), or 9/80 (9 work days totaling 80 hours worked in a 2-week period resulting in 2 consecutive days off the first week and 3 consecutive days off the second week).

10. Contractor

Refers to MSTs. The responsibilities and authorities specified in this Personnel Appendix for the "Contractor" shall be exercised by the President and Site Manager of MSTs or their authorized representative.

11. Exempt Employee

Employees who are exempt from the overtime provisions of the Fair Labor Standards Act (FLSA) and state wage and hour laws.

12. Full-Time

Employment status of an employee regularly scheduled to work 40 or more hours per workweek.

13. Furlough

The period of time in which an employee is placed in non-pay status because of lack of work, lack of funds, or other non-disciplinary reasons. Furloughs must be more than 40 consecutive work hours and cannot exceed 60 calendar days in a rolling 12-month period.

14. Incentive

A reward, financial or otherwise, that compensates the worker(s) for high and/or continued performance above standards. An incentive also is a motivating influence to induce accomplishment or performance above normal.

15. Job Worth Hierarchy

A ranking of jobs within an organization by relative value to the organization for pay purposes.

16. Merit Increase

An adjustment to individual salary based on performance ranking.

17. Nonexempt Non-bargaining Employees

Employees who are subject to minimum wage and overtime pay provisions of the FLSA and state wage and hour laws, and who are not covered by a collective bargaining agreement.

18. Overtime Pay

Total amount of pay including base pay portion for work beyond 40 hours in a workweek.

19. Part-Time

Employment status of an employee regularly scheduled to work less than 40 hours per workweek. Employees in this status are considered nonexempt for overtime purposes.

20. Promotion

The assignment of an employee to a job of greater value to the organization. This assignment is sometimes recognized by a higher job classification or pay grade.

21. Salary Range

The range of pay rates, from minimum to maximum, set for a pay grade or job classification.

22. Special Adjustment

An increase to an employee's base pay due to internal or external equity considerations.

23. Termination

When an employee quits, retires, dies, or is discharged, affected by a reduction-in-force, or removed from the payroll because of disability (as distinguished from disability absence where the employee is not removed from the payroll).

24. Variable Pay

A lump-sum, cash payment separate from base salary.

3.0 COMPENSATION

The Compensation System program costs directly attributable to compensation provided to Contractor employees will be allowable under this Personnel Appendix G. Section 3.0, Compensation, does not apply to bargaining unit employees. Section 4.0 sets forth allowable costs associated with bargaining unit employees.

3.1 Variable Pay

Variable pay is reimbursable as outlined in the annual CIP and allows the Company to maintain a competitive position in the external market to attract, retain, and motivate top talent.

Non-base payments determined concurrently with salary increases and certain non-base awards may be granted throughout the year. These awards are funded from the total non-base budget. The amount of the recurring MSTS Recruitment Plan pool each calendar year is .1% of MSTS's base payroll on December 31. The amount of the recurring MSTS Retention Plan pool each calendar year is .2% of MSTS's base payroll on December 31. The amount of the recurring, MSTS Variable Pay Performance Bonus Plan pool each Calendar Year is .7% of MSTS's base payroll on December 31.

3.2 Overtime (Mod 0033, 0076)

1. *Annual Budget for Overtime:* The Contractor shall maintain adequate internal controls to ensure that employee overtime is authorized only if cost effective and necessary to ensure performance of work under this Contract. The Contractor shall submit to the Contracting Officer overtime utilization reports no later than 1 month after the end of each quarter (end of quarter = March 31, June 30, September 30, and December 31). If the report indicates that overtime comprised 4% or more of the overall payroll, the Contracting Officer may request that the Contractor submit a plan to lower the overall usage overtime rate as a percentage of payroll for the quarter following the quarter in which overtime exceeded 4% of total payroll.

2. *General:* All overtime hours worked are subject to federal, state, or local labor laws. In some states, such as California, the wage and hour laws on overtime are more stringent than the federal regulations. In such cases, the state laws take precedence over federal laws. Authorized paid absences (PTO, Sick Leave Savings, Holidays, etc.) taken during a workweek will not be counted as time worked for purposes of computing overtime pay for the scheduled work day or workweek.
3. *Exempt Employees:* Employees in the job groups and levels depicted in the table below may be paid overtime at their base pay rate when a significant amount of overtime in excess of the regularly scheduled 40 hour workweek is scheduled, properly documented, and approved by the employee's Senior Director or designee (Mod 0033), (Director in organizations which do not have a Senior Director). Significant is defined as at least 5 hours more than the 40 hour workweek. If eligible and approved, the employee will receive pay for hours worked in excess of 45 hours in a workweek (e.g., the employee works 48 hours in a workweek, then the employee will receive 3 hours of straight time pay). Overtime will not be approved for casual overtime required to fulfill their regular duties and responsibilities. The work must be high priority and critical in meeting our mission. Management discretion may be applied to waive the "at least 5 hours" requirement where reasonably justified by business or mission needs (Mod 0033).

(Mod 0076)

JOB GROUP	LEVEL (S)	JOB GROUP	LEVEL(S)
Management	I, II	Project & Business Management	I, II, III
Scientist & Engineers	II, III, IV	Technical Support	VI
Technical Professionals	II, III, IV	IT Professionals	III, IV
Business Professionals	II, III, IV		

In addition, exempt employees regardless of level who are members of one of the emergency response teams listed in Section 3.5, item 8.b. are eligible for straight-time overtime beginning with the first hour over 40 when the additional time worked is during a team's deployment for exercises or real-world events, or when responding to a nuclear facility.

Employees in the job groups and levels depicted above who are required to work on a scheduled holiday will be paid at their base pay rate for all hours actually worked, in addition to the base pay for the holiday. Time worked on a holiday will be counted in the computation of the 40-hour workweek

4. *Non-exempt Employees:* Non-exempt employees will be paid one-and-one half times their base hourly rate for any hours worked in excess of 40 hours in a workweek. Any non-exempt employee who is required to work on a paid holiday will be paid one-and-one half times their base hourly rate, in addition to the base pay for the holiday. Time worked on a holiday will be counted in the computation of the 40-hour workweek.
5. *Overtime Pay for Non-exempt Employees in Training Programs:* Attendance at lectures, meetings, training programs and similar activities outside the employee's scheduled working hours should not be counted as time worked for overtime purposes if all of the following criteria are met:
 - a. Attendance is voluntary

- b. The course, lecture, or meeting is not directly related to the employee's job
- c. The employee does not perform any productive work during attendance

If any one of these criteria is not met, overtime must be paid.

When employees, on their own initiative, attend an independent school or college course after their scheduled work hours, the time is not hours worked for overtime purposes even if the course is job-related and the Contractor refunds the tuition and/or program cost.

- 6. *Overtime Pay for Casual Employees:* Casual employees will be paid one-and-one-half times their base hourly rate for any hours worked in excess of 40 in the workweek. Those who are required to work on holidays will be paid base pay only.
- 7. *Overtime Pay for Bargaining Employees:* Overtime pay for bargaining unit employees is specified in the labor agreements.

3.3 Shift Differential

Shift differentials may be paid to eligible employees. Shift differential rates shall be based on surveys of shift differential practices, and shall be approved by the Contracting Officer prior to implementation.

Non-exempt employees, including part-time and casual employees, and exempt employees eligible to receive straight-time overtime will be paid shift differential payments of 10% of their base salaries when they are assigned to one of the following for at least 3 consecutive workdays:

- 1. A scheduled work shift that begins 3 or more hours before the start of the established daytime work shift.
- 2. A scheduled work shift that begins 3 or more hours after the start of the established daytime work shift.
 - a. Eligible employees will be paid the shift differential payment only for the days worked on other than an established daytime shift. The shift differential is not included in payment for paid absences such as PTO and holidays. Pay for such absences will be calculated on the base salary rate.
 - b. Overtime pay for workdays and/or basic workweeks when employees receive shift differential pay will be calculated using base salary plus shift differential.
 - c. Shift differentials and Leader pay are allowable as specified by the Collective Bargaining Agreements.
 - d. Non-exempt employees who are assigned to a shift without being given 48 hours' notice of assignment or shift change are paid one and one-half times their base pay hourly rate for that portion of the newly scheduled shift which does not coincide with the hours of the employee's former shift during the first 48 hours of the new shift.
 - e. Non-exempt employees working at the National Ignition Facility at Lawrence Livermore National Laboratory will be paid 7.5% for working the swing shift and 15% for the owl shift. During all leaves with pay and holidays, eligible employees are paid at the shift differential rate applicable to the shifts they

would otherwise have been scheduled to work. Overtime hours are paid at the applicable shift differential rates times one and one-half, unless otherwise required by applicable law. When programmatic requirements necessitate a regular shift assignment for an extended period, exempt employees may be paid the same shift differentials if approved in advance by the MSTS President.

3.4 Call-In Pay

Non-exempt employees who are called in to work after having left their job site at the end of their regular shift to perform work before, but not continuous with, their regular shift, are provided at least 4 hours of base pay. Non-exempt employees who are assigned to a compressed workweek are paid a minimum of 5 hours' base pay. If no work is performed, then the hours paid but not worked are at straight time, except on holidays when the applicable premium rate is paid. Only time worked counts towards computing overtime.

3.5 Special Allowances

Special salary allowances may be paid to employees for certifications and/or qualifications and in specific work environments, and reimbursed in accordance with the Special Allowance Plan approved by the Contracting Officer.

1. Flight Pay Premium

- a. Air crew members assigned to perform duties for a minimum of 30 minutes aboard diagnostic aircraft are paid a flight pay differential of 25% of their base pay for actual hours flown in the aircraft to the nearest hour. Flight crew members (pilots and mechanics) are not eligible for flight pay differential.
- b. Crew rest time for flight crew members is paid time if the required rest time would cause the individual to receive less than their normal base salary for that week.

2. Hazard Premium

- a. When non-bargaining employees are assigned to and perform work on wooden poles or towers at a height of more than 40 feet, they shall be paid time and one-half their base pay for the actual time worked at such heights.
- b. When non-bargaining employees are assigned to and perform work in steel-cased drill holes at a depth in excess of 1,000 feet, they shall be paid at time and one-half their base pay rate for the actual time worked at such depths.
- c. The premium set forth above shall be computed and paid in increments of 1 hour.

3. Re-Entry Premium (Tunnel/Underground)

- a. Non-bargaining employees, while engaged in re-entry work and required by the Company to wear both full protective clothing (coveralls, booties, gloves, caps, etc.) and a full-face respirator, shall receive a premium of one dollar (\$1.00) per hour above their base pay.

- b. If a non-bargaining employee engages in re-entry work during any portion of the workday, the employee shall receive the premium for the entire shift.

4. Reporting Pay and Partial Shift Work

Nonexempt employees are paid 4 hours of base pay (or 5 hours of base pay, if they work a compressed workweek) when they report for work on their assigned shift and are not put to work, except if no work is available by reason of inclement weather or other conditions beyond the control of the Contractor, or if the employee is discharged for cause or voluntarily terminates.

If put to work for a portion of their assigned shift, nonexempt employees are paid a minimum of 8 hours or a maximum of their basic work day at their base pay rate, except if no work is available by reason of inclement weather or other conditions beyond the control of the Contractor, or if the employee is discharged for cause or voluntarily terminates.

5. Subsistence Allowances

- a. Employees assigned to report at Mercury will be paid at the rate of \$5.00 subsistence per day worked.
- b. Employees assigned to reporting points beyond Mercury will be paid at the rate of \$7.50 subsistence per day worked.
- c. Employees assigned to Tonopah Test Range (TTR) will receive \$7.50 subsistence per day for travel to NNSS or Las Vegas when required to return to TTR the same day. If required to stay overnight at NNSS, the employee will receive \$7.50 subsistence instead of \$5.00.
- d. Employees assigned to Las Vegas will receive \$5.00 subsistence for each day worked in Mercury; and \$7.50 subsistence for each day worked at NNSS areas beyond Mercury, at TTR, and Nevada Research and Development (NRDA). To be eligible for this subsistence payment, employees must either report to or return from work at NNSS, NRDA, or TTR on their own time or using other than government furnished transportation unless required to stay overnight.
- e. Employees assigned to Las Vegas will receive \$5.00 subsistence for each day worked in Mercury; and \$7.50 for each day worked at NNSS areas beyond Mercury, at TTR, and NRDA in accordance with the following table:

When travel occurs	What vehicle is used	Subsistence?
Before start of normal workday	Any vehicle	Yes
During workday (both directions)	Government vehicle	No
During workday (both directions)	Personal vehicle (no government vehicle available)	Yes
During workday (both directions)	Personal vehicle by choice (government vehicle is available)	No
After end of normal workday	Any vehicle	Yes
Anytime and required to spend the night at the site	Any vehicle	Yes

- f. TTR employees required to stay overnight in Las Vegas will be in official travel status.

- g. Non-bargaining employees who are required to work without a 12-hour break during a 24 hour period and who spend the night at the NNSS will receive \$10.00 per occasion meal allowance in addition to the daily subsistence allowances.

6. Evacuation Pay

- a. An employee (except a nonexempt 24-hour shift Fire Department employee) evacuated temporarily from the employee's assigned work site and for whom no work is provided, but whose services are further required in support of continuing operations, will be paid at his/her base hourly rate up to a maximum of 10 hours per day for all hours not worked and which the employee would have normally worked had he/she not been evacuated.
- b. If a nonexempt employee (except a nonexempt 24-hour shift Fire Department employee) is in an evacuation status and a work status on the same day, the employee will be paid their base hourly rate for a combination of the two statuses up to the hours in their basic scheduled workweek, or for the actual hours worked, whichever is longer.
- c. Nonexempt 24-hour shift Fire Department employees are paid at their regular scheduled rate of pay for all time that corresponds to their basic scheduled workday while in evacuation status. Should the employee work on a scheduled non-workday while in evacuation status, the employee will be compensated for all hours worked at the applicable rate of pay for the type of work performed.
- d. If no work is performed on the employee's scheduled non-workday while in evacuation status, no payment will be made for that day.

7. Death Benefit

- a. In the event of the death of a non-bargaining full-time employee, the Contractor will pay the surviving spouse or other designated beneficiary, or if there is no surviving spouse or other designated beneficiary, will pay the estate of the deceased, a lump sum amount not to exceed 4 weeks at the employee's then-current base or equivalent hourly rate as well as any earned and accrued PTO due.
- b. Upon the death of an employee while in travel status or on temporary duty assignment, the cost of preparation and transportation is allowable for the deceased employee, dependents of the deceased employee, and the personal effects of the deceased employee. This allowable cost will be from the place of travel assignment or temporary duty assignment to the place of the employee's permanent duty station or equivalent distance. The above is applicable providing the Contractor gave authorization for family members to accompany the employee on temporary duty assignment.

8. Emergency Response Duty Pay

- a. Employees who are specifically authorized and scheduled to be available within a set number of hours for emergency response work outside their normal work hours are eligible to receive a flat-rate incentive payment of \$40 for each 24-hour period of coverage.

- b. Payment is limited to members of the following teams:

TEAM NAME (LOCATION)	TEAM MISSION
AMS Response Team (Andrews and Nellis)	Aerial emergency response for nuclear or radiological incidents
Consequence Management Home Team (CMHT)	Home team support for Remote Sensing Lab (RSL) and NNSA response team
Consequence Management Response Team (CMRT)	Emergency response team for nuclear or radiological incidents
Consequence Management Advance Command	Command team for nuclear or radiological incidents
Emergency Communications Network (ECN) Team (Forrestal DC and Nellis)	Supports ECN for NNSA, Render Safe, and RSL personnel and applications
Search Management Center (SMC) Rapid Deployment Team (RDT)	Rapid response team for searches and providing support to field operations.
Nuclear/Radiological Advisory Team (NRAT) (Andrews and Nellis)	Pre-crisis team that supports NNSA operations
Disposition Forensics Evidence Analysis Team (DFEAT)	Dedicated to safely disassembling an improvised nuclear device
Radiological Assistance Program – Region 0 (RAP0)	RAP regional response team assigned to the National Capital Region
Nuclear Facilities Duty Officers and Operators	Required to respond to nuclear facilities within two hours
Render Safe Support Team	Supports the JTOT and ARG missions based in Albuquerque, NM; on duty as needed
RSL Home Team	Supports RSL and Render Safe Emergency Operations
Wildland Fire Support Team	Supports MSTs Fire & Rescue in fighting wildland fires during the fire season (could be from June through September will vary by year)

- c. If a team is deployed for an exercise or real-world event, the flat-rate incentive payment will continue to be paid during the deployment.
- d. The flat-rate incentive payment will be taxable income and appropriate deductions, including voluntary 401(k) contributions will be taken. It will not be included in overtime rate calculations.

9. Pay during Deployment

- a. Employees who are eligible for duty pay receive pay for the time spent in transportation to and from deployment as a member of one of the teams listed in Section 3.5, item 8.b. for exercises or real-world responses. This provision does NOT apply to routine business travel.
- b. Pay status begins from the time the employee arrives at RSL-Nellis or RSL-Andrews and ends when the employee is released from duty for the day at the destination. The reverse applies for the return trip.
- c. Straight time or time-and-a-half is paid depending on the employee's FLSA status and the hours worked during the current workweek.

10. Nuclear Facility Duty Officers, Operators and Radiation Control Technicians (RCTs)

- a. Nuclear Facility Duty Managers, Officers, RCTs or Operators who are required to be on call and able to report within 2 hours are eligible to receive a flat-rate incentive payment of \$40 for each 24-hour period of coverage.
- b. The flat-rate incentive payment is taxable income and deductions, including voluntary 401 (k) contributions are taken. It is not included in overtime rate calculations.
- c. Pay status begins from the time the employee arrives at the NNSA and ends when the employee is released from duty for the day at the destination. The reverse applies for the return trip.
- d. Straight time or time-and-a-half is paid depending on the employee's FLSA status and the hours worked during the current workweek.

11. Physician Assistant and Nurse Practitioner On-Call Pay

- a. Physician Assistants or Nurse Practitioners who are required to be on-call and able to report within 2 hours are eligible to receive a flat-rate incentive payment of \$70 for each 24-hour period of coverage.
- b. This flat-rate incentive payment is taxable income and deductions, including voluntary 401 (k) contributions are taken. It is not included in overtime rate calculations unless otherwise required by applicable law.

12. Certification Pay

Certification pay will require prior NNSA Contracting Officer or designee approval.

13. Site Allowance

Site allowances will be established with approval of the NNSA Contracting Officer or designee.

14. Location Pay for Temporary Assignments

Location pay for temporary assignments will be established, including amount of pay and the circumstances under which it is provided with approval of the Contracting Officer or designee.

3.6 Approval of individual compensation actions in excess of salary range

MSTS shall obtain DOE NNSA approval for any proposed salary amount paid an employee in excess of the salary range prior to payment.

3.7 Pay in lieu of notice

In the event MSTS allows an exempt employee to resign because the services of such employee cannot be productively utilized during the period of notice or if his/her presence at the work site during the notice period is not desired, the Contractor may pay the employee at his/her base pay for 2 weeks in lieu of continuing the employee's employment for 2 weeks. However, such payment shall be approved in advance by the Contracting Officer.

3.8 Severance pay

Severance pay for non-bargaining employees is governed by the document entitled “Severance Pay Plan” approved by the Contracting Officer. The benefit for eligible employees is 1 week of base pay for each year of credited service up to a maximum of 26 weeks. An eligible employee with less than 1 year of service is eligible for 1 week of base pay.

4.0 LABOR RELATIONS – COLLECTIVE BARGAINING AGREEMENTS

Costs of wages and fringe benefits to employees represented by collective bargaining units and all other costs and expenses incurred pursuant to the provisions of collective bargaining agreements and revisions thereto are allowable costs provided MSTS adheres to requirements provided in Section J Appendix A, Statement of Work, Chapter III Section 5.0, Labor Relations.

MSTS is a party to the Project Labor Agreement and collective bargaining agreements with the following titles: A Project Labor Agreement for the NNSS between MSTS and the Southern Nevada Building and Construction Trades Council and Other Signatory Unions.

1. Collective Bargaining Agreements (CBA) with the International Union of Operating Engineers, Local 501 for the maintenance engineers at the facility at 2621 Losee Road.
2. CBA with the Teamsters, Local 631 for fire and rescue.
3. CBA with Laborers’ International Union of North America (LIUNA), Local 872 for the miners, tunnelers, welders, etc.
4. CBA with Culinary Workers, Local 226 and Bartenders Union, Local 165 for the food workers and custodians at the food services facilities at NNSS, RSL, U.S. Department of Energy, National Nuclear Security Administration Nevada Field Office (NNSA/NFO), and TTR.
5. CBA with the International Association of EMTs and Paramedics, Local R14-98 for all of the paramedics.

Expenses associated with employee representation activities that are not prohibited by Section 302 of the Labor Management Relations Act of 1947 (Title 29 United States Code (USC) § 186, Restrictions on Financial Transactions”), or any other applicable law or regulation, are allowable costs.

5.0 GROUP INSURANCE AND LEGALLY REQUIRED PAYMENTS

5.1 General Provisions

1. Administrative costs

Costs incurred in implementing, administering, and funding comprehensive DOE NNSA-approved group insurance plans are allowable. Administrative costs associated with the effective administration of the plans include such items as publicizing, enrolling, maintaining records, and providing employees with assistance in understanding and collecting their benefits.

2. Insurance

Annual renewal of the group insurance policies, certificates and accounts, cost-sharing arrangements, renewal of group services agreements, establishing new premium rates, and the implementation of changes of minor significance do not require Contracting Officer approval.

The health and welfare plans for the non-bargaining active Employees and retirees are summarized below. If MSTS pays fully or partially, costs will be listed here:

1. Medical care

The following medical plans are available:

- a. **Preferred Provider Organization (PPO) Plan:** The PPO Plan gives access to a network of doctors and health care facilities, as well as a pharmacy benefit program. MSTS pays 80% of the premiums.
- b. **High Deductible Health Plan (HDHP):** The HDHP uses the same in-network group of doctors and facilities as the PPO Plan, as well as a pharmacy benefits program. After annual out-of-pocket expenses are incurred, the Company will pay 100% of in-network costs. The HDHP is tied to a Health Savings Account (HSA). MSTS pays 80% of the premiums.
- c. **Health Savings Account (HSA):** MSTS will contribute \$750 foremployee only HDHP coverage or \$1,500 for family HDHP coverage.
- d. **Health Maintenance Organization (HMO):** Most eligible medical and prescription drug expenses are payable at 100% after a co-payment. HMO plans are available for New Mexico; Las Vegas, NV; and Livermore, CA. MSTS pays 80% of the premiums.

2. Vision care

MSTS pays 40% of the premiums.

3. Dental care

The dental plan provides two maximum levels of coverage for eligible expenses up to a \$1,500 or \$2,000 calendar year maximum per person. MSTS pays 75% of the premiums.

4. Life and accident insurance

The Company provides a basic life insurance benefit equal to 1.5 times annual base pay. MSTS pays 100% of the premiums.

5. Business travel insurance

MSTS provides Business Travel Insurance The benefit, equivalent to 2 times annual base pay, is in addition to Basic Life Insurance and any Voluntary Personal Accident Insurance. MSTS pays 100% of the premiums.

6. Disability insurance

MSTS provides Basic Short-Term Disability (STD) and Basic Long-Term Disability (LTD) Insurance coverage. These plans help provide income protection as the result of a non-occupational injury or illness preventing work. MSTS pays 100% of the premiums for the two basic coverages below:

Basic STD: This plan provides 50% of weekly base pay, up to \$1,200 a week for the first 26 weeks of disability starting on the eighth consecutive calendar day absent from work due to illness or injury, or the first day hospitalization or surgery. Because this coverage is Company-paid, the benefit is taxable.

Basic LTD: This benefit is for disability of more than 180 days, and pays 50% of monthly base pay, up to \$5,200 per month.

7. Retiree medical program

MSTS provides a Health Reimbursement account stipend to Medicare eligible retirees who elect medical coverage under the Medicare exchange program. Currently, the annual contribution is \$1,695 per participant. Non-Medicare eligible retirees continue to receive access to MSTS-sponsored medical plans until Medicare eligible.

Eligible Bechtel Petroleum Operations, Inc. (BPOI), retirees are eligible for coverage under the MSTS Medical Program or MSTS Retiree Medical Program in accordance with the Memorandum of Agreement (MOA) between NNSA/NFO and DOE Headquarters Office of Fossil Energy on file with NNSA/NFO. The current premium cost share, with the non-Medicare eligible retiree/surviving spouse paying approximately 25% of the established premium, will continue during the effective period of the MOA. Eligible BPOI retirees will receive an annual Health Reimbursement Account (HRA) stipend amount of \$3,100 and \$3,100 for the spouse. Medicare eligible former BPOI employees and their spouses who were not enrolled in any health insurance plan offered by NSTec in 2012, but, who instead received dental insurance coverage only in 2012 through NSTec, will receive an annual stipend of \$750 in an HRA so that they may purchase dental insurance coverage or pay for eligible qualified expenses.

Note: No later than September 1 of each year, MSTS will provide to the NNSA/NFO Manager an estimate of the costs associated with providing the benefits to the former BPOI employees for the following calendar year. The benefits include the HRA stipend for former BPOI employees and their spouses who have reached age 65, and other medical benefits for those former BPOI employees and their spouses who have not yet reached age 65. All reasonable costs incurred by MSTS to administer the benefits for former BPOI employees must be incorporated, and may include but are not limited to actuarial and consulting costs. Any time spent performing work associated with BPOI retirees will be included. MSTS will document their charges.

5.2 Displaced Workers Medical Benefits Program (DWMBP)

MSTS will provide Displaced Workers Medical Benefits to displaced workers if provision of such benefit is set forth in a workforce restructuring plan that is approved by DOE NNSA (see Section J, Appendix A, Statement of Work, Chapter III Section 6.0 Workforce Planning; and Section 6.2).

Benefits under the DWMBP are available to displaced workers who are not eligible for health insurance coverage under another plan, e.g., another employer's health plan, the MSTS retiree medical plan, a spouse's medical plan, or Medicare. Generally, DWMBP benefits are as follows (note: NNSA may approve workforce restructuring plans that include less years of coverage):

- For the first 12-month period after the termination date, the MSTS shall continue to pay the employer portion of the medical premium and the separated employee will pay a premium equal to the monthly premium paid by active employees for the type and level of coverage the separated Employee has at the termination date.
- Beginning in the second year after the termination date, the separated employee will be responsible for one-half of the full Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) rate for this coverage, and MSTS shall pay the remainder. Beginning in the third and final year of the DWMBP, the separated employee will be responsible for paying the full COBRA. At the end of the third year the employee's coverage eligibility ends.

6.0 RETIREMENT PLANS

MSTS shall administer the following plans with the following titles:

- Mission Support and Test Services LLC Employee Retirement Plan*** - This is a pension plan with 5-year cliff vesting. Employees hired after June 30, 2009 will receive a pension benefit based on a variable annuity formula. Employees hired before July 1, 2009 will receive a defined annuity for pension credits earned through December 31, 2013. The pension benefit earned after this date will be based on a variable annuity formula.
- Mission Support and Test Services LLC Employee 401(k) Plan*** - This is a defined contribution plan in which MSTS matches 50% of the first 6% of compensation the employee contributes to the Plan. The employer matching component has 3-year cliff vesting.

6.1 General Provisions

Reasonable costs involved in implementing, administering, and funding DOE NNSA-approved pension plans are allowable. Reasonable administrative costs associated with the effective administration of the plans include such items as publicizing, enrolling, maintaining records, and providing employees with assistance in understanding and collecting their benefits. In addition, only compensation reimbursed by DOE NNSA under the Contract is authorized to be considered as pensionable earnings for purposes of the qualified plans.

Contractor funds contributed on behalf of participating employees who cancel their participation in the plan or whose employment is terminated, which are not vested pursuant to the provisions of the plan, shall be used to offset the Contractor's contributions obligated to be made on behalf of other participants in the plan or to offset reasonable plan expenses if permitted by the plan. In the event this Contract with the Contractor is terminated, funds not committed to participants pursuant to provisions of the plans in effect at the NNSA shall be returned to DOE NNSA.

7.0 PAID TIME OFF

a. Paid Time Off (PTO).

PTO is provided to eligible employees to be used as they wish, i.e., for vacation, sick leave, personal reasons, or religious observances. With the exception of illness or other

unforeseen reasons covered by any applicable sick time/leave law or ordinance, PTO is to be scheduled in advance and mutually agreed upon by the supervisor and the employee after taking work requirements into consideration.

1. Eligibility - Salaried employees are eligible to use PTO as it accrues. No minimum length of service is required. Employees in casual status do not accrue PTO.

Accredited Service Requirement	Annual Accrual	Max Accrual*
From Accredited Service Date Until 5th anniversary of that date	120 Hours	480 Hours
From 5th anniversary date Until 20th anniversary date	160 Hours	640 Hours
From 20th anniversary date forward	200 Hours	800 Hours

* When an employee reaches the maximum accrual, no more PTO is accrued until time is charged to PTO and the hours go below the maximum. Employees deployed on an emergency response team (as listed in Section 3.5 item 8.b) will be allowed to continue accruing PTO over the maximum for up to 4 months after their return from deployment.

2. The PTO Program allows Employees to accrue and use PTO under equivalent or more favorable terms and conditions provided for under applicable federal, state and/or local law. To that end, to the extent any applicable paid sick time/leave law or ordinance provides any greater rights than set forth in this program, such provisions are incorporated by reference for covered employees. To the extent an employee uses PTO for reasons other than sick time/leave, they will not be provided with additional paid time off for sick time/leave purposes irrespective of any applicable sick time/leave law or ordinance, unless otherwise required by law.
3. Part-time employees accrue PTO on a prorated basis.
4. Employees will continue to accrue PTO during all paid absences (except when using donated PTO).
5. Employees will not accrue PTO while in any unpaid employment status for more than half of their normal workweek, unless they are using PTO, VPP, or Sick Leave Savings or working to supplement Short-Term or Long-Term Disability payments.
6. Use of PTO must be approved by supervisors authorized to sign time records. PTO is used by employees in increments of one-quarter hour or more.
7. Approved holidays occurring during PTO will not be counted against PTO accounts.
8. Group insurance coverage will remain in force and premium payments will continue to be apportioned between employer and employee on the same basis as during active work time. Participation in the retirement savings plan will continue and contributions will be based on actual eligible earnings while on PTO.
9. PTO can be used to supplement Workers' Compensation and short-term disability benefits, up to 100% of base pay.
10. Upon termination or transfer to an MSTs affiliate, the employee's accrued, unused PTO funds are transferred to that entity or paid off. The funds associated with this transfer or cash out are reimbursable under this Contract.

11. Employees can donate accrued PTO to fellow employees who have exhausted all accrued PTO and are undergoing either a family medical or personal medical crisis, including other special emergencies, as approved by the Director of Human Resources.

b. Sick Leave Savings Account

1. Sick leave savings account balances effective July 1, 2006 will remain.
2. For rehires with a break in service of 3-years or less, unused sick leave that was accrued at termination will be credited to the employee's sick leave savings account.
3. The sick leave savings account is supplemental to other benefits. It is not a vested benefit to which employees are entitled upon termination or reclassification from salaried to casual status. Consequently, the sick leave savings account will not be paid off upon termination.

c. Holidays

1. Eligible employees will be granted 80 hours of holiday pay each calendar year for the following holidays:

New Year's Day	Labor Day
Martin Luther King Day	Veterans Day
Presidents' Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving Day
Independence Day	Christmas Day
2. When recognized holidays fall on a Saturday, the preceding Friday will be recognized as the holiday. When recognized holidays fall on a Sunday, they will be observed the following Monday.
3. For those employees working alternate work schedules/hours, a specific schedule will be established each calendar year.
4. At least 30 days prior to the end of each calendar year, the Contractor will notify the NNSA Contracting Officer of the holidays to be observed.
5. To be eligible for holiday pay, the employee must be in paid status on the workday either preceding or following the holiday. No pay will be granted for a holiday that falls on the day preceding the first date of employment, nor for a holiday that falls after the last day worked.
6. If a scheduled holiday occurs when an employee is on an approved paid absence (e.g., PTO, jury duty, etc.), the employee is entitled to holiday pay and no charge is made against their PTO.

d. Bereavement Leave

1. In connection with a death in the immediate family, a bereavement leave of up to 3 days with pay is granted to eligible employees with time record signature approval. No minimum length of service is required.
2. The paid leave can be used at the time of the death or within a reasonable period following the death.
3. "Immediate family" is defined to include the following:
 - a. Spouse or registered domestic partner

- b. Mother or father, mother-in-law or father-in-law, stepmother or stepfather, or foster mother or foster father
 - c. Son or daughter, son-in-law or daughter-in-law, stepson or stepdaughter, or foster son or foster daughter
 - d. Brother or sister, brother-in-law or sister-in-law, stepbrother or stepsister, or foster brother or foster sister
 - e. Grandparents or spouse's or registered domestic partner's grandparents
 - f. Grandchildren or spouse's or registered domestic partner's grandchildren
 - g. For bereavement leave, this definition is not limited to an Employee's natural or legal immediate family, and in the absence of a natural or legal relationship includes those persons considered by family, friends, and the community to bear such a relationship to the Employee, including a legal guardian.
4. Bereavement leave is paid at the employee's base rate of pay at the time of absence for the number of hours the employee otherwise would have worked that day. Bereavement leave is not counted as hours worked for purposes of calculating overtime.
- e. Jury/Witness Duty**
- 1. Eligible employees who have been called to be selected or to serve on a jury impaneled by a civil authority, or who have been called to testify as witnesses in legal proceedings to which the employee is not a party either voluntarily or under subpoena, will be granted time off with pay. Time off with pay will not exceed the number of hours in their scheduled workday. Verification of an employee's attendance at court is required.
 - 2. Compensation of any type received by the employee for the performance of court duty, excluding subsistence or travel allowances, shall be remitted to the Contractor by the employee.
- f. Paid Absences Due to Emergency Conditions**
- 1. MSTS senior officer or manager assigned at a location has the responsibility to decide whether a natural or civil emergency condition exists to the extent it prevents employees from reporting to work, or requires that they leave the work location during scheduled work hours.
 - 2. When normal attendance requirements are waived or modified due to emergency situations, employees will be paid for the hours of excused absence at their base pay rate not to exceed the number of hours in their standard workday.
 - 3. Natural emergency conditions include, but are not limited to, extreme weather conditions, utility failures, and life-threatening accidents. Civil emergencies include riots, demonstrations, and bomb threats. This policy is to be used in short-term situations and would not necessarily apply in the event of major catastrophes which might cause the disruption of operations for an extended period of time.
- g. Time Off for Voting**
- MSTS can grant an eligible employee time off with pay for purposes of voting in a duly constituted election in accordance with applicable state laws.

h. Grievances and Arbitration Leave

A union steward will be allowed time off with pay to perform the functions required of him/her in any grievance or arbitration proceeding. An employee called by the Contractor in such proceedings shall be paid for time lost.

i. Workers Compensation

1. MSTS will pay an employee "injury time" for absences from work as the result of a job-incurred injury or illness at 100% of base pay; unless/until the employee receives statutory workers compensation benefits. When the employee receives statutory workers compensation benefits, the Contractor supplements these benefits with "injury time" up to 75% of base pay, not to exceed 6 months or 26 weeks from the date of injury. Once an employee qualifies for statutory workers' compensation benefits, injury time paid at 100% will be adjusted retroactively to the 75% level as a supplement to the statutory benefit.
2. Employees may choose to supplement statutory workers' compensation benefits, including "injury time," up to 100% of base pay with their sick leave savings or PTO. The sick leave savings account can be used on the first day of absence if the absence is the result of a work-related injury (as defined by applicable Workers Compensation regulations). In such cases, payments to the employee from the sick leave savings account will be reduced by the amount of Workers Compensation benefits for which the employee is eligible, even if the employee fails to file a Workers Compensation claim.

j. Military Leave

1. Employees who are members of the armed forces of the United States or National Guard, and who have short-term military obligations for training purposes or civil emergencies will be granted 15 working days of leave per fiscal year to satisfy their obligations. The amount of pay received from MSTS during such leave is the difference, if any, between the employee's base pay at MSTS and the employee's military base pay.
2. Employees called to active military duty under presidential or congressional order will receive up to one-half of their base rate of pay for at least 180 days after their call to active duty. Employees may use earned and/or accrued PTO to extend this 180-day period. In no instance will Contractor payments of salaries or wages and pay received for active military duty exceed employee's base pay rate earned prior to the call to active duty. For these purposes, active duty pay includes base pay, all specialty pay, and all allowances except housing, subsistence, travel, and uniform allowances. Employees will receive enrolled benefits for dependents for a period of 180 days that can be extended by earned and or accrued PTO. Employees will continue to accrue credited service for pension during the 180-day period.

k. Defense of Employees Involved in Work-Related Claims and Legal Actions

1. If a claim or legal action is brought against an employee as the result of the employee's conduct while performing duties under this contract and within the employee's scope of employment, MSTS is allowed the cost of defending the employee, including appeals and cost of any judgment; provided, however, that the prior approval of the NNSA Contracting Officer or designee and the consent of the employee to be defended shall be obtained before any such defense is undertaken.

