

PART III

SECTION J

**LIST OF DOCUMENTS, EXHIBITS,
AND OTHER ATTACHMENTS**

PART III

SECTION J

LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS

TABLE OF CONTENTS

<u>Document</u>	<u>Title</u>	<u>Page</u>
Attachment A	Transition Plan	1
Attachment B	Key Personnel.....	2
Attachment C	Small Business Subcontracting Plan	3
Attachment D	Special Financial Institution Account Agreement For Use With The Payments Cleared Financing Agreement.....	4
Attachment E	Applicable Laws And Regulations (List A)	5
Attachment F	Operating And Administrative Requirements (List B).....	10
Attachment G	Sensitive Foreign Nations Control	13
Attachment H	Performance Guarantee Agreement.....	15
Attachment I	Subcontracts, Purchase Orders and Other Actions Requiring DOE Review and Approval and Other Agreements Between The Parties	16
Attachment J	Performance Evaluation Management Plan.....	19
Attachment K	Diversity Plan	20
Attachment L	Employee Concerns Program (ECP) Implementation Plan	21
Attachment M	Equal Opportunity Program	22
Attachment N	Supplemental Requirements To Laws, Regulations, and DOE Directives	23
Attachment O	Commercialization Plan	24
Attachment P	Five Year Strategic Plan.....	25
Attachment Q	Organizational Conflict Of Interest Management Plan	26
Attachment R	Organizational Conflict Of Interest Implementation Program	27

ATTACHMENT A
TRANSITION PLAN
(To Be Completed with Proposal)

ATTACHMENT B

KEY PERSONNEL

(To Be Completed with Proposal)

Pursuant to the clause entitled “Key Personnel,” the following positions are considered to be essential to work being performed.

Name	Parent Organization	Title	Responsibilities	Accountabilities

ATTACHMENT C
SMALL BUSINESS SUBCONTRACTING PLAN
(To Be Completed with Proposal)

ATTACHMENT D

**SPECIAL FINANCIAL INSTITUTION ACCOUNT AGREEMENT FOR
USE WITH THE PAYMENTS CLEARED FINANCING AGREEMENT**

(To Be Completed After Award)

ATTACHMENT E**APPLICABLE LAWS AND REGULATIONS (LIST A)****Necessary and Sufficient Environmental, Safety and Health Standards
Revised: 02/23/2007**

CODE OF FEDERAL REGULATIONS (CFR)
10 CFR 8.4 - Interpretation by the General Counsel: AEC Jurisdiction
10 CFR 835 - Occupational Radiation Protection (Except Sections 101 (c), ALARA Plans and Measures, 402 (b), DOE Laboratory Accreditation Program for Personal Dosimetry, 901, General Employee Training, and 902, Radiological Workers Training)
10 CFR 851 – Worker Safety and Health Program
10 CFR 1021 - DOE NEPA Implementing Regulations, Subtitle B - DOE Decision making
10 CFR 1021 - DOE NEPA Implementing Regulations, Subtitle D - Typical Classes of Actions (Including ref. Appendices A-D)
OSH Act of 1970, Section 5 (a)(1) - General Duty Clause
29 CFR 1904 - OSHA Recordkeeping and Reporting Occupational Injuries and Illness
29 CFR 1910 - Occupational Safety and Health Standards for General Industry
29 CFR 1926 - Occupational Safety and Health Standards for the Construction Industry
33 CFR 320 - General Regulatory Policies
33 CFR 323 - Permits for Discharges of Dredged or Fill Material into Waters of the United States
33 CFR 325 - Processing of Department of the Army Permits
33 CFR 328 - Definition of Waters of the United States
33 CFR 330 - Nationwide Permits
36 CFR 63 - Determination of Eligibility for Inclusion in the National Register of Historic Places
36 CFR 65 - National Historic Landmarks Program
36 CFR 78 - Waiver of Federal agency responsibilities under section 110 of the National Historic Preservation Act
36 CFR 79 - Curation of Federally-Owned and Administered Archaeological Collections.
36 CFR 800 - Protection of Historic and Cultural Properties
40 CFR 50 - National Primary and Secondary Ambient Air Quality Standards
40 CFR 61- National Emission Standards for Hazardous Air Pollutants
40 CFR 66 - Assessment and Collection of Noncompliance Penalties by EPA
40 CFR 79 - Registration of Fuels and Fuel Additives
40 CFR 82 - Protection of Stratospheric Ozone
40 CFR 88 - Clean-Fuel Vehicles

