

SOLICITATION, OFFER AND AWARD		1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)	RATING	PAGE OF PAGES 1 149	
2. CONTRACT NUMBER DE-FE0011020		3. SOLICITATION NUMBER DE-SOL-00003490	4. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input checked="" type="checkbox"/> NEGOTIATED (RFP)	5. DATE ISSUED 04/26/2012	6. REQUISITION/PURCHASE NUMBER 12FE003159 & 13FE001388
7. ISSUED BY SPRO U.S. Department of Energy SPRO 900 Commerce Road East US 492 New Orleans LA 70123		CODE 01601	3. 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 _____ local time _____ (Date)

CAUTION: LATE Submissions, Modifications, and Withdrawals: See Section I, 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 Anne M. Quern	B. TELEPHONE (NO COLLECT CALLS)			C. E-MAIL ADDRESS anne.quern@spr.doe.gov
	AREA CODE 504	NUMBER 734-4228	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 52.214-16, 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 I, Clause No. 52.232.8)	10 CALENDAR DAYS (%)	20 CALENDAR DAYS (%)	30 CALENDAR DAYS (%)	CALENDAR DAYS (%)
	NET 30			

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	CODE 078490442	FACILITY	16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)
FLUOR FEDERAL PETROLEUM OPERATIONS, LLC Attn: LURA LEWIS 100 FLUOR DANIEL DRIVE GREENVILLE SC 296072761			

15B. TELEPHONE NUMBER	16C. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE.	17. SIGNATURE	18. OFFER DATE
AREA CODE NUMBER EXT.	<input type="checkbox"/>		

AWARD (To be completed by government)

19. ACCEPTED AS TO ITEMS NUMBERED	20. AMOUNT \$1,457,647,246.00	21. ACCOUNTING AND APPROPRIATION
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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 N/A
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24. ADMINISTERED BY (If other than Item 7) See Schedule G	CODE 01601	25. PAYMENT WILL BE MADE BY	CODE
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26. NAME OF CONTRACTING OFFICER (Type or print) Kelly M. Gele	27. UNITED STATES OF AMERICA  (Signature of Contracting Officer)	28. AWARD DATE 9/18/2013
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NAME OF OFFEROR OR CONTRACTOR
 FLUOR FEDERAL PETROLEUM OPERATIONS, LLC

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	Management and Operation of the Strategic Petroleum Reserve facilities. FOB: Destination Period of Performance: 10/01/2013 to 11/30/2018				

PART I -THE SCHEDULE

SECTION B

SUPPLIES OR SERVICES AND PRICES/COSTS

PART I -THE SCHEDULE

SECTION B

SUPPLIES OR SERVICES AND PRICES/COSTS

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SECTION B**SUPPLIES OR SERVICES AND PRICES/COSTS****B.1 SERVICES BEING ACQUIRED**

The Contractor shall, in accordance with the terms 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 managing and operating, in an efficient and effective manner, the Government-owned Strategic Petroleum Reserve (SPR), including operating and maintaining the facilities and related systems, located in Louisiana and Texas, as described in Section C, Performance Work Statement (PWS), or as may be directed by the Contracting Officer within the scope of this Contract.

B.2 TRANSITION COST AND TOTAL AVAILABLE AWARD FEE**(a) Transition Cost**

The transition activities shall be conducted during the period specified in the clause in Section F entitled "Period of Performance" and shall be performed in accordance with the clause in Section H entitled "Transition Activities" on a cost-reimbursement basis, and no fee shall be paid for these activities. The estimated transition costs are \$1,714,103.

(b) Total Available Award Fee

- (1) The annual fee base is estimated in accordance with DEAR 970.1504-1, including estimated exclusions, adjustments, and classification factors. In the event the annual fee base deviates by more than plus or minus 15% for any fiscal year from the annual fee base set forth in Column B of the chart below, a new total available award fee for the fiscal year will be calculated by multiplying the maximum available fee for the revised annual fee base by the percentage set forth in Column D below.
- (2) All fee for this contract is performance based. There is no base fee for this contract. The Available Award Fee will be negotiated annually (or any other period as may be mutually agreed to between the parties) between the Contractor and the Government. The Available Award Fee will be equal to or less than the Total Available Award Fee offered set forth in Column E. The Available Award Fee shall be established considering the level of complexity, difficulty, cost effectiveness, and risk associated with specific objectives/incentives defined in the Performance Evaluation and Measurement Plan (PEMP). Higher or lower levels of complexity, difficulty, cost effectiveness, and risk will correspondingly allow a higher or

lower available award fee. In the event the parties are unable to reach agreement on the Available Award Fee amount, the Government reserves the right to unilaterally establish the Available Award Fee amount.

- (3) The total available award fee for the base period of the contract and the option period, if exercised, is shown below. (The chart will be adjusted to reflect the change in Period of Performance made by Amendment 00011 via modification.)

A	B	C	D	E
Fiscal Year	Annual Fee Base	Maximum Available Fee	Fee Percent	Total Available Award Fee
FY 2013	\$67,640,415	\$4,676,325	94.0	\$4,396,627
FY 2014	\$124,104,451	\$8,947,506	90.2	\$8,066,789
FY 2015	\$120,444,719	\$8,814,841	88.8	\$7,830,000
FY 2016	\$123,224,931	\$8,915,624	87.1	\$7,763,171
FY 2017	\$126,707,773	\$9,041,877	88.3	\$7,980,882
FY 2018	\$127,438,191	\$9,068,354	84.8	\$7,691,040
FY 2019	\$130,617,646	\$9,183,610	83.9	\$7,706,441
FY 2020	\$133,607,590	\$9,291,995	83.4	\$7,749,240
FY 2021	\$136,666,307	\$9,402,874	82.8	\$7,789,979
FY 2022	\$139,795,371	\$9,516,302	82.3	\$7,828,541
FY 2023	\$71,498,203	\$4,816,170	83.1	\$4,003,899

- (4) At the end of each performance period (fiscal year) specified above, there shall be no adjustment in the amount of total available award fee based on differences between the annual fee base and the actual fee base resulting from performance of the work. Total Available Award Fee is subject to adjustment only under the provisions of the clause in Section I entitled FAR 52.243-2 “Changes – Cost Reimbursement”; and, for the circumstances in Paragraph (1) above.

B.3 AVAILABILITY OF APPROPRIATED FUNDS

The duties and obligations of the Government hereunder calling for the expenditure of appropriate funds shall be subject to the availability of funds appropriated by the Congress, which the DOE may legally spend for such purchases.

B.4 OBLIGATION OF FUNDS

Pursuant to the Section I Clause DEAR 970.5232-4 entitled “Obligation of Funds,” the total amount obligated by the Government with respect to this contract is \$1,500,000.

B.5 SINGLE FEE

If the Contractor is part of a consortium, joint venture, and/or other teaming arrangement, as described in FAR Subpart 9.6, the team shall share in this contract fee structure. Separate additional subcontractor fee shall not be considered in an allowable cost under the contract if a subcontractor is a team member or, supplier, or lower-tier subcontractor is a wholly owned, majority owned, or affiliate of any team member, any fee or profit earned by such entity shall not be considered an allowable cost under this contract unless otherwise approved by the Contracting Officer.

The subcontractor fee restriction in the paragraph above does not apply to members of the Contractor's team that are: (1) small business(es); (2) protégé firms as part of an approved mentor-protégé relationship; (3) subcontractors under a competitively awarded firm-fixed-unit-price subcontract; or (4) commercial items as defined in FAR Subpart 2.1, Definitions of Words and Terms.

B.6 CONTRACT VALUE

The contract value, consisting of the estimated costs and total available fee, by fiscal year (base period) is set forth below. (The chart will be adjusted to reflect the change in Period of Performance made by Amendment 00011 via modification.)

Fiscal Year	Estimated Costs	Total Available Award Fee	TOTAL
Transition Period (60 days) (10/1/13 – 11/30/13)	\$1,714,103	\$0	\$1,714,103
FY 2014	\$131,045,880	\$8,066,789	\$139,112,669
FY 2015	\$126,989,864	\$7,830,000	\$134,819,864
FY 2016	\$129,964,588	\$7,763,171	\$137,727,759
FY 2017	\$133,603,828	\$7,980,882	\$141,584,710
FY 2018	\$134,486,425	\$7,691,040	\$142,177,465
FY 2019	TBD	TBD	TBD
FY 2020	TBD	TBD	TBD
FY 2021	TBD	TBD	TBD
FY 2022	TBD	TBD	TBD
FY 2023	TBD	TBD	TBD
TOTAL	\$657,804,688	\$39,331,882	\$697,136,570

B.7 CONTRACT TYPE

This is a Cost-Plus-Award-Fee Performance-Based Contract.

