

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT		1. CONTRACT ID CODE	PAGE OF PAGES 1 2
2. AMENDMENT/MODIFICATION NO. 0259	3. EFFECTIVE DATE See Block 16C	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. (If applicable)
6. ISSUED BY NNSA/Los Alamos Site Office U.S. Department of Energy NNSA/Los Alamos Site Office 3747 West Jemez Road Los Alamos NM 87544	CODE 05003	7. ADMINISTERED BY (If other than Item 6) NNSA/Los Alamos Site Office U.S. Department of Energy Los Alamos Site Office 3747 West Jemez Road Los Alamos NM 87544	CODE 05003
8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code) LOS ALAMOS NATIONAL SECURITY, LLC Attn: STEVE K. SHOOK P.O. BOX 1663, MS P222 LOS ALAMOS NM 875450001		(x) 9A. AMENDMENT OF SOLICITATION NO.	9B. DATED (SEE ITEM 11)
CODE 175252894 FACILITY CODE		x 10A. MODIFICATION OF CONTRACT/ORDER NO. DE-AC52-06NA25396	10B. DATED (SEE ITEM 13) 12/21/2005

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

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

12. ACCOUNTING AND APPROPRIATION DATA (If required)

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

CHECK ONE	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
X	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: P.L. 95-91 and Other Applicable Laws
	D. OTHER (Specify type of modification and authority)

E. IMPORTANT: Contractor is not, is required to sign this document and return 1 copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)
 The purpose of this modification is to revise and update to Part III, List of Documents, Exhibits, and Other Attachments, Section J, List of Attachments, Appendix C, Appendix K, and Part II, Section I, Contract Clauses, Table of Contents and Clause I-135.

See Page 2.

Period of Performance: 12/21/2005 to 09/30/2018

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

15A. NAME AND TITLE OF SIGNER (Type or print) Paul D. Henry Acting Deputy Laboratory Director	16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) Robert M. Poole
15B. CONTRACTING OFFICER FOR 	16B. UNITED STATES OF AMERICA
15C. DATE SIGNED MAR 12 2014	16C. DATE SIGNED 03/12/2014

The purpose of this modification is to revise and update the following:

- A. Refer to Part III, List of Documents, Exhibits, and Other Attachments, Section J, List of Attachments. The following Appendix is updated and replaced with the new Appendix C, Attachment 1, attached to this modification:

Prime Contract Section J, **Appendix C** – Special Financial Institution Agreement for Use with the Checks-Paid Method of Letter-Of-Credit Financing

- B. Refer to Part III, Section J, **Appendix K** - Sensitive Foreign Nations Control. Appendix K is modified and updated as follows:

1. Pursuant to Prime Contract Clause I-66 DEAR 952.204-71 *Sensitive Foreign Nations Controls (APR 1994)*, a sensitive foreign nation is one of the countries listed in <https://int.lanl.gov/org/padgs/office-counterintelligence/foreign-visits-assignments/sensitive-countries.shtml>, maintained by Contractor's Counterintelligence Office.

- C. Refer to Part II, Section I, Contract Clauses. The following Table of Contents and Clause are updated and replaced with the new Table of Contents and Clause I-135, Attachment 2, attached to this modification.

Prime Contract Part II, Section I, Contract Clauses, **Table of Contents**

Prime Contract Part II, Section I, Contract Clauses, **Clause I-135** - DEAR 970.5244-1 Contractor Purchasing System (Jan 2013)

**Contract Number DE-AC52-06NA25396
(87120-001-03)
Modification Number 3**

SUBCONTRACTOR: Wells Fargo Bank, N.A.
Address: 550 California Street
10 th Floor/A0112-102
San Francisco, CA 94104
Contact: Thomas H. Nugent
Vice President
Relationship Manager
Telephone: 415-398-2456
Facsimile: 415-646-9080
E-mail: thomas.h.nugent@wellsfargo.com

CONTRACTOR: Los Alamos National Security, LLC
Address: P.O. Box 1663, MS D442
Los Alamos, NM 87544
Subcontract Administrator: Lydia Gigax
Telephone: 505-665-7754
Facsimile: 505-667-9939
E-mail: lgigax@lanl.gov

SUBCONTRACTOR is is not required to sign this modification.