2. The provisions of the contract clause entitled "Litigation and Claims" shall have the same application to claims and legal actions against employees under this section as it has to those claims and legal actions that are brought directly against MSTS. Before costs of any retained legal counsel is allowed, the selection of such counsel must have the concurrence of the NNSA Contracting Officer or designee.
3. When involved in any claim or legal action covered by this section, an employee is, with the prior approval of the NNSA Contracting Officer or designee, allowed time off with base pay on scheduled work days for consultation with counsel, trial attendance, and such other matters as are reasonably incident to the claim or legal action.

l. Administrative Investigative Leave

Employees removed from an MSTS work site while pending investigation are placed on administrative investigative leave until the investigation has been completed, subject to approval by the Director of Human Resources or designee.

m. Service Credit and Leave Balances

MSTS carried over the length of service credit and leave balances for Incumbent Employees accrued as of the date of the Base Term.

7.1 Military Leave of Absence

MSTS shall submit a plan for a Military Leave of Absence for training that is consistent with the provisions established in 5 USC 6323, "Military Leave; Reserves and National Guardsmen." The Contractor shall submit a plan for active duty military leave that, at minimum, complies with all applicable provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA). Such plan shall be subject to Contracting Officer approval if it provides more benefits than are required by law.

7.2 Security Leave (Suspension of Access Authorization)

If the access authorization of an employee is suspended by direction of the Contracting Officer, MSTS shall transfer the employee to work not requiring access authorization if such work is available, without reducing the employee's base compensation. If MSTS determines that no work is available in an un-cleared area to which the employee may be transferred, the MSTS will prepare a written report, for the review and concurrence of the Contracting Officer that sets forth the reasons for the determination.

1. Subject to the Contracting Officer's concurrence that no such work is available, MSTS may place the employee on leave with pay at his//her base compensation. If an employee who is continuing to receive compensation files a timely request for hearing pursuant to Title 10 Code of Federal Regulations (CFR) Part 710, "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material," such base compensation shall be continued until MSTS receives notification in writing from the Contracting Officer of the Hearing Officer's recommendation.
 - a. If the recommendation of the Hearing Officer is for revocation of access authorization, MSTS may compensate the employee as set forth herein.
 1. In the event the employee was transferred to another position where such access authorization is not required, compensation may, thereafter, be the

base compensation applicable to the new position, and such compensation shall continue until final disposition of the case under DOE procedures as set forth in 10 CFR 710.

2. In the event a job transfer was not arranged (i.e., the employee was placed on a leave with pay), the employee shall be placed on leave without pay effective the date MSTS received written notification of the Hearing Officer's recommendation. The employee shall remain on leave without pay until final disposition of the matter.
3. If at any stage of the access authorization procedure following a suspension, or at the conclusion of the administrative review process provided under 10 CFR 710, the employee's access authorization is reinstated by the Contracting Officer, MSTS will offer the employee reinstatement in the same or a comparable position to the one held prior to suspension, if available. The employee may be reimbursed for the difference between the employee's base wage or salary and actual earnings, including earnings from other employment, during the period of suspension.
4. If the recommendation of the Hearing Officer is to continue the administrative review process for revocation of access authorization, the employee's base compensation may be continued until a final decision is rendered by the Assistant Secretary for Defense Programs.

8.0 TRAINING AND EDUCATION

Training and education shall be directly related to the employee's current position or to another position to which the employee may reasonably be moved.

MSTS has established written procedures outlining a system of approval for all requests for training and education. The system provides an approval structure for in-house and outside training programs and educational assistance. Local colleges and universities are utilized as primary sources.

8.1 Training

1. Internal Training Programs - Internal training programs may include, but are not limited to, orientation, job training, supervisory training, and executive development. Such training programs may be conducted during employee's workday or after hours. Reasonable costs of in-house training including necessary equipment, materials, and instructor personnel are allowable.
2. External Training Programs - Employees may be selected by MSTS to participate in job related training courses, technical meetings, professional society meetings, seminars, conferences, and other specialized training courses away from the site(s) facilities. Allowable costs for such training courses may include employee's regular pay, travel and subsistence expenses, and the cost of tuition, fees, and course materials. Business travel and conference management shall be managed in accordance with the DOE NNSA conference management requirements.

8.2 Education Program

Employee Education Training Assistance Program (EETAP)

1. Non-bargaining employees who are scheduled for at least 30 hours per week and who are active or on medical/family leave on the course start date and through the completion of the course, are eligible.
2. Courses must be part of a program of study related to the employee's current position or to a probable future assignment in the Contractor's organization. In addition, these courses must be offered by an accredited institution of higher learning and approved before the employee enrolls in the course. The employee's supervisor will review the requested program of study, and if endorsed, provide a statement to the Staff Development and Training Office accompanying the employee's request. The endorsement should indicate how the program of study is related to the employee's current or probable future position and the NNSSMission.
3. The Contractor will pay or reimburse for eligible costs, less financial assistance from other sources (grants, assistantships, fellowships, scholarships, VA assistance, etc.), when the employee achieves a grade of C- or better, or "Pass" in a pass-fail course. The Contractor will provide a maximum of \$5,250 per employee each fiscal year, unless written approval of the NNSA Contracting Officer or designee is obtained in advance. The employee must furnish records of course completion and eligible costs incurred, including the amount of any rebate on tuition or fees received from the institution, which will be deducted from the reimbursement or repaid to the Contractor by the employee.
4. Eligible costs include tuition, required textbooks, applicable state and local taxes, and required direct charges billed by the institution for instruction, such as laboratory fees, initial registration fees, and health fees.
5. Ineligible costs include late charges, equipment, tools, general supplies, supplemental non-required textbooks, medical insurance, tuition for courses that are audited, and parking fees.
6. Employees must reimburse the Contractor if they do not successfully complete the course with a grade of C- or better (or "Pass" in a pass-fail course). If the employee voluntarily terminates employment, participates in a self-select voluntary separation program, or is terminated for cause, the employee must repay 100% of EETAP funds received within the 12 months prior to the termination date or 24 months if a degree program was completed with EETAP funds.

9.0 TRAVEL, RELOCATION, AND SUBSISTENCE

MSTS may pay transportation, lodging, meals, and incidental expenses for employees required to travel in conjunction with the performance of work under this Contract. Travel costs shall be allowable to the extent they are incurred in accordance with the FAR, DEAR, and Federal Travel Regulations (FTR) and do not exceed the maximum per diem rates in effect at the time of travel set forth in the FTR, prescribed by the General Services Administration.

MSTS may deviate from this Personnel Appendix in specific instances where it is determined and approved by the Contracting Officer to be economically advantageous to DOE NNSA and to the extent such deviations conform to regulations and law.

Relocation expenses shall be incurred in accordance with the provisions, limitations and exclusions of the FAR and the policy provisions in Section 9.2 below. Relocation provisions are applicable to Exempt Employees and are allowable and will be reimbursed in accordance with the FTR.

9.1 Travel

Travel costs shall be allowable to the extent that they are incurred in accordance with DEAR 970.3102-05-46, "Travel Costs," and FAR 31.205-46, "Travel Costs." Travel-related costs shall be reasonable and allowable to the extent they comply with the rules for per diem rates set forth in the Federal Travel Regulations in effect at the time of travel.

9.2 Relocation

Relocation expenses for en route travel, transportation of household goods, house hunting trips, temporary living, residence-related payments (home sale, home purchase, mortgage interest differential payments, rental differential payments, and costs of canceling an unexpired lease), and tax assistance shall be incurred in accordance with the provisions, limitations, and exclusions of FAR 31.205-35, "Relocation Costs," except as noted below. Current FTR rates and methods of calculation will be used for those expenses left undefined in the FAR

- a. Relocation expenses are authorized when the new work location is more than 75 miles from the current work location, except changes in work location between the Las Vegas area and the NNSS.
- b. Shipment of Autos, House Trailers and Mobile Homes
 1. Costs for shipment by freight forwarder of one auto for new hires, college hires, or transferring employees will be reimbursed with the following limitations:
 - a. The shipment is advantageous and cost effective to the government, and the General Manager or designee approves shipment.
 - b. Vehicles must be in operating condition. Shipment of antique autos is not authorized regardless of operating condition.
 - c. Assignment location must be more than 500 miles from point of origin.
 - d. No reimbursement will be made for storage charges at point of origin or destination.
 - e. Transportation is limited to vehicles having a gross size for shipping purposes of not more than 20 measurement tons (800 cubic feet).

All necessary and customary expenses directly related to the transportation of a privately owned vehicle may be allowed, including crating and packing expenses, shipping charges, and port charges for readying the vehicle for shipment at port of embarkation and for use at port of debarkation.

When it is in the best interests of the government, transferring employees who travel by plane to their new location may ship two vehicles with the approval of the General Manager or designee.

2. Costs for the shipment of a single-unit house trailer or mobile home, moved by the employee or commercial carrier and used as the principal residence, will be reimbursed. The employee is responsible for the cost of insurance for valuation of the mobile home above the carriers' maximum liability, or charges designated in the tariffs as "Special Service."
- c. Allowance for Miscellaneous Expenses

Miscellaneous residence relocation expenses (eligibility limited to Employees buying, selling, or leasing a permanent residence) up to \$1,000 are paid as a lump sum, in lieu of actual costs, to cover other necessary and reasonable expenses incurred during the relocation. Disconnecting and connecting household appliances; automobile registration; driver's license and use taxes; cutting and fitting rugs, draperies, and curtains; forfeited utility fees or deposits, up to a total of \$5,000 (including the \$1,000 lump sum) may be reimbursed with receipts for all miscellaneous expenses.
 - d. Labor costs incurred during the relocation of transferring employees during any work day travel period, based on an average of 400 miles per day, are allowable.

9.3 Temporary Assignments

Employees on an assignment at least 75 miles away from their normal work location that lasts longer than 6 months and less than 12 months are eligible for a Temporary Change of Station in accordance with the FTR.

9.4 Personnel Borrowed

It is recognized that the technical and staffing requirements of the Contractor will vary during the performance of this Contract. The technical and staff support capabilities of the Contract and its affiliates were proposed and recognized in the competitive selection process. Therefore, the Contractor may obtain direct support from affiliates to meet technical and staffing requirements on an as-needed basis. The process and procedure for utilizing support from affiliates shall be approved by the Contracting Officer.

Services from approved Contractor affiliates will be at cost without additional fee or profit. Allowable cost will include direct costs and all allocable affiliate indirect costs in accordance with applicable Defense Contract Audit Agency (DCAA) cost principles and cost accounting standards. Temporary assignments of Contractor affiliate personnel to the NNSS Site or other sites identified in this Contract shall bear indirect costs based upon a DCAA recommended/approved offsite rate that excludes home office facilities-related costs. However, in the event a DCAA recommendation/approved offsite rate does not exist for a specific Contractor affiliate, the Contractor affiliate shall not be required to develop an offsite rate unless the temporary assignment exceeds 6 months.

Contractor affiliates providing such services and personnel shall perform the work in accordance with applicable terms and conditions of this Contract.

9.5 MSTS Personnel Loaned

MSTS may loan, at no cost to the Government, individuals working under this Contract to other operations of the parent companies (Honeywell International, Inc., Jacobs Engineering Group, Inc., and Stoller Newport News Nuclear, Inc. (now HII-Nuclear, Inc) [Mod 033]) or their affiliates on a non-interference basis as determined by MSTS. Loans longer than 6 months require Contracting Officer or designee approval.

The receiving organization will reimburse MSTS for full costs plus NNSA adders as appropriate. Travel costs of such loaned personnel will be the responsibility of the requesting company.

9.6 MSTS Personnel Loaned to Outside Organizations

With the prior approval of the NNSA Contracting Officer or designee, MSTS can temporarily assign MSTS employees to locations and organizations other than their assigned organization. Such assignments could be to federal, state, and Local government, non-profit organizations, private sector partners, or other customers. Such assignments must be in the best interest of the NNSA and the Contractor.

The term of these assignments will be determined to best meet the needs and obligations of the specific request, but normally will be 2 years or less. Up to 100% of the cost of the assignment to the Contractor will be reimbursed, as provided in the approval letter.

Employees on temporary assignment will remain employees of MSTS.

10.0 RECRUITING

The costs of recruitment of personnel including cooperative education programs, summer internship programs, nominal costs for promotional items for recruitment purposes, employment advertising, services of staffing sourcing vendors, services of employment agencies at rates not in excess of standard commercial rates, participation in corporate recruiting activities, campus recruiting, career fairs, and operation of recruiting stations are allowable.

Applicants who are requested by the Contractor to report for a pre-employment interview shall be allowed transportation expenses. Reasonable actual costs of lodging not to exceed per diem and meals and incidental expenses (M&IE) shall be allowed.

a. Recruiting Costs

The reasonable and necessary costs incurred for the recruitment of personnel will be allowed. Costs include, but are not necessarily limited to, advertising in newspapers and technical journals, preparation of recruiting materials, and travel for recruiting personnel and technical representative.

b. State and Nonprofit (No-fee) Minority Agencies

MSTS will, to the maximum extent feasible, utilize the services of the local State and nonprofit (no-fee) Minority Agencies in the recruiting of personnel, and will provide those agencies with current listings of job openings for which outside recruiting is being conducted.

c. Other Recruiting Methods

MSTS can utilize employment agencies or employment consultants in the recruiting of personnel and can travel to educational institutions, attend job fairs, or sponsor "Open Houses" in special recruitment areas and invite prospective employees whose skills are in short supply to the point of hire and/or permanent duty station for a pre-employment interview.

d. Physical Examinations

The reasonable costs of employment physical examinations for new hires, rehires, and employees returning to work after an absence of more than 5 days due to illness or injury, including substance abuse testing, are allowable.

e. Pre-employment Verification Standards

The reasonable costs of pre-employment personnel investigations are allowable. All costs associated with the processing of a security clearance where the contract requires the employee to have such clearance, are allowable.

f. Special Employment Programs

MSTS implements special employment programs for students at the undergraduate, graduate, and postgraduate levels. These programs enhance and support normal recruitment by providing a broader base for support of NNSA programs, enable the development of long-term relationships with students to create a pipeline of qualified employees, and facilitate educational cooperation between institutions. A description and summary of MSTS's special employment programs to include number of participants, schools recruited, and conversion rates shall be provided to the Contracting Officer by October 30 of each year for the prior fiscal year.

1. Undergraduate Student (UGS) Program

The UGS Program provides students with relevant work experience related to their chosen field of study in disciplines relevant for the NNSA. These internships give them exposure to our mission and opportunities to support development of a pipeline of qualified employees.

a. Duration

Students are offered 90-day internships with an option to continue working part-time during the academic year if feasible. The employment relationship remains "at-will" and can be terminated at any time by either party.

b. Eligibility

1. Students must be enrolled in a minimum of 12 undergraduate credit hours per semester towards a Bachelor of Science (BS)/Bachelor of Art (BA) or Associate of Science (AS)/Associate of Art (AA).
2. Students must have completed the first year of a Bachelor's (if pursuing BS/BA or Associate's degree program (if pursuing AS/AA).
3. For engineering and scientific disciplines, students must have completed the first year of a Bachelor's degree program in a calculus-based Science, Technology, Engineering and Mathematics (STEM) field.

4. In addition, for engineering disciplines, the engineering program must be accredited by the Accreditation Board for Engineering and Technology.
 5. Students must have and maintain a cumulative grade point average(GPA) of 3.0 on a 4.0 scale.
- c. Benefits
1. Students are employed as Casual employees and are provided with legally required benefits, Business Travel Accident Insurance, and Special Activity Accident Insurance, the Employee Assistance Program, and Subsistence if applicable.
 2. Students are not eligible for EETAP and severance pay when the employment relationship ends.
 3. Students are provided limited relocation benefits as follows:
 - a. Public transportation or automobile mileage for the most direct route if work location is more than 100 miles from school.
 - b. Up to 5 days lodging and M&IE at the standard Continental United States (CONUS) rate for settling in.

2. Post-Baccalaureate Program

The Post-Baccalaureate Program is an additional program to strengthen the early acquisition of talent and provide a bridge from undergraduate to post-graduate levels of study.

- a. Duration
- Individuals are offered meaningful and value-added employment for NNSS for up to 12 months while determining whether to enroll in a graduate program. The employment relationship remains “at-will”, and can be terminated at any time by either party.
- b. Eligibility
1. Prior participation in MSTs UGS Program.
 2. Completion of Bachelor’s degree in technical or scientific discipline within the last 12 months.
 3. Must not have been accepted or be enrolled in a graduate program.
- c. Benefits
1. Participants are employed as Limited-Term employees and are provided with legally required benefits.
 2. Participants will be eligible for Limited-Term MSTs Employee benefits.
 3. Participants are not eligible for EETAP or severance pay when the employment relationship ends.
 4. Participants are provided limited relocation benefits as follows:
 - a. Public transportation or automobile mileage for the most direct route if work location is more than 100 miles from school.

- b. Up to 5 days lodging and M&IE at the standard CONUS rate for settling in.

3. Graduate Research Assistant (GRA) Program

The GRA Program provides technical and scientific students with relevant work experience related to their chosen field of study in disciplines relevant for the NNSS. These appointments give them exposure to our mission and opportunities to support development of a pipeline of qualified employees.

a. Duration

1. Up to 90-day appointments (generally during the summer) with option for renewal based upon program requirements. The employment relationship remains “at-will”, and can be terminated at any time by either party.
2. One year appointment with option for renewal based upon program requirements. The employment relationship remains “at-will”, and can be terminated at any time by either party.

b. Eligibility

1. Students must be enrolled in and successfully complete a minimum of 6 graduate credit hours per semester towards a technical or scientific discipline.
2. Students must have and maintain a cumulative GPA of 3.2 on a 4.0 scale.

c. Benefits

1. Students with up to 90-day appointments are employed as Casual employees and are provided with legally required benefits, Business Travel Accident Insurance, Special Activity Accident Insurance (NEST), the Employee Assistance Program, and Subsistence if applicable.
2. In addition to legally required benefits, students with 1-year appointments are employed as Limited-Term employees and will be eligible for Limited Term MSTs Employee benefits.
3. Students are not eligible for EETAP and severance pay when the employment relationship ends.
4. Students are provided limited relocation benefits as follows:
 - a. Public transportation or automobile mileage for the most direct route if work location is more than 100 miles from school.
 - b. Up to 5 days lodging and M&IE at the standard CONUS rate for settling in.

4. Cooperative Education (Co-Op) Program

The Co-Op Program enhances other student programs by providing students with the opportunity to earn academic credit during a structured job experience as follows:

a. Duration

Up to 6 months. The employment relationship remains “at-will”, and can be terminated at any time by either party.

- b. Eligibility
 - 1. Enrolled in a formal cooperative education program as an undergraduate or graduate master's program through an accredited college or university.
 - 2. Satisfactorily completed at least 1 year of study.
- c. Benefits
 - 1. Students are employed as Casual employees and provided with legally required benefits, Business Travel Accident Insurance, Special Activity Accident Insurance, the Employee Assistance Program, and Subsistence if applicable.
 - 2. Students are not eligible for EETAP or severance pay when the employment relationship ends.
 - 3. Students are provided limited relocation benefits as follows:
 - a. Public transportation or automobile mileage for the most direct route if work location is more than 100 miles from school.
 - b. Up to 5 days lodging and M&IE at the standard CONUS rate for settling in.

5. Post-Doctoral (Postdoc) Program

The Postdoc Program offers the opportunity for appointees to perform research, present and publish research, advance knowledge in basic and applied science, and strengthen national scientific and technical capabilities.

- a. Duration

Participants can be employed for up to 2 years, with the possibility of 1 additional year, based on the organization's needs. The employment relationship remains "at-will," and can be terminated at any time by either party.
- b. Eligibility

In order to be considered for a Postdoc appointment, the candidate must be nominated and sponsored by an MSTS Senior Principal or Distinguished Scientist or Engineer, Director, or Senior Director. Candidates may be considered for a Postdoc position within 3 years of receiving the PhD.
- c. Benefits
 - 1. Participants are employed as Limited-Term employees and are provided with legally required benefits.
 - 2. Participants will be eligible for MSTS employee benefits.
 - 3. Participants are not eligible for EETAP or severance pay when the employment relationship ends.
 - 4. Participants are eligible for limited relocation benefits as follows:
 - a. House hunting trip
 - b. En route expenses
 - c. Shipment and temporary storage of household goods

- d. Shipment of one vehicle
- e. Settling-in allowances
- f. Residence relocation allowance

11.0 SPECIAL EMPLOYEE ACTIVITIES

11.1 Recreation and Morale Building Benefits

A recreation and morale building program may be proposed by the Contractor for Contracting Officer approval.

11.2 Employee Recognition Programs

An employee recognition program may be proposed by the Contractor for Contracting Officer approval.

12.0 COMMUNITY OUTREACH

The Contractor may authorize employees to participate in educational and community outreach in accordance with their Community Outreach Plan approved by the Contracting Officer. The salaries, wages, and fringe benefits of employees while engaged in such approved activities will be treated as allowable costs. Educational and community outreach does not include activities conducted by elected and officially appointed officials that take place during an employee's regularly scheduled work day. Hours associated with educational and community outreach outside of the employee's normal work schedule shall not be compensated by the Contractor. The Contractor shall submit a report annually, no later than November 1, to the Contracting Officer on the types of usage and number of hours authorized. Some examples of permissible educational and community outreach include, but are not limited to:

- Promotion of STEM in the educational setting (elementary school through higher education institutions)
- Science Bowl and Science Fairs
- Blood bank drives
- Charity drives
- United Way campaigns

SECTION J

APPENDIX H

KEY PERSONNEL (Mod 0085)

Name	Position
Mark Martinez	President
Roger Rocha	Vice President & Chief Operating Officer
J.C. Wallace	Senior Director, Stockpile Experimentation and Operations (SEO)
Bart Jones	Senior Director, Global Security
Dave Corbett	Senior Director, Infrastructure
Doug Dearolph	Senior Director, Mission Assurance and SIE
David Feather	Senior Director, Business Operations
Mark J. Krauss	Senior Director, Stockpile Operations & EM Program
Craig Wuest	Senior Director, Mission Development

SECTION J

APPENDIX I

SMALL BUSINESS SUBCONTRACTING PLAN AND SMALL BUSINESS PARTICIPATION (Mod 0022, 0044, 0064, 0085)

**SUBCONTRACTING PLAN
TEMPLATE**

This plan follows the format for addressing the fifteen elements as shown at Federal Acquisition Regulation (FAR) 52.219-9(d) (JAN 2017). Failure to provide an acceptable plan as prescribed by contracting officer will render the offeror ineligible for contract award (FAR 19.702(a)(1)).

SOLICITATION or CONTRACT NUMBER: DE-NA0003624

Contractor Name and address: Mission Support and Test Services

Approximate Value of Contract: \$4,575,949,613.00 (includes all priced options)

Contract Period of Performance (if applicable):

(X) Individual Subcontracting Plan () Master Subcontracting Plan () Commercial Plan

(1) GOALS

State goals as a percentage of total planned subcontracting dollars (required) and as a percentage of total contract dollars (optional, per the contracting officer) that will go to all Small Business (SB) concerns, Historically Underutilized Business Zone (HUBZone) SB concerns, Small Disadvantaged Business (SDB) concerns, Woman-Owned SB (WOSB) concerns, Veteran- Owned SB (VOSB) concerns, and Service-Disabled Veteran-Owned SB (SDVOSB) concerns.

Total Base Contract for all Periods: 01-DEC-2017 THROUGH 30-NOV-2022

Approximate Contract Period Value: \$2,361,422,812.00

Total Value of all planned subcontracting: \$825,000,000.00

Base Contract Period	(%) Total Planned Subcontracting dollars	(%) Total Contract Dollars (If required by CO)	Notes
a. SB:	70%	24%	(Includes HUBZone SB, SDB, WOSB, VOSB, SDVOSB, ANCs, and Indian tribes when applicable.)
b. VOSB:	12%	4%	
c. SDVOSB:	3%	1%	
d. HUBZone:	3%	1%	
e. SDB:	8%	3%	(Includes ANCs and Indian tribes)
f. WOSB:	8%	3%	

Base Contract Term YEAR 1: 01-DEC-2017 THROUGH 30-SEPT-2018

Approximate Contract Period Value: \$599,408,140.00

Total Value of all planned subcontracting: \$138,500,000.00

Base Contract Period	(%) Total Planned Subcontracting dollars	(%) Total Contract Dollars (If required by CO)	Notes
g. SB:	70%	16%	(Includes HUBZone SB, SDB, WOSB, VOSB, SDVOSB, ANCs, and Indian tribes when applicable.)
h. VOSB:	12%	3%	
i. SDVOSB:	3%	1%	
j. HUBZone:	3%	1%	
k. SDB:	8%	2%	(Includes ANCs and Indian tribes)
l. WOSB:	8%	2%	

Base Contract Term YEAR 2: 01-OCT-2018 THROUGH 30-SEPT-2019 (Mod 0044)

Approximate Contract Period Value: \$418,241,000.00

Total Value of all planned subcontracting: \$180,000,000.00

Base Contract Period	(%) Total Planned Subcontracting dollars	(%) Total Contract Dollars (If required by CO)	Notes
	72%	28%	(Includes HUBZone SB, SDB, WOSB, VOSB, SDVOSB, ANCs, and Indian tribes when applicable.)
n. VOSB:	12%	5%	
o. SDVOSB:	4%	2%	
p. HUBZone:	3%	1%	
q. SDB:	10%	4%	(Includes ANCs and Indian tribes)
r. WOSB:	10%	4%	

Note: Reference NFO letter AMBC: AH 9031 dated December 12, 2018 directing FY19 assignment of SB goals.

Base Contract Term YEAR 3: 01-OCT-2019 THROUGH 30- SEPT-2020 (0064)

Approximate Contract Period Value: \$422,523,410.00

Total Value of all planned subcontracting: \$200,000,000.00

Base Contract Period	(%) Total Planned Subcontracting dollars	(%) Total Contract Dollars (If required by CO)	Notes
s. SB:	72%	28%	(Includes HUBZone SB, SDB, WOSB, VOSB, SDVOSB, ANCs, and Indian tribes when applicable.)
t. VOSB:	12%	5%	
u. SDVOSB:	4%	2%	
v. HUBZone:	3%	1%	
w. SDB:	10%	4%	(Includes ANCs and Indian tribes)
x. WOSB:	10%	4%	

Base Contract Term YEAR 4: 01-OCT-2020 THROUGH 30-SEPT-2021 (0085)

Approximate Contract Period Value: \$426,647,644.00

Total Value of all planned subcontracting: \$200,000,000.00

Base Contract Period	(%) Total Planned Subcontracting dollars	(%) Total Contract Dollars (If required by CO)	Notes
s. SB:	72%	28%	(Includes HUBZone SB, SDB, WOSB, VOSB, SDVOSB, ANCs, and Indian tribes when applicable.)
t. VOSB:	12%	5%	
u. SDVOSB:	4%	2%	
v. HUBZone:	3%	1%	
w. SDB:	10%	4%	(Includes ANCs and Indian tribes)
x. WOSB:	10%	4%	

Base Contract Term YEAR 5: 01-OCT-2021 THROUGH 30- SEPT-2022

Approximate Contract Period Value: \$425,685,951.00

Total Value of all planned subcontracting: \$165,000,000.00

Base Contract Period	(%) Total Planned Subcontracting dollars	(%) Total Contract Dollars (If required by CO)	Notes
ee. SB:	70%	27%	(Includes HUBZone SB, SDB, WOSB, VOSB, SDVOSB, ANCs, and Indian tribes when applicable.)
ff. VOSB:	12%	5%	
gg. SDVOSB:	3%	1%	
hh. HUBZone:	3%	1%	
ii. SDB:	8%	3%	(Includes ANCs and Indian tribes)
jj. WOSB:	8%	3%	

Base Contract Term YEAR 5+: 01-OCT-2022 THROUGH 30-NOV-2022

(Term is only 2 months to complete the 5 Year agreement. Contract started in December 2017)

Approximate Contract Period Value: \$69,016,667.00

Total Value of all planned subcontracting: \$26,500,000.00

Base Contract Period	(%) Total Planned Subcontracting dollars	(%) Total Contract Dollars (If required by CO)	Notes
kk. SB:	70%	27%	(Includes HUBZone SB, SDB, WOSB, VOSB, SDVOSB, ANCs, and Indian tribes when applicable.)
ll. VOSB:	12%	5%	
mm. SDVOSB:	3%	1%	
nn. HUBZone:	3%	1%	
oo. SDB:	8%	3%	(Includes ANCs and Indian tribes)
pp. WOSB:	8%	3%	

Option Year 1: 01-DEC-2022 THROUGH 30-SEPT-2023

Approximate Contract Period Value: \$362,686,051.00

Total Value of all planned subcontracting: \$165,000,000.00

Option Year 1	(%) Total Planned Subcontracting dollars	(%) Total Contract Dollars (If required by CO)	Notes
a. SB:	70%	32%	(Includes HUBZone SB, SDB, WOSB, VOSB, SDVOSB, ANCs, and Indian tribes when applicable.)
b. VOSB:	12%	5%	
c. SDVOSB:	3%	1%	
d. HUBZone:	3%	1%	
e. SDB:	8%	4%	(Includes ANCs and Indian tribes)
f. WOSB:	8%	4%	

Option Year 2 - 01-OCT-2023 THROUGH 30-SEPT-2024

Approximate Contract Period Value: \$439,575,494.00

Total Value of all planned subcontracting: \$165,000,000.00

Option Year 2	(%) Total Planned Subcontracting dollars	(%) Total Contract Dollars (If required by CO)	Notes
a. SB:	70%	26%	(Includes HUBZone SB, SDB, WOSB, VOSB, SDVOSB, ANCs, and Indian tribes when applicable.)
b. VOSB:	12%	5%	
c. SDVOSB:	3%	1%	
d. HUBZone:	3%	1%	
e. SDB:	8%	3%	(Includes ANCs and Indian tribes)
f. WOSB:	8%	3%	

Option Year 3 - 01-OCT-2024 THROUGH 30-SEPT-2025

Approximate Contract Period Value: \$443,917,249.00

Total Value of all planned subcontracting: \$165,000,000.00

Option Year 3	(%) Total Planned Subcontracting dollars	(%) Total Contract Dollars (If required by CO)	Notes
a. SB:	70%	26%	(Includes HUBZone SB, SDB, WOSB, VOSB, SDVOSB, ANCs, and Indian tribes when applicable.)
b. VOSB:	12%	4%	
c. SDVOSB:	3%	1%	
d. HUBZone:	3%	1%	
e. SDB:	8%	3%	(Includes ANCs and Indian tribes)
f. WOSB:	8%	3%	

Option Year 4 - 01-OCT-2025 THROUGH 30-SEPT-2026

Approximate Contract Period Value: \$448,410,962.00

Total Value of all planned subcontracting: \$165,000,000.00

Option Year 4	(%) Total Planned Subcontracting dollars	(%) Total Contract Dollars (If required by CO)	Notes
a. SB:	70%	26%	(Includes HUBZone SB, SDB, WOSB, VOSB, SDVOSB, ANCs, and Indian tribes when applicable.)
b. VOSB:	12%	4%	
c. SDVOSB:	3%	1%	
d. HUBZone:	3%	1%	
e. SDB:	8%	3%	(Includes ANCs and Indian tribes)
f. WOSB:	8%	3%	

Option Year 5 - 01-OCT-2026 THROUGH 30-NOV-2027

Approximate Contract Period Value: \$519,937,045.00

Total Value of all planned subcontracting: \$165,000,000.00

Option Year 5	(%) Total Planned Subcontracting dollars	(%) Total Contract Dollars (If required by CO)	Notes
g. SB:	70%	22%	(Includes HUBZone SB, SDB, WOSB, VOSB, SDVOSB, ANCs, and Indian tribes when applicable.)
h. VOSB:	12%	4%	
i. SDVOSB:	3%	1%	
j. HUBZone:	3%	1%	
k. SDB:	8%	3%	(Includes ANCs and Indian tribes)
l. WOSB:	8%	3%	

(2) STATEMENT OF DOLLARS

The following dollar values correspond to the percentage goals in (1).