PART I - THE SCHEDULE

SECTION C

PERFORMANCE WORK STATEMENT

PART I -THE SCHEDULE

SECTION C

PERFORMANCE WORK STATEMENT

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SECTION C

DESCRIPTION/SPECIFICATION/WORK STATEMENT **DESCRIPTION OF WORK AND SERVICES** **PERFORMANCE WORK STATEMENT**

C.1 GENERAL INFORMATION

1.0 Introduction

This Performance-Based Management Contract (PBMC) is for the management and operation of the Strategic Petroleum Reserve (SPR), including operating and maintaining the facilities and related systems. It reflects the application of performance-based contracting approaches and techniques which emphasize results/outcomes and minimize “how to” performance descriptions. The Contractor has the responsibility for total performance under the Contract, including determining the specific methods for accomplishing the work effort, performing quality control, and assuming accountability for accomplishing the work under the contract. Accordingly, this PBMC provides flexibility, within the terms and conditions of the contract, to the Contractor in the performance of this contract.

Under this PBMC, it is the Contractor’s responsibility to develop and implement innovative approaches and adopt practices that foster continuous improvement in accomplishing the mission of the SPR. The Department of Energy (DOE) expects the Contractor to produce effective and efficient management structures, systems, and operations that maintain high levels of quality and safety in accomplishing the work required under this contract. The Contractor shall conduct all work in a manner that optimizes productivity, minimizes waste, and fully complies with all applicable laws, regulations, and terms and conditions of the contract.

2.0 Background

The SPR is a large crude oil stockpile under the control of the President of the United States. The SPR is mandated by the Energy Policy and Conservation Act, as amended, and by the comprehensive energy plans of all Administrations since 1975 in recognition of the long-term dependence of the United States on imported crude oil and petroleum products.

The SPR mission is to store crude oil to reduce the adverse economic impact of a major supply interruption to the United States and to carry out obligations under the international energy program. The SPR vision is to fill the reserve to capacity with crude oil and to serve as the global benchmark for crude oil reserves.

The Assistant Secretary for Fossil Energy, U. S. Department of Energy, has overall programmatic responsibility for achieving the goals and objectives of the SPR program. This responsibility has been delegated to the Deputy Assistant Secretary for Petroleum Reserves and is exercised through a Program Office in Washington, D.C. In addition, there is a Project Management Office located in New Orleans, Louisiana. It carries out day-to-day project activities, including the management and operation of the SPR sites, and is responsible for the award and administration of this contract.

The SPR Facilities Development Program is presently designed and constructed to provide a storage capacity of 727million barrels and a drawdown/distribution capability of 4.4 million barrels per day. Currently, the SPR has a crude oil inventory of approximately 696 million barrels.

The DOE has four large underground crude oil storage facilities in salt domes along the Gulf Coast of Texas and Louisiana. The four storage sites are West Hackberry and Bayou Choctaw in Louisiana, and Bryan Mound and Big Hill in Texas. These storage sites are organized into three distribution systems--Seaway, Texoma, and Capline--and are connected by DOE pipelines to commercial crude oil pipeline networks and to commercial and Government-owned marine terminal distribution facilities. The Government-owned SPR marine terminal is located in St. James, Louisiana and is currently leased to a third party.

The Department has implemented a commercialization program to outgrant by leasing underutilized SPR crude oil distribution facilities for commercial use. Currently, the St. James Terminal as well as the pipelines from the Bryan Mound site to Texas City and Jones Creek and Bayou Choctaw to St. James Terminal are also leased to commercial concerns. The Management and Operating Contractor has oversight responsibility for such leased assets.

3.0 Performance Work Statement

Under this PBMC, the Contractor shall furnish the necessary personnel, facilities, equipment, materials, supplies, and services (except those provided by the Government) to accomplish the Performance Work Statement (PWS). The PWS under this PBMC is comprehensive in that the Contractor is expected to perform all necessary technical, operational, and management functions to manage and operate the SPR sites/facilities and perform the DOE missions assigned to the SPR sites/facilities. This encompasses all ongoing objectives of the SPR sites/facilities as well as those objectives that may be assigned during the term of the contract and include, but is not limited to: expansion or programmatic reconfigurations of the SPR; all infrastructure management and maintenance; human resources management; environmental management; health, safety, and security; and purchasing, financial, and other administrative systems.

The overall performance objectives of this contract are:

The Contractor shall maintain the SPR inventory and storage capacity, assure operational readiness to draw down and distribute crude oil within 13 days of a Presidential direction, and maintain an operational posture that exercises and preserves SPR systems and processes to achieve performance criteria, cost control objectives, and the long-term capability to perform the mission.

Work under this contract shall be performed in a manner that will protect the environment, the facilities, and the safety and health of employees and the public. The Contractor shall utilize the best operational technology and management practices from both Government and commercial sources to continuously improve and achieve excellence in the conduct of operations at the SPR. The Contractor is expected to achieve effective, efficient, and economic use of resources to meet the requirements of the contract, including effective application of cost considerations in the decision-making process through such means as cost/benefit, life cycle cost, lease/purchase, and make-or-buy analyses.

C.2 WORK REQUIREMENTS

1.0 Introduction

The performance-based results/outcomes of this contract are broadly set out in this PWS and reflect the DOE's minimum needs and expectations for Contractor Performance. More particularly, established annually, or at other such intervals determined by DOE to be appropriate, will be specific performance work statements, performance standards (measures applied to results/outputs), acceptable performance levels (performance expectations), acceptable quality levels (permissible deviations from performance expectations), and related incentives. The related incentives may be monetary, or in cases where monetary incentives are not desirable or considered effective, the Contractor's performance may be used as a factor in the determination to extend contract performance, a factor which directly affects the past performance report card, or a factor in a decision to reduce or increase DOE oversight on Contractor reporting as appropriate.

DOE's Quality Assurance Surveillance Plan (QASP) will consist primarily of the Performance Evaluation Management Plan (PEMP). The QASP establishes the process DOE will use to ensure that the Contractor has performed in accordance with the performance standards and expectations. The QASP will summarize the performance standards, expectations, and acceptable quality levels for each task; describe how performance will be monitored and measured; describe how the results will be evaluated; and state how the results will affect contract payment.

Specific work requirements under this contract, including performance metrics and deliverables, will be established annually by the Contracting Officer in accordance

with the Section H clause entitled “Work Authorization.” The Contracting Officer will issue Work Authorization Directives for each major work area to be accomplished in a given year. These directives will conform to the PWS of this contract and further affect the General Requirements specified in this section.

2.0 General Requirements

2.1. Operations

Perform management, planning, oversight, documentation, training, operational functions, energy management and crude oil activities associated with the operation of the SPR sites/facilities.

Manage, plan, and implement operational activities associated with fluid movements (crude oil, raw water, and brine); solution mining; receipt and storage of crude oil; pipeline and metering operations; drawdown/distribution readiness activities; cavern well operations, workover, geotechnical and monitoring; operation and maintenance of vapor pressure treatment facilities to minimize impacts to drawdown and inventory availability; crude oil quality monitoring and compliance with standards, quantity control; manage crude oil inventory system for accountability; manage crude oil quality and sampling system, operation and testing of brine disposal wells; and other activities as deemed appropriate.

2.1.1 Drawdown Readiness

The Contractor shall manage and execute the operational Drawdown Readiness program, including but not limited to planning, developing, researching, training, and conducting Systems Test Exercises (STEs)/Disaster Recovery Exercises. Maintain operations and management computer models and databases with respective programs supporting Drawdown Readiness (i.e., Personal Computer Operations Model (PCOM), Readiness and Capability (Report) RECAP, SPR Exchange Capabilities Report (SPREX), etc.) functions. Perform analyses and studies of areas affecting systems capabilities for improving system enhancements of DOE-owned distribution systems. Manage planning, analysis, and implementation of the Vapor Pressure mitigation program. On STE/Disaster Recovery test exercises, interface with other federal, state, and local agencies to ensure that policy and goals are achieved.

2.1.2 Cavern Integrity and Workovers

The Contractor shall manage and operate the SPR cavern integrity, cavern remediation, and workover program in a safe, effective,

efficient, timely, and environmentally compliant manner consistent with DOE objectives and requirements ensuring compliance with current DOE Conduct of Operations regulations, and Occurrence Reporting and Processing System requirements.