The subcontract between CONTRACTOR and SUBCONTRACTOR is modified as described herein. Except as modified, all other terms and conditions remain unchanged and in full force and effect. This modification is effective on the date of signature by the last party to sign.

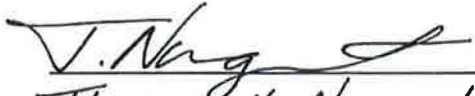
MODIFICATION


- Continued on Page 2 of 2 -

The undersigned personally assert that they are authorized to execute this modification on behalf of the parties.

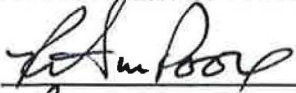
For Financial Institution (SUBCONTRACTOR):

For CONTRACTOR:

By: 
Name: Thomas H. Nugent
Title: U.P.
Date: November 3, 2011

By: 
Name: Charlie McMillan
Title: Laboratory Director
Date: December 20, 2011

For THE UNITED STATES OF AMERICA
BY U. S. DEPARTMENT OF ENERGY

By: 
Name: ROBERT M. POOLE
Title: CONTRACTING OFFICER
Date: 1/3/2012

This modification is to modify COVENANT (7), add Attachment I Fee Schedule, and add invoicing requirements as follows:

Modify COVENANT (7):

From: (7) This Agreement, with all its provisions and covenants, shall be in effect on the 1st day of June, 2006, and ending on the 30th day of September, 2011 unless earlier terminated as provided in this Agreement.

To: (7) This Agreement, with all its provisions and covenants, shall be extended through the 30th day of September, 2016 unless earlier terminated as provided in this Agreement.

Add Attachment I Fee Schedule:

SUBCONTRACTOR hereby agrees to reduce pricing by 12% on the enclosed Attachment I Fee Schedule, titled "Wells Fargo Treasury Management Proposal Pricing as of September 2011". The 12% price reduction will be for items only highlighted in yellow. The discounted pricing shall be effective on the date of signature by the last party to sign this modification and for the period of performance through September 30, 2016.

Add Invoicing requirements:

SUBCONTRACTOR shall include the following statements in each invoice as below:

"SUBCONTRACTOR shall certify that the total payment amount due on this invoice includes the 12% price reduction for applicable selected services items rendered during this invoice period. (Selected services items are those highlighted in yellow per the Attachment I Fee Schedule)"

- End of Modification Number 3 -

Encl. Attachment I Fee Schedule

Cy: Thomas H. Nugent, Wells Fargo Bank, N.A.
Contracting Officer, The United States of America Department of Energy
Charlie McMillan, DIR, Mail Stop: A100
Rochelle L. Follmer, CFO-TPT, Mail Stop: P128
ASM-SUB Subcontract File (87120-001-03), Mail Stop: D442

Los Alamos National Security, LLC
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**SPECIAL FINANCIAL INSTITUTION ACCOUNT AGREEMENT FOR USE
WITH THE PAYMENT CLEARED FINANCING ARRANGEMENT**

Los Alamos National Security, LLC.
Contract Number DE-AC52-06NA25396
Department of Energy Account

This Special Financial Institution Account Agreement (hereinafter referred to as "Agreement") entered into this 31st day of March, 2006, between the UNITED STATES OF AMERICA, represented by the Department of Energy (hereinafter referred to as "DOE") and Los Alamos National Security, LLC, a legal entity existing under the laws of the State of Delaware (hereinafter referred to as the "Contractor") and Wells Fargo Bank, N.A., a national banking association, located at 550 California Street 10th Floor/A0112-102 San Francisco, CA 94104 (hereinafter referred to as the "Financial Institution") and being a member in good standing of the Federal Reserve Bank for general banking services to be performed for the Los Alamos National Laboratory (LANL).