40 CFR 110 - Discharge of Oil
40 CFR 112 - Oil Pollution Prevention
40 CFR 113 - Liability Limits for Small Onshore Storage Facilities
40 CFR 116 - Designation of Hazardous Substances
40 CFR 117 - Determination of Reportable Quantities for Hazardous Substances
40 CFR 122 - EPA Administered Permit Programs: The National Pollutant Discharge Elimination System (NPDES)
40 CFR 131 - Water Quality Standards
40 CFR 141 - National Primary Drinking Water Regulations
40 CFR 142 - National Primary Drinking Water Regulations Implementation
40 CFR 166 - Exemption of Federal and State Agencies for use of Pesticides under Emergency Conditions
40 CFR 171 - Certification of Pesticide Applicators
40 CFR 260-270 - Resource Conservation and Recovery Act (RCRA)
40 CFR 261 - Identification and Listing of Hazardous Waste
40 CFR 262 - Standards Applicable to Generators of Hazardous Waste
40 CFR 268 - Land Disposal Restrictions
40 CFR 273 - Standards for Universal Waste Management
40 CFR 279 - Standards for the Management of Used Oil
40 CFR 302 - Designation, Reportable Quantities, and Notification (CERCLA)
40 CFR 355 - Emergency Planning and Notification (CERCLA)
40 CFR 370 - Hazardous Chemical Reporting: Community Right -To-Know
40 CFR 401 - General Provisions - Effluent Guideline and Standards
40 CFR 403 - General Pretreatment Regulations for Existing and New Sources of Pollution
40 CFR 763 Subpart G - Asbestos Abatement Projects
49 CFR 107-199 - Transportation - Hazardous Materials Regulations
49 CFR 382-399 - Transportation - Federal Motor Carrier Safety Regulations
50 CFR 17 - Endangered and Threatened Wildlife and Plants
50 CFR 402 - Interagency Cooperation - Endangered Species Act of 1973
50 CFR 424 - Listing Endangered and Threatened Species and Designating Critical Habitat
50 CFR 450 - General Provisions - Endangered Species Exemption Process
50 CFR 451 - Application Process
UNITED STATES CODE (USC)
7 USC 136 et seq. - Environmental Pesticide Control Act
7 USC 136 et seq. - Federal Insecticide, Fungicide, and Rodenticide Act
7 USC 7701 Plant Protection Act 2000 (as amended by the Noxious Weed Control and Eradication Act 2004)
15 USC 2601 et seq.- Toxic Substances Control Act, Title II (Asbestos Hazard Emergency Response)

16 USC 431 et seq. - Antiquities Act of 1906
16 USC 470 et seq. - Archaeological Resources Protection Act of 1979 (ARPA)
16 USC 470 et seq. - National Historic Preservation Act of 1966 (NHPA)
16 USC 661 et seq. - Fish and Wildlife Coordination Act
16 USC 668 et seq. - Bald and Golden Eagle Protection Act
16 USC 703 et seq. - Migratory Bird Treaty Act
16 USC 1531 et seq. - Endangered Species Act of 1973
33 USC 1251, et seq. - Clean Water Act
33 USC 1321 - Oil and Hazardous Substances Liability (Clean Water Act, Section 311)
42 USC Sec. 300f et seq. - Safe Drinking Water Act, and 42 USC 201 - Safe Drinking Water Act Amendments of 1996
42 USC 6901 et seq. - Resource Conservation and Recovery Act (RCRA)
42 USC 7401 et seq. - Clean Air Act & Amendments
42 USC 9602 - CERCLA, Title I, Section 102 - Reportable Quantities and Additional Designations
42 USC 9603 - CERCLA, Title I, Section 103 - Notices, Penalties
42 USC 11000-11050 - Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA)
42 USC 13101-13109 - Pollution Prevention Act of 1990
EXECUTIVE ORDER (EO)
EO 11593 - Protection and Enhancement of Cultural Environment 1971
EO 11738 - Providing for Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants or Loans
EO 11988 - Floodplain Management
EO 11990 - Protection of Wetlands
EO 12114 - Environmental Effects Abroad of Major Federal Actions
EO 12843 - Procurement Requirements and Policies for Federal Agencies for Ozone-Depleting Substances
EO 12856 - Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements
EO 12898 - Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations
EO 13112 - Invasive Species 1999
EO 13423 - Strengthening Federal Environmental, Energy, and Transportation Management
EO 13186 - Responsibilities of Federal Agencies to Protect Migratory Birds
OTHER FEDERAL STANDARDS
EPA Air Quality Standards
CODE OF COLORADO REGULATIONS (CCR)
2 CCR 402-2 - Water Well Construction
2 CCR 402-4 - Rules for Small Capacity Well Permits in Designated Ground Water Basins
2 CCR 406-8 Chapter 10, Article 2 and 3 - Non-Game Wildlife
5 CCR 1001. 1-20 - Colorado Department of Public Health & Environment, Air Quality Control

Commission Regulations
5 CCR 1001-10, Regulation No. 8 - Control of Hazardous Air Pollutants
5 CCR 1001-19 - Control of Emission of Ozone Depleting Compounds
5 CCR 1002-31 - Basic Standards and Methodologies for Surface Water
5 CCR 1002-41 - The Basic Standards for Groundwater
5 CCR 1002-42 - Site-Specific Water Quality Classifications and Standards for Ground Water (Rocky Flats Area)
5 CCR 1002-61 - Colorado Discharge Permit System Regulations
5 CCR 1002-62 - Regulations for Effluent Limits
5 CCR 1002-63 - Pretreatment Regulations
5 CCR 1002-65 - Regulations Controlling Discharges to Storm Sewers
5 CCR 1003 -1 - Primary Drinking Water Regulations
5 CCR 1003-6 - Guidelines on Individual Sewage Disposal Systems
6 CCR 1007-1, Part 1 - General Provisions
6 CCR 1007-1, Part 2 - Registration of Radiation Producing Machines
6 CCR 1007-1, Part 3, Sections 1-7 - Exempt and General License Material
6 CCR 1007-1, Part 4 - Standards for Protection Against Radiation
6 CCR 1007-1, Part 8 - Radiation Safety Requirements for Analytical X-Ray Equipment
6 CCR 1007-1, Part 10 - Notices, Instructions, and Reports to Workers: Inspections
6 CCR 1007-1, Part 17 - Transportation of Radioactive Material
6 CCR 1007-3 - Colorado Hazardous Waste Regulations
7 CCR 1101-14 – Underground Storage Tanks and Aboveground Storage Tanks
8 CCR 1507-1 - Colorado Operation of Commercial Vehicles and Transportation of Hazardous Materials
8 CCR 1507-7 - Colorado Hazardous Materials Route Designation
8 CCR 1507-8 - Colorado Hazardous Materials Transportation Reporting
8 CCR 1507-9 - Colorado Transporting and Shipping of Hazardous Materials
Rules and Regulations Pertaining to the Administration and Enforcement of the Colorado Weed Management Act (Colorado State Weed List - No citation available yet.)
COLORADO REVISED STATUTES (CRS)
8 CRS 20.5, Parts 1-3 - Petroleum Storage Tanks
25 CRS 7 - Air Quality Control
25 CRS 8 - Colorado Water Quality Control Act
25 CRS 10 - Individual Sewage Disposal Systems Act
25 CRS 15, Part 1, Part 3 - State Hazardous Waste Management Program
25 CRS 15, Part 1, Part 4 - Infectious Waste
29 CRS 22 - Hazardous Substances Incidents
33 CRS 2 - Nongame and Endangered Species Conservation