Total Base Contract for all Periods: 01-DEC-2017 THROUGH 30-NOV-2022

Total planned subcontracting dollars:	\$ 825,000,000.00
a. Dollars planned to be subcontracted to SB (includes HUBZone SB, SDB, WOSB, VOSB, SDVOSB,):	\$ 577,500,000.00
b. Dollars planned to be subcontracted to VOSB:	\$ 99,000,000.00
c. Dollars planned to be subcontracted to SDVOSB:	\$ 24,750,000.00
d. Dollars planned to be subcontracted to HUBZone SB:	\$ 24,750,000.00
e. Dollars planned to be subcontracted to SDB (includes ANCs and Indian tribes):	\$ 66,000,000.00
f. Dollars planned to be subcontracted to WOSB:	\$ 66,000,000.00

Base Contract Term YEAR 1: 01-DEC-2017 THROUGH 30-SEPT-2018

Total planned subcontracting dollars:	\$ 138,500,000.00
a. Dollars planned to be subcontracted to SB (includes HUBZone SB, SDB, WOSB, VOSB, SDVOSB,):	\$ 96,950,000.00
b. Dollars planned to be subcontracted to VOSB:	\$ 16,620,000.00
c. Dollars planned to be subcontracted to SDVOSB:	\$ 4,155,000.00
d. Dollars planned to be subcontracted to HUBZone SB:	\$ 4,155,000.00
e. Dollars planned to be subcontracted to SDB (includes ANCs and Indian tribes):	\$ 11,080,000.00
f. Dollars planned to be subcontracted to WOSB:	\$ 11,080,000.00

Base Contract Term YEAR 2: 01-OCT-2018 THROUGH30-SEPT-2019

Total planned subcontracting dollars:	\$ 165,000,000.00
a. Dollars planned to be subcontracted to SB (includes HUBZone SB, SDB, WOSB, VOSB, SDVOSB,):	\$ 115,500,000.00
b. Dollars planned to be subcontracted to VOSB:	\$ 19,800,000.00
c. Dollars planned to be subcontracted to SDVOSB:	\$ 4,950,000.00
d. Dollars planned to be subcontracted to HUBZone SB:	\$ 4,950,000.00
e. Dollars planned to be subcontracted to SDB (includes ANCs and Indian tribes):	\$ 13,200,000.00
f. Dollars planned to be subcontracted to WOSB:	\$ 13,200,000.00

Base Contract Term YEAR 3: 01-OCT-2019 THROUGH30-SEPT-2020

Total planned subcontracting dollars:	\$ 165,000,000.00
a. Dollars planned to be subcontracted to SB (includes HUBZone SB, SDB, WOSB, VOSB, SDVOSB,):	\$ 115,500,000.00
b. Dollars planned to be subcontracted to VOSB:	\$ 19,800,000.00
c. Dollars planned to be subcontracted to SDVOSB:	\$ 4,950,000.00
d. Dollars planned to be subcontracted to HUBZone SB:	\$ 4,950,000.00
e. Dollars planned to be subcontracted to SDB (includes ANCs and Indian tribes):	\$ 13,200,000.00
f. Dollars planned to be subcontracted to WOSB:	\$ 13,200,000.00

Base Contract Term YEAR 4: 01-OCT-2020 THROUGH30-SEPT-2021

Total planned subcontracting dollars:	\$ 165,000,000.00
a. Dollars planned to be subcontracted to SB (includes HUBZone SB, SDB, WOSB, VOSB, SDVOSB,):	\$ 115,500,000.00
b. Dollars planned to be subcontracted to VOSB:	\$ 19,800,000.00
c. Dollars planned to be subcontracted to SDVOSB:	\$ 4,950,000.00
d. Dollars planned to be subcontracted to HUBZone SB:	\$ 4,950,000.00
e. Dollars planned to be subcontracted to SDB (includes ANCs and Indian tribes):	\$ 13,200,000.00
f. Dollars planned to be subcontracted to WOSB:	\$ 13,200,000.00

Base Contract Term YEAR 5: 01-OCT-2021 THROUGH30-SEPT-2022

Total planned subcontracting dollars:	\$ 165,000,000.00
a. Dollars planned to be subcontracted to SB (includes HUBZone SB, SDB, WOSB, VOSB, SDVOSB,):	\$ 115,500,000.00
b. Dollars planned to be subcontracted to VOSB:	\$ 19,800,000.00
c. Dollars planned to be subcontracted to SDVOSB:	\$ 4,950,000.00
d. Dollars planned to be subcontracted to HUBZone SB:	\$ 4,950,000.00
e. Dollars planned to be subcontracted to SDB (includes ANCs and Indian tribes):	\$ 13,200,000.00
f. Dollars planned to be subcontracted to WOSB:	\$ 13,200,000.00

Base Contract Term YEAR 5: 01-OCT-2022 THROUGH 30-NOV-2022

Total planned subcontracting dollars:	\$ 26,500,000.00
a. Dollars planned to be subcontracted to SB (includes HUBZone SB, SDB, WOSB, VOSB, SDVOSB,):	\$ 18,550,000.00
b. Dollars planned to be subcontracted to VOSB:	\$ 3,180,000.00
c. Dollars planned to be subcontracted to SDVOSB:	\$ 795,000.00
d. Dollars planned to be subcontracted to HUBZone SB:	\$ 795,000.00
e. Dollars planned to be subcontracted to SDB (includes ANCs and Indian tribes):	\$ 2,120,000.00
f. Dollars planned to be subcontracted to WOSB:	\$ 2,120,000.00

Option Year 1: 01-DEC-2022 THROUGH 30-SEPT-2023

Total planned subcontracting dollars:	\$ 165,000,000.00
a. Dollars planned to be subcontracted to SB (includes HUBZone SB, SDB, WOSB, VOSB, SDVOSB,):	\$ 115,500,000.00
b. Dollars planned to be subcontracted to VOSB:	\$ 19,800,000.00
c. Dollars planned to be subcontracted to SDVOSB:	\$ 4,950,000.00
d. Dollars planned to be subcontracted to HUBZone SB:	\$ 4,950,000.00
e. Dollars planned to be subcontracted to SDB (includes ANCs and Indian tribes):	\$ 13,200,000.00
f. Dollars planned to be subcontracted to WOSB:	\$ 13,200,000.00

Option Year 2 - 01-OCT-2023 THROUGH 30-SEPT-2024

Total planned subcontracting dollars:	\$ 165,000,000.00
a. Dollars planned to be subcontracted to SB (includes HUBZone SB, SDB, WOSB, VOSB, SDVOSB,):	\$ 115,500,000.00
b. Dollars planned to be subcontracted to VOSB:	\$ 19,800,000.00
c. Dollars planned to be subcontracted to SDVOSB:	\$ 4,950,000.00
d. Dollars planned to be subcontracted to HUBZone SB:	\$ 4,950,000.00
e. Dollars planned to be subcontracted to SDB (includes ANCs and Indian tribes):	\$ 13,200,000.00
f. Dollars planned to be subcontracted to WOSB:	\$ 13,200,000.00

Option Year 3 - 01-OCT-2024 THROUGH 30-SEPT-2025

Total planned subcontracting dollars:	\$ 165,000,000.00
a. Dollars planned to be subcontracted to SB (includes HUBZone SB, SDB, WOSB, VOSB, SDVOSB,):	\$ 115,500,000.00
b. Dollars planned to be subcontracted to VOSB:	\$ 19,800,000.00
c. Dollars planned to be subcontracted to SDVOSB:	\$ 4,950,000.00
d. Dollars planned to be subcontracted to HUBZone SB:	\$ 4,950,000.00
e. Dollars planned to be subcontracted to SDB (includes ANCs and Indian tribes):	\$ 13,200,000.00
f. Dollars planned to be subcontracted to WOSB:	\$ 13,200,000.00

Option Year 4 - 01-OCT-2025 THROUGH 30-SEPT-2026

Total planned subcontracting dollars:	\$ 165,000,000.00
a. Dollars planned to be subcontracted to SB (includes HUBZone SB, SDB, WOSB, VOSB, SDVOSB,):	\$ 115,500,000.00
b. Dollars planned to be subcontracted to VOSB:	\$ 19,800,000.00
c. Dollars planned to be subcontracted to SDVOSB:	\$ 4,950,000.00
d. Dollars planned to be subcontracted to HUBZone SB:	\$ 4,950,000.00
e. Dollars planned to be subcontracted to SDB (includes ANCs and Indian tribes):	\$ 13,200,000.00
f. Dollars planned to be subcontracted to WOSB:	\$ 13,200,000.00

Option Year 5 - 01-OCT-2026 THROUGH 30-NOV-2027

Total planned subcontracting dollars:	\$ 165,000,000.00
a. Dollars planned to be subcontracted to SB (includes HUBZone SB, SDB, WOSB, VOSB, SDVOSB,):	\$ 115,500,000.00
b. Dollars planned to be subcontracted to VOSB:	\$ 19,800,000.00
c. Dollars planned to be subcontracted to SDVOSB:	\$ 4,950,000.00
d. Dollars planned to be subcontracted to HUBZone SB:	\$ 4,950,000.00
e. Dollars planned to be subcontracted to SDB (includes ANCs and Indian tribes):	\$ 13,200,000.00
f. Dollars planned to be subcontracted to WOSB:	\$ 13,200,000.00

(3) DESCRIPTION OF PRINCIPAL TYPES OF SUPPLIES AND SERVICES TO BE SUBCONTRACTED AND TYPES OF BUSINESSES SUPPLYING THEM

Work Area	Description	SB	SD	WOSB	HUBZone	VOSB	SDVOSB
Engineering and Construction	Standard engineering, design, and construction activities	X	X	X	X	X	X
Engineering and Technology	Specialty engineers, scientists, and advanced instrumentation and diagnostics experts	X	X	X		X	X
Project Management	Project management support services and project controls	X	X	X	X	X	X
Nuclear Operations and Safety	Nuclear operations support, nuclear and criticality safety support, and independent reviews	X	X			X	X
Security	Personnel security activities and vulnerability assessments	X	X	X		X	X
Environmental Services	Environmental restoration, waste management, and studies	X	X	X		X	X
ES&H Services	Compliance monitoring and assessment; training	X	X	X	X	X	X
Business Services	IT, financial, and HR support; training; supplies and services	X	X	X	X	X	X
Support Services	Food services, housing, transportation, maintenance, logistics and warehousing operations, and other site services	X	X	X		X	
Commodities and Products	Aircraft parts, chemicals, advanced instrumentation, test diagnostic equipment, and computer hardware /software	X	X	X		X	X

(4) METHOD USED TO DEVELOP GOALS

MSTS will submit proposed individual subcontracting plan goals 60 days prior to the beginning of each fiscal year during the term of this contract, or by such other date authorized in writing by the Contracting Officer. The goals will be negotiated once each fiscal year and the agreement between MSTS and the Contracting Officer will be communicated in writing. This submittal will include subcontracting goals for SB, Small Disadvantaged Business (SDB), Women-owned Small Business (WOSB), HUBZone Small Business (HUBZ), Veteran-owned Small Business (VOSB), and Service-disabled Veteran-owned Small Business (SDVOSB); all are collectively referred to as “small business concerns”. Goals are based on separate dollars and percentages for each small business concern category as specified in FAR 19.704.

Subcontracting dollars with Alaskan Native Corporations (ANC) and Indian Tribes are counted towards achievement of subcontracting goals for small business and small disadvantaged business concerns, regardless of the size or Small Business Administration certification status of the ANC or Indian Tribe.

In order to establish realistic and meaningful goals for this plan, we considered the site’s historical performance in each category, upcoming FY projects forecast, market research for SB in performance categories, review of SB outreach opportunities, our parent companies’ lists of qualified subcontractors, and our ability to quickly expand our SB supplier list by qualifying more SBs.

MSTS’ goal is to subcontract with all SB concerns in all potential categories to the maximum extent possible. The proposed goals outlined in section 1 are based on the estimated budget and forecast of procurement requirements, including those for Large Business (LB) concerns.

(5) METHOD USED TO IDENTIFY POTENTIAL SUBCONTRACTING SOURCES (Check all that apply)

- Company Source Lists
- System for Award Management (SAM) database
- Veteran Service Organizations
- National Minority Purchasing Council Vendor Information Service
- U.S. Department of Commerce Minority Business Development Agency’s Research and Information Division
- SB, HUBZone SB, SDB, and WOSB Trade Associations
- SBA’s Lists of Certified SDB and HSB Concerns
- SB and Minority Business trade fairs or conferences
- Other: Explain –

Sources to be utilized to locate small business concerns by MSTS will include:

- ~ Federal Business Opportunities
- ~ Las Vegas Latin Chamber of Commerce
- ~ North Las Vegas Latin Chamber of Commerce
- ~ Las Vegas Asian Chamber of Commerce
- ~ Las Vegas Women's Chamber of Commerce
- ~ Las Vegas Metro Chamber of Commerce
- ~ Las Vegas Urban Chamber of Commerce
- ~ DOE Office of Small Disadvantaged Business Utilization (OSDBU)
- ~ Clark County Business Development Division
- ~ Nevada Minority Supplier Development Council
- ~ Nevada Procurement Technical Assistance Center (PTAC)
- ~ Nevada Development Authority
- ~ Henderson Chamber of Commerce
- ~ Clark County Chamber of Commerce
- ~ Pahrump Chamber of Commerce
- ~ Nevada Governor's Office of Economic Development

(6) INDIRECT COSTS (Check which applies.)

 X Indirect costs *have not* been included in establishing subcontracting goals.

 Indirect costs *have* been included in establishing subcontracting goals.

If included, describe how you determine the proportionate share of indirect costs incurred with:

SB (Including ANCs and Indian

tribes): VOSB:

SDVOSB:

HUBZone SB:

SDB (Including ANCs and Indian

tribes): WOSB:

(7) ADMINISTRATION OF SUBCONTRACTING PROGRAM

The following individual employed by the offeror will administer this subcontracting plan:
 Primary Point of Contact:

Name:	Sharon R. Nanez
Address:	PO Box 98521 M/S NLV018 Las Vegas, NV 89193
Email Address:	NanezRS@nv.doe.gov
Telephone:	(702) 295-2649
Title:	Procurement/Small Business Program Manager
Description of Duties:	<ul style="list-style-type: none"> • Works with contracts, purchasing, and marketing personnel to search for and develop qualified small business concerns as sources of supply. • Works with and provides input to the Director, as deemed necessary, to properly administer this plan. • Coordinates with the small business community, industry associations, and government. • Assists small business concerns in meeting requirements of contracting in MSTs’s business marketplace. • Acts as an intermediary between customers, the Small Business Administration, and the MSTs management.

Secondary Point of Contact:

Name:	Lori Buff
Address:	PO Box 98521 M/S NLV018 Las Vegas, NV 89193
Email Address:	BuffLL@nv.doe.gov
Telephone:	(702) 295-1152
Title:	Small Business Liaison/Sr. Procurement Specialist
Description of Duties:	<ul style="list-style-type: none"> • Develop and promote company/division policy statements that demonstrate MSTs support for awarding contracts and subcontracts to SB, SDB, WOSB, HUB, VOSB, SDVOSB. • Ensuring that procurement procedures are designed to permit the maximum possible participation of SB, SDB, WOSB, HUB, VOSB, SDVOSB. • Buyer socioeconomic training. • Review of internal processes governing supplier source selection. • Review of internal processes for compliance with Small Business reporting and subcontracting.

(8) EQUITABLE OPPORTUNITY TO COMPETE

MSTS assures that small business concerns will have an equitable opportunity to compete for subcontracts. MSTS solicitations will be arranged to allow for timely preparations of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of SB.

MSTS personnel are encouraged to seek the use of approved small business sources and encouraged to develop new qualified sources on new business opportunities.

Outreach Efforts to Obtain Sources:

MSTS will publicize subcontract opportunities when possible through participation in small business publications, trade fairs, federal procurement conferences, industry conferences and local affiliations.

MSTS will collaborate with the following organizations:

- ~ Las Vegas Latin Chamber of Commerce
- ~ Las Vegas Urban Chamber of Commerce
- ~ North Las Vegas Latin Chamber of Commerce
- ~ Las Vegas Asian Chamber of Commerce
- ~ Las Vegas Women's Chamber of Commerce
- ~ Clark County Business Development Matchmaking Events
- ~ Nevada Procurement Technical Assistance Center
- ~ Nevada Minority Supplier Development Council
- ~ DOE Matchmaking Events
- ~ MSTS will use the SAM.GOV database to research sources and use the information as representation of a small business concern's size for the purpose of maintaining a small business source list. If the SAM.GOV information is to be referenced, then the subcontractor must provide a written statement certifying that the information in SAM.GOV is complete and accurate as of the date of proposal for the subcontract.

In addition to participation in various outreach programs, MSTS will provide assistance to develop small business concerns in the following areas as appropriate:

- ~ Provide assistance through Mentor Protégé agreements utilizing the DOE Mentor Protégé Program
- ~ Bidders conferences to discuss and advise on specifications, statements of work and interpretation of requirements
- ~ Site quality surveys to evaluate system and provide assistance to meet quality assurance requirements
- ~ Post-award assistance to ensure requirements are fully understood and to assist in purchase order performance
- ~ Financial assistance in the form of progress payments, where appropriate.
- ~ In-house small business symposia attended by procurement, projects, engineering, and facilities, to discuss and advise on new programs and upcoming requirements.

Internal Efforts to Guide and Encourage Purchasing Personnel:

- ~ Buyer goal performance and achievement.
- ~ Organizational commitment and accountability at all levels.
- ~ Presenting workshops, seminars and training programs to staff.
- ~ Implementing a Small Business Strategy Team to identify issues and solutions pertaining to small business performance within procurement and among site customers.
- ~ Establishing, maintaining and using small business source lists, guides, and other data for soliciting subcontractors.
- ~ Contacting minority and small business development organizations
- ~ Partnering with applicable community organizations to host small business outreach events.

(9) INCLUSION OF FAR CLAUSE 52.219-8, “UTILIZATION OF SMALL BUSINESS CONCERNS,” IN SUBCONTRACTS

Place a check by each statement as assurance that the following will be done (Proposed subcontracting plans with unchecked boxes are considered unacceptable):

- I agree to include clause at FAR 52.219-8, “Utilization of Small Business Concerns,” in all subcontracts that offer further subcontracting opportunities.
- I will require all subcontractors (except SB concerns) that receive subcontracts in excess of \$700,000 (\$1.5 million for construction) to adopt a subcontracting plan that complies with the clause at FAR 52.219-9, Small Business Subcontracting Plan.

(10) REQUIREMENT TO COOPERATE IN STUDIES AND SUBMISSION OF REPORTS

Place a check by each statement as assurance that the following will be done (Proposed subcontracting plans with unchecked boxes are considered unacceptable):

- (i) I agree to cooperate in any studies or surveys as may be required.
- (ii) I agree to submit periodic reports so the government can determine the extent of compliance with the subcontracting plan.
- (iii) I agree, after November 30, 2017, to include subcontracting data for each order when reporting subcontracting achievements for indefinite-delivery, indefinite-quantity contracts intended for use by multiple agencies.
- (iv) I agree to:
 - a. Submit the Individual Subcontract Report (ISR) and/or the Summary Subcontract Report (SSR), in accordance with paragraph 1 of the clause at FAR 52.219-9 using the Electronic Subcontracting Reporting System (eSRS) at <http://www.esrs.gov>. The reports shall provide information on subcontract awards to SB concerns (including ANCs and Indian tribes that are not SBs), VOSB concerns, SDVOSB concerns, HUBZone SB concerns, SDB concerns (including ANCs and Indian tribes that have not been certified by SBA as SDBs), WOSB concerns, HICUs, and MIs. Reporting will be in accordance with the clause at FAR 52.219-9, or as provided in agency regulations.

- b. Submit the ISR semi-annually during contract performance for the periods ending March 31 and September 30, and to submit a report within 30 days of contract completion. I shall submit the reports within 30 days after the close of each reporting period, unless otherwise directed by the contracting officer. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or the previous reporting period. When the contracting officer rejects an ISR, I agree to submit a revised ISR within 30 days of receiving the notice of the ISR rejection.
- c. Submit the SSR annually by October 30 for the twelve-month period ending September 30. When an SSR is rejected, I agree to submit a revised SSR within 30 days of receiving the notice of SSR rejection.

- (v) I agree to ensure that my subcontractors with subcontracting plans agree to submit the ISR and/or the SSR using eSRS.
- (vi) I agree to provide this prime contract number, its DUNS number, and the email address of our company official responsible for acknowledging receipt of or rejecting the ISRs, to all first-tier subcontractors with subcontracting plans so they can enter this information into the eSRS when submitting their ISRs.
- (vii) I agree to require that each subcontractor with a subcontracting plan provide the prime contract number, its own DUNS number, and the email address of the subcontractor's official responsible for acknowledging receipt of or rejecting the ISRs, to its subcontractors with subcontracting plans.

(11) DESCRIPTION OF TYPES OF RECORDS TO BE MAINTAINED (Check if in agreement. (Proposed subcontracting plans with unchecked boxes are considered unacceptable):

- I agree to maintain the following records to show compliance with this subcontracting plan:
 - a. Source lists, guides, and other data that identify SB, VOSB, SDVOSB, HUBZone SB, SDB, and WOSB concerns.
 - b. Records on organizations contacted to locate SB, VOSB, SDVOSB, HUBZone SB, SDB, and WOSB sources.
 - c. Records on each subcontract solicitation resulting in an award of more than \$150,000, indicating:
 - (1) Whether SB concerns were solicited and, if not, why not
 - (2) Whether VOSB concerns were solicited and, if not, why not
 - (3) Whether SDVOSB concerns were solicited and, if not, why not
 - (4) Whether HUBZone SB concerns were solicited and, if not, why not
 - (5) Whether SDB concerns were solicited and, if not, why not
 - (6) Whether WOSB concerns were solicited and, if not, why not
 - (7) If applicable, the reason award was not made to a SB, SDVOSB, VOSB, HUBZone SB, SDB, or WOSB concern
 - d. Records of outreach efforts to contact:
 - (1) Trade associations
 - (2) Business development organizations
 - (3) Conferences and trade fairs to locate SB, HUBZone SB, SDB, SDVOSB, and WOSB sources
 - e. Records of internal guidance and encouragement provided to buyers through:
 - (1) Workshops, seminars, training, etc.

- (2) Monitoring performance to evaluate compliance with the program's requirements.
- f. On a contract-by-contract basis, records to support award data submitted to the government, including the name, address, and business size of each subcontractor (does not apply to commercial plans).

Describe other types of records that will be maintained as part of the subcontracting program/plan requirements and goals, if applicable:

(12-15) Other Assurances

- (12) I agree to make a good faith effort to acquire articles, equipment, supplies, services, or materials, or obtain the performance of construction work from the small business concerns that I used in preparing the bid or proposal, in the same or greater scope, amount, and quality used in preparing and submitting the bid or proposal. The small business concerns used in preparing the bid or proposal include—
 - a. Any small business concern identified as a subcontractor in the bid or proposal or associated small business subcontracting plan, to furnish certain supplies or perform a portion of the contract; or
 - b. Any small business concern whose pricing or cost information or technical expertise was used in preparing the bid or proposal, where there is written evidence of an intent or understanding that the small business concern will be awarded a subcontract for the related work if I am awarded the contract.
- (13) I agree to provide the contracting officer with a written explanation if I fail to acquire articles, equipment, supplies, services or materials or obtain the performance of construction work as described in the preceding statement of this section. I will submit this explanation to the contracting officer within 30 days of contract completion.
- (14) I agree to not prohibit a subcontractor from discussing with the contracting officer any material matter pertaining to payment to or utilization of a subcontractor.
- (15) I agree to pay my small business subcontractors on time and in accordance with the terms and conditions of the subcontract, and to notify the contracting officer if I pay a reduced or an untimely payment to a small business subcontractor.

This subcontracting plan was prepared by:

Signature: (Signed)

Printed name: Sharon R. Nanez

Title: Procurement Manager

Phone number: (702) 295-2649

Date prepared: June 7, 2018

SECTION J

APPENDIX J

DIVERSITY PLAN

(Mod 0052, 0076)

Mission Support and Test Services LLC

2019 Diversity Plan

March 2019

Prepared by
Mission Support and Test Services LLC



NEVADA NATIONAL
NNSS
SECURITY SITE

Mission Support and Test Services LLC, is an equal opportunity employer operating under contract to the Department of Energy under Contract No. DE-NA0003624.

Diversity is opportunity;
it's all about you.



2019 Diversity Plan

March 2019

Approved by:

Date:

[Redacted Signature]

March 4, 2019

R. Michael Cunningham
Acting Talent Acquisition Manager, Deputy Director HR

[Redacted Signature]

March 4, 2019

Rebecca Sisk
Director, HR, Communications and Government Affairs

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Acronyms

AAP	Affirmative Action Plan
CCR	Central Contractor Registration
DI	Desktop Instruction
EEO	Equal Employment Opportunity
EETAP	Employee Education Training Assistance Program
ER	Employee Relations
HR	Human Resources
HUBZone	Historically Underutilized Business Zone
MSTS	Mission Support and Test Services LLC
NvE	Nevada Enterprise
OP	Organization Procedures
STEM	Science, Technology, Engineering, and Math
UNLV	University of Nevada, Las Vegas



Definitions

Affirmative Action – A good faith effort, driven by federal, state, and local law and executive orders, to ensure that minorities, women, protected veterans, and individuals with disabilities have fair representation and opportunities in the workplace.

Community Outreach – Company and employee involvement in activities supporting education in technical fields, community service organizations, and opportunities for minorities, women, protected veterans, individuals with disabilities, and the disadvantaged in the local community.

Diversity – Differences in people, consisting of primary dimensions (i.e., race, ethnicity, gender, age, religion, disability, and sexual orientation) and secondary dimensions (i.e., communication style, work style, experience, organizational role or level, economic status, geographic origin, etc.).

Diversity Program – Managing diversity in a systematic way that promotes recognition of and respect for differences, and using those differences to create a successful, creative, and effective workplace.

Educational Outreach – Opportunities provided for employees to improve their employment skills, as well as programs supporting colleges and universities with a large percentage of females, minorities, and student veterans, and programs that support STEM.

Equal Employment Opportunity – Freedom from discrimination in the terms and conditions of employment based on race, color, religion, sex, national origin, sexual orientation, disability, age, or protected veteran's status.

Minority – A person who falls within one of the following racial or ethnic groups as defined by the U.S. Department of Labor: American Indian or Alaskan Native, Asian, Black or African American, Native Hawaiian or other Pacific Islander, or Hispanic or Latino.

Profiling – Those practices that scrutinize, target, or treat employees or applicants for employment differently or single them out or select them for unjustified additional scrutiny, based on race or national origin.



Stakeholder – A person or entity that has a vested interest in operations conducted and/or managed by Mission Support and Test Services LLC (MSTS).

Technology Transfer – The process by which MSTS develops, transfers, or exchanges technologies and capabilities with related entities.

Preface

Formed in 2017, Mission Support and Test Services LLC (MSTS) is a joint venture between Honeywell International Inc. (Honeywell), Jacobs Engineering Group Inc. (Jacobs), and HII Nuclear Inc. This combination of diverse professional and scientific expertise allows MSTS to effectively manage operations at the Nevada National Security Site, its related facilities, and laboratories for the U.S. Department of Energy, National Nuclear Security Administration Nevada Field Office.

MSTS is excited about the future of the Nevada National Security Site and its associated facilities. Our vision is to transform this unique national resource into America's national security proving ground, the preferred place for conducting high-hazard experiments vital to the security of the United States. As a service organization, we exist to supply integrated solutions to the needs of our customers.

The workforce of today is ever changing. To succeed, we must be adaptable, flexible, and willing to embrace change. Our employees are our greatest asset and our success depends on how well we work together. Today's workplace is multicultural and based on men and women from all lifestyles, working alongside each other, sharing responsibilities and decision-making.

As forward-thinking leaders, MSTS will manage the diversity program by uniting our talented and committed workforce. We will provide an environment where all employees can make a maximum contribution to the company's success by drawing upon their many different perspectives, life experiences, and abilities.

This plan will identify the company's strategies and implementation processes for effective diversity management as outlined in the key areas of:

- ▶ **Workforce**
- ▶ **Recruitment and Retention**
- ▶ **Educational Outreach**
- ▶ **Community Involvement and Outreach**
- ▶ **Subcontracting**
- ▶ **Economic Development**
(including Technology Transfer)
- ▶ **Prevention of Profiling**

Diversity recognizes and accepts the differences and similarities of our workforce. By managing diversity, we promote recognition of, and respect for, our differences and use those differences to create a successful, creative, and effective workplace.



1.0 Diversity Statement

MSTS is committed to creating and maintaining a diverse workforce that will foster a varied mix of skills and employee perspectives in a respectful environment. MSTS promotes an environment of continuous learning and minimizes diversity-related barriers in performance. MSTS promotes diversity sensitivity, acceptance, and inclusion in all aspects of its business practices and relations with the community at large.

MSTS will promote, encourage, and support diversity management by doing the following:

- ▶ Include a diverse mix of skills and perspectives in developing and implementing programs that ensure consistency in operations.
- ▶ Establish an environment of continuous learning to provide training opportunities to supplement existing skills and create a more flexible workforce.
- ▶ Minimize barriers to performance that may occur when employees from different backgrounds and functions interact.
- ▶ Respond to unique interests of stakeholders and effectively utilize the diverse workforce to facilitate effective relationships with the community, vendors, suppliers, and others.
- ▶ Create an environment where employees take responsibility for their actions and are provided with the proper tools and skills to respond to problems and challenges while performing tasks.
- ▶ Treat all employees with respect and dignity.



2.0 Diversity Council

MSTS continues to demonstrate its commitment to diversity by fully supporting the NvE Diversity Council. Representing the broad spectrum of individuals within the NvE, the Diversity Council fosters an environment that promotes inclusion, equity, and respect to enhance the potential and contribution of all employees.



The Diversity Council continues to utilize its Vision Statement and Charter as the foundation for an ever-growing program. The Council is designed to promote awareness and understanding of diversity issues in the workplace by implementing diversity initiatives that align with the strategic goals of the company and building an organizational culture that supports diversity.

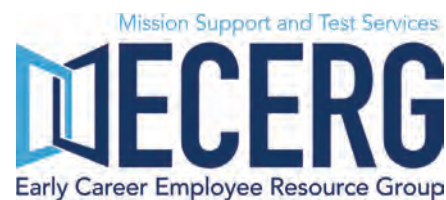
2.1 Diversity Initiatives

One of the *Guiding Principles* of the Diversity Council was that the Council would, “Partner with our affiliated organizations within the Nevada Field Office to leverage resources and reach a wider audience.” In April of 2011, the M&O Diversity Council transitioned to the Nevada Enterprise (NvE) Diversity Council. Combining all NvE entities allowed organizations to eliminate duplication of efforts through planning and participating as one group in all diversity efforts. Members of the NvE Diversity Council include: MSTS, the Nevada Field Office (NFO), SOC, and Navarro. While the primary purpose of the Council is to remove any barriers that stand between our employees and their success, at the same time, efforts continue to ensure that all employees are aware of their value within the organizations.

In 2019, the Council will focus on expanding throughout the NvE to ensure that the activities and interest of all stakeholders have been incorporated into the Program. Diversity

awareness has expanded from typical cultural awareness to include messages addressing issues that are common to all cultures such as: Women’s Equality, Stress, Military Appreciation, Hunger Awareness, Suicide Prevention, Domestic Violence, and Diabetes.

The Council sponsors an Early Career Employee Resource Group that previously obtained a sponsor, created a Charter, and came to the attention of the Deputy Secretary



of the Department of Energy. A video teleconference was arranged for this group to talk with the Deputy Secretary about their mission and vision. They also presented this information to MSTS Senior Management and continue to look for ways to expand membership throughout the NvE complex. The Council is proud they were able to help kick off this initiative in the past and will be helping establish more Resource Groups in the future.

The Council continues to live up to its motto ...

Diversity is opportunity;
it's all about *you!*

3.0 *Unified in Diversity*

Unified in Diversity.
That's what people today should be.
Humans embracing harmony and happiness.
Hope that flowers from the seed,
That will allow us all to prosper.

Why does colour or race matter?
Why not join together, instead of being scrambled and scattered?
Why can't we just not plainly see,
The unity in diversity?

People will be people all the same,
And under the setting sun,
Nothing may ever change,

But I am here to take a stand,
To show the world how to finally be,

Unified in Diversity.

Peter Vector

<https://www.poemhunter.com/poem/unity-in-diversity-2/>



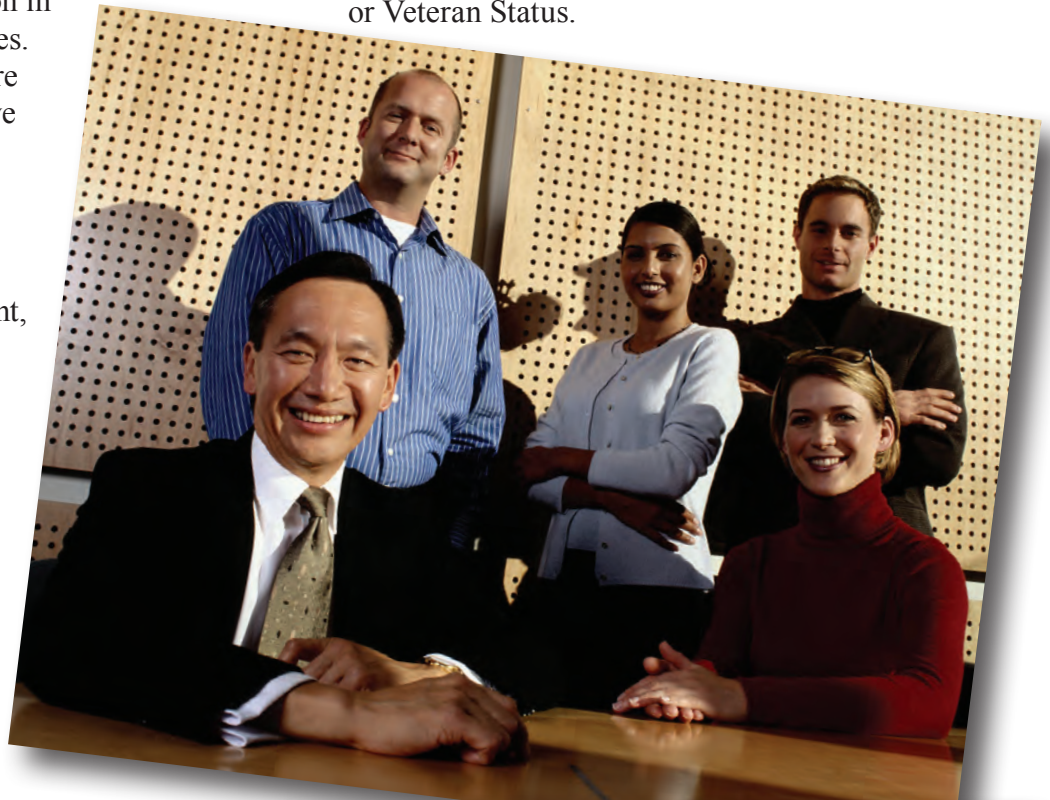
4.0 Workforce

MSTS has adopted an **Affirmative Action Plan (AAP)** which reflects its commitment to provide equal employment opportunities. MSTS is committed to providing these opportunities to all persons regardless of race, color, religion, sex, national origin, sexual orientation, disability, age, or protected veterans status. MSTS complies with applicable state and local laws governing non-discrimination in employment in every location in which the company has facilities. Assessments of our AAP ensure compliance with our affirmative action goals.

Workforce diversity is a management priority. Maintaining an agile, competent, and motivated workforce will be accomplished through recruitment, retention, skills enhancement, and succession planning. We strive for a more diverse workforce in our recruitment, hiring, and personnel actions. Employment decisions are based on merit, qualifications, and abilities. MSTS adheres to applicable federal and state laws which mandate that recruiting, hiring, training, and promotions be based on job-related factors and bona fide

occupational requirements regardless of race, color, religion, sex, national origin, sexual orientation, disability, age, or covered veteran status.

Diversity and EEO initiatives for the workforce are reflected in the Policies PY-3100.007 Diversity, PY-3100.015 EEO and AA, PY-3100.016 Equal Treatment Regardless of Disabilities or Veteran Status.



5.0 Recruitment and Retention

MSTS is committed to creating an inclusive and multi-talented workforce and will work to increase the organization's diversity by recruiting and retaining well-qualified employees. For recruiting, selection, and promotions, we will draw from a diverse population.

Human Resources (HR) will take a leadership role working with our customers and hiring managers to ensure that MSTS recruitment goals are met or exceeded. We will use the following strategies to ensure an effective recruitment process:

- ▶ Identify methods of recognizing and attracting qualified candidates.
- ▶ Utilize recruitment best practices to source candidates faster and increase productivity.
- ▶ Contact the Nevada State Job Service to list regular employment openings (except executive and top management positions, positions that will be filled from within, and bargaining unit positions that are filled by the unions).
- ▶ Establish inclusive student programs to support our talent pipeline.
- ▶ Implement company-wide workforce planning. This will enable staffing to better plan and advertise for a more diverse candidate pool.
- ▶ The following entities may be included in MSTS' recruiting strategy:
 - **Society of Asian Scientists and Engineers**
 - **Society of Hispanic Professional Engineers**
 - **American Indian Society of Engineers and Scientists**
 - **National Society of Black Engineers**
 - **Society of Women Engineers**
 - **Minority Serving Institutions**
 - **Historically Black Colleges and Universities**
 - **Women in Technology**
 - **Disability:IN Conference (formerly known as the US Business Leadership Network)**
 - **Navy and Veteran and Wounded Warriors Hiring and Support Summit**
 - **Military Officer Job Opportunities (MOJO)**
- ▶ Improve hiring of veterans by utilizing veteran-affiliated sources and attendance at military career fairs targeting retiring/separating military members.