Manage geotechnical controls, monitor and analyze caverns to ensure drawdown capability. Assure that proper permits and reports for caverns, cavern wells, brine disposal wells, workovers, etc. are filed with appropriate regulatory agencies. Develop workover procedures and schedules with assurance that workover materials and subcontracts are ordered and ready when needed to support rig operations without impact. Initiate all work orders necessary to support the approved workover schedule.

Develop and recommend engineering solutions to down-hole and wellhead problems in cavern and brine disposal wells. Provide periodic reports on Cavern Integrity and Workover activities as required by Work Authorization Directives.

2.1.3 Petroleum Acquisition and Transportation

Manage the logistics functions for crude oil movements, crude oil accountability, crude oil quality control, fill and drawdown activities, planning and control, and support of Foreign Trade Zone operations. The Contractor is responsible for maintaining the official cargo and oil contract files.

In support of oil movements (fill and drawdown, including sales and exchanges), the Contractor will develop a crude oil fill plan and schedule, and coordinate oil movements with its subcontracted third-party inspectors, commercial terminals and pipelines, and the SPR storage sites. The Contractor will coordinate oil movements and manage SPR deliveries in compliance with the Cargo Preference Act and the Jones Act and commercial pipeline rules and regulations.

Perform those tasks necessary to support the administration of crude oil activities such as crude oil acquisitions, sales, and exchanges. In support of negotiations and execution of any SPR contracts, the Contractor will conduct Oil Price Analysis, market evaluations, and analyze Oil Trading/Hedging alternatives to support price determinations and price indexing.

The Contractor shall institute and manage a crude oil quality program that encompasses the oversight responsibility of sampling,

analysis, technical review and documentation of SPR crude oil in accordance with SPRPMO Orders.

Manage and operate SPR site crude oil laboratories, crude oil sample storage facility, including the calibration of analytical equipment. Operate and maintain the metering and sampling equipment located at the SPR sites, including the calibration of instrumentation devices used for generating measurements.

Manage the crude oil quality database and cavern sampling program. Maintain the necessary controls for measurement, sampling, and analyses, in accordance with DOE requirements.

Manage the crude oil inventory systems and maintain supporting documentation in accordance with SPRPMO Orders. Update crude oil inventory systems and resource documents as required. Comply with all inventory reporting requirements as required by DOE/SPRPMO Orders. Maintain current Superfund and Oil Spill Liability Trust Fund inventory records.

The Contractor shall support terminalling distribution agreements and coordinate readiness assessments as required. The Contractor shall support evaluations of DOE-leased assets.

2.2 Maintenance

Manage and perform preventive, corrective, predictive, and general maintenance on Government-owned equipment and facilities, including caverns, and wells. Maintain the Government-owned facilities in a manner that will detect and correct defects that could cause potential failures. Provide all the integrated resources necessary to maintain, update, and improve the Integrated Logistics Support program.

2.3 Major Maintenance

Develop long-term plans and, as assigned, perform major maintenance projects and related construction management involving engineering, procurement, construction, fabrication, installation, and testing, or combinations thereof, which: 1) maintains a building, structure, or physical system in an efficient operating condition, or 2) materially adds to the value of or prolongs the life of a building, structure, or physical system.

2.4 Utility Operations (Power)

The Contractor shall manage electric power usage and other SPR utilities programs tied to drawdown/fill readiness for ensuring their cost

effectiveness, including hotel loads, and equipment testing. The Contractor shall manage Energy Management programs and implement state-of-the-art processes for energy efficiency, and support the acquisition of public utility contractual agreements. The Contractor will analyze power data and provide recommendations to DOE on power usage, savings, alternatives, and contract status.

The Contractor will provide a Management and Operating Contractor Energy Manager to manage all aspects of SPR energy management to meet Federal, DOE, Executive Order, and SPR energy management requirements and objectives.

2.5 Environmental

Develop, implement, and maintain a comprehensive Environmental Management System, which shall include all activities necessary to ensure that SPR operations do not adversely impact the environment and meet the environmental protection requirements of the DOE, and federal, state, and local regulatory agencies. Program elements include environmental monitoring; environmental impact assessment and reports; regulatory agency reporting; permitting; oil spill response; environmental inspection; pollution abatement; waste minimization; records maintenance; laboratory operation; audits, documentation, reports, and coordination of all site programs addressing environmental and sustainability activities. The Environmental Management System shall meet the requirements set forth in applicable International Standards Organization (ISO) 14001 and be capable of certification by a Registrar accredited by ANSI-ASQ National Accreditation Board within the first year of operation or such other reasonable period of time.

The Contractor must establish and implement a Site Sustainability Plan (SSP). The Contractor must develop or support development and commitments to identify their respective contribution toward meeting the DOE Department's sustainability goals. Contractor must integrate their SSP with their operational plans.

2.6 Security

Develop, implement, and maintain a Security Program to protect personnel, Government property, and classified information from theft, sabotage, espionage, or other acts that may cause adverse impacts on national security or the health and safety of the public. Elements of the program include general topical programs as follows: Program Management, Protective Force, Physical Security, Information Protection, Cyber Security, Personnel Security, Unclassified Visits and Assignment Programs. Security initiatives include plans and procedures; lock and key control

programs; classified document control program; operation security program; communication security program; tempest program; security awareness/crime prevention program; cyber security programs; personnel security programs; audits; inspection; investigation; vulnerability and risk assessments; lighting systems and intrusion detection alarm systems; national security clearance requests and investigations; emergency and contingency planning; test/exercise programs; information classification program; and management of subcontracted security and protection force services.

2.7 Technical Support and Management

2.7.1 Engineering

Perform special studies, analyses, design, design reviews, and documentation in support of the operation, maintenance, and repair of facilities, systems, and equipment. Primary functions involve technical disciplines associated with the flow of high volume of raw water, brine, and crude oil in the solution-mining of underground storage caverns and crude oil drawdown. Engineering disciplines cover areas required for problem solving and associated analysis. Perform Title I, II and III (See Paragraph C.4) services, as required. Additional functional responsibilities include systems engineering; vapor pressure analyses; cavern and well engineering; pipeline assurance; configuration management; and Reliability, Availability, and Maintainability (RAM) program management. The Contractor shall fulfill the acquisition of treatment facilities intended to remediate increased vapor pressure of inventory.

2.7.2 Quality Assurance

Develop, implement, and maintain a comprehensive Quality Assurance Program, which shall include all activities necessary to ensure that risks and environmental impacts are minimized and that safety, reliability, performance, and mission are accomplished through the application of management systems commensurate with the risks posed by the facilities and their operation.

The Quality Assurance Program shall meet the requirements of the applicable DOE Order(s) and as set forth in ISO 9001 and be capable of registration by a Registrar Accreditation Board and shall maintain the certification for the term of the contract.

The Contractor shall establish a Contractor Assurance System (CAS) program in accordance with DOE requirements and shall include a process to ensure contract requirements are being met.

The Contractor shall perform self-assessments on management programs and utilize the SPR's Assessment Tracking System (ATS) for tracking all deficiencies and associated corrective actions.

2.7.3 Project Management

Provide overall management of contract performance, legal services, project planning and control, public affairs, graphics, records management, self-assessments, and miscellaneous support services. This includes integrating activities between multiple SPR DOE prime contracts as well as acting as the project integrator on large capital projects.

2.7.4 Information Systems and Knowledge Management

The Contractor shall utilize the best appropriate technology and management practices to efficiently manage, operate, and maintain a SPR enterprise-wide computer and information system. This includes a central network control server facility (New Orleans) with alternate data center, computer workstations, area networks, office automation, software and management information system development and maintenance, data communication, and directly related support activities, including cyber security. The Contractor shall orient all planning and implementation towards deploying forward-looking technologies which maximize overall operating efficiencies and best business practices from enterprise resource planning and knowledge management perspectives. This includes digital document and records management, data warehousing and mining, utilizing web-centric applications and creating efficiencies from flexible work place and workspace environments. Also included are the management, operation, and maintenance of telecommunication, video teleconferencing, radio, and satellite communication services, facilities, and equipment during normal and emergency situations for all SPR sites/facilities.

2.7.5. Financial Management

Develop, implement, and maintain a Financial Management program, including an accounting system suitable to accumulate, record, and report all financial activities; formulate short and long-range budgets which identify all resource requirements needed to accomplish projected work loads; and develop, implement, and maintain effective controls of all budgets through the use of approved funding programs and cost resource analysis.