33 CRS 6 - Law Enforcement and Penalties
35 CRS 5 - Pest Control Districts
35 CRS 5.5 - Colorado Weed Management Act
35 CRS 9 - Pesticide Act
35 CRS 10 - Pesticide Applicators Act
37 CRS 90 - 101, et seq. - Colorado Ground Water Management Act
AMERICAN CONFERENCE OF GOVERNMENTAL INDUSTRIAL HYGIENISTS (ACGIH)
ACGIH Threshold Limit Values for Chemical Substances and Physical Agents (Latest Edition)
AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI)
ANSI Z136.1 - Safe Use of Lasers (Latest Version)
ANSI Z88.2 – American National Standard for Respiratory Protection
ANSI Z49.1:2005 – Safety in Welding, Cutting and Allied Processes
AMERICAN SOCIETY OF MECHANICAL ENGINEERS (ASME)
ASME Boiler and Pressure Vessel Code (Sections I – XII, including applicable Code cases)
NATIONAL FIRE PROTECTION ASSOCIATION (NFPA)
NFPA - National Fire Codes (Latest Version of Each Code, or as Adopted by the Authority Having Jurisdiction)
NATIONAL INSTITUTE OF HEALTH (NIH)
NIH - Guidelines for Research Involving Recombinant DNA Molecules (Latest Edition)
Excluding:
<ul style="list-style-type: none"> • Section IV-B-2-a(3): Annual reporting to NIH including the roster of NREL’s Institutional Biosafety Committee (IBC). • Section IV-B-2-a(6): Open IBC meetings to the public, when possible. • Section IV-B-2-a(7): All IBC meeting minutes will be made available to the public for review and comment. Public comments and the IBC response are to be forwarded to NIH.
INTERNATIONAL CONFERENCE OF BUILDING OFFICIALS
International Building Code (IBC) 2006
International Fire Code (IFC) 2006
OTHER LOCAL STANDARDS
Consolidated Mutual Water Company Rules
Jefferson County Dept. of Health and Environment, Individual Sewage Disposal Sys. Reg.
Metro Wastewater Reclamation District Rules and Regulations
Pleasant View Water and Sanitation District Rules and Regulations
West Metro Fire Rescue Amendments to the International Fire Code

ATTACHMENT F**OPERATING AND ADMINISTRATIVE REQUIREMENTS (LIST B)**

The operating and administrative requirements, including the Contractor Requirements Documents of DOE directives listed below are applicable in whole or in part in accordance with clauses H.18, *Application of DOE Contractor Requirements Documents* and 970.5204-2, *Laws, Regulations, and DOE Directives (Dec 2000)*. The concurrence analysis documenting applicability for each requirement below is maintained in the DOE Master File as well as any assurances as required by Clause H.18, are made a part of this Contract by reference and are managed through a formal change control process.

Operating and Administrative Requirements
DOE O 110.3A CRD Conference Management
DOE O 130.1 CRD Budget Formulation
DOE O 142.3 CRD Unclassified Foreign Visits and Assignments Program
DOE O 151.1C CRD Comprehensive Emergency Management System
DOE O 200.1 CRD Information Management Program
DOE N 203.1 CRD Software Quality Assurance
DOE O 205.1A CRD Department of Energy Cyber Security Management
DOE N 205.2 CRD Foreign National Access to DOE Cyber Systems
DOE N 205.3 CRD Password Generation, Protection and Use
DOE N 205.8 CRD Cyber Security Requirements for Wireless Devices and Information Systems
DOE N 205.9 CRD Certification and Accreditation Process for Information Systems Including National Security Systems
DOE N 205.10 CRD Cyber Security Requirements for Risk Management
DOE N 205.11 CRD Security Requirements for Remote Access to DOE and Applicable Contractor Information Technology System
DOE N 206.3 CRD Personal Identity Verification
DOE O 221.1 CRD Reporting Fraud, Waste, and Abuse to the Office of Inspector General
DOE O 221.2 CRD Cooperation with the OIG
DOE O 225.1A CRD Accident Investigation
DOE O 226.1 CRD Implementation of Department of Energy Oversight Policy