6.0 Educational Outreach

MSTS plans to commit efforts to benefit the communities in which we live and work, both as a positive economic impact as well as being recognized as a preferred employer in Southern Nevada. Efforts will lend itself to opportunities for recruiting and branding. MSTS extends this commitment to education by sponsoring the following programs:

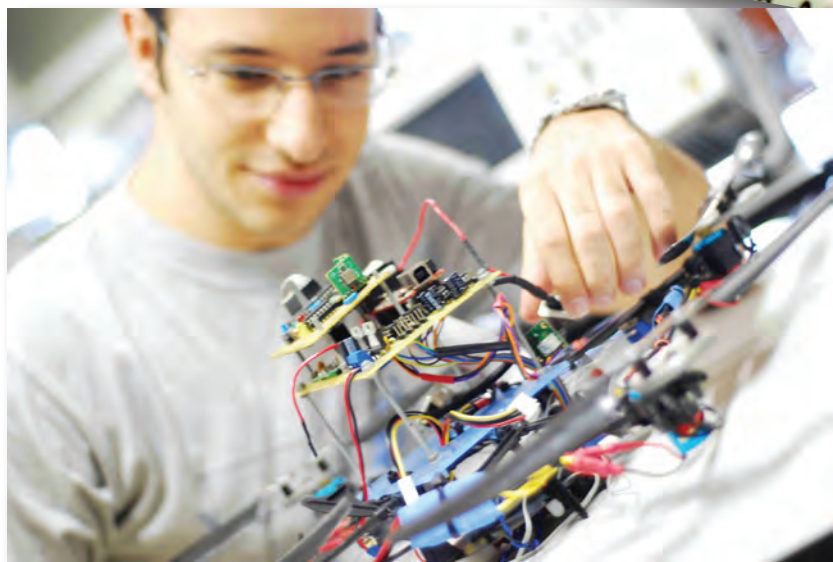


- **Focus School Program**

MSTS partners with two at-risk schools in Clark County, Kit Carson International Academy and The STEAM Academy at Jim Bridger Middle School, which also houses magnet programs for robotics, aerospace and aviation, biomedicine, information technology and the arts. Employees are encouraged to participate in key partnership activities that will include an annual back-to-school supply drive; holiday food drives to benefit students and their families; and e-mentoring. MSTS provided sponsorship of Google Chrome Books, which are used with the Clark County School District's curriculum. MSTS plans other activities on an annual basis consistent with the needs of the schools.

- **MSTS Science and Engineering Scholarship Program**

MSTS plans to provide a science and engineering scholarship program through current programs offered in all of the company's primary operating locations. The program will be open to high school seniors pursuing a degree in engineering or science at a four-year college or university. Our intent will be for the scholarship winners to return to serve internships at the Nevada National Security Site; North Las Vegas; Livermore, California; or Los Alamos, New Mexico.



- **MSTS Family Scholarship Program**

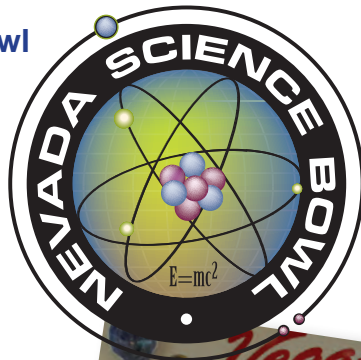
The MSTS Scholarship Program will provide financial assistance for dependent children of MSTS employees. Scholarships will be awarded based on overall scholastic performance, a written essay, a personal interview, and financial need.

- **Summer Internship Program (college)**

MSTS offers internships to provide technical assistance fill staffing gaps, and enhance the company's reputation on campus with students who often accept full-time positions upon graduation.

- **Nevada Science Bowl**

MSTS sponsors the annual competition among regional high schools showcasing excellence in Science, Technology, Engineering, and Math (STEM) education. Many employees volunteer to serve as moderators, scientific judges, rule judges, time keepers, scorekeepers and messengers during the day-long competition.



- ▶ **\$3,000** – Nevada Future City Competition

- **Military Academies (college)**

Last summer, MSTS sponsored U.S. Air Force Academy, U.S. Naval Academy and West Point Military Academy internships. Cadets are paid by their respective academy and MSTS has provided non-contract funding for all transportation and related support-activity expenses.



- **Educational Funding**

MSTS has and will continue to provide funds that supports diverse and sustainable education programs focused on improving STEM at the elementary school, middle school, high school, and collegiate levels.

Examples include:

- ▶ **\$115,000 overall** to the University of Nevada, Las Vegas to include College of Engineering Senior Design Competition and STEM outreach activities geared towards K-12 education
- ▶ **\$65,000** – FIRST Robotics Las Vegas regional competition
- ▶ **\$50,000** – Nevada Science Bowl High School Competition
- ▶ **\$25,000** – DISCOVERY Children's Museum Sponsorship
- ▶ **\$15,350** – Las Vegas Science and Technology Festival
- ▶ **\$5,000** – Clark County School District, to fund student field trips to the National Atomic Testing Museum

6.1 In-House/ Outside Training

Nonbargaining MSTS employees are provided opportunities to improve their skills and employment options through training, seminars, and education programs. A portion of MSTS' wage package for bargaining employees is directed to the unions'

Training Trust programs. MSTS offers site-specific training for bargaining employees.

UNLV



FIRST ROBOTICS COMPETITION

fuTuRe City COMPETITION



6.2 Programs in Place

- ▶ Equal Opportunity, Affirmative Action, and Diversity topics are included in MSTs' supervisory training sessions.
- ▶ MSTs' Employee Education Training Assistance Program (EETAP) covers some costs of coursework (up to \$5,250 per employee per fiscal year) at accredited colleges and universities that pertains to a nonbargaining employee's current position or one that the employee could achieve at MSTs. This includes tuition, required textbooks, and fees, when certain conditions are met.
- ▶ MSTs makes available courses and briefings on job-related topics through instructor-led, computer-based, or web-based training. Topics include environment, safety and health; computer software; management; project management; conduct of operations; nuclear safety; and other job-specific skills.

- ▶ Employees have opportunities to attend seminars, conferences, and outside training courses that are related to their current assignment (when budgets allow and DOE approval is given).
- ▶ Employee Relations (ER) presents informal Diversity training sessions upon request.

6.3 Actions for 2019

- ▶ Continue each of the above-mentioned programs.
- ▶ Continue to provide access to 'webinars' (web-based seminars) provided by in-house sources. These web-based events allow more participants to complete training without requiring travel or per diem costs for external events.



7.0 Community Involvement and Outreach

MSTS is committed to being a responsible corporate citizen through addressing many important issues facing our communities today. Diversity is important to us; as a company, we interact with diverse communities as a resource for employment, education, and commercial ventures. And we support organizations that promote the interests of minorities, females, individuals with disabilities and protected veterans, as well as other diversity dimensions.

To build strong community relations, we focus on several areas where time, effort, and energy are expended to achieve effective results. MSTS supports many charitable organizations, primarily in the areas where we live and work.

MSTS has supported area food banks, the American Red Cross, and the Salvation Army's Angel Tree program, and will continue to support these efforts as well as additional efforts, in the coming years.

Volunteer Activities – MSTS employees volunteered more than 900 hours of personal time within their communities serving various non-pro ts selected by MSTS during 2018. Volunteer opportunities will continue to be offered for all members of the NvE to serve in their communities.

NSS Fire & Rescue Benevolent Association – MSTS provided funding for some much needed repairs to the Association's 1950 Seagrave Fire Engine. The Engine is used during the Association's many outreach opportunities within Southern Nevada, where they represent the NSS.

Chambers of Commerce – MSTS is an active member of the Las Vegas Metro, Pahrump Valley, and Latin Chambers of Commerce.

Opportunity Village – MSTS is a strong supporter of Opportunity Village and provides sponsorship for the Magical Forest each year.

American Red Cross of Southern Nevada (ARC/SN) – MSTS has supported ARC/SN with funding for disaster relief. The Company will continue to support the agency with additional efforts.

American Cancer Society – MSTS provided funding to the local chapter of the American Cancer Society. Not only was MSTS a sponsor of the local Making Strides Against Breast Cancer walk, they also provided funding to support cancer programs in Southern Nevada as well as support of national breast cancer programs and services.



U.S. Marines' Toys for Tots – MSTS sponsors a drive each year to collect toys and bicycles to donate to this nationwide program. In 2018, MSTS employees donated 12 toy-stuffed barrels and 83 new bicycles and tricycles to the Marines.

Rebuilding Together Southern Nevada – MSTS sponsored the refurbishing of a veteran senior-owned home in Las Vegas. Both the funding and efforts of MSTS employees resulted in electrical and plumbing improvements in the home, as well as painting, yard cleanup and landscaping efforts on the exterior. MSTS will continue its partnership with this agency to improve living conditions for the disabled, senior, and military members of our community.

Team MSTs Runs and Walks – MSTs and the MSTs Employees’ Association partner to fund “Team NNSS” employee registrations and t-shirts for community walks and runs. MSTs also supports employees who want to volunteer as a team captain for a charitable walk/run that benefits a non-profit organization that holds a current 501(c) or 501(c)3.

Holiday Giving – MSTs conducted fundraising over the holidays. A bake sale was held at all Southern Nevada locations, resulting in over \$2,500 raised



for Three Square Food Bank. Those funds will provide over 15,000 meals to community members that are food insecure.

Employees were also able to give additional funding to five local charities during holiday functions. Employee and Company donations totaled almost \$6,500.



8.0 Subcontracting

MSTS is committed to maintaining a culturally and economically diverse environment. Small businesses are the backbone of our American economy. MSTS recognizes and welcomes the expertise and knowledge provided by small and disadvantaged businesses. *We continuously seek to build relationships* with those businesses that can meet and exceed our standards of excellence in support of our work for the U.S. Federal Government. We accomplish this by participating in fairs and workshops in Las Vegas as well as networking with state and national organizations. In addition, MSTS works closely with:

- ▶ Small Business organizations within the local community, including the Nevada Minority Business Council.
- ▶ U.S. Department of Energy/National Nuclear Security Administration Small Business Program Managers Forum.
- ▶ The Office of Small and Disadvantaged Business Utilization and the Small Business Administration.

MSTS incorporates a Small Business Review process to encourage the use of Small Businesses by reviewing any orders over \$25,000. The orders are reviewed by the Small Business Coordinator and Procurement Manager.

Procurement maintains and utilizes a Small Business database and encourages interested suppliers to register and be categorized by socio-economic status and commodity type by working with a central small business coordinator at MSTS. The Small Business database allows the Procurement Department to have a centralized file of businesses that have shown interest in doing business with the company. The Small Business Coordinator passes this information on to MSTS procurement specialists.

Procurement also utilizes the Central Contractor Registration (CCR) database (www.ccr.gov), the primary registrant database for the U.S. Federal Government, when developing bidder's lists. Accordingly, potential suppliers are encouraged to register on this site to maximize opportunities not only with MSTS but also with federal government agencies or other government contractors.



Our Small Business Plan describes our goals and approach involving small business in the categories of Veteran-Owned Small Business, Service-Disabled Veteran-Owned Small Business, Historically Underutilized Business Zone (HUBZone) Small Business, Small Disadvantaged Business, and Women-Owned Small Business.

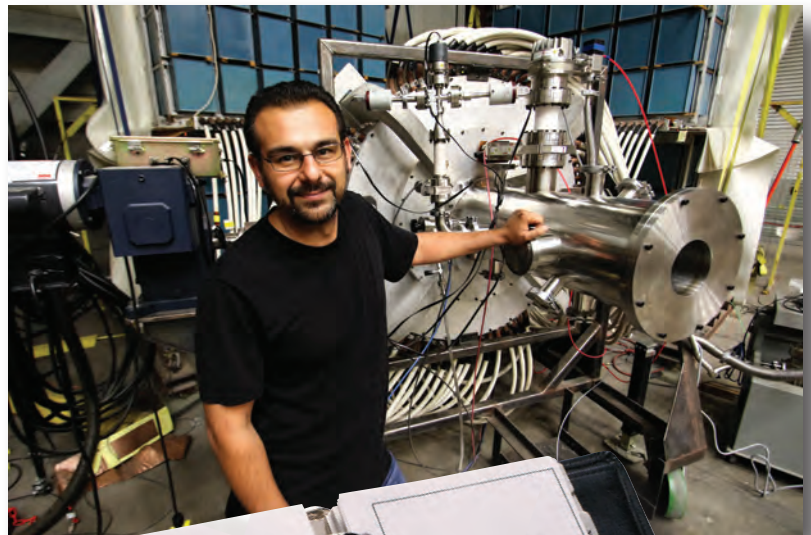


CATEGORY	FISCAL YEAR GOAL
Total Small Business (SB)	72%
Small Disadvantaged Business (SDB)	10%
Woman-Owned Small Business (WOSB)	10%
HUBZone Small Business	3%
Veteran-Owned Small Business (VOSB)	12%
Service-Disabled Veteran-Owned Small Business (SDVOSB)	4%

We comply with the following desktop instructions (DIs) and organization procedures (OPs) that reference the socioeconomic requirements for Procurement:

- ▶ **DI-PRO.105, “Equal Employment Opportunity (EEO)”**
- ▶ **DI-PRO.302, “Sources of Competition”**
- ▶ **DI-PRO.304, “Simplified Acquisitions”**
- ▶ **DI-PRO.305, “Government Supply Sources”**
- ▶ **DI-PRO.406, “Subcontracting Plan”**
- ▶ **OP-0610.009, “Subcontracting Under the U.S. Department of Energy (DOE) 8(a) Pilot Program”**
- ▶ **OP-0610.004, “Noncompetitive Procurements”**

encourage the use of small businesses. MSTs intends to participate in various local and regional trade fairs that present opportunities for small business networking and outreach.



8.1 Future Goals

MSTs is committed to accomplishing the Small Business goals and seeking additional opportunities or programs that

9.0 Economic Development (including Technology Transfer)

MSTS conducts science and technology activities that benefit the Las Vegas community and stimulate the economy. It collaborates with local and national universities to promote technology transfer efforts and partners with UNLV and the University of Nevada, Reno for broader access to university faculty, recruiting of university graduates to sustain a technical workforce, and increase business activity. MSTS employees participate in conferences and symposiums and publish numerous journal articles.

minate to ensure fair, equitable consideration for all employees and applicants. Managers who violate MSTS policies on diversity risk having adverse action taken against them. ER also conducts investigations and expedites timely resolution of discrimination and harassment allegations.

10.2 Actions for 2019

ER will continue to conduct and oversee fair and impartial investigations in an expeditious manner, provide support to the Disciplinary Action Review Board and serve as advisors to the NvE Diversity Council.

10.0 Prevention of Profiling

The policies and directives listed in the “Workforce” section of this plan prohibit treating employees or applicants differently based on several characteristics, including race, color, and national origin.

10.1 Programs in Place

ER analyzes employment policies and practices while Human Resources reviews decisions to hire or ter-







MISSION SUPPORT AND TEST SERVICES LLC

Mission Support and Test Services LLC, is an equal opportunity employer operating under contract to the Department of Energy under Contract No. DE-NA0003624.



SECTION J

APPENDIX K

PROGRAM MANAGEMENT AND COST REPORTS

The Contractor shall submit periodic cost, schedule, and technical performance plans and reports in such form and substance as required by the Contracting Officer. Reference Section J, Appendix A, Statement of Work, Chapter I, paragraph 3.3. Cost reports will include at a minimum:

1. Monthly general management reports to summarize schedule, labor and cost plans and status, and provide explanations of status from variance plans. Management reports should contain the performance measurement baseline and actual cost and must be compatible with format as required by DOE / NNSA reporting. The analysis of funds expenditure shall include a report of monthly and cumulative costs by performance element. The monthly reports provide information regarding budgeted costs versus actual costs, scheduled performance against milestones and estimated cost at completion. All reporting requirements shall be implemented where they apply and consistent with instructions from the Contracting Officer where they do not.
2. Annual cost reporting on mission direct and functional support activities. The Contractor shall also provide monthly functional cost metric information as part of the DOE (STARS) accounting system.

The Contractor shall provide the Contracting Officer, or designated authorized representatives, access to information and documents comprising the Contractor's reporting system. The Contractor shall include these reporting requirements in all subcontracts that are cost-reimbursement type contracts when:

1. The value of the subcontract is greater than \$2 million, unless specifically waived by the Contracting Officer, or
2. The Contracting Officer determines prior to award that the subcontract effort is, or involves, a critical task related to the Contract.

SECTION J

APPENDIX L

SPECIAL FINANCIAL INSITUTION AGREEMENT

(Mod 0009)

**SPECIAL FINANCIAL INSTITUTION ACCOUNT
AGREEMENT FOR USE WITH THE PAYMENTS CLEARED
FINANCING ARRANGEMENT**

This Agreement entered into this, 10th day of November, 2017 between the UNITED STATES OF AMERICA, represented by the United States Department of Energy National Nuclear Security Administration (hereinafter referred to as "DOE"), and Mission Support and Test Services LLC, a legal entity existing under the laws of the State of Delaware (hereinafter referred to as the "Contractor") and JPMorgan Chase Bank, N.A., a national chartered financial institution, located at 901 15th Street NW, Floor 11, Washington, DC 2005 (hereinafter referred to as the "Financial Institution").

RECITALS

- (a) On the effective date of December 1, 2017, DOE and the Contractor entered into Agreement(s) No. DE-NA0003624, or a Supplemental Agreement(s) thereto (collectively referred to herein as the "Agreements"), providing for the transfer of funds on a payments-cleared basis.
- (b) DOE requires that amounts transferred to the Contractor be deposited in a special demand deposit account at a financial institution covered by the Department of the Treasury ("Treasury") - approved Government deposit insurance organizations that are identified in ITFM 6-9000.

These special demand deposits must be kept separate from the Contractor's general or other funds, and the parties are agreeable to so depositing said amounts with the Financial Institution.

- (c) The special demand deposit accounts shall be designated as follows:

Zero Balance Accounts Funded by the Department of the Treasury:
Mission Support and Test Services LLC, Letter of Credit Account
(Account # 206685031)

Mission Support and Test Services LLC, Payroll Account
(Account # 206685171)

Mission Support and Test Services LLC, Accounts Payable Account
(Account # 206683911)

Manually Funded Account:
Mission Support and Test Services LLC, Flex Account
(Account # 206683812)

COVENANTS

In consideration of the foregoing, and for other good and valuable considerations, it is agreed that—

- 1. The Government shall have title to the credit balance in said accounts to secure the repayment of all funds transferred to the Contractor, and said title shall be superior to any lien, title, or claim of the Financial Institution or others with respect to such accounts.
- 2. After receipt by the Financial Institution of directions from DOE, the Financial Institution shall act thereon and shall be under no liability to any party hereto for any action taken in

accordance with the said written directions. Any written directions received by the Financial Institution from the Government upon DOE stationery and purporting to be signed by, or signed at the written direction of, the Government may, insofar as the rights, duties, and liabilities of the Financial Institution are concerned, be considered as having been properly issued and filed with the Financial Institution by DOE.

3. DOE, or its authorized representatives, shall have access to financial records maintained by the Financial Institution with respect to such special demand deposit accounts at all reasonable times and for all reasonable purposes, including, but without limitation to, the inspection or copying of such financial records and any or all memoranda, checks, payment requests, correspondence, or documents pertaining thereto. Such financial records shall be preserved by the Financial Institution for a period of 6 years after the final payment under the Agreement.
4. In the event of the service of any writ of attachment, levy of execution, or commencement of garnishment proceedings with respect to the special demand deposit accounts, the Financial Institution shall promptly notify DOE at:

U. S. Department of Energy/National Nuclear Security Administration
Nevada Field Office
Contracting Officer
232 Energy Way
North Las Vegas, NV 89030

5. DOE shall authorize funds that shall remain available to the extent that obligations have been incurred in good faith there under by the Contractor to the Financial Institution for the benefit of the special demand deposit accounts. The Financial Institution agrees to honor upon presentation for payment all payments issued by the Contractor and to restrict all withdrawals against the funds authorized to an amount sufficient to maintain the average daily balance in the special demand deposit accounts in a net positive and as close to zero as administratively possible.

The Financial Institution agrees to service the accounts in this manner based on the requirements and specifications contained in this Agreement No. 196641, dated November 10, 2017. The Financial Institution agrees that per-item costs, detailed in Exhibit A, Attachment A (“Schedule of Financial Institution Processing Charges”), will remain constant during the term of this Agreement. The Financial Institution shall calculate the monthly fees based on services rendered and invoice the Contractor. The Contractor shall issue a check or automated clearinghouse authorization transfer to the Financial Institution in payment thereof.

6. The Financial Institution shall post collateral in accordance with 31 CFR 202 with the Federal Reserve Bank in an amount equal to the net balances in all of the accounts included in this Agreement (including the noninterest-bearing time deposit account), less the Treasury-approved deposit insurance.
7. This Agreement, with all its provisions and covenants, shall be in effect for a term of three (3) years, beginning on the 1st day of December, 2017, and ending on the day of 30th, day of November, 2020. Upon written notice to the Financial Institution, the DOE and Contractor shall have the right to extend the term of this Agreement up to two (2) one-year option years as defined below:
 - a) Base period of performance: December 1, 2017 – November 30, 2020
 - b) Option Year 1 period of performance: December 1, 2020 – November 30, 2021
 - c) Option Year 2 period of performance: December 1, 2021 – November 30, 2022

8. DOE, the Contractor, or the Financial Institution may terminate this Agreement at any time within the agreement period upon submitting written notification to the other parties ninety (90) days prior to the desired termination date. The specific provisions for operating the account during this ninety (90) day period are contained in Covenant 11.
9. DOE or the Contractor may terminate this Agreement at any time upon thirty (30) days' written notice to the Financial Institution if DOE or the Contractor, or both parties, find that the Financial Institution has failed to substantially perform its obligations under this Agreement or that the Financial Institution is performing its obligation in a manner that precludes administering the program in an effective and efficient manner or that precludes the effective utilization of the Government's cash resources.
10. Notwithstanding the provisions of Covenants 8 and 9, in the event that the Agreements, referenced in Recital (a), between DOE and the Contractor are not renewed or are terminated, this Agreement between DOE, the Contractor, and the Financial Institution shall be terminated automatically upon the delivery of written notice to the Financial Institution.
11. In the event of termination, the Financial Institution agrees to retain the Contractor's special demand deposit accounts for an additional ninety (90) day period to clear outstanding payment items. This Agreement shall continue in effect for the ninety (90) day additional period, with exception of the following:
 1. Term Agreement (Covenant 7)
 2. Termination of Agreement (Covenant 8 and 9)

All terms and conditions submitted by the Financial Institution that are not inconsistent with this ninety (90) day additional term shall remain in effect for this period.

12. The Financial Institution has submitted the forms entitled "Subcontractor's Proposal Letter" and "Schedule of Financial Institution Processing Charges." These forms have been accepted by the Contractor and the Government and are incorporated herein with the following Exhibits:

Exhibit A	Prices, Quantities and Data
Exhibit B	Statement of Work
Exhibit C	General Conditions

IN WITNESS WHEREOF the parties hereto have caused this Agreement, which consists of 23 pages, including the signature pages, to be executed as of the day and year first above written.

11/13/2017
Date Signed

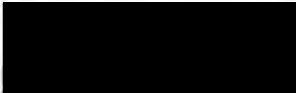
By: Darby A. Dieterich
(Typed Name of Contracting Officer)


(Signature of Contracting Officer)

WITNESS


Emma B. Fox
(Typed Name of Witness)

Mission Support and Test Services LLC
(Name of Contractor)



(Signature of Witness)

By: Stephen A. Musin
(Name of Contractor's Representative)


(Signature of Contractor's Representative)

Note: In the case of a corporation, a witness is not required. Type or print names under all signatures.

Chief Financial Officer

(Title)
23500 West 105th Street, M/D 300; Olathe, KS 66061
(Address)

13 NOV 2017


(Date Signed)

(Name of Witness)

JPMorgan Chase Bank, N.A.
(Name of Financial Institution)

Jansen Sauvageau
(Name of Financial Institution Representative)

(Signature of Witness)


(Signature of Financial Institution Representative)

Note: In the case of a corporation, a witness is not required. Type or print names under all signatures.

Treasury Service Manager
(Title)

601 Pennsylvania Avenue, Suite 600, Washington, D.C. 20004
(Address)

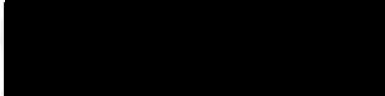
11/13/2017
(Date Signed)

NOTE

The Contractor shall cause the following Certificate to be executed under its seal, provided that the same individual shall not execute both the Agreement and the Certificate.

CERTIFICATE

I, John C. Benner, certify that I am the Deputy Site Manager of the limited liability company (LLC) named as Contractor herein; and that said Agreement was duly signed by Stephen A. Musin, Chief Financial Officer for the, and in behalf of, said LLC by the authority of its governing body and is within the scope of the LLC's authorities.



(Seal of the Limited Liability Company)(Signature)

NOTE

Financial Institution, if a corporation, shall cause the following Certificate to be executed under its corporate seal, provided that the same officer shall not execute both the Agreement and the Certificate.

CERTIFICATE

I, _____, certify that I am the _____ of the corporation named as Financial Institution herein; that _____, who signed this Agreement on behalf of the Financial Institution, was then _____ of said corporation and that said Agreement was duly signed for the and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

(Corporate Seal) (Signature)

EXHIBIT A

MISSION SUPPORT AND TEST SERVICES LLC

SERVICES SUBCONTRACT

QUANTITIES, PRICES AND DATA

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<u>FORM</u>	<u>FORM TITLE</u>	<u>PAGE</u>
Form A	Consideration Schedule	2
Form B	Subcontractor and Vendor List.....	3
Form C	Definitions.....	4

Attachment A: Schedule of Financial Institution Processing Charges

EXHIBIT A

Form A CONSIDERATION SCHEDULE

1. SCHEDULE OF FINANCIAL INSTITUTION PROCESSING CHARGES

Payment in accordance with the Schedule of Quantities and Prices shall be full compensation for all work completed in accordance with the Special Financial Institution Account Agreement (hereinafter referred to as "Subcontract"). See attached Schedule of Financial Institution Processing Charges at Exhibit A, Attachment A.

2. PERIOD OF PERFORMANCE

JPMorgan Chase Bank, N.A. (hereinafter referred to as "SUBCONTRACTOR") shall commence performance of the Work under this Subcontract on the date specified in the formal Subcontract, and shall furnish sufficient forces, facilities, and shall work such hours necessary so as to accomplish the Work in accordance with the following major Subcontract dates as specified in the Notice of Award letter, Notice to Proceed letter, or the Subcontract Agreement Form.

3. The SUBCONTRACTOR shall provide the services and shall maintain a continuous operation in compliance with this Subcontract for a term of three (3) years, beginning on the 1st day of December, 2017, and ending on the day of 30th, day of November, 2020. Upon written notice to the Financial Institution, the DOE and Contractor shall have the right to extend the term of this Agreement up to two (2) one-year option years as defined below:

- a) Base period of performance: December 1, 2017 – November 30, 2020
- b) Option Year 1 period of performance: December 1, 2020 – November 30, 2021
- c) Option Year 2 period of performance: December 1, 2021 – November 30, 2022

EXHIBIT A

Form B SUBCONTRACTOR AND VENDOR LIST

Subcontractor shall employ the following lower-tier subcontractors in performance of the work and/or vendors who will furnish major components, materials or equipment:

If no lower-tier subcontracts or purchases are anticipated, enter the word "NONE".

Name & Address	Work Description	Terms*	Value	Business Type *
NONE				

NOTES: *

1. TERMS: Enter Lump Sum, Unit Price, etc.
2. Business Type: Enter SB for Small Business, SDB for Small Disadvantaged Business, WOSB for Woman-Owned Small Business, VOSB for Veteran-Owned Small Business, and SDBVSB for Service Disabled Veteran-Owned Small Business, and Foreign.

EXHIBIT A

Form C DEFINITIONS

"Government" means the United States Department of Energy/United States Government.

"CONTRACTOR" means Mission Support and Test Services LLC (MSTS) and all of its authorized representatives acting in their professional capacities.

"SUBCONTRACTOR" means JPMorgan Chase Bank, N.A and all of its authorized representatives acting in their professional capacities .

"Work" means all activities required by the Exhibit B, Statement of Work to be performed by SUBCONTRACTOR.

"Site" means the CONTRACTOR'S or Government's location(s) at which or for which the Work will be performed.

"Subcontract Schedule" means the time period set forth for performance of the Work under this Subcontract.

"STR" means Subcontract Technical Representative.

Schedule of Financial Institution Processing Charges
Exhibit A, Attachment A
Dec 1, 2017 through November 30, 2022

Product Company	Sub-product	Service	Service Code	Service Description	APR code	Price/Item
ACCOUNT SERVICES		GENERAL ACCOUNT SERVICES	1005	Monthly maintenance charge for a Demand Deposit Account.	10000	\$ 50.00
ACCOUNT SERVICES		GENERAL ACCOUNT SERVICES	7640	Charge for a deposit/credit of funds made electronically into a Demand Deposit Account.	10101	\$ 0.20
ACCOUNT SERVICES		GENERAL ACCOUNT SERVICES	7641	Charge for a withdrawal/debit of funds made electronically out of a Demand Deposit Account.	10100	\$ 0.20
ACCOUNT SERVICES		GENERAL STATEMENTS	1010	Charge per statement for each Demand Deposit Account statement provided during the billing cycle via an electronic file. Charges may accrue for accounts that produce more than one statement during the billing cycle (i.e. daily or weekly statements).	10307	\$ -
ACCOUNT SERVICES		GENERAL STATEMENTS	1015	Enhanced format DDA statements with the paper statement suppressed; charges may accrue for statements that cycle more than once per month.	10307	\$ 5.00
ACH	ORIGINATION	ORIGINATION	2242	Per transaction charge for ACH transactions processed through the Federal Reserve and Electronic Payments Network clearinghouses.	250199	\$ 0.01
ACH	ORIGINATION	ORIGINATION	2244	Charge for each ACH addenda record processed through the Federal Reserve and Electronic Payments Network clearinghouses.	250199	\$ 0.00
ACH	ORIGINATION	ORIGINATION	2695	Monthly maintenance charge per company ID for ACH Direct Send services.	250000	\$ 75.00
ACH	ORIGINATION	ORIGINATION	2700	Charge for each ACH credit origination transaction.	250101	\$ 0.10
ACH	ORIGINATION	ORIGINATION	2705	Charge for each ACH debit origination transaction.	250100	\$ 0.10
ACH	ORIGINATION	ORIGINATION	2765	Charge per company ID for ACH origination files received from client via direct transmission and/or service bureau.	250501	\$ 12.00
ACH	ORIGINATION	ORIGINATION	2796	Charge for each addenda record attached to ACH originations.	250120	\$ 0.04
ACH	ORIGINATION	ORIGINATION	8019	Charge for each ACH credit transaction originated with same day settlement.	250101	\$ 0.50
ACH	ORIGINATION	RETURNS REPORTS AND INQUIRIES	2809	Charge for each Notification of Change item reported via email.	251070	\$ 1.50
ACH	ORIGINATION	RETURNS REPORTS AND INQUIRIES	2810	Charge for each Return item reported via email.	250400	\$ 1.50
ACH	ORIGINATION	RETURNS REPORTS AND INQUIRIES	2812	Charge for each Notification of Change item reported via fax.	251071	\$ 5.00
ACH	ORIGINATION	RETURNS REPORTS AND INQUIRIES	2821	Charge for each Return item reported via fax.	250401	\$ 5.00
ACH	RECEIVED	ACH RECEIVED	2716	Charge per ACH credit transaction received.	250201	\$ 0.15
ACH	RECEIVED	ACH RECEIVED	2717	Charge per ACH debit transaction received.	250200	\$ 0.15
ACH	FRAUD PROTECTION	TRANSACTION BLOCK	2860	Monthly maintenance charge per account utilizing ACH Debit Block.	251050	\$ 25.00
ACH	FRAUD PROTECTION	TRANSACTION BLOCK	2861	Monthly charge per allowable/non-allowable company ID for each account on ACH Debit Block.	251051	\$ 0.50
CHECK DEPOSITS		CHECK COLLECTIONS	501	Charge per check for deposit of checks drawn on local J.P. Morgan banks.	100220	\$ 0.25
CHECK DEPOSITS		CHECK COLLECTIONS	513	Charge per check for deposit of checks drawn on other banks.	100224	\$ 0.30
CHECK DEPOSITS		CHECK COLLECTIONS	1400	Charge per credit for any credit posted to an account. Examples include deposits, interest credits, adjustment credits, transfer credits, and other credits.	10101	\$ 1.15
CHECK DEPOSITS		CHECK RETURNS	1435	Charge per item for deposited checks that are returned unpaid.	100400	\$ 15.00
CHECK DEPOSITS	IMAGE DEPOSIT DIRECT	IDD - STANDARD	1139	Monthly software maintenance charge for using the Image Deposit Direct (IDD) service to scan and clear items.	101300	\$ 20.00
CLIENT ACCESS		JPMORGAN ACCESS	6040	Monthly account maintenance charge for J.P. Morgan ACCESS.	400610	\$ -
CLIENT ACCESS		JPMORGAN ACCESS	6041	Monthly maintenance charge for a J.P. Morgan ACCESS Cash Balances and Transactions Reporting account.	40044Z	\$ 100.00
CLIENT ACCESS		JPMORGAN ACCESS	6043	Charge per transaction loaded to the J.P. Morgan ACCESS Cash Balances and Transactions Reporting service with a 45 day history.	40066Z	\$ 0.15
CLIENT ACCESS		JPMORGAN ACCESS	6052	Charge per transaction for Controlled Disbursement Check transactions loaded to J.P. Morgan ACCESS.	40066Z	\$ 0.15
CLIENT ACCESS		JPMORGAN ACCESS	6053	Charge per item for Extended Transaction Detail loaded to J.P. Morgan ACCESS.	40066Z	\$ -
CURRENCY SERVICES	BANKING CENTER	CASH DEPOSITING	1306	Charge for a deposit of cash, check, or cash and check made at a Banking Center.	100000	\$ 4.00
CURRENCY SERVICES	BANKING CENTER	CASH DEPOSITING	1314	Charge per dollar for a deposit of dollars made with a teller and counted at the time the deposit is brought to a Banking Center.	100000	\$ 0.00
CURRENCY SERVICES	VAULT	CASH DEPOSITING	1310	Charge per for deposits processed through the vault.	100100	\$ 1.00
CURRENCY SERVICES	VAULT	CASH DEPOSITING	1482	Charge per note for bills deposited in the Fed standard of 100 same denomination notes per strap with appropriate denominated wrapper.	100115	\$ 0.01
CURRENCY SERVICES	VAULT	CASH DEPOSITING	1486	Charge per note for bills deposited not meeting the Fed standard of 100 same denomination notes per strap with appropriate denominated wrapper.	100114	\$ 0.03
CURRENCY SERVICES	VAULT	CASH ORDERING	1477	Charge for a rolled coin order that is a full box of 50 rolls.	100146	\$ 0.05
CURRENCY SERVICES	VAULT	CASH ORDERING	1495	Charge per order for a standard currency and coin order placed via VRU (Voice Response Unit), Web or electronic order file.	100141	\$ 5.00
CURRENCY SERVICES	VAULT	CASH ORDERING	1497	Charge per strap for an order of a Fed standard (100 bills) strap.	10014A	\$ 0.35
CURRENCY SERVICES	VAULT	CASH ORDERING	1498	Charge per order for expedited or special cash vault orders.	100143	\$ 25.00
CURRENCY SERVICES	VAULT	CASH ORDERING	1499	Charge per loose bill ordered in a non-Fed standard strap.	100148	\$ 0.03
DISBURSEMENT SERVICES	ACCOUNT RECONCILIATION	FULL RECONCILIATION	3205	Charge for each item reconciled on an account that has Full Reconciliation service.	200110	\$ 0.05

Schedule of Financial Institution Processing Charges
Exhibit A, Attachment A
Dec 1, 2017 through November 30, 2022