RECITALS

- a) On the effective date of December 21, 2005, DOE and the Contractor entered into Agreement(s) No. DE-AC52-06NA25396, or a Supplemental Agreement(s) thereto, providing for a payment cleared financing arrangement.
- b) DOE requires that funds transferred to the Contractor thereunder be deposited in a Special Demand Deposit Account (hereinafter referred to as the "Account") at a financial institution covered by Department of the Treasury-approved Government deposit insurance organizations that are identified in Volume I TFM 6-9000.
- c) The Account shall be designated "Los Alamos National Security, LLC, Los Alamos National Laboratory, Contract Number DE-AC52-06NA25396, DOE Special Bank Account."

COVENANTS

In consideration of the foregoing, and for other good and valuable considerations, it is agreed that --

- (1) DOE shall have a title to the credit balance in the Account 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 the Account.
- (2) The Financial Institution shall be bound by the provisions of said Agreement(s) between DOE and the Contractor relating to the transfer of funds into and the withdrawal of funds from the Account, which are hereby incorporated into this Agreement by reference, but the Financial Institution shall not be responsible for the application of funds withdrawn from the Account. After receipt by the Financial Institution of written 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.
- (3) DOE, or its authorized representatives, shall have access to financial records maintained by the Financial Institution with respect to such Account 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 six (6) years after the final payment under the Agreement.

Los Alamos National Security, LLC
 Contract No. DE-AC52-06NA25396
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- (4) In the event of the service of any writ of attachment, levy of execution, or commencement of garnishment proceedings with respect to the Account, the Financial Institution shall promptly notify both the DOE and the Contractor as follows:

Notices to the DOE shall be provided to:

U.S. Department of Energy/NNSA
 Financial Services Department
 Albuquerque Division Services Branch
 P.O. Box 5400
 Albuquerque, NM 87185

U.S. Department of Energy/NNSA
 Los Alamos Area Office
 528 35th Street
 Los Alamos, NM 87544

Notices to the Contractor shall be provided to:

Los Alamos National Security, LLC
 Chief Financial Officer, Mail Stop P119
 P.O. Box 1663
 Los Alamos, NM 87545

Los Alamos National Security, LLC
 Procurement, Mail Stop P222
 Attn: Banking Agreement
 P.O. Box 1663
 Los Alamos, NM 87545

Notices to the Financial Institution shall be provided to:

Wells Fargo Bank, N.A.
 Government, Education and Labor Division
 550 California Street
 10th Floor/A0112-102
 San Francisco, CA 94104

- (5) DOE shall authorize funds that shall remain available to the extent that obligations have been incurred in good faith thereunder by the Contractor to the Financial Institution for the benefit of the Account. 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 account collected balance for each calendar month in a net positive position and as close to zero as administratively possible without being negative.

The Financial Institution agrees to service the Account in this manner based on the requirements and specifications contained in the Contractor's Request for Proposal No. 55408-RFP-02, dated May 27, 2003, as amended, which is attached to and incorporated into this Agreement as Attachment A. The Financial Institution agrees that per-item costs, detailed in the form "Schedule of Services and Charges" contained in the Financial Institution's aforesaid proposal will remain constant during the term of this Agreement.

- (6) The Financial Institution shall post collateral, acceptable under United States Department of the Treasury Circular 176, with the Federal Reserve Bank in an amount sufficient to collateralize the highest balance in the Account included in this Agreement, less the Department of the Treasury-approved deposit insurance.
- (7) This Agreement, with all its provisions and covenants, shall be in effect beginning on the 1st day of June, 2006, and ending on the 30th day of September, 2006 unless earlier terminated as provided in this Agreement.

The Contractor has the option to extend the term of the Agreement for up to two (2) years. This would have the agreement valid through September 30, 2008. Written notification of the option to extend will be provided by the Contractor not less than ninety (90) days prior to the expiration of the Agreement.

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- (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 one hundred eighty (180) days prior to the desired termination date. The specific provisions for operating the Account during this one hundred eighty (180) 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 obligations in a manner that precludes administering the program in an effective and efficient manner or that precludes the effective utilization of the DOE's cash resources.
- (10) Notwithstanding the provisions of Covenants 8 and 9, in the event that the Agreement between DOE and the Contractor is not renewed or is 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 by the Contractor.
- (11) The Financial Institution agrees that it will at the Contractor's unilateral discretion retain the Contractor's Account in full force and effect for an additional ninety (90) day period after the expiration or termination date of this Agreement to allow the Contractor to transition services in the event of a successor. During this ninety (90) day period, DOE shall continue funding the Account in accordance with this Agreement.