Operating and Administrative Requirements
DOE M 231.1-1A CRD Change 1 Environment, Safety and Health Reporting Manual
DOE M 231.1-2 CRD Occurrence Reporting and Processing of Operations Information
DOE O 241.1A CRD Scientific and Technical Information Management
DOE O 243.1 CRD Records Management Program
DOE O 243.2 CRD Vital Records
DOE O 251.1B CRD Departmental Directives Program
DOE O 350.1 CRD(s) Change 1 Contractor Human Resource Management Programs
DOE O 350.2A CRD Use of Management and Operating or Other Facility Management Contractor Employees for Services to DOE in the Washington, D.C., Area
DOE O 412.1 CRD Work Authorization System
DOE O 413.1A CRD Management Control Program Approved: 04/18/02
DOE O 413.2B CRD Laboratory Directed Research and Development Approved: 04/19/06
DOE O 413.3A CRD Program and Project Management for the Acquisition of Capital Assets
DOE O 414.1C CRD Quality Assurance
DOE O 430.1B CRD Real Property Asset Management
DOE O 430.2A CRD Departmental Energy and Utilities Management
DOE O 441.1 CRD Protection of Human Subject
DOE O 442.1A CRD Employee Concerns Program
DOE O 450.1 CRD (Change 3) Administrative Change 1 Environmental Protection Program
DOE M 450.4-1 CRD Integrated Safety Management System Manual
DOE O 470.2B CRD Independent Oversight and Performance Assurance Program
DOE M 470.4-1 CRD Change 1 Safeguards and Security Program Planning and Management

Operating and Administrative Requirements
DOE M 470.4-2 CRD Change 1 Physical Protection
DOE M 470.4-3 CRD Change 1 Protective Force
DOE M 470.4-4 CRD Information Security
DOE M 470.4-5 CRD Personnel Security
DOE O 471.3 CRD Identifying and Protecting Official Use Only Information
DOE M 471.3-1 CRD Manual for Identifying and Protecting Official Use Only Information
DOE O 475.1 CRD Counterintelligence Program
DOE O 482.1 CRD DOE Facilities Technology Partnering Programs
DOE O 483.1 CRD DOE Cooperative Research and Development Agreements
DOE O 484.1 CRD Reimbursable Work for the Department of Homeland Security
DOE O 522.1 CRD Pricing of Departmental Materials and Services
DOE O 534.1B CRD Accounting
DOE O 551.1B CRD Official Foreign Travel
DOE O 580.1 CRD Department of Energy Personal Property Management Program

ATTACHMENT G

SENSITIVE FOREIGN NATIONS CONTROL

In accordance with the Clause I.92, *Sensitive Foreign Nations Controls*, this Attachment sets forth the requirements the contractor shall comply with under this contract. (Reference DOE Order 142.3, or superseding directives.)

Foreign National access to DOE sites, programs, information and technologies will be approved provided the access is needed to support the program objectives of DOE and/or objectives of U.S. national interests.

(a) Definitions

Assignee – A foreign national who has been approved to access a DOE site, information, or technology for a period of more than 30 consecutive calendar days.

Foreign National – A person born outside the jurisdiction of the United States, is a citizen of a foreign government, and has not been naturalized under U.S. law.

Host – The DOE or DOE contractor employee responsible for the day-to-day activities associated with the visit or assignment.

Indices Checks – A procedure whereby a request is made to appropriate U. S. Government agencies to determine whether information exists on a particular foreign national.

Legal Permanent Resident (LPR) – One who has the right to reside permanently and work in the United States. An LPR may also be known as a permanent resident alien or Green Card holder.

Nonsensitive Country National – A foreign national who was born in, is a citizen of, is employed by, or represents a government, company, organization, or institution that is located in a country not on the Sensitive Countries List or the Terrorist Countries List.

Security Plan – A security plan is required to address specific site security concerns relating to foreign national visits or assignments.

Sensitive Countries List – A list of countries to which particular consideration is given for policy reasons during the DOE internal review and approval process for visits and assignments by foreign nationals. Countries may appear on the list for national security, nuclear nonproliferation, or terrorism support reasons. Those countries follow:

- Algeria
- Armenia
- Azerbaijan
- Belarus
- China (People's Republic of China)
- Cuba - Terrorist
- Georgia
- India
- Iran - Terrorist
- Iraq
- Israel
- Kazakhstan
- North Korea (Democratic People's Republic of) - Terrorist

Kyrgyzstan
Libya - Terrorist
Moldavia
Pakistan
Russia
Sudan - Terrorist
Syria - Terrorist
Taiwan (Republic of China)
Tajikistan
Turkmenistan
Ukraine
Uzbekistan

Sensitive Visit/Assignment – A visit/assignment will be considered sensitive if:

- Sensitive Country (Citizen or Birth)
- Sensitive Subject/Sensitive Areas
- Secured Facilities (Limited Area, Protected Area, Material Access Area or Exclusion Area)
- Represent a company, business, organization or institute from countries identified as sensitive.

Sensitive Country National – A foreign national who was born in, is a citizen of, or is employed by a government, employer, institution or organization, of a sensitive country.

Visit – Access by a foreign national for 30 calendar days or less.

(b) Prior Approvals Relating to Foreign Nationals

- (1) Foreign visits and assignments pertaining to DOE programs must be in accordance with DOE Order 142.3, or superseding directives and other DOE policies furnished in writing to the contractor. All visits and assignments must be approved in advance by the DOE Approval Authority.
- (2) Sensitive visits or assignment requests must be submitted 45 days in advance in order to allow time for an indices check to be completed.
- (3) Non-sensitive visits or assignment requests must be submitted 5 days in advance.

(c) Reports Relating to Foreign Visits and Assignments

Host Report Requirements – To enable the approving official to evaluate the effectiveness of visits and assignments, and to assist in determining the desirability of future visits and assignments, host reports are required within 5 days of the completion of the visit or assignment.