Product Company	Sub-product	Service	Service Code	Service Description	AFF code	Price/Unit
DISBURSEMENT SERVICES	ACCOUNT RECONCILIATION	FULL RECONCILIATION	3207	Monthly charge for each account on the Full Reconciliation service.	200010	\$ 100.00
DISBURSEMENT SERVICES	ACCOUNT RECONCILIATION	POSITIVE PAY	3262	Monthly fixed charge for each account with Positive Pay Services.	150030	\$ -
DISBURSEMENT SERVICES	ACCOUNT RECONCILIATION	POSITIVE PAY	3271	Charge for each account on an input transmission that has Account Reconciliation Processing (ARP) services.	200201	\$ 8.52
DISBURSEMENT SERVICES	ACCOUNT RECONCILIATION	RECON - OTHER	3291	Charge for each Account Reconciliation Processing output transmission.	200301	\$ 15.00
DISBURSEMENT SERVICES	ACCOUNT RECONCILIATION	RECON - OTHER	3372	Charge for each Account Reconciliation in excess of one per month.	200325	\$ 25.00
DISBURSEMENT SERVICES		CONTROLLED DISBURSEMENT	2205	Monthly maintenance charge for each Controlled Disbursement Account.	150000	\$ 100.00
DISBURSEMENT SERVICES		CONTROLLED DISBURSEMENT	2210	Charge per check for checks paid on a Controlled Disbursement Account.	150110	\$ 0.10
DISBURSEMENT SERVICES		CONTROLLED DISBURSEMENT	5234	Charge per transfer for transferring funds from a Master Funding Account to replenish a Controlled Disbursement Account.	10112	\$ 0.70
DISBURSEMENT SERVICES		CORPORATE CHECKING	2370	Charge per check paid or debit posted to a Demand Deposit Account.	10100	\$ 0.10
DISBURSEMENT SERVICES	INSURANCE	CATALYST	7768	Charge for an automated debit generated by Catalyst	10100	\$ 1.00
DISBURSEMENT SERVICES		STOP PAYMENTS & OTHER	3499	Monthly charge for preventing all checks from posting to a DDA (Demand Deposit Account).	1500ZZ	\$ 3.00
DISBURSEMENT SERVICES		STOP PAYMENTS & OTHER	6639	Charge for a stop payment order received via Payables Web Services or sent electronically to the Catalyst or Account Reconciliation Processing systems	150410	\$ 15.00
DISBURSEMENT SERVICES	WEB CHANNEL & IMAGE SVCS	IMAGE CAPTURE	3386	Charge per image for capture of all imageable transaction items (paid checks, deposit tickets, etc.) that are included in the CD ROM Image Viewer or made available for viewing online	151351	\$ 0.03
DISBURSEMENT SERVICES	WEB CHANNEL & IMAGE SVCS	JPMORGAN ACCESS CHECKS	3495	Charge per check paid for an account with the ACCESS Checks Inquiry with Image Retention Bill Plan.	151351	\$ 0.03
DISBURSEMENT SERVICES	WEB CHANNEL & IMAGE SVCS	JPMORGAN ACCESS CHECKS	6618	Monthly maintenance charge for Account Reconciliation Processing accounts for the ACCESS Checks Check Inquiry module.	151710	\$ 25.00
DISBURSEMENT SERVICES	WEB CHANNEL & IMAGE SVCS	JPMORGAN ACCESS CHECKS	6620	Monthly maintenance charge for ACCESS Checks delivery of ARP Reconciliation Reports and Bank Statements.	200306	\$ -
DISBURSEMENT SERVICES	WEB CHANNEL & IMAGE SVCS	JPMORGAN ACCESS CHECKS	6625	Monthly per account charge for receiving e-mail notification of Positive Pay or ACH Transaction Review exception items via ACCESS Checks	150030	\$ 10.00
DISBURSEMENT SERVICES	WEB CHANNEL & IMAGE SVCS	JPMORGAN ACCESS CHECKS	6641	Monthly charge for each account with the Data Download	200306	\$ 20.00
GLOBAL CLEARING - USD	CORE USD CLEARING	CREDITS	5886	Credit to customer's account where the debit party was another J.P. Morgan account holder.	350320	\$ 5.00
GLOBAL CLEARING - USD	CORE USD CLEARING	CREDITS	5887	Charge for an incoming credit received from another bank via the Federal Reserve system and processed straight through without operator intervention	350300	\$ 7.00
GLOBAL CLEARING - USD	CORE USD CLEARING	DEPT DEBITS	5841	Charge per transaction for a debit to a client's account, initiated by the Bank, that results in a credit to another account held with J.P. Morgan.	350220	\$ 100.00
GLOBAL CLEARING - USD	CORE USD CLEARING	DEPT DEBITS	5842	Charge per transaction for a debit to a client's account, initiated by the Bank, that results in a Fed transfer to another bank	350220	\$ 100.00
GLOBAL CLEARING - USD	CORE USD CLEARING	DRAWDOWNS	5962	Charge per transaction for a Fedwire drawdown request, initiated electronically, to draw funds in to a J.P. Morgan account	350521	\$ 5.00
GLOBAL CLEARING - USD	CORE USD CLEARING	ELECTRONIC DEBITS	5822	Charge per transaction for a debit to a client's account, initiated via an electronic banking system and processed straight through without operator intervention, which resulted in a credit to another J.P. Morgan account.	350124	\$ 5.00
GLOBAL CLEARING - USD	CORE USD CLEARING	ELECTRONIC DEBITS	5824	Charge per transaction for a debit to a client's account, initiated via an electronic banking system and processed straight through without operator intervention, which resulted in an outbound Fedwire.	350100	\$ 6.75
GLOBAL CLEARING - USD	CORE USD CLEARING	ELECTRONIC DEBITS	5826	Charge per transaction for a debit to a client's account, initiated via an electronic banking system and processed straight through without operator intervention, which resulted in an outbound CHIPS payment	350110	\$ 6.75
GLOBAL CLEARING - USD	CORE USD CLEARING	ESERVE SERVICE	5979	Charge for an investigation, initiated via eServe, requesting more information about a transaction coded UTA - Unable to Apply, or BCNR - Beneficiary Claims Non-Receipt	350560	\$ -
GLOBAL CLEARING - USD	CORE USD CLEARING	SERVICE	5967	Charge for an investigation of a Fed or CHIPS payment returned from the receiving bank.	350560	\$ 25.00
GLOBAL CLEARING - USD	CORE USD CLEARING	SERVICE	5972	Charge for an interactive Voice Response call to the Solution Center for wire payment inquiries.	350560	\$ -
GLOBAL CLEARING - USD	CORE USD CLEARING	TRANSACTION SERVICES	5446	Pass-through of Fed surcharge on all Fedwire debit or credit instructions received by JPMC that are greater than \$10 million	350599	\$ 0.14
GLOBAL CLEARING - USD	CORE USD CLEARING	TRANSACTION SERVICES	5882	Charge to store repetitive payment instructions on the Bank's processing application	350551	\$ 1.10
GLOBAL CLEARING - USD	CORE USD CLEARING	TRANSACTION SERVICES	5883	Fee that JPM is charged per transaction by the Federal Reserve Bank for Fedwire debits and credits.	350599	\$ 0.17
GLOBAL CLEARING - USD	CORE USD CLEARING	TRANSACTION SERVICES	5884	Message fee per transaction that J.P. Morgan is charged by the New York Clearing House for CHIPS debits.	350599	\$ 0.18
GLOBAL CLEARING - USD	OTHER USD CLEARING	SOFTI-AUTOMATED STANDING INSTRUC	5443	Charge per transaction to determine the balance requirement for a SOFTI (Standing Order Financial Transaction Initiation) automated funds transfer	409999	\$ 8.00
LIQUIDITY MANAGEMENT		OVERDRAFTS	105	Flat charge incurred each business day that an account is negatively collected.	212	\$ -

Schedule of Financial Institution Processing Charges
Exhibit A, Attachment A
Dec 1, 2017 through November 30, 2022

Product Company	Sub-product	Service	Service Code	Service Description	AFP code	Price/Unit
LOCKBOX - WHOLESALE	NATIONAL WHOLESALE LBX (R1)	RECEIVABLES EDGE BROWSER	6179	Monthly maintenance charge per lockbox subscribed to Receivables Edge Check and Document Image Presentation via web access. Checks and documents are available for same day viewing.	50005	\$ 150.00
LOCKBOX - WHOLESALE	NATIONAL WHOLESALE LBX (R1)	RECEIVABLES EDGE BROWSER	6187	Assessed first month for each check image page for long term storage in the bank's archive for a lockbox subscribing to Doc Image or Receivables Presentation. Includes initial month on high-speed storage & 10 years in tape archive.	50620	\$ 0.03
LOCKBOX - WHOLESALE	NATIONAL WHOLESALE LBX (R1)	RECEIVABLES EDGE BROWSER	6188	Assessed first month for each b&w document image page for long term storage in the bank's archive with Doc Image or Receivables Presentation subscription. Includes initial month of high-speed storage and 10 years in tape archive.	50620	\$ 0.06
LOCKBOX - WHOLESALE	NATIONAL WHOLESALE LBX (R1)	RECEIVABLES EDGE BROWSER	6161	Transaction charge per check that cannot be processed for deposit through the remote capture lockbox. Unprocessable items are sent manually to the client for research and adjustment.	50530	\$ 1.00
LOCKBOX - WHOLESALE	NATIONAL WHOLESALE LBX (R1)	RECEIVABLES EDGE BROWSER	6160	Transaction charge per check that cannot be processed through the remote capture lockbox. Unprocessable items are sent electronically to the client for research and adjustment.	50530	\$ 0.15
LOCKBOX - WHOLESALE	NATIONAL WHOLESALE LBX (R1)	RECEIVABLES EDGE BROWSER	6158	Monthly maintenance charge for a remote capture lockbox that can process and deposit check and material data and images.	101300	\$ 100.00
LOCKBOX - WHOLESALE	NATIONAL WHOLESALE LBX (R1)	RECEIVABLES EDGE BROWSER	6159	Transaction charge per check processed through a remote capture lockbox. Includes capture of check and/or document image with out paper copy.	101320	\$ 0.50

EXHIBIT B
MISSION SUPPORT AND TEST SERVICES LLC
SERVICES SUBCONTRACT

STATEMENT OF WORK

STATEMENT OF WORK

1. General Information

Payments cleared funding as a method used by the Federal Government to provide funds to a Contractor who is performing services or providing goods to the Department of Energy (DOE). Under this method, the Contractor issues payments for program purposes. When these payments clear the financial institution, the payments are totaled, and the financial institution draws funds from an Automated Standard Application for Payment (ASAP) 1031 system account at the Federal Reserve Bank of Richmond (FRB-Richmond) for credit to the Contractor's account. The financial institution is compensated for services performed either in the form of a direct payment of fee or a noninterest-bearing time deposit. Information necessary to bid for and operate such an account and to establish the reporting requirements the financial institution must meet are provided below.

2. Operating Requirements

The financial institution will total the payments cleared against the special account and subtract any deposits. This sum will be drawn from the ASAP 1031 account at FRB-Richmond. The amount of the drawdown should be sufficient to maintain the account balance net positive and as close to zero as administratively possible. The institution must determine the cutoff time for processing payments and deposits to ensure same day credit. The drawdown is effected by sending an online request for funds (type code 1031) to FRB-Richmond via Fedwire by 5:45 p.m. Eastern Time. Enrollment forms that will permit withdrawal of funds from the ASAP 1031 account at FRB-Richmond will be provided to the financial institution. The institution will complete the forms and return them to the Contractor for further processing.

If the financial institution providing these services is a branch of a parent institution, the drawdown on ASAP 1031 and subsequent transfer of funds from FRB-Richmond must be accomplished in time for the branch to receive same-day credit for the funds requested.

Local Services: Commercial Deposit-Cash Vault:

- a) Commercial operations at the Nevada National Security Site (NNSS) require change services and shall be transported approximately once a week via armored car service to the local financial institution in Las Vegas, NV. Services to be provided by the local financial institution shall include the acceptance of the currency being delivered and change service as directed by the Contractor.
- b) Services required by Contractor include:
 - Currency Supplied per \$100-Vault: Currency change orders provided via armored carrier to clients.
 - Coin Per Roll-Vault: Processing of change orders for coin rolls at a banking center.
 - Coin Purchased-Roll-Standard Box-Vault: Providing rolled coin in standard boxes
 - Vault Change Order-Per Change: Change orders.

Local Support for: Deposits, Withdrawals, & Cash Vault Services for Mercury, NV at a Las Vegas, NV local branch to include armored car pickup of deposits and delivery of coinage and bills. Also provide

Contractor check cashing services for payees at branch offices. Payee must NOT be required to have a bank account at the financial institution to cash a Contractor check.

3. COMPENSATION

The Institution will be paid by the contractor under the direct payment method.

4. INFORMATION SYSTEM REQUIREMENTS

Financial Institution to provide a complete electronic bank statement available to import in industry standard format such as BAI.2. Fees associated with Mission Support and Technical Services LLC, Flex Account, are to be segregated from other fees.

5. PENALTIES ON EXCESS FUNDS

If the financial institution has a pattern of excess drawdowns and fails to correct the problem after written notice from the DOE, the financial institution will be assessed interest on all excess balances at the Federal Funds Rate for the month(s) and the special financial institution account agreement will be terminated. Penalties will be remitted to the cognizant DOE finance office.

6. REPORTING REQUIREMENTS

The financial institution will provide the Contractor with a bank statement and an account analysis monthly. The account analysis will include the data necessary for the finance office to determine that the costs of the services are commensurate with the level of compensation being provided to the financial institution, and that the average daily demand account balance is being maintained net positive and as close to zero as administratively possible.

7. ACCOUNT DESCRIPTIONS:

Zero Balance Accounts Funded by the Department of the Treasury:

- Mission Support and Test Services LLC, Letter of Credit Account
- Mission Support and Test Services LLC, Payroll Account
- Mission Support and Test Services LLC, Accounts Payable Account

Manually Funded Account:

- Mission Support and Test Services LLC, Flex Account

8. LETTER OF CREDIT AND CONTROLLED DISBURSEMENT ACCOUNTS:

Full Reconciliation, Partial Reconciliation, Check Retention, Photo Fax, Photocopy Electronic, Stop Payment Manual, Stop Payment Electronic, Stop Payments Removed, Controlled Disbursement Account Funding, Positive Pay, Positive Pay Exception Notification, Signature Referral, Stale Dating, Manual Issues/Cancel, Image Capture, ACH Services, ACH Stop Payment/ Reversal, Debit Block, Access to current balances and transactions daily, Send Wires (Domestic and International), Letter of Credit Drawdown's from the Department of Treasury, Deposits, Accept Deposits for the Treasury General Account, and Electronic file available to import with issue/paid check information (i.e., account issued/paid from, amount, date, transaction code) but prefer to have complete electronic bank statement available to import in industry standard format such as BAI.2.

9. ATTACHMENTS

1. Attachment A, Local Services
2. Attachment B, ACH Origination Service Terms

EXHIBIT B, ATTACHMENT A LOCAL SERVICES

I. CASH ORDERS

1. Cash Orders.

The Contractor may issue written instructions to the Financial Institution to release United States coin and currency ("Cash") to an armored courier service (the "Courier") as designated by the Contractor in accordance with the Financial Institution's guidelines ("Cash Order"). The Contractor acknowledges that Cash Orders can be transmitted to the Financial Institution only during such time as set forth in the guidelines. The Financial Institution is authorized to debit the account of the Contractor designated in the Cash Order for the amount of a Cash Order (the "Cash"). If the Financial Institution has agreed to such an arrangement, the Contractor may also place a Cash Order directly at one of the Financial Institution's branch locations by issuing a check to debit the Contractor's account at the Financial Institution or as a "cash for cash" exchange. If there are insufficient funds in the designated account, the Financial Institution is authorized to debit the designated account even if such debit causes an overdraft, or to debit any other account of the Contractor at the Financial Institution.

2. Cash Limits.

The Financial Institution and the Contractor may agree to the amount of Cash that may be delivered pursuant to a Cash Order ("Cash Limit").

3. Discrepancies for Cash Orders.

All Cash Orders must be validated by the Contractor within 24 hours of receipt. If a currency strap, coin bag or wrapped coin discrepancy is identified, the Contractor may contact Cash Services Contractor Support at 888-872-0517 to request a Cash Order Claim Form. The completed form and proper documentation must be sent to the Financial Institution and post marked within 48 hours of receipt of the Cash Order. Any claims post marked after the 48 hour period may be denied and the Contractor will have no right to request or receive an adjustment after such time period.

4. Cancellations and Amendments.

A Cash Order may be cancelled by the Contractor telephonically, electronically or in writing by a person the Financial Institution reasonably believes to be authorized to act on behalf of the Contractor and only if the cancellation is received within a reasonable time before the Cash is delivered to the Courier ("Cancellation"). A Cash Order may only be amended telephonically and the Financial Institution will not be responsible for any change in a Cash Order it has received. Any attempt to amend a Cash Order electronically may result in duplicate Cash being delivered.

5. Notice of Rejection.

If the Financial Institution rejects a Cash Order, it will promptly notify the Contractor of the reason.

6. Notice of Execution.

The Financial Institution will notify the Contractor when it has executed a Cash Order. Unless, within three (3) business days after receipt of notification of the execution of a Cash Order, the Contractor notifies the Financial Institution in writing that a Cash Order was unauthorized or otherwise unenforceable against the Contractor, the Financial Institution shall not be liable for executing the Cash Order as notified, including any loss of interest.

7. Security Procedure.

The Contractor must place a Cash Order using a touch-tone telephone, or other electronic communications device mutually agreed upon by the Contractor and the Financial Institution, based upon codes assigned by the Financial Institution to the Contractor which identify the Contractor and the location (collectively, "Codes"). The Contractor agrees that use of Codes constitutes a security procedure for verifying the authenticity of a Cash Order as being that of the Contractor ("Security Procedure"). The Contractor and Financial Institution will maintain reasonable security and control of the Codes. The Financial Institution is not responsible or liable for detecting any error in the transmission or content of any Cash Order or Cancellation and the Security Procedure is not intended to detect any such error. No agreement or instruction of the Contractor restricting acceptance of any Cash Order or Cancellation is binding on the Financial Institution, except as set forth in these Service Terms or in a writing signed by the Contractor and the Financial Institution. These Security Procedures do not apply to Cash Order requests made by the Contractor at one of our branch locations when the Contractor is making a "cash for cash" exchange or issuing a check to debit the Contractor's account at the Financial Institution.

8. Geographical Limitations for Cash Orders. The Contractor represents and warrants that all Cash Orders will be used by Contractor in its normal course of business at the Contractor's store/office locations in the United States.

II. CASH DEPOSITS

9. Standard Courier Service.

The Contractor may deliver and pick up shipments of cash or checks to or from the Financial Institution by using the services of a courier that has been authorized by the Financial Institution, who will act solely as the Contractor's agent. The courier must comply with the Financial Institution's guidelines, as amended from time to time, and must maintain all licenses and permits required by law in addition to adequate insurance to cover its liabilities in providing courier services. The Financial Institution may refuse to permit any courier to enter its premises with or without cause, in which case the Financial Institution will use

reasonable efforts to promptly notify the Contractor. With regard to the Contractor's couriers, the Contractor is responsible for any individual's actions while at the Financial Institution's facilities including theft, property damage, intentional crimes and any other act or omission even if such actions would be considered outside the scope of their employment and whether the individual is impersonating an employee of the courier if the Financial Institution has followed its customary procedures for identifying the individual.

10. Deposit Presentment and Processing for Standard Courier Service.

With regard to deposits delivered to one of the Financial Institution's vault areas, the Contractor must deliver deposits in sealed tamper-proof plastic security deposit bags that meet the standards described in the Financial Institution's guidelines and contain only cash, coin and checks. The bags may also contain food stamps if the Contractor provides proof satisfactory to the Financial Institution of the Contractor's authority to redeem food stamps. The Financial Institution will open the bags and process the deposits.

- a) **Delivery to Vault.** If the Financial Institution agrees to accept the Contractor deposits at a vault location, the Financial Institution will provide a receipt indicating the number of bags it has received. This receipt is not an acknowledgment of the contents of any bag, nor is any telephonic or other acknowledgment of a deposit of which the Contractor notifies the Financial Institution by telephone or by electronic means.
- b) **Delivery to Branch for Delayed Processing.** If the Financial Institution agrees to accept your deposits at a branch location, the Financial Institution will not verify the amount of the deposits at the time of receipt, but will provide the Contractor with a receipt showing the amount indicated the Contractor's deposit slip. This receipt is not an acknowledgment of the contents of any bag.

11. Courier Service through the use of a Smart Safe.

The Contractor may use the services of a courier that has been authorized by the Financial Institution, who will act solely as the Contractor's agent. The courier must comply with the Financial Institution's guidelines, as amended from time to time, and must maintain all licenses and permits required by law in addition to adequate insurance to cover its liabilities in providing courier services. The Financial Institution may refuse to permit any courier to enter its premises with or without cause, in which case the Financial Institution will use reasonable efforts to promptly notify the Contractor. The Contractor will place only Cash in the smart safes which will be maintained by the Contractor's courier. The Contractor's courier is authorized to transmit the Cash information to the Financial Institution on the Contractor's behalf and the Financial Institution, upon receipt of such data transmission, will provide provisional credit to the Contractor's designated account. [The courier will deliver the Cash to the Financial Institution as directed by the Financial Institution at the Contractor's expense. The Contractor authorizes the Financial Institution to instruct the courier to pick up any Cash for which the Financial Institution has given provisional credit at any time at the Contractor's expense.

12. Deposit Presentment and Processing Courier Service through the use of a Smart Safe.

The Contractor agrees that once the Cash is in the smart safe, the Contractor no longer has any ownership, control or rights with regard to the physical Cash and that the Financial Institution is authorized to rely upon the transmitted information from the Contractor's courier with regard to deposits or adjustments to the Contractor's deposit account with the Financial Institution. Once the Contractor's courier has completed the verification of the Cash from the smart safe and has transmitted the deposit/adjustment information to the Financial Institution, the Cash is then placed into the Financial Institution's inventory at the courier's location. In the event of a dispute related to the amount credited to the Contractor's deposit account, the Contractor will initiate its claim and request for an investigation with its courier.

13. Discrepancies.

All deposits are subject to verification. If there are differences between the amount credited by the Financial Institution and the amount shown on the deposit slips prepared by the Contractor, the receipt provided to the Contractor or its agent upon initial presentment or the transmission received from the courier on the Contractor's behalf, the currency will be re-counted. The Financial Institution's determination and records as to its receipt of any bag and as to the contents of any bag is conclusive and binding on the Contractor, and the Financial Institution may correct any credit made to the Contractor's account. The Financial Institution will notify the Contractor's representative designated in the service implementation questionnaire if the difference is more than any minimum amount specified in the Financial Institution's guidelines.

14. Geographical Limitations for Cash Deposits.

Cash Deposits must be delivered to the Financial Institution by Contractor's courier and from Contractor's physical store/office locations in the United States. Cross-border cash deposits (i.e., cash brought into the United States from outside the United States) are strictly prohibited.

15. Relationship upon Delivery of Bags.

Until the Financial Institution counts or re-counts the contents of the bags and enters a final credit to the Contractor's account, the Financial Institution is not responsible any claimed contents of the bags. The Contractor should not include anything in a bag other than Cash and its deposit slip, and the Financial Institution shall have no responsibility or liability if there is any other property included or claimed to have been included in a bag.

16. Deliveries to an Unattended Facility.

If the Financial Institution agrees to allow the Contractor to use one of our unattended facilities (including but not limited to a night depository or commercial ATM) the Financial Institution may provide the Contractor with an access device (such as a key or card that may require a Personal Identification Number ("PIN")). The Contractor must return all access devices to the

Financial Institution upon the Financial Institution's request. The Financial Institution will process any deposits delivered to an unattended facility as provided for in the Financial Institution's guidelines. If the Contractor receives a receipt from an unattended facility, the receipt is not an acknowledgment of the contents of any bag or of the receipt of any bags. While the Contractor or the Contractor's designated courier agent is physically present at one of the Financial Institution's unattended facilities, the Contractor is a licensee only and the Financial Institution has no responsibility for the safety of the Contractor or its Courier while at such facility.

17. Liability at Unattended facility.

The Contractor assumes all risks of using any unattended facilities, including risks of theft, robbery and personal injury; the Financial Institution is not responsible if a facility fails to operate properly in any way, including failing to open, close, lock or unlock. It is the Contractor's responsibility to verify that its bags have dropped down completely into the facility and the Contractor agrees that it will not leave any bags in any facility that does not appear to be operating properly. The Financial Institution will not be liable to the Contractor if any unattended facility, tele-entry or online system is closed or otherwise unavailable for use at any time.

EXHIBIT B, ATTACHMENT B

ACH ORIGINATION SERVICE TERMS

V2.0_08_11_16

The origination of ACH Entries and the transmission and issuance of other transactions and information will be pursuant to these Service Terms and the Operating Rules and Guidelines (collectively the "Rules") of the National Automated Clearing House Association. Capitalized terms used in these ACH Service Terms, unless otherwise defined in the account documentation or these Service Terms, shall have the same meanings as set forth in the Rules. Customer and JPMorgan Chase Bank, N.A. (the "Bank") agree to comply with and be bound by the Rules as in effect from time to time.

1. Service. Bank provides automated clearing house ("ACH") origination services that will enable Customer to do one or more of the following:

- originate ACH Debit Entries;
- originate ACH Credit Entries; and
- instruct the Bank to issue or transmit prenotifications, reversals, requests for return, notifications of change or other information pertaining to the Entries.

Origination of ACH Credit Entries and origination of ACH Debit Entries are two separate services and approval or set up for one ACH service does not automatically create the ability to utilize the other. The Rules and these Service Terms shall apply to all Entries, whether or not transmitted through an ACH Operator.

It is Customer's responsibility to provide Entries and instructions to Bank with all the necessary information to complete Customer's requested transactions. Customer agrees to transmit Entries to Bank in the manner, at the times and in accordance with approved media, content and format as agreed by Bank and Customer. Bank may reject or delay processing transactions or information if instructions are not complete or are inaccurate, contain an inactive Company ID or otherwise do not meet the criteria Bank specifies for acceptance. All requests to Bank must be received by Bank before Bank's established cut-off time in order for processing to commence on that ACH processing day. Any request that is incomplete or that Bank finishes receiving after the relevant cut-off time will be processed by Bank on the next day Bank processes ACH transactions. All transactions are subject to acceptance by Bank. Bank will notify Customer of any transactions or other transmissions that are rejected or returned. If Customer wants Bank to re-process those transactions or transmissions, Customer must correct them and re-submit them. Customer agrees to furnish Bank with copies of any authorizations or notifications, if requested, as well as any other information reasonably requested by Bank relating to Entries originated by the Customer. Customer shall provide Bank's auditors and other personnel with reasonable access at all reasonable times to the Customer's facilities, data and records relating to the initiation of Entries for the purpose of auditing Customer's compliance with these Service Terms and the Rules.

2. Security and Data Protection Procedures. All instructions received by Bank in Customer's name are subject to verification pursuant to mutually agreed security procedures. If Bank follows those procedures, Bank may process and transmit transactions or information in Customer's name. Unless Customer and Bank both otherwise agree, transmissions to Bank will be authenticated and/or encrypted using commercially reasonable security technologies meeting standards acceptable to Bank. If Customer uses a security procedure other than as described above, Customer acknowledges that Customer refused Bank's security procedure and chose another and Customer agrees to be bound by any transaction, whether or not authorized, issued in Customer's name and accepted by Bank in compliance with the security procedure Customer chose. If Customer elects not to utilize recommended message authentication and/or encryption technology, Customer assumes all responsibility for unauthorized disclosure or unauthorized access to Customer's data that occurs during transmission or while such data is in storage. Customer shall not disclose any Receiver's account number or routing number to any third party for such third party's use, directly or indirectly, in initiating a separate Debit.

3. Settlement and Exposure Limits. On the settlement date, Bank will credit Customer's account with Bank that Customer specifies for the total of:

- Customer's Debit Entries that Bank processed for settlement that day;
- RCCs issued for deposit to Customer's account on that day; and
- any returned or reversed Credit Entries.

Bank may delay the availability of funds deposited into Customer's account by Debit Entry or RCC until those transactions cannot be reversed in accordance with the Rules or applicable law.

Bank will debit Customer's account with Bank that Customer specifies for the total of Credit Entries processed in Customer's name and for any returned Debit Entries and RCCs. Bank may require Customer to pay Bank the amount of any Credit Entries on the date of transmission to Bank or otherwise prior to the settlement date. Bank also may require Customer to maintain collateral with Bank in an amount Bank specifies.

Bank may from time to time establish or revise maximum dollar limits for the total value of all outstanding files of Credit Entries and/or Debit Entries and RCCs that Bank will release on Customer's behalf. Bank may change or cancel the limits at any time without prior notice to Customer; although Bank will try to notify Customer before Bank does that.

4. Warranties. Except as specified below, Customer will be deemed to make the same warranties to Bank as Bank makes pursuant to the Rules. In the case of an Entry to another account with Bank, warranties will be deemed to be given as of the time Bank first processes the Entry. Customer will not be deemed to warrant the power of the Bank under applicable law to comply with the requirements of the Rules or the conformity of Entries and other data Bank transmits to the file specifications contained in the Rules. The Customer further represents, warrants and covenants that (a) each Entry and RCC it originates will comply with all applicable U.S. laws and regulations and acknowledges that Entries may not be initiated that violate the laws of the United States, (b) unless Customer has identified itself to Bank as a Third Party Sender (as defined in Section 7) and obtained Bank's express consent to originate Entries as a Third Party Sender, Customer will not originate any Entries, or use any of its Company IDs to originate Entries, on behalf of third parties (including, without limitation, any affiliate of Customer), and (c) Customer will not permit a third party to originate Entries using a Customer account as the offset account unless Customer obtains Bank's express consent to do so.

5. Stop Payments; Reversals and Recalls; Rejections. Customer's instruction to cancel, stop payment of, reverse or recall one or more Entries must be received by Bank in such time and manner as Bank specifies. Bank will process these transactions in accordance with Bank's procedures advised to Customer. Any reversal or recall initiated by Bank is subject to acceptance by the RDFI. Instructions to reverse or recall an ACH Credit Entry that are not initiated by Customer in time to meet the prescribed NACHA deadline for reversals may be originated by Bank as a Debit Entry; Customer shall obtain authorization from the Receiver in accordance with the Rules for any such Debit Entry and all other terms of these Service Terms applicable to Debit Entries shall apply. Entries or other instructions may not be amended or modified.

If Customer originates Debit Entries to an account or accounts at a financial institution that is not a Participating Depository Financial Institution in the ACH system (such account hereafter called a "Non-ACH Eligible Account"), all such Debit Entries will be rejected unless Customer subscribes to a service, subject to Bank's prior consent, pursuant to which Bank will process each such Debit Entry to a Non-ACH Eligible Account by preparing a remotely created check, as such term is defined in Federal Reserve Regulation CC (an "RCC"), on the Customer's behalf. The RCC will be drawn in the amount and on the Non-Eligible ACH Account of the individual or entity specified as the receiver in the Customer's instructions and will be deposited to the Customer's designated account with Bank. Such RCC will thereafter be processed through the check clearing system. If the Customer is using such service, the Customer hereby authorizes the Bank to create each RCC as described herein and the Customer warrants to the Bank, with respect to each RCC, that the person on whose account the RCC is drawn authorized the issuance of such RCC in the amount and to the payee stated in the RCC. The Customer authorizes the Bank to debit the Customer's account for any claim or return based upon an unauthorized RCC. All other terms herein related to Entries shall also apply to RCCs created under this Section. The Bank shall not create or process RCCs or other paper drafts in lieu of ACH Debits under any circumstances other than for Non-ACH Eligible Accounts and only when the Bank has consented to provide such service, even if the Customer includes an instruction in its file for the Bank to otherwise originate an RCC or paper draft.

6. Third Party Service Providers. Customer may choose to use a third party service provider or service bureau to issue Entries or other instructions, handle returned Entries or perform other functions for and on Customer's behalf. If Bank accepts such Entries or other instructions, Customer will be bound by them. Customer is responsible for all actions taken or not taken by Customer's provider and Customer is responsible for all costs and expenses of Customer's provider.

7. Third Party Sender. If Customer is a Third Party Sender, as such term is hereafter defined, (a) Customer warrants that the Originator has agreed to be bound by the Rules and has satisfied the obligations of an Originator under the Rules; (b) in any case where the Originator fails to perform its obligations under the Rules as an Originator, Customer shall indemnify, defend and hold Bank harmless from and against any and all claims, demands, losses, liabilities and expenses, including attorneys' fees and costs, that result directly or indirectly from the failure of the Originator to perform its obligations as an Originator under the Rules; (c) Customer agrees to cooperate with Bank regarding any request for information concerning the identity of any Originator; and (d) Customer represents, warrants and covenants that neither these Service Terms nor anything related to the ACH Origination Services violates, contravenes or is inconsistent with any of the terms, conditions or provisions of any agreement, understanding or arrangement between Customer and the Originator. Further, Bank will rely on Customer to evaluate the legitimacy of the Originators and their transactions originated by Customer and for ensuring that instructions do not involve illegal activities. Customer must notify Bank immediately if Customer suspects or become aware of any activity or transaction of an Originator that Customer believes may be of an illegal or illegitimate nature or that involves the proceeds of illegal activity or that was conducted, in part or whole, for the purpose of disguising the source of funds. Bank will be entitled at any time upon notice to Customer to decline to provide the ACH Origination Services, or terminate the provision of ACH Origination Services, for any Originator on whose behalf are originating Entries if Bank determines that there are excessive returns or reversals of Entries originated on behalf of such Originator or if Bank becomes aware of any information indicating suspicious, fraudulent or illegal activity related to such Originator or for any other reason. As used herein, "Third Party Sender" means an entity that is not an Originator, that has authorized an ODFI or another Third Party Sender to transmit, for the account of the Third Party Sender or another Third Party Sender, (i) a credit entry to the account of a Receiver in order to effect a payment from the Originator (i.e., the third party on whose behalf the Third Party Sender is transmitting the entry) to the Receiver, or (ii) a debit entry to the account of a Receiver in order to effect a payment from the Receiver to the Originator (i.e., the third party on whose behalf the Third Party Sender is transmitting the entry). Without limitation of the foregoing, Third Party Senders include U.S. regulated financial institutions, brokers and other financial intermediaries as well as any other regulated or unregulated payment processors that are customers of the Bank and use their accounts to process payments for third parties (including affiliates of the Customer).

8. IAT Entries. If Customer is originating Entries that are required to be formatted under the Rules as IAT Entries, Customer will comply with all applicable Rules relating thereto, and Customer will originate such Entries only through one of Bank's ACH origination channels that support IAT

origination. Some of Bank's ACH origination channels do not accommodate IAT Entries; upon request, the Bank will advise Customer as to which of Bank's ACH origination channels can be used for IAT origination.

If a foreign currency conversion is performed by Bank in connection with an IAT Entry, Customer acknowledges that the foreign currency exchange rates fluctuate, and accepts the risk of such fluctuation, including fluctuations in rate between the time Customer submits the Entry Data Instructions and the time the transaction is executed and/or reversed, returned or recalled. Any payment returns and/or reversals will be credited to Customer's account in the currency in which Customer's account is denominated, and Customer is responsible for any rate fluctuations.

In the event of an erroneous or duplicate IAT Entry originated for payment to a receiving bank outside the United States, the rights of Bank and Customer with respect to reversal or recall of such Entry are subject to the laws, regulations and payment system rules of the receiving bank's jurisdiction.

Customer acknowledges and agrees that IAT Entries may be delayed in processing or posting due to the Bank's or RDFI's review of such Entries for OFAC compliance. Further, Customer understands and acknowledges that unlike PPD Credit Entries, there is no requirement under the Rules that IAT Credit Entries that are made available to an RDFI by its ACH operator by 5:00 pm on the banking day prior to the Settlement Date be made available to the Receiver at the opening of business on the Settlement date; cleared IAT Credit Entries must be made available no later than the Settlement Date of the Entry, but funds are not required to be available at opening of business on the Settlement Date.