2.7.6 Procurement/Contracts

Develop, implement, and maintain a DOE-approved procurement system the objective of which is to deliver to its customers on a timely basis those products and services necessary to accomplish the purposes of the Government's contract. The purchasing system shall be well defined, consistently applied, and shall follow purchasing practices appropriate for the requirement and dollar value of the purchase. Contractor purchases are subject to certain Federal laws, Executive Orders, and regulations as required by statute, regulation, or contract terms and conditions. The purchasing system shall identify and apply the best in commercial purchasing practices and procedures to achieve system objectives. Where specific requirements do not otherwise apply, the Contractor purchasing system shall provide for appropriate measures to ensure the:

- (1) Acquisition of quality products and services at fair and reasonable prices;
- (2) Use of capable and reliable subcontractors;
- (3) Minimization of acquisition lead-time and administrative costs of purchasing;
- (4) Use of effective competitive techniques;
- (5) Reduction of performance risks associated with subcontractors, and facilitation of quality relationships which can include techniques such as partnering agreements, ombudsmen, and alternative disputes procedures;
- (6) Use of self-assessment and benchmarking techniques to support continuous improvement in purchasing;
- (7) Maintenance of the highest professional and ethical standards;
- (8) Maintenance of file documentation appropriate to the value of the purchase and which is adequate to establish the propriety of the transaction and the price paid; and

- (9) Maximization of opportunities for small business, HUBZone small business, small disadvantaged business, and woman-owned business concerns to participate in contract performance.

2.7.7 Property Management

Develop, implement, and maintain a DOE-approved personal property management system that provides adequate protection, maintenance, utilization, and disposition of personal property, and reasonable assurance that the DOE's personal property is safeguarded against waste, loss, unauthorized use, or misappropriation, in accordance with applicable statutes, regulations, contract terms and conditions, programmatic needs, and good business practices.

2.7.8 Human Resource Management

Develop, implement, and maintain a Human Resource System, including employment functions such as recruiting, interviewing, testing, diversity management, wage and salary administration, position classification, personnel records, benefits administration, employee fitness programs, service recognition programs, industrial relations, collective bargaining, administration of employee welfare programs, performance appraisal, training and development, and other miscellaneous personnel services.

2.7.9 Safety and Health

Develop, implement, and maintain a comprehensive Safety and Health Program which shall include all activities necessary to ensure the health and safety of the work force and the public and shall meet the requirements of DOE Orders, the Safety and Health Manual, and federal, state, and local codes. Program elements include safety and health inspections; hazard identification analysis and abatement; accident investigations; records maintenance; industrial hygiene; and coordination of all site programs addressing safety and health activities. The Contractor shall commit to Occupational Safety and Health Administration (OSHA) Voluntary Protection Program (VPP) criteria plus achieve and maintain VPP status at each SPR operating site.

2.7.10 Fire Protection and Emergency Management

Develop, implement, and maintain comprehensive programs in the areas of Fire Protection and Emergency Management.

The Fire Protection Program shall include all activities necessary to protect the SPR from the perils of fire and shall comply with requirements of the National Fire Codes, Factory Mutual Loss Prevention Data Sheets, American Petroleum Institute recommended practices, and DOE Orders. Program elements include inspection, monitoring and reviewing, maintenance and repair, and risk assessment.

The Emergency Management Program shall include all activities necessary to ensure readiness to respond to emergencies and shall comply with DOE Orders, federal, state and local regulations. Readiness shall be attained by maintenance of current documentation delineating roles and responsibilities, and by exercises and training.

2.7.11 Internal Audit

Conduct internal audit operations satisfactory to DOE, which at a minimum would: be organizationally independent; be of sufficient size and include appropriately trained professionals to meet standards of the Institute of Internal Auditors (IIA); perform both financial and performance audits meeting either Government Auditing Standards or IIA standards, including sufficient testing of “internal controls” over cost and sufficient transaction testing of costs incurred by the Contractor to ensure reasonableness, allowability, and allocability. Establish an audit resolution and follow-up system to track internal audit findings and recommendations and effectively participate in coordination with the Office of Inspector General’s (OIG’s) audit plan.

C.3 DELIVERABLES

Deliverables required under this contract will be set forth in the Work Authorization Directives issued by the Contracting Officer. In addition, the Contractor shall satisfy the reporting requirements contained in Section J of this contract and contract provision H.20 Reporting Requirements. To ensure that effective and efficient management systems exist for the management and operations of the SPR, this contract also requires the delivery of certain documents, plans, and reports for the Contracting Officer’s review and approval. These requirements are specified elsewhere in this contract.

C.4 WORK STANDARDS

In performing this contract, the Contractor shall comply with applicable federal, state, and local laws and regulations; and shall be responsible for obtaining such licenses, permits, and other authorization that may be necessary for the performance of the work.

Pursuant to the Section I Contract Clause DEAR 970.5204-2 entitled “Laws, Regulations, DOE Directives” the Contractor shall conform to the requirements of all applicable DOE Orders and Directives, which may establish management, technical, procedural or other standards, and specifications for Contractor work activities. The Orders and Directives applicable to this contract are identified in the DOE/SPRPMO Directives contained in Section J of this contract.

All work under this contract shall conform to the requirements set forth in the following documents:

SPR Level I Technical and Performance Criteria (October 2004).

SPR Level II Performance Criteria (August 2008).

SPR Level III Design Criteria (November 2001).

(Documents are available in the additional documents section of the M&O Contract Recompensation Reading Room at http://www.spr.doe.gov/readingroom/rr_files.html.)

PART 1 – THE SCHEDULE
SECTION D
PACKAGING AND MARKING

PART 1 – THE SCHEDULE

SECTION D

PACKAGING AND MARKING

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SECTION D

PACKAGING AND MARKING

D.1 PACKAGING

Preservation, packaging, and packing for shipment or mailing of all work delivered hereunder, shall be in accordance with good commercial practice and adequate to insure acceptance by common carrier and safe transportation at the most economical rates.

D.2 MARKING

Each package, report, or other deliverable shall be accompanied by a letter or other document which:

- (a) Identifies the contract number under which the item is being delivered; and
- (b) Identifies the contract requirement or other instruction which requires the delivered item(s).

PART 1 – THE SCHEDULE

SECTION E

INSPECTION AND ACCEPTANCE

PART 1 – THE SCHEDULE

SECTION E

INSPECTION AND ACCEPTANCE

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SECTION E

INSPECTION AND ACCEPTANCE

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

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

E.2 ACCEPTANCE

Acceptance for all work and effort under this contract shall be accomplished by the Contracting Officer or any other duly authorized representative.

PART 1 – THE SCHEDULE

SECTION F

DELIVERIES OR PERFORMANCE

PART 1 – THE SCHEDULE

SECTION F

DELIVERIES OR PERFORMANCE

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SECTION F**DELIVERIES OR PERFORMANCE****F.1 PERIOD OF PERFORMANCE**

The base period of performance for this contract is from December 1, 2013 through November 30, 2018, with an option to extend the term of this contract for a period of five (5) years. The Option will be exercised unilaterally in accordance with Section I FAR 52.217-9 "Option to Extend the Term of the Contract."

The transition period is 60 days from the written notice to proceed or as extended by the Contracting Officer. If the transition period is extended, the Contracting Officer shall provide written notification of the date the Contractor assumes full responsibility for the PWS in accordance with the clause in Section H entitled "Transition Activities."

F.2 PLACE OF PERFORMANCE

The work under this contract is to be carried out at the following Strategic Petroleum Reserve facilities:

- Elmwood Office Complex, Jefferson Parish, Harahan, Louisiana
- Bayou Choctaw, Iberville Parish, Louisiana
- West Hackberry, Cameron Parish, Louisiana
- Big Hill, Jefferson County, Texas
- Bryan Mound, Brazoria County, Texas
- Stennis Warehouse, Stennis Space Facility, Hancock County, Mississippi

F.3 STOP-WORK ORDER (FAR 52.242-15) (AUG 1989) (ALTERNATE I) (APR 1984)

- (a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is

delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either-

- (1) Cancel the stop-work order; or
 - (2) Terminate the work covered by the order as provided in the Termination Clause of this contract.
- (b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule, the estimated cost, the fee or 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.