Upon expiration, termination or at the conclusion of the Agreement, it is further understood that the Financial Institution shall allow for clearance of outstanding payment items:

- (a) The DOE shall place on deposit in the Account sufficient funds to cover all outstanding payment items presented for payment.
- (b) The Financial Institution shall maintain collateral in accordance with U.S. Department of Treasury circular 176 the highest balance in the Account, less Federal Deposit Insurance Corporation coverage on the Account.
- (c) All service charges shall be consistent with the amounts reflected in this Agreement.
- (d) At the conclusion of six (6) months, a complete reconciliation will be performed by the DOE, after which time an account adjustment will be made.

The Financial Institution has submitted the forms entitled "Technical Representations and Certifications," and "Schedule of Services and Charges" which are hereby incorporated by this reference as Attachment B and C respectively. In addition the "Special Financial Institution Account Agreement Statement of Work" are hereby incorporated herein as an integral part of this Agreement as Attachment D.

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IN WITNESS WHEREOF the parties hereto have caused this Agreement, which consists of seven (7) pages, to be executed as of the day and year first above written.

THE UNITED STATES OF AMERICA
BY U.S. DEPARTMENT OF ENERGY

Anthony L. Lovato
(U.S. Department of Energy)

Anthony L. Lovato, Contracting Officer
DOE/NNSA, Los Alamos Site Office

4/28/06

(Date Signed)

Los Alamos National Security, LLC

Michael Ant

(Signature of Contractor's Representative)

Director

(Title)

6/3/06

(Date Signed)

Wells Fargo Bank, N.A.

(Name of Financial Institution)

Barbara Heebner

(Name of Financial Institution Representative)

Barbara Heebner

(Signature of Financial Institution Representative)

Vice President, Relationship Manager

(Title)

550 California St. (10), San Francisco, CA 94104

(Address)

5/23/06

(Date Signed)

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CERTIFICATE

I, William A. Eklund, certify that I am the Secretary of the corporation named as Contractor herein; that Michael Anastasio, who signed this Agreement on behalf of the Contractor, was then President of said corporation; and that said Agreement was duly signed for and on behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

William A. Eklund, May 12, 2006
(Corporate Seal) (Signature)

CERTIFICATE

I, Lisa L. Mercer, certify that I am ~~the~~ an Assistant Secretary of the corporation named as the Financial Institution herein; that Barbara Heebner, who signed this Agreement on behalf of the Financial Institution, was then vice President of said Bank; and that said Agreement was duly signed for and on behalf of said Bank by authority of its by laws and is within the scope of its corporate powers.

Lisa L. Mercer 05/24/06
(Corporate Seal) (Signature)

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CONTRACT FLOWDOWN CLAUSES

A.1 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):

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

NUMBER	DATE	TITLE
52.212-4	DEC 2001	CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS

FAR 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDER - COMMERCIAL ITEMS (Apr 2001) (DEVIATION)

(a) Comptroller General Examination of Record. The Contractor agrees to comply with the provisions of this paragraph (a) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records-Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to the right to examine any of the contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times, the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause of to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(b) The Contractor is not required to include any FAR clause, other than those listed below (and as maybe required by an addenda to this paragraph to establish the reasonableness of prices under Part 15), in a subcontract for commercial items or commercial components-

- (1) 52.222-26, Equal Opportunity (E.O. 112546);
- (2) 52.222-35, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (38 U.S.C. 4212);
- (3) 52.222-36, Affirmative Action for Workers with Disabilities (29 U.S.C. 793);
- (4) 52.247-64, Preference for Privately-Owned U.S.-Flagged Commercial Vessels (46 U.S.C. 1241) (flow down not required for subcontracts awarded beginning May 1, 1996); and
- (5) 52.222-41, the Service contract Act As Amended (41 U.S.C. 351, et seq.) Subcontracts for certain commercial services may be exempt from coverage if they meet the criteria in FAR 22.1103-4(c) or (d) (DoD class deviation number 2000-O0006.