- 9. Same Day Entries.** The terms set forth in this Section 9 apply to any Same Day Entry, as such term is defined in the Rules, originated by the Customer. From and after the effective date specified under the Rules for Same Day Credit Entries and Same Day Debit Entries (or such other dates as may be communicated to the Customer by the Bank), subject to the conditions set forth in this Section 9, any Credit Entry or Debit Entry submitted to the Bank that meets the criteria set forth in the Rules for a Same Day Entry ("Same Day Criteria") may be processed and released by the Bank in such time and manner as to enable same day processing and settlement by the applicable ACH Operator and RDFI.

The Bank may, in its sole discretion, provide the Same Day ACH Service to its customer segments on either an opt-out basis or an opt-in basis. If the Service is provided to the Customer on an opt-out basis, any Credit Entry or Debit Entry transmitted to the Bank in the name of the Customer that meets the Same Day Criteria may be processed as a Same Day Entry (from and after the Respective Implementation Date), and the Customer will be charged applicable fees for such processing. The Customer may elect to exclude transactions from Same Day ACH processing by notifying the Bank in writing (or by such other means as the Bank may specify) of specified Company IDs that the Customer wants to exclude from Same Day ACH processing even if the Same Day Criteria are met. In such case, the Bank will exclude files/Entries with such Company IDs from the Service. If the Service is provided to the Customer on an opt-in basis, the Customer may request that its originated Entries meeting the Same Day Criteria be processed on a same day basis; otherwise, such Entries will not be processed on a same day basis. As a result of the implementation of the Same Day ACH processing, there may be changes to the posting times for Entries; Same Day ACH Entries as well as Entries originated to accounts of Receivers at the Bank may be posted to Receivers' accounts earlier than posting was occurring prior to implementation of Same Day ACH processing. Notwithstanding anything to the contrary contained in these Service Terms, certain Bank transmission channels will not provide capability for origination of Same Day ACH Entries or will provide such capability at a later time than other channels.

- 10. Incorporation of Account Documentation; Termination.** The provisions of the account documentation, including terms and conditions governing the operation of business accounts and services, are incorporated into these Service Terms by reference. By acknowledging or signing the applicable account documentation or by using or continuing to use the ACH Origination Services, Customer agrees to these Service Terms. In addition to Bank's termination rights under the aforementioned documentation, Bank shall have the right to terminate or suspend these Service Terms and the Services upon notice to Customer in the event of the Customer's breach of the Rules.

EXHIBIT C

MISSION SUPPORT AND TEST SERVICES LLC
FIXED PRICE COMMERCIAL SERVICES SUBCONTRACT

GENERAL CONDITIONS

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EXHIBIT C

FIXED PRICE COMMERCIAL SERVICES SUBCONTRACT GENERAL CONDITIONS

C-1 ACCEPTANCE OF TERMS AND CONDITIONS

JPMorgan Chase Bank, N.A. (hereinafter referred to as "SUBCONTRACTOR"), by signing the subcontract, agrees to comply with all the terms and conditions and all specifications and other documents that this order incorporates by reference or attachment.

C-2 PAYMENT AND INVOICES

Electronic funds transfer is the preferred method of payment used by Mission Support and Test Services LLC (hereinafter referred to as "CONTRACTOR"). To take advantage of this expedited payment process, request form FRM-0870.

Unless otherwise provided, terms of payment shall be net 30 days from the later of (1) receipt of SUBCONTRACTOR's proper invoice, if required, or (2) delivery of items/completion of work. Any offered discount shall be taken if payment is made within the discount period that SUBCONTRACTOR indicates. Payments may be made either by check or electronic funds transfer.

To expedite payment, e-mail all invoices directly to the Accounts Payable Department at apinvprd@nv.doe.gov. Invoice images are accepted only in PDF and TIF format with each invoice to be submitted separately. This e-mail address is to be used for invoices only, not for Statements and Billing Slips.

SUBCONTRACTOR shall submit all billings, including the final billing, detailed by Subcontract Line Item Number on the original invoice to:

Mission Support and Test Services LLC
P.O. Box 98521, M/S NLV025
Las Vegas, NV 89193-8521
Attention: Accounts Payable
Reference: Subcontract No. 196641

C-3 CONTRACTOR AUTHORIZED REPRESENTATIVE

Only the Procurement Representative is authorized on behalf of CONTRACTOR to issue changes whether formal or informal.

C-4 PUBLICITY AND ADVERTISING

SUBCONTRACTOR shall not make any announcement, take any photographs, or release any information concerning this Subcontract, or the CONTRACTOR'S Prime Contract, or the Government's operations, or any part thereof to any member of the public, press, business entity, or any official body unless prior written consent is obtained from CONTRACTOR.

SUBCONTRACTOR shall not allow any publication or public presentation of information developed during the Work (including without limitation reports, journal articles, thesis or dissertations, conference presentations and the like) without prior clearance from CONTRACTOR and approval by the Government. SUBCONTRACTOR should allow at least 45 days for the clearance process, or a longer time if Classified, Controlled Nuclear, or other sensitive information is involved.

C-5 ORDER OF PRECEDENCE

EXHIBIT C

The Subcontract Agreement Form and all documents listed therein are essential parts of the Subcontract and a requirement occurring in one is binding as though occurring in all. The order of precedence for the Subcontract Agreement Form and all documents listed therein shall be as follows:

1. Special Financial Institution Account Agreement
2. Exhibit C - General Conditions
3. Exhibit B - Statement of Work
4. Exhibit A - Quantities and Prices

The foregoing notwithstanding, conflicts, discrepancies, errors, or omissions among the various Subcontract documents shall be submitted immediately by SUBCONTRACTOR for decision and such decision shall be final.

C-6 OPTION

CONTRACTOR has included an option to extend the term of this Subcontract. In order to demonstrate the value MSTs places on quality performance, CONTRACTOR has provided a mechanism for continuing a contractual relationship with a successful SUBCONTRACTOR that performs at a level which meets or exceeds quality performance expectations. When deciding whether to exercise the options, the Procurement Representative will consider the quality of the SUBCONTRACTOR's performance under this subcontract.

The SUBCONTRACTOR hereby grants to the CONTRACTOR the unilateral right to extend this subcontract Two (2) additional terms of one (1) year(s) each at the unit prices listed on Form A under in Exhibit A. The CONTRACTOR will give the SUBCONTRACTOR written notice of intent to exercise the option year thirty (30) days before expiration of the subcontract, and thereafter will exercise said option before the expiration of the subcontract.

C-7 INCORPORATION BY REFERENCE

This order incorporates certain clauses by reference. These clauses apply as if they were incorporated in their entirety. For FAR provisions incorporated by reference, "CONTRACTOR" means SUBCONTRACTOR and "Contracting Officer" means CONTRACTOR (MSTS) or the Procurement Representative. The following clauses are incorporated by reference.

C-8 APPLICABLE TO ALL AGREEMENTS AS IDENTIFIED IN THE SPECIAL APPLICATION INSTRUCTIONS

FAR/DEAR CLAUSE	TITLE	SPECIAL APPLICATION INSTRUCTIONS
52.222-21	Prohibition of Segregated Facilities (02/1999)	Applicable to all subcontracts
52.222-26	Equal Opportunity (03/2007)	Applicable to all subcontracts
52.222-35	Equal Opportunity for Veterans (07/2014)	Applicable to all subcontracts
52.222-36	Equal Opportunity for Workers with Disabilities (07/2014)	Applies to subcontracts over \$15K
52.222-37	Employment Reports on Veterans (07/2014)	Applicable to all subcontracts – establishes annual reporting requirements
52.222-40	Notification of Employee Rights Under the National Labor Relations Act (12/2010)	Applies to subcontracts over \$10K
52.222-50	Combating Trafficking in Persons (02/2009)	Applicable to all subcontracts
52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving (08/2011)	Applies to subcontracts that exceed the micro-purchase threshold

EXHIBIT C

52.225-13	Restrictions on Certain Foreign Purchases (06/2008)	Applicable to all subcontracts
52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels (02/2006)	

SUPPLEMENTARY AGREEMENT

RELATED TO THE SPECIAL FINANCIAL ACCOUNT AGREEMENT

THIS SUPPLEMENTARY AGREEMENT RELATED TO THE SPECIAL FINANCIAL INSTITUTION ACCOUNT AGREEMENT (hereinafter referred to as the "Agreement" is entered into by and between Missions Support and Test Services LLC ("MSTS") and the United States of America, acting through the National Security Administration, Nevada Field Office ("NNSA"), represented by the undersigned NNSA Contracting Officer. NNSA and MSTS are referred to in this Agreement collectively as the Parties, and singularly as a Party.

WHEREAS NNSA and MSTS are parties to Contract No. DE-NA0003624 (the "Contract") pursuant to which MSTS will perform the management and operation responsibilities of the NNSA Nevada Field Office facilities commencing on December 1, 2017; and

WHEREAS, NNSA, through the Department of Energy ("DoE"), MSTS and JPMorgan Chase Bank, N.A., a national chartered financial institution, located at 901 15th Street NW, Floor 11, Washington, DC 2005 ("Financial Institution") are parties to the Special Financial Institution Account Agreement ("Account Agreement"); and

WHEREAS, MSTS has agreed in the Global Accounts Agreement with the Financial Institution to indemnify the Financial Institution; and

WHEREAS, MSTS has the right to be paid by NNSA for all allowable costs it incurs in performance of the Contract; and

WHEREAS, 48 CFR § 970.5244-1 prohibits indemnification of a subcontractor without prior approval of the Senior Procurement Executive; and

WHEREAS, the Senior Procurement Executive did not approve of the indemnification provision in the Global Accounts Agreement.

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NOW THEREFORE, the parties agree as follows:

In the event MSTS is required to indemnify the Financial Institution, MSTS will not seek to recover such indemnification from NNSA.

MSTS retains all of its rights to be reimbursed by NNSA for all allowable costs it incurs in performance of the Contract, and the foregoing does not in any way limit those rights.

Mission Support and Test Services LLC.

By:

Printed Name: Mark W. Martinez

Title: President, Mission Support and Test Services LLC

Date: 30 November 2017

UNITED STATES OF AMERICA

NATIONAL NUCLEAR SECURITY ADMINISTRATION

Date: 12/5/17

By:

Darby A. Dieterich

Title: NNSA/NFO Contracting Officer

SECTION J

APPENDIX M

COMMUNITY COMMITMENT PLAN

(Added by Mod 0033)



MSTS President Mark Martinez chats with students at the Nevada Science Bowl.

Community Commitment Plan

Leveraging Mission Support and Test Services (MSTS) LLC as a constructive partner in Nevada National Security Site (NNSS) and satellite facility communities

Background

On December 1, 2017, MSTS took over the Management and Operating Contract for the NNSS. Section H-23 of the new contract, DE-NA0003624, requires that MSTS submit a Community Commitment Plan describing planned activities as to how it will be a constructive partner in its communities.

The plan was prepared consistent with the intent of DEAR 970.5226-3, which states that community commitment should recognize “the diverse interests of the region and its stakeholders,” and “engage regional stakeholders in issues and concerns of mutual interest.” The plan was developed based on establishing MSTS’ relationships with the following stakeholders:

- ▶ **Local businesses, including small business, chambers of commerce and economic development organizations**
- ▶ **Nevada System of Higher Education, UNLV, UNR and other universities**
- ▶ **K-12 school districts and their Science, Technology, Engineering and Math programs**
- ▶ **Nonprofits in Nevada, California, New Mexico, the Washington, D.C. area**

Strategy Focus Areas

MSTS’ strategy focus areas include: community leadership; economic development; education with an emphasis on science, technology, engineering and mathematics (STEM); and employee volunteerism/ contributions.

Community Leadership

MSTS leadership and employees will participate on local boards and organizations.

MSTS leaders are currently participating on the following key boards and organizations:

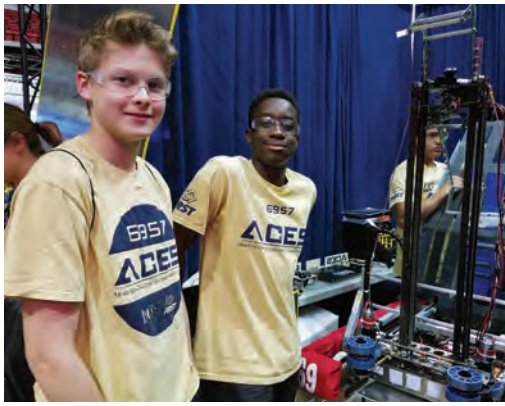
- ▶ National Atomic Testing Museum
- ▶ University of Nevada, Las Vegas, Engineering Advisory Committee member
- ▶ Clark County School District, STEM Education and Awareness
- ▶ University of Nevada, Reno, High Density Advisory Board
- ▶ Vegas PBS
- ▶ Las Vegas Metro Chamber of Commerce
- ▶ Las Vegas Global Economic Alliance

Economic Development

MSTS is committed to providing a fair and competitive environment for small businesses. The company places great importance upon the competitiveness of the marketplace and the timely procurement of products and services that meet the highest standards of quality and reliability.

MSTS will display a “Good Faith Effort” regarding its commitment to actively support the federal government’s initiatives and laws that enhance and increase the participation of small disadvantaged businesses, veteran-owned small businesses, service-disabled veteran-owned small businesses, small businesses, women-owned small businesses, and historically underutilized business zone small businesses in the subcontracting process. The goals and objectives of the MSTS programs will continue to remain an essential part of the commitment of our parent companies, Honeywell International, Jacobs Engineering, and HII Nuclear Inc.

The NNSS Management and Operating contractor has funding of over \$500 million per year, the majority of the funding staying in Nevada. MSTS is currently the largest high-tech employer in the region, with nearly \$400 million paid last fiscal year in salaries and benefits, and over \$30 million spent on procurements in the state.



Corporate Contributions Strategy

MSTS is committed to invest fee to benefit the communities in which we work and live. To address the greatest challenges faced in our communities, the contributions will leverage resources in two critical focus areas:

Education, including STEM – Includes Nevada Science Bowl, FIRST Nevada, Clark County School District Partnership Program, UNLV College of Engineering Senior Design Project Award, etc.

Community Giving/Volunteerism – Includes American Red Cross, United Way of Southern Nevada, Rebuilding Together Southern Nevada, National Atomic Testing Museum, etc.

Corporate involvement will be geared to the following areas:

Education, focusing heavily on STEM—Approximately 65 percent of allocated budget

- ▶ Build on relationships with UNLV and UNR, the Nevada System of Higher Education, and other universities. This may include financial support such as campuses improvements, fellowship or scholarship opportunities, and award programs.
- ▶ Financial support for the Nevada Science Bowl.
- ▶ Financial support for the FIRST programs.
- ▶ Financial support for the Future City competition.
- ▶ Financial support for the established Clark County School District focus school partnerships.

- ▶ Sponsorship of traveling exhibits, displays, or kiosks that educate the public on current NNSS mission. These exhibits could be displayed in local museums, community centers, public arenas and other areas as appropriate.
- ▶ Provide scholarships to high school/undergraduate students. These scholarships can be provided to school districts/colleges within the areas in which we work. Also evaluate a program to provide scholarship opportunities to children of our employees.
- ▶ Sponsor participation in science-related camps/activities within our communities, including participation in science fairs/events, educational science broadcasts and science demonstrations in public arenas.
- ▶ Sponsor partnerships with local schools that offer STEM emphasis.

Community Giving/Volunteerism—Approximately 35 percent of allocated budget

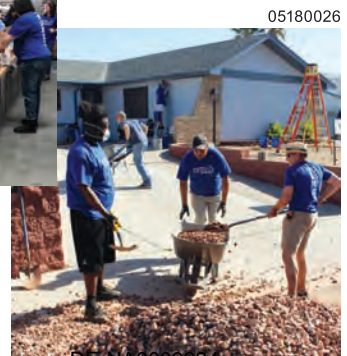
- ▶ Participate in sponsorship opportunities with United Way of Southern Nevada, in conjunction with the annual employee giving campaign.
- ▶ Support employee volunteerism for community agency activities (Three Square Food Bank; Clean the World; Rebuilding Together; non-profit walks/runs; blood drives, etc.).
- ▶ Establish sponsorship opportunities with other community organizations that have ties to the NNSS mission (such as American Red Cross of Southern Nevada, with an annual Hero Award for firefighters; veterans' organizations, etc.).
- ▶ Sponsor branding opportunities for the NNSS in our local communities (Nellis AFB Aviation Nation;

- Opportunity Village Magical Forest, etc.).
- ▶ Support local community drives, both over the holidays as well as during the rest of the year.
- ▶ Support partnership with the National Atomic Testing Museum, including corporate membership activities.
- ▶ Evaluate opportunities to recognize and reward employee volunteerism by contributing a set amount to approved non-profits of choice, based on employee volunteer hours.
- ▶ Interact with the Las Vegas Metro Chamber of Commerce, supporting the chamber's activities such as Leadership Las Vegas positions and their Military Affairs Committee activities.

Conclusion

Evaluating the plan's effectiveness will ensure that all corporate investments offer opportunities for employee involvement, recruiting and brand recognition. The ultimate goal is to get our local communities to recognize the NNSS contributions to our areas, both as a positive economic impact as well as being recognized as the largest high-tech employer in southern Nevada. Additional information regarding MSTS' impact on the community can be referenced:

- ▶ Small Business Subcontracting Plan and Small Business Participation, Section J, Appendix I of the contract DE-NA0003624
- ▶ Community Outreach Plan, Appendix G, Section 12 Community Outreach



SECTION J

APPENDIX N

CONSTRUCTION WAGE RATE DETERMINATIONS

(Mod 0076)

- a. NV170001 Mod 3 (03-03-2017 NV1) (15 pgs)
- b. NV170061 Mod 0 (01-20-2017 NV61) (10 pgs)
- c. NV170064 Mod 0 (01-20-2017 NV64) (11 pgs)
- d. NV710071 Mod 0 (01-20-2017 NV71) (8 pgs)
- e. NV170075 Mod 1 (01-27-2017 NV75) (14 pgs)

NV170001 Mod 3 (03/03/2017 NV1)

NV170001 MOD 3 REVISED 05/26/17 NV1

***** THIS WAGE DETERMINATION WAS REPLACED ON 05/26/17*****

General Decision Number: NV170001 03/03/2017

Superseded General Decision Number: NV20160001

State: Nevada

Construction Types: Building, Heavy and Highway
NEVADA TEST SITE (NTS), TONOPAH TEST RANGE (TTR) AND NATIONAL
TEST AND TRAINING RANGE (NTTR) ONLY

Counties: Clark, Lincoln and Nye Counties in Nevada.

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.20 for calendar year 2017 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.20 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2017. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/06/2017

1	01/20/2017
2	01/27/2017
3	03/03/2017

ASBE0135-001 01/01/2017

	Rates	Fringes
Asbestos/Insulator Worker.....	\$ 42.00	19.23

Includes application of all insulation materials, protective coverings, coatings and finishes to all mechanical systems.

BOIL0092-001 01/01/2013

	Rates	Fringes
BOILERMAKER.....	\$ 33.50	27.02

BRNV0003-003 07/01/2016

	Rates	Fringes
BRICKLAYER.....	\$ 37.74	10.09
MARBLE SETTER.....	\$ 42.32	9.79
TERRAZZO WORKER/SETTER.....	\$ 42.32	9.79
TILE FINISHER.....	\$ 29.03	7.27
TILE SETTER.....	\$ 39.69	9.79

CARP1780-007 07/01/2016

	Rates	Fringes
CARPENTER		
Carpenters.....	\$ 38.33	18.53
Millwrights.....	\$ 36.69	21.17

ZONE PAY:

0 to 40 miles radius from intersection of Maryland Parkway and Charleston Blvd in Las Vegas: Free Zone

40 to 60 miles radius: \$2.50 additional per hour

Over 60 miles radius: \$4.25 additional per hour

Laughlin Area: \$2.00 additional per hour

ELEC0357-002 10/01/2015

Including Nevada Test Site and the Tonopah Test Range

	Rates	Fringes
ELECTRICIAN.....	\$ 48.72	17.36+3%

ZONE PAY:

Zone 1: Work performed within Nevada Test Site (NTS): \$2.00 per hour additional.

Zone 2: Work performed within Tonopah Test Range (TTR): \$2.50 per hour additional.

Zone 3: Work performed within Nevada Test and Training Range (NTTR): Excluding Nevada Test Site and Tonopah Test Range: \$2.50 per hour additional.

ELEV0018-002 01/01/2017

	Rates	Fringes
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ELEVATOR MECHANIC.....\$ 52.21 31.585

FOOTNOTE:

Employer contributes 8% of the basic hourly rate for over 5 years service and 6% of the basic hourly for 6 months to 5 years service as Vacation Pay Credit. Eight paid Holidays: New Years Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Friday after Thanksgiving, and Christmas Day.

 ENGI0012-005 10/01/2016

	Rates	Fringes
POWER EQUIPMENT OPERATOR		
GROUP 1.....	\$ 41.39	23.65
GROUP 2.....	\$ 42.34	23.65
GROUP 3.....	\$ 42.63	23.65
GROUP 4.....	\$ 44.12	23.65
GROUP 5.....	\$ 45.22	23.65
GROUP 6.....	\$ 44.34	23.65
GROUP 7.....	\$ 45.44	23.65
GROUP 8.....	\$ 44.45	23.65
GROUP 9.....	\$ 45.55	23.65

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

GROUP 1: Air Compressor; Pump or Generator Operator; Engineer- Oiler and Signalman; Blade Operator; Rotary Drill Tender (Rotary and Core); Steam Cleaner/Pressure Washer; Switchman or Brakeman; Gupie Operator(Cement).

GROUP 2: Concrete Mixer Operator; Skid Type Conveyor and Beltman; Fireman; Generator; Pump or Compressor Operator (2 to 5 Units inclusive, over 5 units; \$0.10 per hour for each additional unit up to 10 units; portable units);

Generator; Pump or Compressor Plant; Hydrostatic Pump
Motorman (rotary and core); PJU Side Dump Jack; Screening
and Conveyor machine Operator (or similar type);
Skiploader; Wheeltype; Ford; Ferguson; Jeep or similar
type, 3/4 yard or less (without drag-type attachments);
Temporary Heating Plant Operator; Truck Crane Oiler.

GROUP 3: A-frame or Winch Truck Operator; Bobcat or similar
type (Skid Steer); Derrickman (Rotary and Core); Dinky
Locomotive or Tunnel Motor operator; Elevator Hoist
Operator; Equipment Greaser; Ford, Ferguson or similar type
(with drag-type attachments); Global Position Systems
Chainman and Rodman; Hydra-Hammer or similar type
equipment; Material Hoist/Outside manlift Operator; Power
concrete Curing Machine; Power Concrete Saw Operator (or
similar type); Power-Driven Jumbo Form Setter; Ross Carrier
Operator; Self-Climbing Scaffold (or similar type);
Self-propelled Tar Pipelining Machine; Stationary Pipe
Wrapping and Cleaning Machine Operator; Towblade Operator.

GROUP 4: Asphalt Plant Fireman; Boring Machine; Boring
System Electronic Tracking Locator; Boxman or Mixer Box
(concrete or asphalt plant); Fishing Tool Engineer;
Highline Cableway Signalman; Horizontal Directional
Drilling Machine; Instrumentman; Locomotive Engineer; Micro
Tunneling (above ground tunnel); Mud Plant Operator; Power
Sweeper Operator; Roller Operator, Compacting; Screed
Operator; Seeder Trenching Machine Operator (up to 6ft.
depth capacity, manufacturer's rating) Vacuum Truck.

GROUP 5: Asphalt or Concrete Spreading; Mechanical Tamping
or Finishing Machine Operator- roller (all types and
sizes); soil, cement, asphalt finish; Asphalt Plant
Engineer; Deck Engine; Grade Checker; Pavement- breaker;
Pneumatic heading shield- Tunnel; Road Oil Mixing Machine;
Forklift, under five tons; Rubber-tired, heavy duty
equipment (Oshkosh; DW Euclid, Letourneau; Laplant-Choate,

or similar type equipment with any type attachments); Skidloader; wheeltype, over 3/4 yds., up to and including 1 1/2-yards; Slip Form Pump (power-driven hydraulic lifting device for concrete forms); Tractor Operator Drag-Type Shovel; Bulldozer; Tamper Scraper and Push Tractor.

GROUP 6: Batch Plant; Bulk Plant Concrete Mixer-paving; Concrete Mobile Mixer; Concrete Pump or Pumpcrete Gun; Crushing Plant Engineer; Dandy Digger; Driller (rotary and core); Elevating Grade; Forklift, over 5 tons; Grade-all; Heavy Duty Welder; Highline Cableway; Hoist (Chicago boom and mine); Jumbo Pipe Carrier; Kolman Belt Loader and similar type; Lift slab machine; Loader Operator- Athey, Euclid, Hancock, Sierra or similar type; Machinist; Micro Tunnel System (below ground); Motor Patrol (any type or size); Ozzie Padder (or similar type), Pneumatic Concrete Placing Machine Hackley- Presswell or similar type; Pneumatic Pipe Ramming Tool (and similar types); Rotomill; Sewer Plant; Shovel, Backhoe, Dragline, Clamshell, Derrick, Derrick Barge, Crane Piledriver and Mucking Machine; Shuttle Buggy; Skiploader, wheeltype, over 1-1/2 yds.; Surface Heater and Planer; Tractor Loader - Crawler type all types and sizes; Tractor, with boom attachments; Traveling Pipe Wrapping, Cleaning and Bending Machine; Trenching Machine (over 6 ft. depth capacity, manufacturer's rating); Tunnel Boring Machine; Water pull (compaction); water Well Driller.

GROUP 7: Heavy Duty Repairman; Body and Fender Mechanic; Global Position Systems Party Chief; Heavy Duty Welder

GROUP 8: Combination Heavy Duty Repairman and Welder.

GROUP: 9 Rubber Tired, Tandem, Multiple Engine, Earth-Moving Equipment; Sewer Treatment Plant Operator.

IRON0118-001 01/01/2017

	Rates	Fringes
IRONWORKER		
Fence Erectors.....	\$ 29.58	21.24
Ornamental, Reinforcing and Structural.....	\$ 36.00	29.80

LABO0872-002 07/01/2016

	Rates	Fringes
LABORER		
GROUP 1.....	\$ 26.00	24.69
GROUP 2.....	\$ 26.21	24.69

GROUP 1: Building/office cleanup; Cement dumper; Cesspool digger & installer; Concrete curer; Dry packing concrete & filling of bolt holes; Fence builder; Fine grader, Highway & Street; Flagperson; Gas & oil pipeline laborer; Gas & oil pipeline wrapper - pot tender and form man; Guineau chaser; Laborer-packing rod steel and plans; Laborer (General) construction cleanup, etc; Laborer demolition; Landscape gardener, nurseman and grounds keeper; Making & caulking of all nonmetallic pipe joints; Paving, airport run ways & similar work; Rip rap work; Rip rap stone paver; Roto scraper; Sandblaster (pot tender); Scaler; Septic tank digger and installer (leadman); Tank scaler and cleaner; Tool attendant(jobsite only); Tree climber; Faller, Chain saw, Pittsburg chipper and similar type brush shedders, Window cleaners.

GROUP 2: Asbestos abatement/rad worker; Asphalt raker, Ironer, Spreader; Buggymobile man; Concrete core cutter, Sawman and Cement grinding, Cribber or shorer, Cutting torch (demolition); Driller, Gas and oil pipeline wrapper;

Hard rock slinger; Jackhammer, Driller and/or pavement breaker; Laying of all nonmetallic pipe, including sewer pipe, drain pipe and underground tile; Machine tool op., (operator and tenders of pneumatic & electric tools, Vibrating machines and similar mechanical tools not separately classified herein, including hand guided ditch witch and hand- type rooler); Pesticide, Herbicide, Insecticide applicator; Powder man; Rock Slinger, Sandblaster (nozzleman); Steel Headerboard man.

 PAIN0159-003 07/01/2016

	Rates	Fringes
PAINTER (Including Drywall Finishing and Paper Hanging).....	\$ 37.04	15.88

 PLAS0797-004 07/01/2014

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER....	\$ 35.18	13.70

 PLUM0525-002 10/01/2016

	Rates	Fringes
PLUMBER/PIPEFITTER.....	\$ 41.41	21.40

ZONE PAY:

- Zone A (Las Vegas)-No Zone Pay
 - Zone B (NTS)-Add \$2.00/hour
 - Zone C (TTR)-Add \$2.50/hour
-

ROOF0162-001 08/01/2015

	Rates	Fringes
ROOFER.....	\$ 24.88	8.49

SFNV0669-003 04/01/2016

	Rates	Fringes
SPRINKLER FITTER.....	\$ 39.34	20.83

SHEE0088-002 08/01/2016

	Rates	Fringes
SHEET METAL WORKER.....	\$ 42.82	25.74

Zone 1: 0 to 30 miles	\$0.00
Zone 2: 30 to 50 miles	\$2.50
Zone 3: 50 to 100 miles (including Laughlin)	\$3.50
Zone 4: over 100 miles	\$5.00

* TEAM0631-002 07/01/2016

	Rates	Fringes
TRUCK DRIVER		
GROUP 1.....	\$ 27.95	24.67
GROUP 2.....	\$ 28.05	24.67
GROUP 3.....	\$ 28.26	24.67
GROUP 4.....	\$ 28.44	24.67
GROUP 5.....	\$ 28.94	24.67

ZONE PAY:

ZONE 1: All work within 30 road miles of City Hall in Las Vegas shall be considered a Free Zone.

ZONE 2: All work 30 to 50 road miles from City Hall in Las Vegas shall receive \$1.50 additional per hour.

ZONE 3: All work 50 to 70 road miles from City Hall in Las Vegas shall receive \$2.50 additional per hour.

ZONE 4: All work over 70 road miles from City Hall in Las Vegas shall receive \$3.50 additional per hour.

TRUCK DRIVERS CLASSIFICATIONS

GROUP 1: Light duty driver.

Light duty drivers shall include: service truck drivers, dump truck drivers of less than 16 yards water level, truck driver with legal payload capacities of less than 20 tons, road oil spreader truck drivers, water truck drivers under 4,000 gallons, and passenger bus drivers on the jobsite.

GROUP 2: Bootman; Truck greaser; Tireman; Light Vehicle Dispatcher.

GROUP 3: Heavy duty driver; Forklift driver; Warehouseman; Forklift driver; Equipment Parts

GROUP 4: Extra heavy duty driver; Forklift driver (over 15 tons).

GROUP 5: Off road and special equipment.

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular

rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007

in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter

* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative

Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

NV170061 Mod 0 (01/20/2017 NV61)

NV170061 MOD 0 REVISED 07/07/17 NV61

***** THIS WAGE DETERMINATION WAS REPLACED ON 07/07/17*****

General Decision Number: NV170061 01/20/2017

State: Nevada

Construction Type: Heavy

HEAVY CONSTRUCTION PROJECTS (including sewer/water construction).

County: Clark County in Nevada.

EXCLUDES NEVADA TEST SITE (NTS), TONOPAH TEST RANGE (TTR) AND NATIONAL TEST AND TRAINING RANGE (NTTR)

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.20 for calendar year 2017 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2017. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts

Modification Number Publication Date

0 01/20/2017

ELEC0357-010 06/01/2016

	Rates	Fringes
ELECTRICIAN		
Excluding Low Voltage.....	\$ 43.83	19.21
Low Voltage Wiring Only.....	\$ 43.48	19.19

ELEC0396-001 06/01/2016

	Rates	Fringes
LINE CONSTRUCTION		
Groundman.....	\$ 22.71	13.31
Heavy Equipment Operator....	\$ 34.97	14.88
Lineman.....	\$ 45.27	15.68

ENGI0012-019 10/01/2016

	Rates	Fringes
POWER EQUIPMENT OPERATOR		
(Backhoe/Excavator/Trackhoe)		
Group 4.....	\$ 44.12	23.65
Group 8.....	\$ 44.45	23.65
Group 10.....	\$ 44.57	23.65
Group 12.....	\$ 44.74	23.65
Group 16.....	\$ 45.07	23.65

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

Group 4: Backhoe Operator (Mini-Max or similar type);
 Excavator Track/Rubber-Tired (Operating weight under 21,000
 lbs.)

Group 8: Backhoe Operator (up to an including 3/4 yd); (over 3/4 yd); Excavator Track/Rubber-Tired - (Operating Weight 21, 000 lbs. - 100, 000 lbs.)

Group 10: Backhoe Operator (over 5 cu. yds)

Group 12: Backhoe Operator (over 7 cu. yds); Excavator Track/Rubber-Tired - (Operating Weight 21, 000 lbs. - 100, 000 lbs.)

Group 16: Excavator Track/Rubber-Tired - (Operating Weight exceeding 200,000 lbs.)

ENGI0012-020 10/01/2016

	Rates	Fringes
POWER EQUIPMENT OPERATOR		
GROUP 01.....	\$ 41.39	23.65
GROUP 04.....	\$ 44.12	23.65
GROUP 06.....	\$ 44.34	23.65
GROUP 08.....	\$ 44.45	23.65
GROUP 10.....	\$ 44.57	23.65
GROUP 12.....	\$ 44.74	23.65

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

GROUP 1: Oiler

GROUP 4: Greaser (Tractor/Truck); Screed Operator (Asphalt or Concrete); Rock Wheel Saw/Trencher

GROUP 6: Heavy Duty Repairman/Mechanic

GROUP 8: Loader Operator (Athey, Euclid, Sierra and similar types); Compactor (self-propelled); Drilling Machine

Operator, Bucket or Auger Types (Calweld 150 Bucket or similar types - Watson 1500, 2000, 2500 Auger or similar types - Texoma 700, 800 Auger or similar types - drilling depth of 60' maximum); Grade Checker; Tractor Operator (any type larger than D-5 - 100 flywheel h.p. and over, or similar - Bulldozer, Tamper, Scraper and Push Tractor, single engine); Rubber-Tired Scraper Operator (self-loading paddle wheel type - John Deere, 1040 and similar single unit).

GROUP 10: Grader/Blade (Motor Patrol - Blade Operator) (single engine).

GROUP 12: Vermeer Rock Trencher (or similar type).

IRON0416-002 01/01/2017

	Rates	Fringes
IRONWORKER, REINFORCING.....	\$ 36.00	29.80

IRON0433-002 01/01/2017

	Rates	Fringes
IRONWORKER, STRUCTURAL.....	\$ 36.00	29.80

LABO0169-015 10/01/2016

	Rates	Fringes
LABORER		
(1) Cones/ Barricades/ Barrels-		
Setter/Mover/Sweeper.....	\$ 24.85	9.81
(1A) Flagger.....	\$ 21.98	9.81

(3) Asphalt Shoveler, Spreader and Distributor....\$ 25.10	9.81
(4) Asphalt Raker; Pipelayer.....\$ 25.35	9.81

LABO0872-003 07/01/2016

	Rates	Fringes
LABORER		
(1) Common or General.....\$ 26.00		24.69
(3) Mason Tender- Cement/Concrete; Concrete Saw.....\$ 26.31		24.69

PLAS0797-007 07/01/2016

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...\$ 37.51		14.62

PLUM0525-003 10/01/2016

	Rates	Fringes
PLUMBER/PIPEFITTER.....\$ 41.41		21.40

SUNV2014-024 09/08/2016

	Rates	Fringes
BRICKLAYER.....\$ 27.36		0.00
CARPENTER, Includes Form Work....\$ 31.78		16.03
OPERATOR: Bobcat/Skid Steer/Skid Loader.....\$ 29.93		0.00

OPERATOR: Broom/Sweeper.....	\$ 36.66	12.22
OPERATOR: Paver (Asphalt, Aggregate, and Concrete).....	\$ 28.99	0.00
OPERATOR: Roller.....	\$ 27.35	0.00
TRUCK DRIVER: Dump Truck.....	\$ 22.43	0.00

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses

(29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator

U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

NV170064 Mod 0 (01/20/2017 NV64)

NV170064 MOD 0 REVISED 05/26/17 NV64

***** THIS WAGE DETERMINATION WAS REPLACED ON 05/26/17*****

General Decision Number: NV170064 01/20/2017

State: Nevada

Construction Type: Heavy

HEAVY CONSTRUCTION PROJECTS (including sewer/water construction).