ATTACHMENT H
PERFORMANCE GUARANTEE AGREEMENT
(To Be Completed with Proposal)

ATTACHMENT I

SUBCONTRACTS, PURCHASE ORDERS AND OTHER ACTIONS REQUIRING DOE REVIEW AND APPROVAL AND OTHER AGREEMENTS BETWEEN THE PARTIES

This Attachment, implementing the Article entitled Contractor Purchasing System, sets forth the requirements for DOE's approval under the prime contract for the operation of the National Renewable Energy Laboratory.

Subcontracts not binding on DOE

Subcontracts and purchase orders shall be made in the name of [Contractor], shall not bind nor purport to bind the Government, shall not relieve the [Contractor] of any obligation under this contract (including, among other things, the obligation to properly supervise and coordinate the work of subcontractors), and shall contain such provisions as are required by this contract or as DOE may prescribe because of statutes, regulations or DOE policies as directed by the Contracting Officer.

As used herein, the term "subcontract" includes purchase orders, letter agreements, and similar contractual arrangements which will result in costs being properly charged to the prime contract with DOE.

All subcontracts in excess of ten percent of the small purchase schedule set forth in FAR Part 13, including those for services (except employment), material, supplies and equipment (or for their use) shall be reduced to writing.

Prior DOE review and written approval are required for subcontract actions which fall within any one of the following categories:

- (a) Fixed-price subcontracts in excess of \$1,000,000 and cost-type, time and material and labor-hour subcontracts in excess of \$1,000,000.
- (b) All subcontracts and purchase orders for construction and architect-engineer services in excess of \$500,000.
- (c) Any modification of a construction or architect-engineer subcontract (as defined above) when such modification exceeds \$100,000. In addition, for all other types of subcontracts, any modification that will increase the initial award by 100 percent or more.
- (d) Any consultants fees must have the prior written approval of DOE when the daily rate is in excess of \$1,600; and/or when the total cost of the agreement exceeds \$25,000, or modification of the agreement increases the total cost by more than \$25,000; or for employees of another Government or DOE organization, or former employees of NREL and their subcontractors.
- (e) All subcontracts and purchase orders which involve the acquisition (purchase or lease) of motor vehicles, aircraft, and printing equipment.
- (f) All subcontracts and purchase orders which involve the acquisition of commercial printing in excess of \$2,500.
- (g) All procurement of Special Items referenced in DEAR 970.5244-1(q) through channels or sources different from those specified in such regulation.

- (h) The furnishing of a foreign-made end product or component as defined in the article(s) I.56, 52.225-1 *Buy American Act- Supplies* and I.57, 52.225-9 *Buy American Act – Construction Materials* of the prime contract, except such supplies as are excepted from the operation of the Act(s). Determinations of non-availability may be made by the Contractor's Business Team leader or Administrative Associates for individual procurement actions not in excess of \$100,000.
- (i) Any subcontract which entails the payment of royalties or the purchase of a license.
- (j) Purchase of patents or patent license rights, including the payment of royalties, and permits or license fees except for license agreements for commercial software.
- (k) The recognition of proprietary rights, including the recognition of technical data as trade secrets.
- (l) Any restriction of DOE's use of the supplies or data procured under a subcontract.
- (m) The cancellation or termination of a subcontract or any part hereof which may result in termination or cancellation costs, or which results in a need to purchase the cancelled supplies or services from another supplier, require approval by DOE.
- (n) Intracompany transfers.
- (o) All leases for property, plant, or equipment when the lease must be classified and accounted for as a capital lease under generally accepted accounting principles.
- (p) Leasing, purchasing, or otherwise acquiring real property, for the cost of which reimbursement will be claimed under the contract.
- (q) All acquisitions of integrated data processing equipment in excess of \$250,000.
- (r) All subcontracts or purchase orders which contain an "indemnification" or "hold harmless" provision in favor of the subcontractor.

Pursuant to Department of Energy Acquisition Regulation 970.4401-3, *Advance Notification*, advance notice to the DOE Contracting Officer of the proposed award of the following specified types of subcontracts:

- (a) Cost reimbursement type contracts of any award value.
- (b) Fixed-price type contracts which exceed \$25,000.
- (c) Purchases from contractor-affiliated sources over a value established by the HCA.
- (d) Advance notification shall contain, at a minimum, the following:
 - (1) Description of work;
 - (2) Estimated cost (and estimated fee, if any);
 - (3) Type of contract or reimbursement provisions;
 - (4) Anticipated period of performance. If modifying an existing subcontract, the previous performance periods and dollar values;
 - (5) Proposed subcontractor or vendor, if known;

- (6) Extent of competition, or justification for a non-competitive procurement; and
 - (7) Subcontract Administrator, Program Manager, and telephone numbers.
- (e) Notification should be forwarded to the Contracting Officer as soon as information is known and before solicitation. The Contracting Officer may at any time request additional information that must be furnished promptly and prior to award of the procurement.