PART I – THE SCHEDULE

SECTION G

CONTRACT ADMINISTRATION DATA

PART I – THE SCHEDULE

SECTION G

CONTRACT ADMINISTRATION DATA

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SECTION G

CONTRACT ADMINISTRATION DATA

G.1 TECHNICAL AND ADMINISTRATIVE CORRESPONDENCE MATTERS

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

- (a) Technical and Administrative Correspondence/Matters. Technical and administrative correspondence (as used herein, excludes other correspondence described in Paragraph (b)) concerning performance of this contract shall be addressed to the DOE Contracting Officer's Representative (COR)/Head of Contracting Activity (HCA) with an information copy of the correspondence to the DOE Contracting Officer and the DOE Contract Specialist.
- (b) Other Correspondence. All other correspondence, including patent or technical data issues, waivers, deviations, or modifications to the requirements, terms, or conditions of this contract, shall be addressed to the Contracting Officer (CO), with information copies of the correspondence to the DOE Contract Specialist or DOE Patent Counsel (where patent or technical data issues are involved).
- (c) Contracting Officer's address:
Sally Leingang
Contracting Officer
U.S. Department of Energy
Strategic Petroleum Reserve Project Management Office
900 Commerce Road East
New Orleans, LA 70123
Telephone No. 504-734-4362
Email address is: Sally.Leingang@spr.doe.gov
- (d) COR/HCA addresses:

William C. Gibson, Jr.
Contracting Officer's Representative/Head of Contracting Activity
U.S. Department of Energy
Strategic Petroleum Reserve Project Management Office
900 Commerce Road East
New Orleans, LA 70123
Telephone No. 734-4201
Email address is: Hoot.Gibson@spr.doe.gov

Site Level COR addresses:

Suresh Sevak
Contracting Officer's Representative
U.S. Department of Energy
Bayou Choctaw Storage Facility
Strategic Petroleum Reserve
60825 Highway 1148
Plaquemine, LA 70764
Telephone No. (225) 692-6201
Email address is: Suresh.Sevak@spr.doe.gov

Marshall Jackson
Contracting Officer's Representative
U.S. Department of Energy
Big Hill Storage Facility
Strategic Petroleum Reserve
24784 Big Hill Road
Winnie, TX 77665
Telephone No. (409) 981-8201
Email address is: Marshall.Jackson@spr.doe.gov

Jorge Aguinaga
Contracting Officer's Representative
U.S. Department of Energy
Bryan Mound Storage Facility
Strategic Petroleum Reserve
242 County Road
Freeport, TX 77541
Telephone No. (979) 230-2201
Email address is: Jorge.Aguinaga@spr.doe.gov

TBD
Contracting Officer's Representative
U.S. Department of Energy
West Hackberry Storage Facility
Strategic Petroleum Reserve
1450 Black Lake Road
Hackberry, LA 70645
Telephone No. _____
Email address is: _____@spr.doe.gov

- (e) Contract Specialist's address:
Anne Quern
Contract Specialist
U.S. Department of Energy
Strategic Petroleum Reserve Project Management Office
900 Commerce Road East
New Orleans, LA 70123
Telephone No. 504-734-4228
Email address is: Anne.Quern@spr.doe.gov
- (f) Patents/Technical Data Correspondence. Correspondence concerning patent and technical data issues shall be addressed to:
- Mark D. Dvorscak
U.S. Department of Energy
Chicago Office
9800 S. Cass Avenue
Argonne, IL 60439
Telephone No. 630-252-2393
Email Address is: Mark.Dvorscak@ch.doe.gov

G.2 DOE PROPERTY ADMINISTRATOR

The Contractor may use the DOE Property Administrator as a point of contact for guidance and assistance involving property requirements. The CO shall be contacted for any matter which involves a change in any of the expressed terms and conditions of the contract. Correspondence being sent regarding the Property Administrator should be addressed to:

Rosalie Washington
Property Administrator
U.S. Department of Energy
Strategic Petroleum Reserve Project Management Office
900 Commerce Road East
New Orleans, LA 70123
Telephone No. 504-734-4235
Email address is: Rosalie.Washington@spr.doe.gov

G.3 CONTRACTOR CONTACT

The Contractor shall identify to the CO the Contractor 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.

SECTION H
SPECIAL CONTRACT REQUIREMENTS

PART 1 – THE SCHEDULE

SECTION H

SPECIAL CONTRACT REQUIREMENTS

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SECTION H

SPECIAL CONTRACT REQUIREMENTS

H.1 REPRESENTATIONS AND CERTIFICATIONS

The Representations, Certifications, and Other Statements of Offeror for this contract as completed by the Contractor are hereby incorporated in this contract by reference.

H.2 MODIFICATION AUTHORITY

Notwithstanding any of the other provisions of this contract, a Contracting Officer shall be the only individual 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.

H.3 EMPLOYEE COMPENSATION: PAY AND BENEFITS

- (a) Contractor Employee Compensation Plan

The Contractor shall submit by close of contract transition, a Contractor Employee Compensation Plan demonstrating how the Contractor will comply with the requirements of this Contract. The Contractor Employee Compensation Plan shall describe the Contractor's policies regarding compensation, pensions and other benefits, and how these policies will support at reasonable cost the effective recruitment and retention of a highly skilled, motivated, and experienced workforce.

- (b) Total Compensation System

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). DOE-approved standards (e.g., set forth in an advance understanding or appendix), if any, shall be applied to the Total Compensation System. The Contractor's Total Compensation System shall meet the tests of allowability established by and in accordance with FAR 31.205-6 and DEAR 970.3102-05-6, be fully documented, consistently applied, and acceptable to the Contracting Officer. Costs incurred in implementing the Total Compensation System shall be consistent

with the Contractor's documented Contractor Employee Compensation Plan as approved by the Contracting Officer.

(c) Appraisals of Contractor Performance

DOE will conduct periodic appraisals of Contractor performance with respect to Total Compensation System implementation. Such appraisals will be conducted through either DOE validation of the Contractor's performance self-assessment of its Total Compensation System or third party expert review.

(d) Reports and Information

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

- (1) 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.
- (2) A list of the top five most highly compensated executives as defined in FAR 31.205-6(p)(2)(ii) and their total cash compensation at the time of Contract award, and at the time of any subsequent change to their total cash compensation. This should be the same information provided to the Central Contractor Registration (CCR) per FAR 52.204-10.
- (3) An Annual Report of Contractor Expenditures for Employee Supplemental Compensation through the Department Workforce Information System (WFIS) Compensation and Benefits Module no later than March 1 of each year.
- (4) A performance self-assessment of the Total Compensation System implementation and results to include an evaluation of total benefits using the Employee Benefits Value Study and the Employee Benefits Cost Survey Comparison Analysis described in paragraph (f) below.

(e) Pay and Benefit Programs

The Contractor shall establish pay and benefit programs for Incumbent Employees and Non-Incumbent Employees as defined in paragraphs (1) and (2) below; provided, however, that employees scheduled to work fewer than 20 hours per week receive only those benefits required by law. Employees are eligible for benefits, subject to the terms, conditions, and limitations of each benefit program.

- (1) Incumbent Employees are the employees who are regular employees of the incumbent contractor.

- (i) Pay. Subject to the Workforce Transition Clause, the Contractor shall provide equivalent base pay to Incumbent Employees as compared to pay provided by DM Petroleum Operations Company for at least the first year of the term of the Contract.
- (ii) Pension and Other Benefits. The Contractor shall provide a total package of benefits to Incumbent Employees comparable to that provided by DM Petroleum Operations Company. Comparability of the total benefit package shall be determined by the CO in his/her sole discretion.

Incumbent Employees shall remain in their existing pension plans (or comparable successor plans if continuation of the existing plans is not practicable) pursuant to pension plan eligibility requirements and applicable law.

- (2) Non-Incumbent Employees are new hires, i.e., employees other than Incumbent Employees who are hired by the Contractor after date of award. All Non-Incumbent Employees shall receive a total pay and benefits package that provides for market-based retirement and medical benefit plans that are competitive with the industry from which the Contractor recruits its employees and in accordance with Contract requirements.
- (3) Cash Compensation
 - (i) The Contractor shall submit the following to the Contracting Officer for a determination of cost allowability for reimbursement under the Contract:
 - (A) Any additional compensation system self-assessment data requested by the Contracting Officer that may be needed to validate and approve the total compensation system.
 - (B) Any proposed major compensation program design changes prior to implementation.
 - (C) An Annual Compensation Increase Plan (CIP).
 - (D) Individual compensation actions for the top contractor official (e.g., laboratory director/plant manager or equivalent and key personnel not included in the CIP). For those key personnel included in the CIP, DOE will approve salaries upon the initial contract award and when key personnel are replaced during the life of the contract. DOE will have access to all individual salary reimbursements. This access is provided

for transparency; DOE will not approve individual salary actions (except as previously indicated).