County: Nye County in Nevada.

EXCLUDES NEVADA TEST SITE (NTS), TONOPAH TEST RANGE (TTR) AND
NATIONAL TEST AND TRAINING RANGE (NTTR)

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.20 for calendar year 2017 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2017. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts

Modification Number Publication Date

0 01/20/2017

CARP1977-001 11/21/2016

	Rates	Fringes
CARPENTER (Including Form Work)	\$ 38.33	18.53

ELEC1245-003 06/01/2016

	Rates	Fringes
LINE CONSTRUCTION		
Groundman	\$ 33.25	14.32
Lineman	\$ 54.44	15.83

ENGI0003-016 07/01/2016

	Rates	Fringes
POWER EQUIPMENT OPERATOR		
GROUP 07	\$ 32.05	17.88
GROUP 08	\$ 32.64	17.88
GROUP 10	\$ 33.31	17.88
GROUP 10A	\$ 33.50	17.88
GROUP 11	\$ 33.74	17.88
GROUP 11A	\$ 35.35	17.88

GROUP 7: Screed/Screedman (except asphaltic or concrete paving); (Barber-Greene and similar) (asphaltic or concrete paving).

GROUP 8: Loader

GROUP 10: Gradesetter, Grade Checker

GROUP 10A: Power Shovels, Clamshells, Draglines, Cranes (up to and including one [1] cu. yd.); Grader/Blade (Finish Blade).

GROUP 11: Power Shovels, Clamshells, Draglines, Backhoes, Gradalls (over one [1] cu. yd. and up to and including seven [7] cu. yds. m.r.c.) (Assistant to Engineer required) (Two [2] Assistants to Engineer required on 120B, similar or larger).

GROUP 11A: Power Shovels, Clamshells, Draglines, Backhoes and Gradalls (over seven [7] cu. yds. m.r.c.) (Assistant to Engineer required; an additional Assistant to Engineer is required if the shovel or dragline is electrically powered).

 ENGI0003-024 07/01/2016

	Rates	Fringes
POWER EQUIPMENT OPERATOR		
(09) Mechanic and Backhoe		
Loader Combo.....	\$ 34.80	20.67

 ENGI0012-014 10/01/2016

	Rates	Fringes
POWER EQUIPMENT OPERATOR		
(Crane)		
GROUP 12.....	\$ 46.54	23.65
GROUP 16.....	\$ 47.96	23.65
GROUP 17.....	\$ 48.46	23.65
GROUP 19.....	\$ 50.49	23.65
GROUP 20.....	\$ 51.10	23.65
GROUP 21.....	\$ 57.71	23.65
GROUP 22.....	\$ 52.47	23.65

GROUP 23.....\$ 52.93 23.65

GROUP 12: Crane Operator (up to including 40 ton capacity)

GROUP 16: Crane Operator (over 40 tons up to and including 79 tons)

GROUP 17: Crane Operator (Including 80 tons up to and including 150 tons)

GROUP 19: Crane Operator (over 150 tons up to and including 200 tons)

GROUP 20: Crane Operator (over 200 tons up to and including 250 tons)

GROUP 21: Crane Operator (over 250 tons up to and including 300 tons)

GROUP 22: Crane Operator (over 300 tons up to and including 350 tons)

GROUP 23: Crane Operator (over 350 tons)

 ENGI0012-019 10/01/2016

	Rates	Fringes
POWER EQUIPMENT OPERATOR		
(Backhoe/Excavator/Trackhoe)		
Group 4.....	\$ 44.12	23.65
Group 8.....	\$ 44.45	23.65
Group 10.....	\$ 44.57	23.65
Group 12.....	\$ 44.74	23.65
Group 16.....	\$ 45.07	23.65

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

Group 4: Backhoe Operator (Mini-Max or similar type);
Excavator Track/Rubber-Tired (Operating weight under 21,000
lbs.)

Group 8: Backhoe Operator (up to an including 3/4 yd); (over
3/4 yd); Excavator Track/Rubber-Tired - (Operating Weight
21, 000 lbs. - 100, 000 lbs.)

Group 10: Backhoe Operator (over 5 cu. yds)

Group 12: Backhoe Operator (over 7 cu. yds); Excavator
Track/Rubber-Tired - (Operating Weight 21, 000 lbs. - 100,
000 lbs.)

Group 16: Excavator Track/Rubber-Tired - (Operating Weight
exceeding 200,000 lbs.)

IRON0416-002 01/01/2017

	Rates	Fringes
IRONWORKER, REINFORCING.....	\$ 36.00	29.80

IRON0433-002 01/01/2017

	Rates	Fringes
IRONWORKER, STRUCTURAL.....	\$ 36.00	29.80

LABO0169-027 10/01/2016

	Rates	Fringes
LABORER		

(1) Common or General.....	\$ 24.85	9.81
(3) Concrete Saw (Hand Held/Walk Behind); Mason Tender - Cement/Concrete;...	\$ 25.10	9.81
(4) Pipelayer.....	\$ 25.35	9.81

LABO0872-013 07/01/2016

	Rates	Fringes
LABORER		
(1) Landscape.....	\$ 26.00	24.69
(2) Asphalt Raker, Shoveler, Spreader and Distributor.....	\$ 26.21	24.69

SUNV2014-031 09/08/2016

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 40.26	0.00
ELECTRICIAN.....	\$ 38.02	13.40
OPERATOR: Bobcat/Skid Steer/Skid Loader.....	\$ 49.59	7.48
OPERATOR: Mechanic.....	\$ 32.97	17.65
OPERATOR: Roller.....	\$ 41.60	12.77
TRUCK DRIVER: Dump Truck.....	\$ 31.77	4.16
TRUCK DRIVER: Water Truck.....	\$ 16.64	4.16

WELDERS - Receive rate prescribed for craft performing

operation to which welding is incidental.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local),

a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the

wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
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2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
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200 Constitution Avenue, N.W.
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The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION



NV170071 Mod 0 (01/20/2017 NV 71)

NV170071 MOD 0 REVISED 06/09/17 NV71

***** THIS WAGE DETERMINATION WAS REPLACED ON 06/09/17*****

General Decision Number: NV170071 01/20/2017

State: Nevada

Construction Type: Building

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

County: Nye County in Nevada.

EXCLUDES NEVADA TEST SITE (NTS), TONOPAH TEST RANGE (TTR) AND NATIONAL TEST AND TRAINING RANGE (NTTR)

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.20 for calendar year 2017 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2017. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/20/2017

ASBE0016-011 08/01/2016

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR.....	\$ 46.96	23.10

ELEC0401-010 07/01/2016

	Rates	Fringes
ELECTRICIAN.....	\$ 38.50	16.82

IRON0118-008 01/01/2017

	Rates	Fringes
IRONWORKER, STRUCTURAL.....	\$ 36.00	29.80

LABO0169-035 10/01/2016

	Rates	Fringes
LABORER		
(1) Common or General.....	\$ 24.85	9.81
(3) Concrete Saw (Hand Held/Walk Behind), Mason Tender- Cement/Concrete.....	\$ 25.10	9.81
(4) Pipelayer.....	\$ 25.35	9.81

PAIN0159-004 07/01/2016

	Rates	Fringes
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PAINTER (Brush and Roller).....\$ 37.04 15.88

PAIN0567-018 07/01/2016

Rates Fringes

PAINTER

Drywall Finishing/Taping....\$ 29.42 12.04

Spray.....\$ 26.04 11.54

SHEE0026-008 08/01/2016

Rates Fringes

SHEET METAL WORKER (HVAC Unit

Installation Only).....\$ 29.09 24.92

SUNV2014-006 09/08/2016

Rates Fringes

CARPENTER, Includes Drywall

Hanging, and Form Work.....\$ 35.75 13.82

CEMENT MASON/CONCRETE FINISHER...\$ 28.56 13.57

HVAC MECHANIC: HVAC DUCT

INSTALLATION ONLY.....\$ 43.01 21.60

OPERATOR:

Backhoe/Excavator/Trackhoe.....\$ 45.02 10.71

OPERATOR: Grader/Blade.....\$ 37.68 6.04

OPERATOR: Loader.....\$ 46.74 3.97

PLUMBER.....\$ 29.19 16.12

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

* an existing published wage determination

- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
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END OF GENERAL DECISION

NV170075 Mod 1 (01/27/2017 NV75)

NV170075 MOD 1 REVISED 05/26/17 NV75

***** THIS WAGE DETERMINATION WAS REPLACED ON 05/26/17*****

General Decision Number: NV170075 01/27/2017

State: Nevada

Construction Type: Building

County: Clark County in Nevada.

EXCLUDES NEVADA TEST SITE (NTS), TONOPAH TEST RANGE (TTR) AND NATIONAL TEST AND TRAINING RANGE (NTTR)

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.20 for calendar year 2017 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2017. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/20/2017

1

01/27/2017

ASBE0135-002 07/01/2016

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR.....	\$ 42.00	18.23

BRNV0013-007 06/01/2016

	Rates	Fringes
BRICKLAYER.....	\$ 37.74	10.09

BRNV0013-009 07/01/2016

	Rates	Fringes
TILE FINISHER.....	\$ 29.03	7.27
TILE SETTER.....	\$ 39.69	9.79

CARP1607-003 07/01/2016

	Rates	Fringes
MILLWRIGHT.....	\$ 36.69	20.00

CARP1977-002 11/21/2016

	Rates	Fringes
CARPENTER (Includes Acoustical Ceiling Installation, Drywall Hanging, Form Work, Metal Stud Installation, and Batt		

Insulation).....	\$ 38.33	17.36
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ELEC0357-009 06/01/2016

	Rates	Fringes
ELECTRICIAN (Includes Low Voltage Wiring and Installation of Alarms and Sound and Communication Systems).....	\$ 43.83	19.21

* ELEV0018-005 01/01/2017

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 52.21	31.585

FOOTNOTE:

Employer contributes 8% of the basic hourly rate for over 5 years service and 6% of the basic hourly for 6 months to 5 years service as Vacation Pay Credit. Eight paid Holidays: New Years Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Friday after Thanksgiving, and Christmas Day.

ENGI0012-016 10/01/2016

	Rates	Fringes
POWER EQUIPMENT OPERATOR		
GROUP 01.....	\$ 41.39	22.60
GROUP 02.....	\$ 42.34	22.60
GROUP 03.....	\$ 42.63	22.60
GROUP 04.....	\$ 44.12	22.60
GROUP 05.....	\$ 45.22	22.60

GROUP 06.....	\$ 44.34	22.60
GROUP 08.....	\$ 44.45	22.60
GROUP 10.....	\$ 44.57	22.60
GROUP 12.....	\$ 44.74	22.60
GROUP 16.....	\$ 45.07	22.60
GROUP 25.....	\$ 46.24	22.60

GROUP 01: Forklift - less than 5 tons

GROUP 02: Forklift - 5 tons or more

GROUP 03: Bobcat

GROUP 04: Backhoe/Trackhoe - under 3/4 cy; Excavator - under 21,000 lbs.; Greaser - Truck; Concrete Pump - Portable; Screed

GROUP 05: Greaser - Tractor/multi-shift Truck

GROUP 06: Roller

GROUP 08: Paver - Asphalt, Aggregate, and Concrete; Mechanic; Excavator - 21,000 lbs. to 100,000 lbs.; Loader; Backhoe/Trackhoe - 3/4 cy to 5 cy

GROUP 10: Backhoe/Trackhoe - 5 cy to 7 cy

GROUP 12: Excavator - 100,000 lbs. to 200,000 lbs.; Grader/Blade; Backhoe/Trackhoe - over 7 cy

GROUP 16: Excavator - over 200,000 lbs.

GROUP 25: Concrete Pump - truck mounted

ENGI0012-018 10/01/2016

	Rates	Fringes
POWER EQUIPMENT OPERATOR		
GROUP 04.....	\$ 44.45	22.60
GROUP 05.....	\$ 44.57	22.60
GROUP 06.....	\$ 44.74	22.60
GROUP 07.....	\$ 44.91	22.60
GROUP 08.....	\$ 45.07	22.60
GROUP 09.....	\$ 45.75	22.60
GROUP 10.....	\$ 45.91	22.60
GROUP 12.....	\$ 46.54	22.60
GROUP 13.....	\$ 46.91	22.60
GROUP 15.....	\$ 47.91	22.60
GROUP 16.....	\$ 47.96	22.60
GROUP 17.....	\$ 48.46	22.60
GROUP 18.....	\$ 48.91	22.60
GROUP 19.....	\$ 50.49	22.60
GROUP 20.....	\$ 51.10	22.60
GROUP 21.....	\$ 51.71	22.60
GROUP 22.....	\$ 52.47	22.60
GROUP 23.....	\$ 52.93	22.60

GROUP 04: Hoist - Chicago Boom or Similar; Bridge Crane;
Creator Crane; Polar Gantry Crane

GROUP 05: Pedestal Crane

GROUP 06: Hoist - Stiff Legs, Guy Derrick, or similar, 25
tons or less

GROUP 07: Hoist - Stiff Legs, Guy Derrick, or similar, 25
tons to 50 tons; K-Crane; Polar Crane; Self-erecting Tower
Crane - 10 tons or less

GROUP 08: Oiler - 40 tons to 200 tons

GROUP 09: Oiler - Over 200 tons

GROUP 10: Hoist - Stiff Legs, Guy Derrick, or similar, 50 tons to 100 tons

GROUP 12: Crane - 40 tons or less

GROUP 13: Hoist - Stiff Legs, Guy Derrick, or similar, 100 tons to 200 tons

GROUP 15: Hoist - Stiff Legs, Guy Derrick, or similar, 200 tons to 300 tons

GROUP 16: Crane - 40 tons to 79 tons

GROUP 17: Crane - 80 tons to 150 tons

GROUP 18: Tower Crane; Hoist - Stiff Legs, Guy Derrick, or similar, greater than 300 tons

GROUP 19: Crane - 150 tons to 200 tons

GROUP 20: Crane - 200 tons to 250 tons

GROUP 21: Crane - 250 tons to 300 tons

GROUP 22: Crane - 300 tons to 350 tons

GROUP 23: Crane - Over 350 tons

IRON0416-003 01/01/2017

	Rates	Fringes
IRONWORKER, REINFORCING.....	\$ 36.00	29.80

IRON0433-004 01/01/2017

	Rates	Fringes
IRONWORKER, ORNAMENTAL.....	\$ 36.00	29.80
IRONWORKER, STRUCTURAL.....	\$ 36.00	29.80

LABO0169-037 10/01/2016

	Rates	Fringes
LABORER		
(4) Pipelayer.....	\$ 25.35	9.81

LABO0872-015 07/01/2016

	Rates	Fringes
LABORER		
(1) Laborer: Common or General, Landscape.....	\$ 26.00	24.69
(3) Mason Tender - Brick, Mason Tender - Cement/Concrete, Pipelayer..	\$ 26.31	24.69

PAIN0159-005 07/01/2016

	Rates	Fringes
PAINTER (Brush, Roller, Spray & Drywall Finishing/Taping).....	\$ 37.04	15.88

PAIN2001-002 03/18/2016

	Rates	Fringes
GLAZIER.....	\$ 43.61	22.10

PLAS0797-005 07/01/2014

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 35.18	13.70
PLASTERER.....	\$ 33.40	13.96

PLUM0525-006 10/01/2016

	Rates	Fringes
PIPEFITTER.....	\$ 41.41	21.40
PLUMBER (Includes HVAC pipe installation, Excludes HVAC unit installation).....	\$ 41.41	21.40

ROOF0162-004 08/01/2015

	Rates	Fringes
ROOFER.....	\$ 24.88	8.49

SFNV0669-002 04/01/2016

	Rates	Fringes
SPRINKLER FITTER (Fire Sprinklers).....	\$ 39.34	20.83

SHEE0088-004 08/01/2016

	Rates	Fringes
SHEET METAL WORKER (Includes HVAC Duct Installation).....	\$ 42.82	25.74

Zone 1: 0 to 30 miles \$0.00

Zone 2: 30 to 50 miles	\$2.50
Zone 3: 50 to 100 miles (including Laughlin)	\$3.50
Zone 4: over 100 miles	\$5.00

 TEAM0631-001 07/01/2016

	Rates	Fringes
TRUCK DRIVER (Dump Truck).....	\$ 27.95	24.67

 SUNV2014-010 09/08/2016

	Rates	Fringes
FLOOR LAYER: SOFT FLOORS.....	\$ 31.28	10.81
HVAC MECHANIC: HVAC UNIT INSTALLATION.....	\$ 38.57	20.93
MASON - STONE.....	\$ 23.30	0.00

 WELDERS - Receive rate prescribed for craft performing
 operation to which welding is incidental.

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preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

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average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

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END OF GENERAL DECISION

Contract DE-NA0003624, Section J, Appendix O
CLIN 0003 CAPITAL ASSET PROJECTS
SubCLIN 0003A
138kV Power Transmission System Replacement (PTSR)
Statement of Work/Terms and Conditions

DESCRIPTION/SPECIFICATIONS/STATEMENT OF WORK

1. Project Description

The work of this project includes the design and installation of new 138 kV transmission power lines, installation of communication and security fiber optic lines, access road, and demolition of existing transmission power lines and poles tie into existing system.

More specifically, the project shall replace existing fiber optic (F/O) communication cabling route with the 138 kV transmission line. The communication cabling shall include 144 strands of single mode fiber optic cable and compatible with wavelength equipment. The new 138 kV transmission line will be designed to be ± 100 feet, parallel to the existing 138 kV transmission line, where possible. The design of the structures shall be similar to the structures used for the Hill 200 Project. The 138 kV PTSR project shall be managed to meet environmental, safety, and health hazards requirements through documented and approved analysis of work scope and practices as required. Steps will need to be taken to develop an appropriate Avian Protection Plan to protect migrating and predatory birds. The project at Nevada National Security Site (NNSS) shall ensure the conservation and protection of biological resources in accordance with the site's controlling procedure, CD-P420.001, Conservation and Protection of Biological Resources. Protection of cultural resources must be accomplished in accordance with site procedure CD- P420.002, Protection of Cultural Resources.

1.1 Background

The NNSS safely conducts high-hazard operations, testing, and training in support of National Nuclear Security Administration (NNSA), the U.S. Department of Energy (DOE), the U.S. Department of Defense, and other agencies. The NNSS helps ensure the security of the United States and its allies by supporting the stewardship of the nuclear deterrent, providing emergency response capability and training, and contributing to key non-proliferation and arms control initiatives. Its immense size (over 1,360 square miles) and remote location needs a reliable, robust, and dependable utility infrastructure (power, roads, information technology, water, etc.) to support mission requirements.

The NNSS Enterprise Risk Management system has identified aging infrastructure as the highest risk at the site. Specific risks have been further evaluated based on existing and projected deficiencies across the mission critical nuclear and high-hazard facilities and supporting infrastructure. The vulnerability of the existing degraded 138 kV Site Power System (SPS) has been evaluated as one of the highest specific site risks. Further, the current NNSS communications network is composed of obsolete copper wire-based technology. Closing the

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capability gap on achieving highly reliable power and communications to NNSA mission-critical facilities drives the mission need for this project. This project will ensure the reliable capability for electrical power and distribution of vital communications across the NNSA such that the mission-critical experimental and support facilities can meet their DOE and NNSA objectives of sustaining the safety, reliability, and performance of the nuclear stockpile.

The Mission Need for this project is to restore reliability for the power distribution system. The existing NNSA 138 kV Power Transmission System (PTS), which was originally constructed about 1963, provides primary transmission and secondary power distribution to various complexes, facilities, buildings, and other infrastructure site-wide through a loop configuration. The existing capacity of the PTS is adequate to support both ongoing and anticipated future mission work. However, the system is aging and experiencing degradation due to the harsh desert environment of the NNSA and requires replacement to provide reliable power to nationally important nuclear facilities. The 138 kV PTSR also carries the site's fiber optic (F/O) backbone and the F/O cable that supports the site's Supervisory Control and Data Acquisition (SCADA) system. Replacement of the PTS offers the opportunity to also upgrade the site's communication system by installing new higher-capacity F/O cable co-located with the new transmission conductors. The NNSA needs reliable electrical power and distribution of vital communications across the site such that the mission critical experimental and support facilities can meet their NNSA and other national security agency mission objectives of sustaining the safety, reliability, and performance of the nuclear stockpile.

1.2 Pre-Conceptual Engineering Documents for Reference

Preliminary design documents have been prepared to support Critical Decision-1 (CD-1) assessment and approval, demonstrating technical feasibility and constructability for the project.

The following preliminary engineering documents are available and or provided to the Contractor for reference:

1.2.1 Design Plans

The "preliminary" design plans (estimated at 15-30% complete) were generated for the 138 kV PTSR project under Mission Support Test Services (MSTS) by Burns and McDonald dated 1/19/2018.

These plans are included with this contract for reference and as a general guide for the Designer of Record (DOR) in their preparation of a complete design. The final

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design drawings prepared using computer aided design & drafting (CADD) shall be in accordance with this contract.

1.2.2 Specifications

The limited selection of “preliminary” technical specifications are included with this contract that were prepared with the “preliminary” design documents under MSTs by Burns and McDonald. These specifications are included for reference and general guidance and are not considered final for this Project. It is the responsibility of the DOR to prepare a complete set of technical specifications specific for the 138 kV PTSR project. The final technical specifications shall be prepared in accordance with the requirements of this contract.

1.2.3 Basis of Design

The preliminary Basis of Design (BOD) document is included with this contract that was prepared with the preliminary design plans and specification under MSTs by Burns and McDonald. It is the responsibility of the DOR to prepare and finalize a Basis of Design specific to their design for the 138 kV PTSR Project. The BOD shall be submitted to the Government with each design submittal package indicated in this SOW.

1.2.4 Electronic Files

Other electronic files may be available for use in preparing the design documents that are the responsibility of the DOR to review and reference as necessary. It is the Contractor’s obligation to ensure that the electronic files considered, used and referenced as part of this project are accurate, correct and appropriate for the design of the 138 kV PTSR Project.

DOR shall review and consider the following documents in preparing the 138 kV PTSR project:

- NNSS 138-kV Pre-Conceptual Design Submittal
- NNSS 138-kV Line Replacement Pre-Conceptual Design Report
- NNSS 138-kV PTSR Pre-Conceptual Design Specification Sections BM-6000, SPC-E01 thru SPC- E10
- 20180412_ExitBrief_138kV_IPR_CD-1 Technical Slides
- 20180319_LOIs_138kV_CD1_IPR_DraftACD (Consolidated NFO Comments)
- PPEP-0400.001, Preliminary Project Execution Plan for PTSR Project

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1.2.5 NNSA Reference Documents

The Contractor is responsible for obtaining, reviewing and using the appropriate and necessary NNSA and DOE Orders/Guidelines in preparing the 138 kV PTSR project design, performing construction activities and managing the project. The following lists some of the expected documents that will/may relate to the project include but are not limited to this list:

1. DID-ENG-0004, Conceptual Design Report
2. DID-ENG-0011, Feasibility Study
3. DID-ENG-0018, Technology Readiness Assessment
4. DID-PM-0018, Risk Management Plan
5. DID-PM-0003, Configuration Management Plan
6. DID-PM-0025, Nuclear Quality Assurance Program Plan
7. DID-PM-0031, Quality Assurance Plan
8. DID-PRG-0003, Key Performance Parameters
9. DID-PRG-0006, Performance Baseline
10. DID-SAF-0001, Conceptual Safety Design Report
11. DOE O 413.3B, Program and Project Management for the Acquisition of Capital Assets
12. DOE G 413.3-21A, Cost Estimating Guide
13. OP-ENGR-009, Engineering Design Process
14. 10 CFR Part 851 Appendix A, Section 1(a)1
15. 10 CFR Part 851 Appendix A, Section 1(d)
16. Bulletin 1724E-200 Design Manual for High Voltage Transmission Lines (Latest Edition)
17. United States National CAD Standard® (NCS).
18. Uniform Drawing System (UDS)
19. NNSA Business Operations Procedure (BOP)
 - a. BOP 413.1 Admin Chg. 1, Value Management (VM)
 - b. BOP 413.2 Admin Chg. 1 Program Requirements Document for Construction Projects
 - c. BOP 413.3 Independent Cost Estimates Procedure
 - d. BOP 413.7 Project Management for the Acquisition of Capital Assets
 - e. BOP 413.8 Energy Systems Acquisition Advisory Board Equivalent (ESAAB-E)Process BOP's are located and available to the contractor at the following link. CO will provide access to the contractor upon request:

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[https://directives.nnsa.doe.gov/nnsa-directives-browse#start=0&c4=Business+Operating+Procedure+\(BOP\)&c1=Office+of+Enterprise+Project+Management](https://directives.nnsa.doe.gov/nnsa-directives-browse#start=0&c4=Business+Operating+Procedure+(BOP)&c1=Office+of+Enterprise+Project+Management)

2. Progress/Compliance

2.1 Project Management, Planning, and Reporting Services

The Contractor shall conduct project planning activities, including the development, implementation, and maintenance of project schedules, events, status of resources, report(s) on the activities, and progress toward accomplishing project objectives more specifically identified in the subparagraphs below. The Contractor shall prepare and submit the following reports, at minimum, to the Government to monitor progress and ensure compliance:

- Weekly Meetings
- Monthly Progress Report
- Project Management Team (PMT) Meetings
- Program Reviews
- Outlines and Drafts

The various reports shall be submitted to the Government for review and acceptance for content and layout. Contractor generated reports and meeting requirements will be dynamic and change in level of content depending project activities and construction cycle. Any Contractor errors or omissions to the report that require changes and/or amendments will be at no cost to the Government.

2.2 Schedule and Planning Requirements

The Contractor shall create and maintain a Critical Path Method (CPM) schedule in accordance with general condition requirements of this contract.

2.2.1 Work Breakdown Structure (WBS) Requirements

The contractor shall prepare and submit a WBS as specified in this contract for Government for approval. The WBS shall be submitted for review prior to the Initial Project Kickoff meeting. The WBS shall be consistent across the project work elements including design, construction, invoicing, price-loaded schedule of values and schedule activities. All tasks and work activities required under this contract shall be included in the WBS. The Contractor shall include and maintain a WBS dictionary describing each component of the WBS with milestones, deliverables, activities, scope, and sometimes dates, resources, and quality.

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2.3 Self-Certification

The Contractor shall develop and implement a self-certification, verification and validation process to confirm to the Government that the technical contract requirements and responsibilities have been met. Technical submittals including supporting documents shall be checked and certified by appropriately qualified person(s) before the documents are submitted to the Government.

2.4 Meeting and Charrette Services

2.4.1 Site Visits

The Contractor shall coordinate and support all its sub-tier contractors' on-site visits related to the project to conduct reviews, inspections of the site and infrastructure, and or to verify project requirements.

2.4.2 Design Review Meetings

The Contractor shall coordinate and conduct Design Review meetings for the [60%, and 90%] design submittals with the Government. The Contractor shall ensure that all appropriate engineering/design/construction personnel attend these reviews. Review conference and meetings shall include project managers, DOR, discipline leads, quality control, scheduling, construction PM, NNSS operations managers/leads and safety personnel.

Review meetings will be the responsibility of the contractor to host; announcing and publishing location, date(s) and time with a minimum of 30 calendar days prior to the meeting date. The table below provides guidance as to approximately when design review conferences and meeting shall occur.

Deliverable	Time
NTP	
Preliminary Design (60%) Submittal	NTP + 36 weeks
NNSA Preliminary Design (60%) Review	3-week review
Preliminary Design Review (60%) Onsite Meeting	NTP + 39 weeks (1-week duration)
Design Development (90%) Submittal	NTP + 47 weeks
NNSA Design Development (90%) Submittal Review	1-week review
Design Development (90%) Onsite Meeting	NTP + 49 weeks (1-week duration)
Final A/E Design Documents Submittal	NTP + 52 weeks
Submit Issue for Construction	

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2.4.3 Travel

Review conferences / meetings will be held at or near the NNSS site in North Las Vegas, Nevada. Review Meetings are tentatively planned to be 5 days with travel and visitor badging conducted on Mondays. Departures should be planned for Friday's after 12 PM (noon) PST).

3. Project Scope Work

3.1 General Scope of Work Services

The Design-Build Contractor work is defined as all services, labor, materials, equipment, supervision and other efforts to be provided and performed by the Contractor including, but not limited to, the following general categories:

- 3.1.1 Prepare and update documents per CD -2/3 requirements of DOE O 413.3B
- 3.1.2 Provide Design Engineering Services.
- 3.1.3 Coordinate with project stakeholder the most practical alignment meeting project and stakeholder requirements.
- 3.1.4 Provide engineering economic analysis, cost estimates and value engineer with project stakeholders.
- 3.1.5 Incorporate Geotechnical challenges and considerations including any necessary environmental licensing, impact mitigation, and ROW considerations in determining route selection of design facilities / transmission lines.
- 3.1.6 Provide Scheduling
- 3.1.7 Provide environmental studies as necessary for compliance with site environment compliance documents and impact mitigation.
- 3.1.8 Provide environmental mitigation.
- 3.1.9 Provide surveying and mapping necessary for design and construction.
- 3.1.10 Prepare and obtain any permits required from Federal, State, and Local agencies having jurisdiction within the project boundaries or otherwise needed.
- 3.1.11 Provide design and technical specifications for the project.
- 3.1.12 Prove for removal of hazardous materials.
- 3.1.13 Prepare and provide design construction drawings and plans including tie in to existing system and facilities.
- 3.1.14 Provide design services during construction including submittal and RFI review.
- 3.1.15 Provide all construction activities necessary to complete the contract.
- 3.1.16 Provide quality inspection and testing
- 3.1.17 Provide verification and validation
- 3.1.18 Provide construction safety and security

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- 3.1.19 Maintain Red Line Drawings of actual field construction conditions and installation
- 3.1.20 Prepare CADD As-built Construction Drawing based on redline drawing of actual field construction conditions.
- 3.1.21 Provide design and technical specifications for a new replacement fiber optic cable and SCADA systems to be installed on the new steel poles included all design tie-in to existing systems and or facilities.
- 3.1.22 Provide coordination, testing, commissioning and turn-over of all new installed systems complete and operating.
- 3.1.23 Provide and implement Traffic Plans as necessary to support construction activities.
- 3.1.24 Provide design, technical specifications and coordination associated with traffic plan including road closures/detours related to construction.
- 3.1.25 Provided design and construction of permanent improvements necessary as part of right-of-way, including but not limited to improvements related to maintenance of access.
- 3.1.26 Contractor shall ensure positive drainage for all improvements
- 3.1.27 Comply with site controlling documents including but not limited to Health Safety, Environmental, Biological, Cultural Historical Regulatory, and local governing site documents.
- 3.1.28 Implementation of Contractor's warranty for the Project after construction completion
- 3.1.29 Coordination with jurisdictional authorities (governments, public, and private entities)
- 3.1.30 Other efforts necessary or appropriate to complete the design and construction of the project, and to ensure the project achieves the key performance parameters, supporting NNSS site operations, especially in the Mission Corridor.
- 3.1.31 Prepare CD-4 documents per requirements of DOE O 413.3B
The Contractor shall provide design and construction for the installation of the new 138 kV power transmission line, installation of communication and security fiber optic lines, access road and demolition of existing transmission power lines and poles complete in place tie in of new system to the transmission system. The Contractor shall be responsible for establishing and controlling the plan and profile of the transmission line alignment. The Contractor shall identify, design, install, and maintain a temporary protective layer over operating utilities to protect the utility from degradation or damage through the construction period.

3.2 Services and Requirements

The Contractor shall provide Design-Build services for the 138 kV PTSR Project meeting the requirements for the key performance parameters and satisfying CD-4 of DOE O 413.3B

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achieving an operational system in its entirety at the National Nuclear Security Site (NNSS), Mercury, Nevada.

The Contractor is responsible for reviewing the Basis of Design documents, "Preliminary" Engineering Drawings, Technical Specifications, and other CD-1 documents for the preparation and completion of the 138 kV PTSR Project design and construction.

3.2.1 Location of Services

The location for the services shall be at the National Nuclear Security Site (NNSS), Mercury, Nevada.

3.2.2 Period of Performance

The work shall proceed after the issuance of the Notice to Proceed (NTP) by the Government. Period of performance shall be as follows:

941 calendar days for design, construction and all phases of project requirements CD-2 through CD-4

3.2.3 Codes and Standards

The Contractor shall review and analyze current design, industry and regulatory design, construction code, requirements for applicability to this design and construction project.

The

Contractor shall comply with all applicable (1) federal, state, and local environmental statutes, instructions, manuals, handbooks, regulations, guidance, policy letters, and rules (including all changes and amendments), and (2) Presidential Executive Orders, in effect on the date of issuance of this contract. Location-specific documents required in support to carry out this contract will be provided by NNSA.

3.2.3.1 Design Drawing Layer Naming Convention

The Contractor shall incorporate and use a layer naming convention. If a NNSA layer naming conventions is not available, the DOR shall use the American Institute of Architects (AIA) CAD Layer Guidelines and or the latest version of the United States National CAD Standard® (NCS) for developing the layer naming conventions.

3.2.3.2 Organization, Drafting Conventions, Symbols Convention

The DOR shall incorporate and use drawing conventions. If an approved convention is not available, the Contractor shall use the Uniform Drawing System (UDS) for standardizing computer-aided-drafting design (CADD) services. The designer must adhere to the requirements established to ensure

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consistence in organizing and managing the design drawings across the disciplines and drawings.

3.2.4 Interface Coordination and Design Integration

The Contractor shall be responsible for coordinating the interfaces and performing design integration with adjacent utilities, systems, site operations, and the Government.

3.2.5 CD-2/3 and CD-4 Document Preparation Requirements

The Contractor shall prepare and update the requirements listed in the table below in accordance with DOE O 413.3B Appendix A Tables 2.2 CD -2 Requirements, Table 2.3 CD-3 Requirements and Table 2.4 CD-4 Requirements. Items indicated in the sections "Post CD-2 Approval" "Post CD-3 Approval" and "Post CD-4" of Table 2.2, Table 2.3 and Table 2.4 respectively are INCLUDED in this SOW.

Submissions shall be in accordance with the progress submittals commencing after receipt of Notice to Proceed. Each document shall be included in the CPM schedule developed as part of the overall Contractor's schedule. Documents shall be included in the Contractor's CPM and have a FINAL (milestone) deliverable dates as noted below until there is a mutually agreed to CPM schedule. The Contractor shall follow and update the referenced PEP POAM for CD-2/3 and CD-4 throughout the design and construction of the 138 kV PTSR Project.

CD-2/3 REQUIREMENTS FOR 138 kV POWER TRANSMISSION SYSTEM REPLACEMENT PROJECT (LINE ITEM PROJECT)

Deliverable	Completion Date (NLT)
Quality Management Plan Update	NTP + 36 weeks
Construction Project Hazard Analysis	NTP + 36 weeks
Commissioning Plan Update	NTP + 36 weeks
Construction Test and Inspection Plan Permitting Requirement Document	NTP + 36 weeks
Waste Management Plan	NTP + 36 weeks
Hazard Analysis Report	NTP + 36 weeks
Transition to Operations Plan	NTP + 36 weeks
Operations & Maintenance Training Plan WBS Dictionary and Basis of Estimate Update	NTP + 36 weeks
Baseline Estimate	NTP + 36 weeks
Baseline Schedule	NTP + 36 weeks

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Project Controls Plan	NTP + 36 weeks
Review Quality Assurance Program	NTP + 36 weeks
Keep PDS Current	NTP + 36 weeks
Project Execution Plan	NTP + 49 weeks
Acquisition Strategy Update	NTP + 49 weeks
Risk Management Plan Update	NTP + 49 weeks
Risk Assessment Report Update	NTP + 49 weeks
Risk Register Update	NTP + 49 weeks
Perform IPR to validate PB	NTP + 49 weeks
Update ICE/ICR for CD-2/3 Readiness	NTP + 49 weeks
Procurement Subcontracting Plan	NTP + 49 weeks
Complete NEPA	NTP + 49 weeks
Establish a Performance Baseline	NTP + 49 weeks
Ensure compliant EVMS	NTP + 49 weeks
Lessons Learned regarding up-front project planning and design. Lessons learned, and best practices will be captured throughout the project. .	NTP + 10 weeks
At the completion of the project, a final lessons learned report will be prepared, distributed, and placed in the project records within 60 days of CD 4 approval. The report will be a compilation of the lessons learned issued during the project.	CD4 Approval + 8 Weeks

After completing CD 2/3 the Contractor shall conduct the following:

1. Submit all CD documents, and if there are changes to the PB, submit BCP documents to PM.
2. Continue monthly PARS II reporting (excluding earned value data).
3. Continue Monthly Project Review (MPR) with the PME or their designee.
 - a. The contractor may provide an abridged MPR briefing template in the proposal or state the standard NNSA APM template will be used for the MPR updates
4. Within 60 days, submit Lessons Learned regarding up-front project planning and design to PSO and PM.