Unless otherwise directed by the Contracting Officer, the approval request for subcontracts required in Attachment I above shall include:

- (a) A description of the supplies or services to be called for by the subcontract.
- (b) Identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected, including the degree of competition obtained.
- (c) The subcontractor's current, complete and accurate cost or pricing data and Certificate of Current Cost and Pricing Data when such data and certificate required by other provisions of this contract are to be obtained from the subcontractor. Cost and Pricing data shall be obtained, in accordance with FAR 15.403 and 15.403-1 through 15.403-4.
- (d) Identification of the type of subcontract to be used.
 - (1) A memorandum of negotiation which sets forth the principle elements of the contract price negotiations. A copy of this memorandum shall be in sufficient detail to reflect the most significant considerations controlling the establishment of initial or revised prices. The memorandum should include an explanation of why cost or pricing data was or was not required, and if it was or was not required in accordance with FAR 15.403, and 15.403-1 through 15.403-4, a statement of the basis for the determination. If cost or pricing data was submitted and a certificate of current cost or pricing data was required, the memorandum shall reflect the extent to which this data was used by the Contractor in determining the total price cost objective and in negotiating the final price. The memorandum shall also reflect the extent to which it was recognized in the negotiation that any cost or pricing data submitted by the subcontractor was not accurate, complete, or current; the action taken by the Contractor and the subcontractor as a result and the effect, if any, of such defective data in the total price negotiated. Where the total price negotiated differs significantly from the Contractor's total price objective the memorandum shall explain this difference.

ATTACHMENT J

PERFORMANCE EVALUATION AND MEASUREMENT PLAN

(To Be Completed After Award)

ATTACHMENT K
DIVERSITY PLAN
(To Be Completed After Award)

ATTACHMENT L

EMPLOYEE CONCERNS PROGRAM (ECP) IMPLEMENTATION PLAN

(To Be Completed After Award)

ATTACHMENT M
EQUAL OPPORTUNITY PROGRAM
(To Be Completed After Award)

ATTACHMENT N
SUPPLEMENTAL REQUIREMENTS TO LAWS, REGULATIONS, AND
DOE DIRECTIVES

(To Be Completed After Award)

ATTACHMENT O
COMMERCIALIZATION PLAN
(To Be Completed After Award)

ATTACHMENT P
FIVE YEAR STRATEGIC PLAN
(To Be Completed After Award)

ATTACHMENT Q
ORGANIZATIONAL CONFLICT OF INTEREST MANAGEMENT PLAN
(To Be Completed After Award)

ATTACHMENT R

**ORGANIZATIONAL CONFLICT OF INTEREST IMPLEMENTATION
PROGRAM**

(To Be Completed After Award)

PART IV

**REPRESENTATIONS AND
CERTIFICATIONS**

Section K

PART IV

REPRESENTATIONS AND CERTIFICATIONS

Section K

TABLE OF CONTENTS

K.1	Annual Representations and Certifications (Jan 2006)(FAR 52.204-8)	1
K.2	Energy Policy Act Target Group Representation (Sep 1997) (DEAR 952.226-3)	2
K.3	Organizational Conflicts of Interest Disclosure-Advisory and Assistance Services (Jun 1997) (DEAR 952.209-8) (DEVIATION)	3
K.4	Patents - Notice of Government Licensee (Apr 1984) (FAR 52.227-7)	3
K.5	Cost Accounting Standards Notices and Certification (Jun 2000) (FAR 52.230-1)	4
K.6	Restriction on Severance Payments to Foreign Nationals (Aug 2003) (FAR 52.237-8)	6

U.S. DEPARTMENT OF ENERGY
REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF
BIDDERS/OFFERORS
 SOLICITATION AWARD NO. DE-RP36-07GO97036

SECTION K

Various statutes and regulations require Federal agencies to obtain certain representations, certifications, and other statements from bidders/Offerors in connection with the award of contracts. Bidders/Offerors are required to complete the annual representations and certifications electronically via the Online Representations and Certifications Application (ORCA) website at <http://orca.bpn.gov>. In addition, all Bidders/Offerors submitting a bid/proposal in response to a solicitation and/or potential contract award, must complete the requested representations, certifications, and other statements of Bidders/Offerors, as indicated by the placement of an "X" to the right of the numerical designation for the Item.

- (1) Annual Representations and Certifications (JAN 2005)(FAR 52.204-8)
- (2) Organizational Conflicts of Interest Disclosure-Advisory and Assistance Services (JUN 1997) (DEAR 952.209-8) (DEVIATION)
- (3) Energy Policy Act Target Group Representation (SEP 1997) (DEAR 952.226-73)
- (4) Patents - Notice of Government Licensee - (APR 1984) (FAR 52.227-7)
- (5) Cost Accounting Standards Notices and Certification (JUN 2000) (FAR 52.230-1)
- (6) Restriction on Severance Payments to Foreign Nationals (AUG 2003) (FAR 52.237-8)

K.1 Annual Representations and Certifications (Jan 2006)(FAR 52.204-8)

- (a)
 - (1) The North American Industry Classification System (NAICS) code for this acquisition is ----- [insert NAICS code].
 - (2) The small business size standard is ----- [insert size standard].
 - (3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.
- (b)
 - (1) If the clause at 52.204-7, Central Contractor Registration, is included in this solicitation, paragraph (c) of this provision applies.
 - (2) If the clause at 52.204-7 is not included in this solicitation, and the Offeror is currently registered in CCR, and has completed the ORCA electronically, the Offeror may choose to use paragraph (c) instead of completing the corresponding individual representations and certifications in the solicitation. The Offeror shall indicate which option applies by checking one of the following boxes:

- (i) Paragraph (c) applies.
- (ii) Paragraph (c) does not apply and the Offeror has completed the individual representations and certifications in the solicitation.