(End of Clause)

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**A.2 LOBBYING RESTRICTION (ENERGY & WATER DEVELOPMENT
APPROPRIATIONS ACT, 2001(NOV 2000))**

The contractor agrees that none of the funds obligated on this contract 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.

Part II – Section I

Contract Clauses

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Part II – CONTRACT CLAUSES

Section I – CONTRACT CLAUSES

I-135 DEAR 970.5244-1 CONTRACTOR PURCHASING SYSTEM (JAN 2013)

(x) Subcontract Flowdown requirements. In addition to terms and conditions that are included in the prime contract which direct application of such terms and conditions in appropriate subcontracts, the contractor shall include the following clauses in subcontracts, as applicable:

- 1) Davis-Bacon clauses prescribed in 48 CFR 22.407.
- 2) Foreign Travel clause prescribed 48 CFR 952.247-70.
- 3) Counterintelligence clause prescribed in 48 CFR 970.0404-4(a).
- 4) Service Contract Act clauses prescribed in 48 CFR 22.1006.
- 5) State and local taxes clause prescribed in 48 CFR 970.2904-1.
- 6) Cost or pricing data clauses prescribed in 48 CFR 970.1504-3-1(b).
- 7) Nondisplacement of Qualified Workers clause prescribed in 48 CFR 22.1207.

970.5244-1 Contractor purchasing system.

As prescribed in 970.4403 insert the following clause:

CONTRACTOR PURCHASING SYSTEM (JAN 2013)

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

(b) *Acquisition of utility services.* Utility services shall be acquired in accordance with the requirements of subpart 970.41.

(c) *Acquisition of Real Property.* Real property shall be acquired in accordance with 48 CFR subpart 917.74.

(d) *Advance Notice of Proposed Subcontract Awards.* Advance notice shall be provided in accordance with 48 CFR 970.4401-3.

(e) *Audit of Subcontractors.*

(1) The Contractor shall provide for—

(i) Periodic post-award audit of cost-reimbursement subcontractors at all tiers; and

(ii) Audits, where necessary, to provide a valid basis for pre-award or cost or price analysis.

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

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

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

(f) *Bonds and Insurance.*

(1) The Contractor shall require performance bonds in penal amounts as set forth in 48 CFR 28.102-2(a) for all fixed-priced and unit-priced construction subcontracts in excess of \$100,000. The Contractor shall consider the use of performance bonds in fixed-price non-construction subcontracts, where appropriate.

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

(3) For fixed-price, unit-priced and cost-reimbursement construction subcontracts greater than \$25,000, but not greater than \$100,000, the Contractor shall select two or more of the payment protections at 48 CFR 28.102-1(b), giving particular consideration to the inclusion of an irrevocable letter of credit as one of the selected alternatives.

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

(g) *Buy American.* The Contractor shall comply with the provisions of the Buy American Act as reflected in 48 CFR 52.225-1 and 48 CFR 52.225-9. The Contractor shall forward determinations of non-availability of individual items to the DOE Contracting Officer for approval. Items in excess of \$100,000 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 \$100,000 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) Davis-Bacon clauses prescribed in 48 CFR 22.407.
 - (2) Foreign Travel clause prescribed in 48 CFR 952.247-70.
 - (3) Counterintelligence clause prescribed in 48 CFR 970.0404-4(a).
 - (4) Service Contract Act clauses prescribed in 48 CFR 22.1006.
 - (5) State and local taxes clause prescribed in 48 CFR 970.2904-1.
 - (6) Cost or pricing data clauses prescribed in 48 CFR 970.1504-3-1(b).
 - (7) Nondisplacement of Qualified Workers clause prescribed in 48 CFR 22.1207.
- (y) *Legal Services*. Contractor purchases of litigation and other legal services are subject to the requirements in 10 CFR art 719 and the requirements of this clause.

(End of Clause)