- (E) Any proposed establishment of an incentive compensation plan (variable pay plan/pay-at-risk).
 - (ii) The Contracting Officer's approval of individual compensation actions will be required only for the top contractor official (e.g., laboratory director/plant manager or equivalent) and key personnel as indicated in (e)(3)(i)(D) above. The base salary reimbursement level for the top contractor official establishes the maximum allowable salary reimbursement under the contract. Unusual circumstances may require a deviation for an individual on a case-by-case basis. Any such deviations must be approved by the Contracting Officer.
 - (iii) Severance Pay is not payable to an employee under this Contract if the employee:
 - (A) Voluntarily separates, resigns or retires from employment,
 - (B) Is offered employment with a successor/replacement contractor,
 - (C) Is offered employment with a parent or affiliated company, or
 - (D) Is discharged for cause.
 - (iv) 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.
- (f) Pension and Other Benefit Programs
- (1) No presumption of allowability will exist when the Contractor implements a new benefit plan or makes changes to existing benefit plans for either Incumbent Employees or Non-Incumbent Employees until the Contracting Officer makes a determination of cost allowability for reimbursement for new or changed benefit plans.
 - (2) Cost reimbursement for Incumbent Employee and Non-Incumbent Employee pension and other benefit programs sponsored by the Contractor will be based on the Contracting Officer's approval of Contractor actions pursuant to an approved Employee Benefits Value Study and an Employee Benefits Cost Survey Comparison as described below.

- (3) Unless otherwise stated, or as directed by the Contracting Officer, the Contractor shall submit the studies required in paragraphs (i) and (ii) below. The studies shall be used by the Contractor as part of its performance self-assessment described in paragraph (d) (4) above and in calculating the cost of benefits under existing benefit plans. 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.
 - (i) An Employee Benefits Value Study (Ben-Val), every two years each for Incumbent and Non-Incumbent Employees benefits, which is an actuarial study of the relative value (RV) of the benefits programs offered by the Contractor to Incumbent and Non-Incumbent Employees measured against the RV of benefit programs offered by comparator companies approved by the Contracting Officer. To the extent that the value studies do 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 and,
 - (ii) An Employee Benefits Cost Study Comparison, annually each for Incumbent and Non-Incumbent Employees that analyzes the Contractor's employee benefits cost for Incumbent and Non-Incumbent Employees on a per capita basis per full time equivalent employee and as a percent of payroll and compares it with the cost reported by the U.S. Chamber of Commerce Annual Employee Benefits Cost Survey or other Contracting Officer approved broad based national survey.
- (4) When the net benefit value exceeds the comparator group by more than five percent, the Contractor shall submit a corrective action plan to the Contracting Officer for approval.
- (5) When the average total benefit per capita cost or total benefit cost as a percent of payroll exceeds the comparator group by more than five percent, when and if required by the Contracting Officer, 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 achieve conformance with a Contracting Officer directed per capita cost range or total benefit cost as a percent of payroll.
- (6) Within two years of Contracting Officer approval of the Contractor's corrective action plan, the Contractor shall align employee benefit programs with the benefit value and per capita cost range as approved by the Contracting Officer.

- (7) The Contractor shall submit the Report of Contractor Expenditures for Supplementary Compensation for the previous calendar year via the DOE Workforce Information System (WFIS) Compensation and Benefits Module no later than March 1 of the current calendar year.
 - (8) The Contractor may not terminate any benefit plan during the term of the Contract without the prior approval of the Contracting Officer in writing.
 - (9) Cost reimbursement for PRBs is contingent on DOE approved service eligibility requirements for PRB that shall be based on a minimum period of continuous employment service not less than 5 years under a DOE cost reimbursement contract(s) immediately prior to retirement. Unless required by Federal or State law, advance funding of PRBs is not allowable.
- (g) Establishment and Maintenance of Pension Plans for which DOE Reimburses Costs.
- (1) For cost allocability and reimbursement purposes, any defined benefit (DB) or defined contribution (DC) pension plans established and/or implemented by the Contractor shall be maintained consistent with the requirements of the IRC and ERISA.
 - (2) Contractor policies, practices, and procedures used in the administration of pension plans shall be consistent with applicable laws and regulations.
 - (3) Employees working for the Contractor shall only accrue credit for service under this Contract after the date of Contract award.
 - (4) Any pension plan maintained by the Contractor, for which DOE reimburses costs, shall be maintained as a separate pension plan distinct from any other pension plan which provides credit for service not performed under a DOE cost-reimbursement contract.
- (h) Basic Requirements

The Contractor shall adhere to the requirements set forth below in the establishment and administration of pension plans that are reimbursed by DOE pursuant to cost reimbursement contracts for management and operation of DOE facilities and pursuant to other cost reimbursement facilities contracts. Pension Plans include Defined Benefit and Defined Contribution plans.

- (1) The Contractor shall become a sponsor of the existing pension and other benefit plans (or comparable successor plans), including other post-retirement benefit (PRB) plans, as applicable, for Incumbent Employees and retired plan participants, with responsibility for management and administration of the plans. The Contractor shall be responsible for maintaining the qualified status of those plans. The Contractor shall carry

over the length of service credit and leave balances accrued as of the date of the Contractor's assumption of Contract performance.

- (2) Except for Commingled plans in existence as of the effective date of this Contract, each pension plan covering contractor employees at designated DOE and contractor facilities shall be a separate pension plan as defined below. When appropriate, Commingled plans shall be converted to separate plans at the time of new contract award or the extension of a contract.
- (3) DOE approval is required prior to implementing any change to a pension plan covering prime cost reimbursement contracts for management and operation of DOE facilities and other contracts when designated. Changes shall be in accordance with and pursuant to the terms and conditions of the contract.
- (4) DOE approval is required for each newly adopted pension plan or for any changes to Commingled pension plans or Taft-Hartley pension plans.
- (5) Each contractor pension plan shall be submitted to an annual, full-scope audit by an outside independent organization and the resulting report, submitted to DOE, must provide the accounting details specified in ERISA Sections 103 and 104.
- (6) For existing Commingled plans, the Contractor shall maintain and provide annual Separate Accounting of DOE liabilities and assets as for a Separate Plan.
- (7) For existing Commingled plans, the Contractor shall be liable for any shortfall in the plan assets caused by funding or events unrelated to DOE contracts.
- (8) The Contractor shall comply with the requirements of ERISA and any other applicable laws to the fullest extent practical, even if a specific pension plan is exempt from ERISA.
- (9) Proposed pension plan changes will be evaluated by DOE, with approval/disapproval based on the merits of each proposed change, including but not limited to evaluation of the following:
 - (i) Total compensation.
 - (ii) Pension benefit surveys published by the Bureau of Labor Statistics or other Contracting Officer approved broad based national survey.
 - (iii) Retirement studies published by consulting firms, educational institutions, or policy groups.

- (iv) Software models developed by qualified actuaries.
- (10) The Human Resources Management Plan shall include the following:
- (i) A Pension Management Plan (PMP) discussing the Contractor's plans for management and administration of all pension plans consistent with the terms of this contract. The PMP shall be updated and submitted to the Contracting Officer in draft annually no later than 45 days after the last day of the Plan year along with its draft actuarial valuation.
 - (ii) Within thirty (30) days after the date of the submission, appropriate Contractor representatives shall meet with the Contracting Officer to discuss the Contractor's proposed draft annual update of the PMP to specifically discuss any anticipated changes in the projected pension contributions from the prior year's contributions and any discrepancies between the actual contributions made for the most recent year preceding that meeting and the projected contributions for that year which the Contractor had submitted to the Contracting Officer the prior year. The annual revision of the PMP shall include:
 - (A) The Contractor's best projection of the contributions which it will be legally obligated to make to the pension plan(s), beginning with the required contributions for the coming fiscal year, based on the latest actuarial valuation, and continuing for the following four 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).
 - (B) If the actuarial valuation submitted pursuant to the annual PMP update indicates that the sponsor of the pension plan must impose pension plan benefit restrictions, the Contractor shall provide the following information:
 - 1) The type of benefit restriction that will take place,
 - 2) 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, and
 - 3) The amount of money that would need to be contributed to the pension plan to avoid legally required benefit restrictions.