(c) The Offeror has completed the annual representations and certifications electronically via the Online Representations and Certifications Application (ORCA) website at <http://orca.bpn.gov>. After reviewing the ORCA database information, the Offeror verifies by submission of the offer that the representations and certifications currently posted electronically have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); except for the changes identified below [*Offeror to insert changes, identifying change by clause number, title, date*]. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR Clause #	Title	Date	Change
_____	_____	_____	_____

Any changes provided by the Offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on ORCA. “

K.2 Energy Policy Act Target Group Representation (Sep 1997) (DEAR 952.226-73)

- (a) The Offeror is:
 - (1) An institution of higher education that meets the requirements of 34 CFR 600.4(a), and has a student enrollment that consists of at least 20 percent:
 - (i) Hispanic Americans, i.e., students whose origins are in Mexico, Puerto Rico, Cuba, or Central or South America, or any combination thereof; or
 - (ii) Native Americans, i.e., American Indians, Eskimos, Aleuts, and Native Hawaiians, or any combination thereof.
 - (2) An institution of higher learning determined to be a Historically Black College and University by the Secretary of Education pursuant to 34 CFR 608.2; or
 - (3) A small business concern, as defined under section 3 of the Small Business Act (15 U.S.C. 632), that is owned and controlled by individuals who are both socially and economically disadvantaged within the meaning of section 8(d) of the Small Business Act (15 U.S.C. 637(d)) or by a woman or women.
- (b) By submission of an offer, the Offeror agrees to provide to the Contracting Officer, upon request, evidence satisfactory to the Contracting Officer that the Offeror is an entity from the Energy Policy Act target group identified.

K.3 Organizational Conflicts of Interest Disclosure-Advisory and Assistance Services (Jun 1997) (DEAR 952.209-8) (DEVIATION)

- (a) Organizational conflict of interest means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the Government, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.
- (b) All Offerors shall provide the statement described in paragraph (c) of this provision. (DEVIATION)
- (c) The statement must contain the following:
 - (1) A statement of any past (within the past twelve months), present, or currently planned financial, contractual, organizational, or other interests relating to the performance of the statement of work. For contractual interests, such statement must include the name, address, telephone number of the client or client(s), a description of the services rendered to the previous client(s), and the name of a responsible officer or employee of the Offeror who is knowledgeable about the services rendered to each client, if, in the 12 months preceding the date of the statement, services were rendered to the Government or any other client (including a foreign government or person) respecting the same subject matter of the instant solicitation, or directly relating to such subject matter. The agency and contract number under which the services were rendered must also be included, if applicable. For financial interests, the statement must include the nature and extent of the interest and any entity or entities involved in the financial relationship. For these and any other interests enough such information must be provided to allow a meaningful evaluation of the potential effect of the interest on the performance of the statement of work.
 - (2) A statement that no actual or potential conflict of interest or unfair competitive advantage exists with respect to the advisory and assistance services to be provided in connection with the instant contract or that any actual or potential conflict of interest or unfair competitive advantage that does or may exist with respect to the contract in question has been communicated as part the statement required by (b) of this provision.
- (d) Failure of the Offeror to provide the required statement may result in the Offeror being determined ineligible for award. Misrepresentation or failure to report any fact may result in the assessment of penalties associated with false statements or such other provisions provided for by law or regulation.

K.4 Patents - Notice of Government Licensee (Apr 1984) (FAR 52.227-7)

The Government is obligated to pay a royalty applicable to the proposed acquisition because of a license agreement between the Government and the patent owner. The patent number is _____ [Contracting Officer fill in], and the royalty rate is _____ [Contracting Officer fill in]. If the Offeror is the owner of, or a licensee under, the patent, indicate below:

- Owner
 Licensee

If an Offeror does not indicate that it is the owner or a licensee of the patent, its offer will be evaluated by adding thereto an amount equal to the royalty.

K.5 Cost Accounting Standards Notices and Certification (Jun 2000) (FAR 52.230-1)

Note: This notice does not apply to small businesses or foreign governments. This notice is in three parts, identified by Roman numerals I through III.

Offerors shall examine each part and provide the requested information in order to determine Cost Accounting Standards (CAS) requirements applicable to any resultant contract.

If the Offeror is an educational institution, Part II does not apply unless the contemplated contract will be subject to full or modified CAS coverage pursuant to 48 CFR 9903.201-2(c)(5) or 9903.201-2(c)(6), respectively.

I. DISCLOSURE STATEMENT--COST ACCOUNTING PRACTICES AND CERTIFICATION

- (a) Any contract in excess of \$500,000 resulting from this solicitation will be subject to the requirements of the Cost Accounting Standards Board (48 CFR Chapter 99), except for those contracts which are exempt as specified in 48 CFR 9903.201-1.
- (b) Any Offeror submitting a proposal which, if accepted, will result in a contract subject to the requirements of 48 CFR Chapter 99 must, as a condition of contracting, submit a Disclosure Statement as required by 48 CFR 9903.202. When required, the Disclosure Statement must be submitted as a part of the Offeror's proposal under this solicitation unless the Offeror has already submitted a Disclosure Statement disclosing the practices used in connection with the pricing of this proposal. If an applicable Disclosure Statement has already been submitted, the Offeror may satisfy the requirement for submission by providing the information requested in paragraph (c) of Part I of this provision.

CAUTION: In the absence of specific regulations or agreement, a practice disclosed in a Disclosure Statement shall not, by virtue of such disclosure, be deemed to be a proper, approved, or agreed-to practice for pricing proposals or accumulating and reporting contract performance cost data.

- (c) Check the appropriate box below:

- (1) Certificate of Concurrent Submission of Disclosure Statement.