**CD-4 REQUIREMENTS FOR 138 kV POWER TRANSMISSION SYSTEM REPLACEMENT
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Deliverable	Completion Date (NLT)
Issue a Project Transition to Operations Plan	NTP + 100 weeks
Readiness to Operate Assessment	NTP + 100 weeks
Final Commission Plan	NTP + 100 weeks
Final Hazard Analysis Report	NTP + 100 weeks
Environmental Management System (DOE O436.1, as appropriate)	NTP + 100 weeks
Post CD-4 Approval:	09/2023
Lessons Learned regarding project execution and facility start-up	CD4 approval + 8 weeks
Initial Project Closeout Report	CD4 approval + 8 weeks 12/2023

The Contractor shall submit the required documents for CD 2/3 and 4 in accordance with the above description. The Government will provide the appropriate reviews within 30 days of receipt of the appropriate documents and provide back to the contractor a consolidated, de-conflicted set of comments.

3.2.6 Site Design Data

The Contractor shall perform all necessary field reconnaissance, surveys, and site investigations required to obtain engineering information and design data for the accomplishment of the contract documents of the project in accordance with requirements of this SOW.

3.2.7 Field Measurements

The Contractor shall make its own field investigations to verify dimensions and other information shown on Government furnished reference drawings. The Contractor is responsible for the accuracy of all field measurements necessary for the completion of this contract.

3.2.8 Environmental, Biological and Other Documents

Before completing project required reports and construction drawings, the Contractor shall review and ensure compliance with all regulatory requirements, including but not limited to NEPA, environmental, biological, State Historical Preservations Office (SHIPO), EIS, and NNESS governing documents. Compliance shall be demonstrated through preparation of compliance reports, to be submitted with each design deliverables and monthly during construction activities. The Contractor is responsible for coordinating and preparing all required environmental documents and meeting environmental regulations. The Contractor is responsible for coordinating, completing and obtaining permit related to the construction of the Project.

3.2.9 Material Surveying and Sampling

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All survey(s) and sampling activities shall comply with all applicable Federal, State, and local laws, regulations, codes and procedures. If applicable, the Contractor shall document type and quantities of hazardous materials present on Site. Information gathered from the hazardous materials survey(s) will be incorporated into the design for purposes of potential demolition activities. If hazardous materials are present the Contractor shall prepare a Hazardous Materials Report to be provided with the Preliminary Design Submittal documents. The Contractor shall coordinate with the appropriate entities when desert tortoises are being encountered.

3.2.10 Field Surveying and Topographic Mapping

The Contractor shall provide all field surveying and topographic mapping necessary to prepare the final design documents. The Contractor shall provide all necessary field surveying necessary for construction. Any available photogrammetric data used for preparing the "preliminary" design documents is for the Contractor's reference. The Contractor is responsible for the accuracy of data acquired and used in the design and construction of the project.

3.2.11 Geotechnical

The Contractor shall review available geotechnical data available. However, the Contractor is responsible for obtaining any additional geotechnical data necessary to prepare the final design documents. The geotechnical data used for design shall be indicated in the basis of design document and submitted with the design submittals. The Contractor is responsible for the accuracy of geotechnical data acquired and used in the design and construction of the project.

3.2.12 Structures Reports

The Contractor shall review available structural reports and design data available. The Contractor shall prepare a Structures Reports providing the basis for the design of 138 kV PTSR structural elements. The Contractor shall also include a Pole Selection Report for each different pole. The Pole Selection Report will be subject to Government review and acceptance. The Governments review period for the Pole Selection Report is ten (10) working days.

3.3 Design

The Contractor shall provide the design for the 138 kV PTSR project using licensed professional engineers and designers in accordance with State and Government rules and regulations. All areas of design shall be under the supervision of Professional Registered Engineer. Design shall be based on new materials. The contractor's design shall make all efforts to use commercial off the shelf goods and materials. One-of-a-kind or long-lead items

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shall be identified during the design process prior to the 60% design review submittal such that the overall construction schedule is not increased. The DOR for each discipline, including geotechnical, civil, landscape, structural, mechanical, electrical, and commissioning shall be identified and accounted for on the record drawings. Each respective DOR shall stamp, sign, and date each design drawing under their responsible discipline in accordance with Government and State rules and regulations on the Final/Issue for Construction design documents.

3.3.1 Design Criteria

The Contractor shall review the conceptual design report for design criteria that is contained in Nevada National Security Site (NNSS) 138 kV Transmission Line Replacement – Mission Corridor Conceptual Design Report 03/26/18. The DOR shall use the existing criteria to determine applicability of each criterion for preparing and updating the design criteria and Basis of Design as necessary to ensure the latest code of record and design criteria are utilized in the design of this project. The Contractor shall prepare and submit the design criteria used as the basis for design and construction of the 138 kV PTSR project.

3.3.2 CD-1 Documentation and Reports

CD-1 documentation and reports are available for the Contractor's reference and usage. The Contractor shall review CD-1 documents to confirm technical feasibility and constructability related to their own design development and construction. The Contractor shall prepare the Construction Drawings, Technical Specifications and Reports necessary to complete the 138 kV PSTR Project. The Contractor shall review CD-1 specifications documents and determine applicability of each specification section, to Contractor's final design and construction methods, and determine what additional technical specifications are required.

3.3.3 Technical Specifications

The Contractor's registered professional engineers and DOR shall prepare the technical specification for the 138 kV PTSR Project. The DOR shall be responsible for the compatibility of the design to the planned construction and compliance with the contract provisions. The construction technical-specifications shall be prepared in accordance with latest Construction Specifications Institute (CSI) MasterFormat and SectionFormat. The DOR shall remove all unnecessary and non-project related information from the technical specification. The technical specification shall identify submission requirement, such as shop drawings, product data, samples, installer qualification statements, manufacturer's

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instructions, source and field and quality control submittals necessary prior to commencing construction activities.

The use of "or equal" Clauses for products or materials identified in the technical specifications are allowable to set an acceptable standard, or by specifying by brand or manufacturer's name, followed by the phrase "or equal." When using the "or equal" phrase, more than one acceptable brand or manufacturer's name shall be identified, and the specifications shall state, "Product brand is for informational purposes only and shall not be construed as the only product available." Also, the salient features shall be described. The Designer shall provide the documentation upon which the design was based with the design analysis. It is the DOR responsibility to ensure the product identified as "or equal" are truly equal across all technical requirements of the product. The Contractor shall develop a 138 kV PSTR Submittal Log identifying all submittals required in the project technical specifications and by the SOW. The Submittal Log shall indicate whether the submittals are to be submitted to the Government for "Review", "Information Only", or "Self-Certification". The Submittal Log shall be submitted to the Government with each Design Submission Review and with Monthly Reports during construction.

The Contractor shall prepare construction submittals, including shop drawings, in accordance with of this Scope of Work.

The Contractor shall submit submittals timely, allowing 21 calendar days for review, acceptance and return of submittal documents. Submittals not submitted timely for Government review will be at the risk of the Contractor. The Government is not responsible for delays caused by untimely submissions of submittals.

3.3.4 Value Engineering

Contractor shall initiate, conduct, complete, and implement Value Engineering. Value Engineering shall be completed prior to the 60% preliminary design submittal. The Contractor shall document the value engineering process, methodologies, and procedures. Additional Contractor-initiated value engineering opportunities can be introduced, conducted, and implemented through final design and construction efforts.

3.3.5 Demolition

The Contractor shall prepare a Demolition Plan as part of the design documents. The demolition plan, design and technical specifications shall provide for the demolition of the utility system including the demolition sequence of the utility system. The demolition plan and design shall require removal of buried poles to a depth of 2-4 feet below existing finished grade.

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The design and technical specifications shall account for any material removed as part of the demolition that is not salvageable and shall be removed in accordance with Federal, State, and local site rules and regulations at no cost to the Government.

3.3.6 Recycle and Disposal of Material

The Contractor shall identify salvage and recycle materials and equipment removed/demolished to minimize waste as part of this contract. With the exception of materials specifically indicated or specified to be salvaged or turned over to the Government, all refuse, excess or waste materials resulting from construction operations shall be the responsibility of the Contractor and shall be recycled and/or disposed of in accordance with Federal, State, and local site rules and regulations.

All disposal shall be done in accordance with Federal, State, and local laws, rules, regulations, and requirements at no cost to the Government.

3.3.7 Clearing and Grubbing

The Contractor shall clear and grub the site as necessary. The clearing and grubbing plan and technical specifications shall ensure work is not performed outside the limits of the right-of-way or designated work area or utility easements, minimizing disturbance to natural ground cover.

The design and technical specifications shall include ground restoration requirements.

3.3.8 Access Roads

The Contractor shall design, construct, and maintain temporary access roads for its needs and those that may be required by local jurisdictions and emergency response authorities. The Contractor shall also design, construct, and maintain new permanent access roads required by the project. The Contractor shall coordinate with the local jurisdictions for the location of permanent access roads. Permanent access and maintenance roads shall be able to carry maintenance and emergency vehicles. The design criteria shall be based on site requirements, location and anticipated vehicle usage.

The Contractor shall coordinate design and construction with appropriate site personnel and local agencies having jurisdiction. Additional permanent access roads may be required by emergency response authorities.

3.3.9 Drainage

The Contractor shall prepare design drawings and technical specifications to construct and maintain temporary drainage associated with and a result of this project. The Contractor shall design and construct all permanent drainage systems, such as drainage laterals, to ensure the successful drainage of the project. The drainage shall meet requirements of Federal, State, and local jurisdictions rules, regulations, and

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requirements. The Contractor shall coordinate the design and construction with the local jurisdictions for all drainage.

3.3.10 Utilities

The Contractor shall ensure that existing and planned future utilities are not in conflict with the design and construction of the 138 kV PTSR project. The Contractor shall relocate and/or protect existing utilities in accordance with the requirements of the local agencies having jurisdictions of the in-situ utility and this contract. The Contractor shall coordinate with local jurisdictions and the utility owners throughout the project. The Contractor shall prepare the necessary designs and construct those utilities in conflict with the 138 kV PSTR project.

3.3.11 Grounding and Bonding

The Contractor is responsible for design, installation, and testing, which includes providing the testing procedures for acceptance of all grounding and bonding for the facilities constructed.

3.3.12 Reliability, Availability, and Maintainability

The Contractor shall design, build, and document the project to achieve the required Reliability, Availability and Maintainability (RAM) and accessibility of the project.

3.3.12.1 Reliability.

The Reliability criteria for the project include design life and codes and standards to be applied.

The Reliability criteria include seismic design standards; flood level considerations; and maintainability features to achieve the required service life of the system and structures per the Design Criteria, directive drawings, contract documents, and quality control and assurance processes.

3.3.12.2 Availability

The Contractor shall design, build, and document the project so that the availability of system during the hours of operation of the NNSS site for the duration of its design life is maximized.

Design shall include any planned unavailability of the system for inspection and maintenance.

3.3.12.3 Maintainability

The Contractor shall design and construct the system to minimize preventive and corrective maintenance requirements. The Contractor shall ensure that all required maintenance can be performed during a defined maintenance window. The designer shall provide all maintenance requirements and schedule, including

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time for crews to perform work for future planning. The following additional maintainability requirements shall be ensured in the design and construction:

3.3.12.3.1 Design Life and Maintainability – Components which have a shorter design/service life than the whole structure or system; for example, isolators, or grounding shall include design features to be replaceable or maintainable within the standard maintenance requirement time frame. The time frame shall be defined in operations and maintenance manual.

3.3.12.3.2 Accessibility – The design shall include accessibility provisions aimed at providing rapid access to equipment and structural elements which requires routine maintenance inspection, cleaning or replacement without the need for special tools or equipment.

3.3.13 Commissioning (Cx) During Design

The Contractor shall provide commissioning services for high voltage power transmission lines to prepare the commissioning design, technical specifications, testing documents, and prepare concurrence to operate system certificate. The Cx contractor shall have performed a minimum 5 similar commissioning projects on 64 kV and above transmission lines within the last 5 years. The Contractor shall submit the Cx firm's qualification to the Government for review and concurrence. If the Cx firm is deemed unqualified for the project commissioning the Contractor shall use a different firm at no cost to the Government.

The Cx contractor shall contribute to the development of the appropriate sections in the Basis of Design (BOD) document. The Cx contractor validate the operation of each system to be commissioned and shall participate in design review meetings beginning prior to the Preliminary (60%) Design Review Meeting. The contractor shall submit a Commissioning CX report.

3.4 Design Submittal Requirements

The contractor's submittals shall include all explicit, noted, implied, and referenced items in this contract. The submittals will be reviewed for completeness using the Conceptual and Preliminary Design Implementation Guidance for NNSA Capital Line Projects guidance letter and 138 kV Submission Requirements Matrix. Submissions not meeting the requirements outlined in the attached memorandum and the attached 138kV PTSR Submission Requirements Matrix will be returned and will require resubmission at no cost or time to the Government.

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Each progressive design submittal should build upon the previous information to provide a clear basis of design development and design philosophy fitting to the project.

3.4.1 General Submittal Requirements

The Contractor shall provide Design Submittals to the Government as indicated in this Scope of Work (SOW), and other documents referenced in the Contract Documents. The Contractor shall include in the baseline schedule each Design Submittal and Government review period.

The Contractor shall submit all required items listed utilizing the appropriate form provided by the Contracting Officer as cover sheet/transmittal.

3.4.1.1 Text Documents: All text document submittals shall be delivered in both hardcopy and electronic formats: two (2) hardcopies, hardcopies shall include one (1) loose-leaf copy with additional copies shall be bound volumes, electronic text document files shall be submitted on CDs (non-rewritable) in the native file format (MS Word, MS Excel, MS Project, etc.) and in a .pdf version of the original.

3.4.1.2 Drawing Documents: All drawing document submittals shall be provided in both hardcopy and electronic formats: Two (2) hardcopies, hardcopies shall include one (1) full-size set of bound drawings with additional copies shall be 11x17 sets of bound drawings, electronic files shall be submitted on CDs (non-rewritable) to include the AutoCAD DWG files and pdf version of each drawing file.

3.4.1.3 Review: The Government will require ten (10) business days for review of each submittal. The Submittals found to be incomplete or not in compliance with the SOW and basic contract will be returned to the Contractor for correction and resubmission. Under such circumstances the Government will have an additional review period to commence upon receipt of the revised submittals, and there will be no extension to the Period of Performance (POP). The DOR is required to respond in writing to all review comments and submit their annotated responses prior to the Submittal Review

Conference. The Contractor shall hold Submittal Review Session as part of the 60% and 90% Design

Review Meetings. Review comments with responses by the DOR shall be included in the Design Analysis as an appendix in the subsequent design submittal. All comments must be either accepted and incorporated into the following design submittal or satisfactorily rebutted.

3.4.1.4 Comment Annotations: Annotate all Government furnished comments, noting either the concurrence to incorporate the comment's direction, or the DOR's exception to any comments. Provide for every exception a concise, specific

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explanation of the exception. The DOR shall record all actions in response to all comments. Provide the comments at the review conference.

3.4.1.5 Comment Actions: If any comments change the scope of services required, identify such to the CO for resolution. Upon resolution, any modifications to the design shall become an integral part of the project requirements identified in this SOW. If a submittal contains numerous errors or deficiencies, and/or does not meet the specified requirements, the DOR shall re-submit corrected copies of the submittal. Each submittal must receive concurrence from the CO before proceeding to the next submittal point.

3.4.2 Preliminary Design Submittal (60%)

The Contractor shall submit a preliminary design submittal in accordance with MSTS OP-ENGR.009 and contains the minimum requirements indicated in the 138 kV Submission Requirements Matrix.

Specification submissions shall show changes to the master by using the "Track Changes" function.

Each progressive design submittal should build upon the previous information to provide a clear basis of design development and design philosophy fitting to the project.

The Contractor shall submit minutes of meetings within 5 working days of completion of meeting to project stakeholders.

The Contractor may commence construction on temporary features after the 60% Design Review submittal and meetings are complete. And all technical submittals, permits and requirements must be accepted and approved for the related temporary work. The Contracting Officer will provide written notification to the Contractor acknowledging the requested work on temporary construction features.

Any Contractor errors or omissions to the design that require changes or amendments will be at no cost to the Government.

3.4.3 Design Development Submittal (90%)

The Contractor shall submit a design submittal that incorporates the responses to the preliminary design submittal review comments and design refinements to the preliminary design submittal. The design development submittal shall be at the 90+% completion level and in accordance with MSTS OP-ENGR.009 and contains the minimum requirements as indicated in the 138 kV Submission Requirements Matrix leaving only reviewer comments to be addressed at the final design submittal.

All value engineering shall be completed by the end of this phase, and no functional changes are anticipated after the design development review. Submissions shall show

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changes to master by using "Track Changes" function. Each submission shall indicate changes from previous submission, not all changes to master.

The Contractor shall submit minutes of all meetings within 5 working days of completion to project stakeholders.

Construction may commence after the review and acceptance of the submittal is complete and receiving written notification from the Contracting Officer and/or COR. Any work performed without notification from the Government will be at the sole risk of the Contractor.

3.4.4 Final Design / Issue for Construction Submittal

The Contractor shall submit a Completed Final Design Submittal of the design that incorporates the responses to the Design Development Submittal review comments. The completed final design submittal should include comprehensive drawings, specifications, design analysis, in accordance with MSTS OP-ENGR.009 procedure and the 138 kV Submission Requirements Matrix. The completed final design submittal shall be sealed by the DORs in accordance with State and Governmental rules and regulations. The purpose of the construction document phase is to add the level of detail required for construction of the project, coordinate the trades, and finalize the project's documentation for construction. Once the IFC design has been issued and accepted by the Contractor, the Government will be provided the IFC design in ten (10) working days.

3.5 Post Design Phase

The Contractor shall provide post design services as necessary during construction to include design changes due to field conditions for the 138 kV PTSR project at National Nuclear Security Site (NNSS), Mercury, Nevada. Post design services include but are not limited to:

3.5.1 Submittal Support

Provide verification, review and approve of construction related documents including, shop drawings, samples, diagrams, layouts, conceptual, descriptive literature, illustrations, performance and test data, and similar materials furnished by the construction contractor to ensure compliance and conformance with design documents.

3.5.2 Red Line Review

The contractor shall ensure the DOR reviews the contractor's as-built red line drawings monthly.

Upon completion of the project, Contractor will submit to the Government within thirty (30) working days a complete set of the as-built drawings

3.6 Construction Phase

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The Contractor shall provide construction services necessary to construct and install a complete and operating 138 kV PTSR project in accordance with the design, technical specification, contract including but not limited to those described below. All construction shall use new materials in accordance with federal and local site rules and regulations.

3.6.1 Construction Inspections

As necessary, the contractor shall ensure the DOR performs on-site construction observation services to ensure construction is compliant with the design documents. Provide a site visit report for each site visit that includes a description and photographs of work being performed.

3.6.2 Safety and Security

The Contractor shall be responsible for all work-site safety and security activities. The Contractor shall ensure that the principles of Integrated Safety Management are integrated into its operations and that its Contractor Assurance System (CAS) reflects Contractor integrated performance related to these systems. The Contractor shall ensure that they maintain an approved NNSW Worker Safety and Health Program for the covered workplace. This includes preparing and submitting Site-Specific Health and Safety Plan and Site-Specific Security Plan prior to commencing construction activities. The Contractor may use and reference existing site Health, Safety and Security plans and augment these plans to incorporate specific 138 kV PTSR health, safety, and security requirements. Safety and security documents shall be dynamic and be updated by the contractor as necessary. A copy shall remain at the construction site available to all construction personnel. Any updates or revisions related to safety and security shall be copied to the CO and COR.

3.6.3 Hazardous Material Handling

The Contractor shall remove and dispose of all hazardous material in accordance with Federal, State, and local site laws rules, and regulations.

3.6.4 Utility Work and Coordination

The Contractor shall be responsible for coordinating, delineating, and protecting utilities into the design and construction. The Contractor shall coordinate and incorporate utility shutdowns with stakeholders in accordance with site requirements and regulations. The Contractor is responsible for (cost and repair) any utility line break as a result of their construction activities. The Contractor shall notify the appropriate site authorities and COR if a utility line is broken as a result of construction activities as soon as practical, or within a maximum 8 hours after the event. All excavation shall be performed in accordance with Federal, State, and local site rules and regulations.

3.6.5 Construction-Phase Submittals

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Construction-phase submittals are defined as those submittals required under the construction technical specifications, such as shop drawings, product data, samples, installer qualification statements, manufacturer's instructions, and source and field quality control submittals.

The Contractor shall also maintain status on all submittals required under the construction technical specifications in the Construction Submittal Log. The Construction Submittal log shall be submitted monthly.

The construction-phase submittals shall be subject to Government review and concurrence. As part of the Contractor's self-certification, the Contractor's qualified person(s) and DOR shall confirm that the design intent is being met and that submittal is in compliance with the contract requirements.

3.6.6 Commissioning (Cx) During Construction

A formal Commissioning (Cx) process will be employed in accordance with this contract and shall align with the InterNational Electrical Testing Association (NETA) standard ATS-2017, Standard for Acceptance Testing Specification for Electrical Power Equipment and Systems, approved by American National Standards Institute (ANSI) to assure the new power and communications transmission system above is installed, tested, operated, and maintainable according to the operational requirements of the stakeholders.

Commissioning is a systematic process of ensuring that systems perform interactively according to the design intent and the owner's operational needs. This is achieved through a complete Commissioning process, beginning at the design phase with documented design and operating intent, and continuing through construction and acceptance phases, with actual verification of performance.

3.6.6.1 Commissioning activities during the design phases are intended to achieve the following specific objectives:

3.6.6.1.1 Provide a plan for the implementation of the Commissioning process, including the initial scope of systems to be commissioned for the project

3.6.6.1.2 Ensure that the design and operational intent are clearly documented

3.6.6.1.3 Provide a design review focusing on system performance, maintainability, and adherence to design intent

The Contractor shall use the same commissioning agent used during design development for construction. The commissioning agent shall observe the

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system install for compliance at a minimum of three (3) times during construction and be on site during all system testing.

The Contractor shall coordinate all activities associated with the testing and commission of the system with stake holders and agencies having jurisdictions. The Contractor shall notify stakeholders a minimum of 30 calendars prior to commencing any testing and commissioning. In addition, the Contractor shall notify stakeholders 7 calendar days and 48 hours prior to testing and commissioning to ensure there are no interferences with site operations.

The Cx firm shall prepare and submit to the Government a draft and final Commissioning Report documenting the Cx process, observations, testing procedures, testing results and concurrences that the system is ready for turnover and operation.

3.6.7 Demolition

The Contractor shall not commence demolition of operational systems until the new system is complete, tested and turned over for operations under CLIN 0001 of the current M&O contract and in accordance with the Demolition Plan.

3.6.8 As-Builts

The Contractor shall prepare and submit as-built drawings, signed and sealed, CADD drawings in accordance with contract requirements. As-built drawings shall fully reflect the final, completed, as-built condition, inclusive of works completed by others in support of the project and verified by the Contractor. The Contractor shall survey the installed utilities to verify the actual placement and include information on the CADD as-built drawings.

The Contractor shall prepare and submit as-built specifications, signed and sealed. As-built specifications shall fully reflect the final, completed, as-built condition, inclusive of works completed by others in support of the project and verified by the Contractor. The Contractor shall submit electronic files to the Contracting Officer with as-Built specifications (with tracked changes) and original marked up as-built specifications (hard copies).

The Contractor shall prepare and submit as-built construction-phase submittals. As-built construction-phase submittals shall fully reflect the final, completed, as-built condition. Changes from such submittals shall be documented in the Construction Submittal Log. The Contractor shall keep a current set of prints with "Red Lines" on site at all times noting any deviations or clarifications generated by DOR supplemental instructions and RFI responses. Before completion of construction, the Contractor shall provide the DOR with Red Lines maintained in the field.

3.6.9 Environmental, Biological & SHIPO Mitigations

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The Contractor shall be responsible for complying with all Environmental, Biological, SHIPO, and other similar requirements for this project. The Contractor is responsible for the review, coordination, permitting, design, construction, implementation, and monitoring of the conditions, avoidance, minimization and mitigation measures, project design features, and other environmental commitments included in these documents. The Contractor shall submit a list of all mitigation related measures and features as part of the Environmental Management Plan (EMP) prior to commencing construction to allow the Government to verify completeness and concurrence with the list. The Contractor's shall comply with requirements as specified in the NNESS site guiding documents, rules and regulations.

3.6.10 Construction Options

The Contractor shall include a construction Option 1 pricing for the addition of 138kV Power Transmission Line extending from Tweezer Substation connecting the U1A Facility.

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PART I – SECTION H, SPECIAL CONTRACT REQUIREMENTS

All Special Contract Requirements in Section H of the contract shall apply to the sub-line item 0003A. In addition, special contract requirements below shall be applicable only to SubCLIN 0003A.

H-28 DIFFERING SITE CONDITIONS

FAR Clause 52.236-2 (Differing Site Conditions (APR 1984)), differing site conditions include, but are not limited to, the following types of circumstances:

- Discovery of historical, archeological, or human remains which are subject to preservation/treatment in accordance with federal, state, or local laws, regulations or policies
- Discovery of habitats for species protected under federal, state, or local laws, regulations, or policies
- Discovery of radioactive material
- Discovery of toxic or hazardous materials
- Discovery of unexploded ordnance/explosives

H-29 AVAILABILITY OF UTILITIES

The Contractor may directly utilize, and may allow its subcontractor(s) to utilize government-furnished utilities and similar services (including but not limited to: water, sewer, electricity, telephone, internet, trash, and waste disposal, etc.) to the extent utilities and other similar services are available and accessible for use at the NNSS. There shall be no charge to the Contractor or Subcontractor for the use of government-furnished utilities or other similar services.

Where the utility is produced by the Government, the contractor shall carefully conserve utilities usage. The Contractor, at its expense and in a workmanlike manner satisfactory to the Contracting Officer, shall install and maintain all necessary temporary connections and distribution lines. Before final acceptance of the work by the Government, the Contractor shall remove all the temporary connections, distribution lines, meters, and associated paraphernalia.

H-30 FORCE MAJEURE

Notwithstanding anything to the contrary contained herein, to benefit of this provision the contractor shall, as soon as reasonably practicable after the occurrence of any such event, (a) provide written notice to the Contracting Officer of the nature and extent of any such Force Majeure condition and (b) use commercially reasonable efforts to remove any such causes and resume performance

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under this Agreement and the Ancillary Agreements, as applicable, as soon as reasonably practicable.

In the event of any such excused delay, the time for performance of such obligations shall be extended for a period equal to the time lost by reason of the delay.

Force Majeure conditions: (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather other than those customary for the region.

H-31 SPECIAL ROCK EXCAVATION

(a) Contractor shall be paid the fixed rate of \$1,000 (in addition to the FFP) for each cubic yard of rock which must be excavated in excess of 250 cubic yards.

(a) Definition of Special Rock Excavation – Where applicable for measurement and payment purposes, rock excavation is defined as intact rock material encountered in excavating drilled shafts which cannot be removed with a conventional earth auger and/or underreaming tool, and which requires a rock auger, core barrel, or hand labor using air-powered tools and/or other special excavation procedures. Refusal of the earth auger shall be defined as a penetration rate equal to, or less than, 1 foot per 10-minute period with the full torque and crowd continuously applied. Earth, clay, coal seams, boulders, cobbles, rock fragments, soft fractured materials, or voids encountered between rock units will not be considered rock excavation.

H-32 SALVAGE

The estimated salvage value is \$200,000. Estimated salvage will be credited at actual salvage proceeds. The salvage credit will be administered as a deduction from the total contract value. The total amount of actual salvage will be determined at the time of sale. The Government will withhold the estimated amount of salvage from final payment drawdowns until the contractor provides the salvage credit actuals. The salvage credit actuals will be deducted from the total contract value and the contractor may retain the actual salvage proceeds after remittance of salvage bill of sale.

H-33 PAID LEAVE UNDER SECTION 3610 OF THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT (CARES ACT) TO MAINTAIN EMPLOYEES AND SUBCONTRACTORS IN A READY STATE.

(a) In any request for equitable adjustment to the price (for a fixed-price type contract) or to the hourly rates and materials cost (for a time-and-materials type contract) of this contract, the Contractor may propose and the Government (without requiring consideration but precluding

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additional profit) will treat--for the purpose of beginning negotiations--as allowable (if otherwise allowable per federal regulations) the incurred or estimated costs of paid leave (including sick leave) the Contractor or its subcontractors provide to keep employees in a ready state if--

(1) The employees: cannot perform work on a site approved by the Federal Government (including a federally-owned or leased facility or site) due to facilities closures or other restrictions; and cannot telework because their job duties cannot be performed remotely during the public health emergency declared on January 31, 2020 for COVID-19.

(2) The costs were incurred or will be incurred from January 31, 2020 through December 11, 2020.

(3) The costs do not reflect any amount exceeding an average of 40 hours per week for paid leave.

(b) Where other relief provided for by the CARES Act or any other Act would benefit the contractor or the contractor's subcontractors, including, but not limited to, funds available under sections 1102 and 1106 of the CARES Act, the contractor should evaluate applicability of such benefits in seeking reimbursement under the contract.

(c) The Contractor must represent in any request for reimbursement--

(1) Either: it has not received, has not claimed, and will not claim any other reimbursement for federal funds available under the CARES Act for the same purpose, including, but not limited to, funds available under sections 1102 and 1106 of the CARES Act; or if it has received, claimed, or will claim other reimbursement, that reimbursement or an estimate of it has been reflected in the request for equitable adjustment.

(2) Its request reflects all applicable credits (estimated if necessary), including

- (i) Tax credits, including credits allowed pursuant to division G of Public Law 116-127; and
- (ii) Applicable credits allowed under the CARES Act, including applicable credits for loan guarantees.

(d) The Government's treating--for the purpose of beginning negotiations--the costs as allowable, does not mean the Government--in determining the amount of the equitable adjustment is fair and reasonable--will agree to the Contractor's proposed adjustment to the price or to the hourly rates and materials costs.

H-34 ORDER OF PRECEDENCE

All clauses in the M&O Contract, including Special Contract Requirements in Section H of the Contract, shall apply to the sub-line item SubCLIN 0003A to the extent relevant. In addition, the special contract requirements specified in this Contract modification below shall be applicable only to SubCLIN 0003A. To the extent there are conflicts between the other M&O clauses/requirements

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and the special SubCLIN 0003A clauses/requirements identified herein, the SubCLIN 0003A clauses/requirements shall prevail.

**H-35 TERMINATION OF 138KV POWER TRANSMISSION SYSTEM REPLACEMENT (PTSR),
SubCLIN 0003A IN CASE OF EXPIRATION OR TERMINATION OF CONTRACT NO. DE-
NA0003624**

In the event that Contract No. De-NA0003624 expires or is terminated, the contractor is not liable for the continuation of the 138kV Power Transmission System Replacement (PTSR), SubCLIN 0003A. 138kV Power Transmission System Replacement (PTSR), SubCLIN 0003A shall be terminated for convenience effective on the date of expiration or termination of in accordance with FAR Clause 52.249-2, Termination for the Convenience of the Government (Fixed Price) (Alt. I). The Government shall provide advance notice of the termination consistent with FAR 52.249-2.

(End of clause)

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PART II-CONTRACT CLAUSES, SECTION I

All clauses listed in the contract shall apply to SubCLIN 0003A. All construction and Firm-Fixed Price (FFP) clauses detailed below shall apply to SubCLIN 0003A.

Federal Acquisition Regulation Clauses		
FAR NUMBER	CLAUSE TITLE <i>(Any insertions appear below the title in italics)</i>	DATE OF CLAUSE
52.211-10	Commencement, Prosecution, and Completion of Work <i>(a) 10 calendar days; (c) 941 calendar days</i>	Apr 1984
52.211-12	Liquidated Damages – Construction <i>(a) \$2,000 for each calendar day of delay</i>	Sept 2000
52.211-18	Variation in Estimated Quantity	Apr 1984
52.215-21	Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data - Modifications	Oct 2010
52.222-7	Withholding of Funds	May 2014
52.222-8	Payrolls and Basic Records	Aug 2018
52.222-9	Apprentices and Trainees.	Jul 2005
52.222-10	Compliance With Copeland Act Requirements	Feb 1988
52.222-11	Subcontracts (Labor Standards)	May 2014
52.222-12	Contract Termination – Debarment	May 2014
52.222-13	Compliance With Construction Wage Rate Requirements and Related Regulations	May 2014
52.222-14	Disputes Concerning Labor Standards	Feb 1988
52.222-15	Certification of Eligibility	May 2014
52.222-23	Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity for Construction	Feb 1999
52.222-27	Affirmative Action Compliance Requirements for Construction	Apr 2015

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52.222-31	Construction Wage Rate Requirements – Price Adjustment (Percentage Method)	Aug 2018
52.227-1	Authorization and Consent Alt I (April 1984)	Dec 2007
52.227-4	Patent Indemnity – Construction Contracts	Dec 2007
52.229-3	Federal, State, and Local Taxes	Feb 2013
52.236-2	Differing Site Conditions	Apr 1984
52.236-3	Site Investigation and Conditions Affecting the Work	Apr 1984
52.236-5	Material and Workmanship	Apr 1984
52.236-6	Superintendence by the Contractor	Apr 1984
52.236-7	Permits and Responsibilities	Nov 1991
52.236-8	Other Contracts	Apr 1984
52.236-9	Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements	Apr 1984
52.236-10	Operations and Storage Areas	Apr 1984
52.236-11	Use and Possession Prior to Completion	Apr 1984
52.236.12	Cleaning Up	Apr 1984
52.236-13	Accident Prevention Alternate I	Nov 1991
52.236-15	Schedules for Construction Contracts	Apr 1984
52.236-17	Layout of Work	Apr 1984
52.236-21	Specifications and Drawings for Construction	Feb 1997
52.236-26	Preconstruction Conference	Feb 1995
52.236-27	Site Visit (Construction)	Feb 1995
52.242-14	Suspension of Work	Apr 1984
52.242-17	Government Delay of Work	Apr 1984
52.243-4	Changes	Jun 2007
52.246-12	Inspection of Construction	Apr 1996

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52.246-21	Warranty of Construction	Mar 1994
52.248-3	Value Engineering – Construction	Oct 2015
52.249-2	Termination for the Convenience of the Government (Fixed Price) Alt I (Sep 1996)	Apr 2012
52.249-10	Default (Fixed Price Construction)	Apr 1984
Department of Energy Acquisition Regulation Contract Clauses		
DEAR NUMBER	CLAUSE TITLE <i>(Any insertions appear below the title in italics)</i>	DATE OF CLAUSE
970.5223-7	Sustainable Acquisition Program (OCT 2010), ALT I For Construction Contracts and Subcontracts (OCT 2010)	Oct 2010