- (C) A detailed discussion of how the Contractor intends to manage the pension plan(s) to maximize the contribution predictability (i.e. forecasting accuracy) and contain current and future costs, to include rationale for selection of all plan assumptions that determine the required contributions and which impact the level and predictability of required contributions. The Contractor is required to annually establish a long term (e.g. five year) plan that outlines the projected retirement plan costs, and any planned action steps to be taken to better manage predictability. The contractor must also share the following information with the Department during the meeting:
- 1) Strategy for achieving and maintaining fully-funded status of the plan(s)
 - 2) Investment policy statement for the plan, with any recent updates
 - 3) Results of recent asset liability studies (required to be performed every 3 years or after a significant event) including rationale for maintaining current asset allocation strategy.
 - 4) Comparison of budget projections submitted to the Department to actual contributions
 - 5) Any recent reports, findings, or recommendations provided by plan's investment consultant.
 - 6) Actuarial experience studies to set the plan's actuarial assumptions (required to be performed every 3-5 years).
- (D) An assessment to evaluate the effectiveness of the Contractor's pension plan(s) investment management/results. The assessment shall include at a minimum: a review and analysis of pension plan investment objectives; the strategies employed to achieve those objectives; the methods used to monitor execution of those strategies and the achievement of the investment objectives; and a comparative analysis of the objectives and performance of other comparable pension plans. The Contractor shall also identify its plans, if any, for revising any aspect of its pension plan management based on the results of the review.

- (11) Any pension plan maintained by the Contractor, for which DOE reimburses costs, shall be maintained as a separate pension plan distinct from any other pension plan that provides credit for service not performed under a DOE cost-reimbursement contract.
- (i) Reimbursement of Contractors for Contributions to Defined Benefit Pension Plans
- (A) Contractors that sponsor single employer or multiple employer defined benefit pension plans will be reimbursed for the annual required minimum contributions under the Employee Retirement Income Security Act (ERISA), as amended by the Pension Protection Act (PPA) of 2006. Reimbursement above the annual minimum required contribution will require prior approval of the Contracting Officer. Reimbursement amounts will take into consideration all pre-funding balances and funding standard carryover balances.
- (B) Contractors that sponsor multi-employer DB pension plans will be reimbursed for pension contributions in the amounts necessary to ensure that the plans are funded to meet the annual minimum requirement under ERISA, as amended by the PPA. However, reimbursement for pension contributions above the annual minimum contribution required under ERISA, as amended by the PPA, will require prior approval of the Contracting Officer.
- (j) Reporting Requirements for Designated Contracts

The following reports shall be submitted to DOE as soon as possible after the last day of the plan year by the contractor responsible for each designated pension plan funded by DOE but no later than the dates specified below:

- (1) Actuarial Valuation Reports. The annual actuarial valuation report for each DOE-reimbursed pension plan and when a pension plan is commingled, the contractor shall submit separate reports for DOE's portion and the plan total by the due date for filing IRS Form 5500.
- (2) Forms 5500. Copies of IRS Forms 5500 with Schedules for each DOE-funded pension plan, no later than that submitted to the IRS.
- (3) Forms 5300. 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.

(k) Changes to Pension Plans

At least sixty (60) days prior to the adoption of any changes to benefits, plan design, or funding methods for a pension plan, the Contractor shall submit the information required below, as applicable, to the Contracting Officer for approval or disapproval and a determination as to whether the costs to be incurred are consistent with the Contractor's documented Human Resources Management Plan and are deemed allowable pursuant to FAR 31.205-6, as supplemented by DEAR 970.3102-05-6.

- (1) For proposed changes to pension plans and pension plan funding, the Contractor shall provide the following to the Contracting Officer:
 - (i) a 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 costs;
 - (iii) except in circumstances where the Contracting Officer indicates that it is unnecessary, a legal explanation of the proposed changes from the counsel used by the plan for purposes of compliance with all legal requirements applicable to private sector defined benefit pension plans;
 - (iv) the Summary Plan Description; and,
 - (v) any such additional information as requested by the Contracting Officer.
- (2) The Contractor shall obtain the advance written approval of the Contracting Officer for any non-statutory pension plan changes that may increase costs or liabilities, and any proposed special programs (including, but not limited to, plan-loan features, employee contribution refunds, or ancillary benefits) and shall provide DOE with an analysis of the impact of such special programs and other changes on the actuarial accrued liabilities of the pension plan, and on relative benefit value, if applicable.
- (3) Contractors shall submit new benefit plans and changes to plan design or funding methodology with justification to the Contracting Officer for approval. The justification must:
 - (i) demonstrate the effect of the plan changes on the contract net benefit value or per capita benefit costs,
 - (ii) provide the dollar estimate of savings or costs, and

(iii) provide the basis of determining the estimated savings or cost.

(l) Terminating Operations

When operations at a designated DOE facility are terminated and no further work is to occur under the prime contract, the following apply:

- (1) No further benefits for service shall accrue.
- (2) The Contractor shall provide a determination statement in its settlement proposal, defining and identifying all liabilities and assets attributable to the DOE contract.
- (3) The Contractor shall base its pension liabilities attributable to DOE contract work on the market value of annuities or dispose of such liabilities through a competitive purchase of annuities. Insurance companies bidding for such business shall satisfy Department of Labor requirements.
- (4) Assets shall be determined using the accrual-basis market value on the date of termination of operations.
- (5) DOE and the Contractor(s) shall establish an effective date for spinoff or plan termination. On the same day as the contractor notifies the IRS of the spinoff or plan termination, all DOE 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.

(m) Terminating Plans

- (1) DOE contractors shall not terminate any pension plan (Commingled or site specific) without notifying the Department at least 60 days prior to the scheduled date of plan termination.
- (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. Insurance companies bidding for this business shall satisfy Department of Labor standards. Otherwise, the contractor shall apply the assumptions and procedures of the Pension Benefit Guaranty Corporation.
- (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) If ERISA or IRC rules prevent a full transfer of excess DOE reimbursed assets from the terminated plan, the contractor shall pay any deficiency directly to DOE according to a schedule of payments to be negotiated by the parties.
- (5) On the same day as the contractor notifies the IRS of the plan termination, all DOE assets will be placed in a high-yield, fixed-income portfolio until full disposition of the terminating plan's liabilities. The portfolio shall be rated no lower than Standard & Poor's AA.
- (6) DOE liability to a commingled pension plan shall not exceed that portion which corresponds to DOE contract service. The DOE shall have no other liability to the plan, to the plan sponsor, or to the plan participants.
- (7) After all liabilities of the plan are satisfied, the contractor shall return to DOE 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 DOE. Such amount and such earnings shall be subject to DOE audit. To effect the purposes of this paragraph, DOE and the contractor may stipulate to a schedule of payments.

(n) Special Programs

Contractors must advise DOE and receive prior approval for each early-out program, window benefit, disability program, plan-loan feature, employee contribution refund, asset reversion, or incidental benefit.

(o) Definitions

- (1) **Commingled Plans.** Cover employees from the contractor's private operations and its DOE contract work.
- (2) **Current Liability.** The sum of all plan liabilities to employees and their beneficiaries. Current liability includes only benefits accrued to the date of valuation. This liability is commonly expressed as a present value.
- (3) **Defined Benefit Pension Plan.** Provides a specific benefit at retirement that is determined pursuant to the formula in the pension plan document.
- (4) **Defined Contribution Pension Plan.** Provides benefits to each participant based on the amount held in the participant's account. Funds in the account may be comprised of employer contributions, employee contributions, investment returns on behalf of that plan participant and/or other amounts credited to the participant's account.

- (5) Designated Contract. For purposes of this Order, a contract (other than a prime cost reimbursement contract for management and operation of a DOE facility) for which the Head of the Departmental Contracting Activity determines that advance pension understandings are necessary or where there is a continuing Departmental obligation to the pension plan.
- (6) Pension Fund. The portfolio of investments and cash provided by employer and employee contributions and investment returns. A pension fund exists to defray pension plan benefit outlays and (at the option of the plan sponsor) the administrative expenses of the plan.
- (7) Separate Accounting. Account records established and maintained within a commingled plan for assets and liabilities attributable to DOE contract service. NOTE: The assets so represented are not for the exclusive benefit of any one group of plan participants.
- (8) Separate Plan. Must satisfy IRC Sec. 414(l) definition of a single plan, designate assets for the exclusive benefit of employees under DOE contract, exist under a separate plan document (having its own DOL plan number) that is distinct from corporate plan documents and identify the contractor as the plan sponsor.
- (9) Spun-off Plan. A new plan which satisfies IRC Reg. 1.414 (l)-1 requirements for a single plan and which is created by separating assets and liabilities from a larger original plan. The funding level of each individual participant's benefits shall be no less than before the event, when calculated on a plan termination basis.