The Offeror hereby certifies that, as a part of the offer, copies of the Disclosure Statement have been submitted as follows: (i) Original and one copy to the cognizant Administrative Contracting Officer (ACO) or cognizant Federal agency official authorized to act in that capacity (Federal official), as applicable, and (ii) One copy to the cognizant Federal auditor. (Disclosure must be on Form No. CASB DS-1 or CASB DS-2, as applicable. Forms may be obtained from the cognizant ACO or

Federal official and/or from the loose-leaf version of the Federal Acquisition Regulation.)

Date of Disclosure Statement: __/__/__

Name and Address of Cognizant ACO or Federal Official Where Filed
_____.

The Offeror further certifies that practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the Disclosure Statement.

(2) Certificate of Previously Submitted Disclosure Statement.

The Offeror hereby certifies that the required Disclosure Statement was filed as follows:

Date of Disclosure Statement: __/__/__

Name and Address of Cognizant ACO or Federal Official Where Filed:
_____.

The Offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the applicable Disclosure Statement.

(3) Certificate of Monetary Exemption.

The Offeror hereby certifies that the Offeror, together with all divisions, subsidiaries, and affiliates under common control, did not receive net awards of negotiated prime contracts and subcontracts subject to CAS totaling \$50 million or more in the cost accounting period immediately preceding the period in which this proposal was submitted. The Offeror further certifies that if such status changes before an award resulting from this proposal, the Offeror will advise the Contracting Officer immediately.

(4) Certificate of Interim Exemption.

The Offeror hereby certifies that (i) the Offeror first exceeded the monetary exemption for disclosure, as defined in (3) of this subsection, in the cost accounting period immediately preceding the period in which this offer was submitted and (ii) in accordance with 48 CFR 9903.202-1, the Offeror is not yet required to submit a Disclosure Statement. The Offeror further certifies that if an award resulting from this proposal has not been made within 90 days after the end of that period, the Offeror will immediately submit a revised certificate to the Contracting Officer, in the form specified under subparagraph (c)(1) or (c)(2) of Part I of this provision, as appropriate, to verify submission of a completed Disclosure Statement.

CAUTION: Offerors currently required to disclose because they were awarded a CAS-covered prime contract or subcontract of \$50 million or more in the current cost accounting period may not claim this exemption (4). Further, the exemption applies only in connection with proposals submitted before expiration of the 90-day period following the cost accounting period in which the monetary exemption was exceeded.

II. COST ACCOUNTING STANDARDS--ELIGIBILITY FOR MODIFIED CONTRACT COVERAGE

If the Offeror is eligible to use the modified provisions of 48 CFR 9903.201-2(b) and elects to do so, the Offeror shall indicate by checking the box below. Checking the box below shall mean that the resultant contract is subject to the Disclosure and Consistency of Cost Accounting Practices clause in lieu of the Cost Accounting Standards clause.

The Offeror hereby claims an exemption from the Cost Accounting Standards clause under the provisions of 48 CFR 9903.201-2(b) and certifies that the Offeror is eligible for use of the Disclosure and Consistency of Cost Accounting Practices clause because during the cost accounting period immediately preceding the period in which this proposal was submitted, the Offeror received less than \$50 million in awards of CAS-covered prime contracts and subcontracts. The Offeror further certifies that if such status changes before an award resulting from this proposal, the Offeror will advise the Contracting Officer immediately.

CAUTION: An Offeror may not claim the above eligibility for modified contract coverage if this proposal is expected to result in the award of a CAS-covered contract of \$50 million or more or if, during its current cost accounting period, the Offeror has been awarded a single CAS-covered prime contract or subcontract of \$50 million or more.

III. ADDITIONAL COST ACCOUNTING STANDARDS APPLICABLE TO EXISTING CONTRACTS

The Offeror shall indicate below whether award of the contemplated contract would, in accordance with subparagraph (a)(3) of the Cost Accounting Standards clause, require a change in established cost accounting practices affecting existing contracts and subcontracts.

YES or NO

K.6 Restriction on Severance Payments to Foreign Nationals (Aug 2003) (FAR 52.237-8)

- (a) The Federal Acquisition Regulation (FAR), at [31.205-6\(g\)\(6\)](#), limits the cost allowability of severance payments to foreign nationals employed under a service contract performed outside the United States unless the head of the agency grants a waiver pursuant to FAR [37.113-1](#) before contract award.
- (b) In making the determination concerning the granting of a waiver, the agency will determine that:
 - (1) The application of the severance pay limitations to the contract would adversely affect the continuation of a program, project, or activity that provides significant support services for:
 - (i) Members of the armed forces stationed or deployed outside the United States; or
 - (ii) Employees of an executive agency posted outside the United States;

- (2) The Contractor has taken (or has established plans to take) appropriate actions within its control to minimize the amount and number of incidents of the payment of severance pay to employees under the contract who are foreign nationals; and
- (3) The payment of severance pay is necessary in order to comply with a law that is generally applicable to a significant number of businesses in the country in which the foreign national receiving the payment performed services under the contract, or is necessary to comply with a collective bargaining agreement

Signature/Certification

By signing below, the Bidder/Offeror certifies, under penalty of law, that the representations and certifications are accurate, current, and complete. The Bidder/Offeror further certifies that it will notify the Contracting Officer of any changes to these representations and certifications. The representations and certification made by the Bidder/Offeror, as contained herein, concern matters within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent representation or certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

Signature of the Officer or Employee Responsible for the Bid/Offer Date of Execution

Typed Name and Title of the Officer or Employee Responsible for the Bid/Offer

Legal Name of Organization

Street Address

City, State, and Zip Code

 Solicitation Award Number