H.4 LABOR RELATIONS

- (a) The Contractor shall respect the right of employees to organize and to form, join, or assist labor organizations, to bargain collectively through their chosen labor representatives, to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and to refrain from any or all of these activities.
- (b) The Contractor shall meet with the Contracting Officer or designee(s) for the purpose of reviewing the Contractor's bargaining objectives prior to negotiations of any collective bargaining agreement or revision thereto and shall consult with and obtain the approval of the Contracting Officer regarding appropriate economic bargaining parameters, including those for pension and medical benefit costs, prior to the Contractor entering into the collective bargaining process. During the collective bargaining process, the Contractor shall notify the Contracting Officer before submitting or agreeing to any collective bargaining proposal which can be calculated to affect allowable costs under this Contract or which could involve other items of special interest to the Government. During the collective bargaining process, the

Contractor shall obtain the approval of the Contracting Officer before proposing or agreeing to changes in any pension or other benefit plans.

- (c) The Contractor will seek to maintain harmonious bargaining relationships that reflect a judicious expenditure of public funds, equitable resolution of disputes and effective and efficient bargaining relationships consistent with the requirements of FAR, Subpart 22.1 and DEAR, Subpart 970.2201 and all applicable Federal and State Labor Relations laws.
- (d) The Contractor will notify the Contracting Officer or designee in a timely fashion of all labor relations issues and matters of local interest including organizing initiatives, unfair labor practice, work stoppages, picketing, labor arbitrations, and settlement agreements and will furnish such additional information as may be required from time to time by the Contracting Officer.

H.5 NO THIRD PARTY BENEFICIARIES

This Contract 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 the Contractor, or upon any other third party. This provision is not intended to limit or impair the rights which any person may have under applicable Federal statutes.

H.6 WORKER'S COMPENSATION INSURANCE

- (a) The Contractor shall maintain workers' compensation insurance coverage pursuant to the requirements of FAR 28.307-2, FAR 28.308 and DEAR 970.2803-1. The insurance program must be approved by the Contracting Officer and cover all eligible employees of the Contractor and comply with applicable Federal and State workers' compensation and occupational disease statutes.
- (b) The Contractor shall obtain a service-type insurance policy that endorses the Department of Energy Incurred Loss Retrospective Rating Insurance Plan unless a different arrangement is approved by the Contracting Officer.
- (c) The Contractor shall submit to the Contracting Officer an annual evaluation and analysis of workers' compensation cost as a percent of payroll in comparison with the percentage of payroll cost reported by a nationally recognized Cost of Risk Survey that has been pre-approved by the Contracting Officer. The Contractor's self-evaluation shall discuss:
 - (1) Periodic audits of claims servicing units; and,
 - (2) The reasonableness of self-insurance reserves and methods and assumptions used to closeout claims or losses to present value.

- (d) The Contractor, if it is a state institution covered under a corporate workers' compensation arrangement, shall provide the Contracting Officer with a copy of the account statements including deposits, earnings, payments, losses, and administrative fees by the Contractor's financial institution on no less than an annual basis.
- (e) The Contractor shall obtain approval from the Contracting Officer before making any significant change to its workers compensation coverage and shall furnish reports as may be required from time to time by the Contracting Officer.

H.7 WORKFORCE TRANSITION

- (a) Right of First Refusal. Subject to the availability of funds, the Contractor shall offer employment to all Incumbent Employees, except as stated in paragraph (b) below, who, as of the date of Contract award, are in good standing and who hold regular appointments and are engaged in performance of work within the PWS under this Contract. Individuals who hold regular appointments are individuals who are employed for an indefinite duration, with either a full-time work schedule of at least 40 hours per week, or a part-time work schedule of fewer than 40 hours per week, but more than 20 hours per week.
- (b) Discretionary Incumbent Management Employees Excepted. It is the Contractor's prerogative to establish its own management structure. Therefore, the right of first refusal set forth in the Workforce Transition clause is not applicable to Discretionary Incumbent Management Employees. Discretionary Incumbent Management Employees are individuals permanently assigned in the positions listed below. The Contractor may offer employment to said employees, in either their current positions or other positions, at the Contractor's sole discretion.
 - (1) For those positions listed below, any changes in job positions or classifications shall be accompanied by a commensurate alteration in compensation.
 - (2) Nothing in this paragraph shall preclude the Contractor from separating employees when in its judgment it is appropriate to do so based on the employee's performance or conduct.

Discretionary Incumbent Management:

Site Director, West Hackberry
Site Director, Bayou Choctaw
Site Director, Bryan Mound
Site Director, Big Hill
Director, Cavern Integrity

Director, Data Systems
Director, Security and Emergency Preparedness
Director, Human Resources and Development
Director, Energy and Sustainability
General Counsel

H.8 POST-CONTRACT RESPONSIBILITIES FOR PENSION AND OTHER BENEFIT PLANS

- (a) If this Contract expires or terminates and DOE 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 at the SPR (collectively, the ‘Plans’), 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 commingled plan is involved, the Contractor shall:
- (1) Spin off the DOE portion of any commingled plan used to cover employees working at the DOE sites/facilities into a separate plan. The new plan will normally provide benefits similar to those provided by the commingled plan and shall carry with it the DOE assets on an accrual basis market value, including DOE assets that have accrued in excess of DOE liabilities.
 - (2) Bargain in good faith with DOE or the successor contractor to determine the assumptions and methods for establishing the liabilities involved in a spinoff. DOE 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 DOE 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.”
- (b) If this Contract expires or terminates and DOE 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 PWS 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 clause), whichever is earlier, and notwithstanding any other obligations and requirements concerning expiration or termination under any other clause of this Contract, the following actions shall occur regarding the Contractor’s obligations regarding the Plans at the time of Contract Completion:

- (1) Subject to subparagraph (2) 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.
- (2) 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.

H.9 PERFORMANCE GUARANTEE AGREEMENT

The Contractor's parent organization(s) or all member organizations if the Contractor is a joint venture, limited liability company, or other similar entity, shall guarantee performance of the contract as evidenced by the Performance Guarantee Agreement incorporated in the contract in Section J, Attachment I.

If the Contractor is a joint venture, limited liability company, or other similar entity where more than one organization is involved, the parent(s) 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 enters into proceedings related to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the Contracting Officer.

H.10 CONTRACTOR PRESS RELEASES

The DOE policy and procedure on news releases requires that all Contractor press releases be reviewed and approved by DOE prior to issuance. Therefore, the Contractor shall, at least ten (10) days prior to the planned issue date, submit a draft copy to the Contracting Officer of any planned press releases related to work performed under this contract. The Contracting Officer will then obtain necessary reviews and clearances and provide the Contractor with the results of such reviews prior to the planned issue date.

H.11 SUSTAINABLE ACQUISITION UNDER DOE SERVICE CONTRACTS

Pursuant to Executive Orders 13423, Strengthening Federal Environmental, Energy and Transportation Management, and 13514, Federal Leadership in Environmental, Energy, and Economic Performance, the Department of Energy is committed to managing its facilities in a manner that will promote the natural environment and protect the health and well being of its Federal employees and contractor service providers. As a service provider at a DOE facility you are urged to assist us in our efforts. Sustainable acquisition or environmentally preferable contracting has several interacting initiatives. Among the initiatives are the following:

- Alternative Fueled Vehicles and Alternative Fuels
- Biobased Content Products (USDA Designated Products)
- Energy Efficient Products
- Non-Ozone Depleting Alternative Products
- Recycled Content Products (EPA Designated Products)
- Water Efficient Products (EPA WaterSense Labeled Products)

You should familiarize yourself with these information resources:

- Recycled Products are described at <http://epa.gov/cpg>
- Biobased Products are described at <http://www.biopreferred.gov/>
- Energy efficient products are at <http://energystar.gov/products> for Energy Star products and FEMP designated products are at <http://www.eere.energy.gov/femp/procurement>
- Environmentally Preferable Computers are at <http://www.epeat.net>
- Non-Ozone Depleting Alternative Products at <http://www.epa.gov/ozone/strathome.html>
- Water efficient plumbing fixtures at <http://epa.gov/watersense>

In the course of providing services at the DOE site, if your services necessitate the acquisition of any of these types of products, it is expected that you will acquire the sustainable, environmentally preferable models unless the product is not available competitively within a reasonable time, at a reasonable price, is not life cycle cost efficient in the case of energy consuming products, or does not meet reasonable performance standards. While there is no formal reporting, DOE prepares a sustainable acquisition annual report and you may be asked to share information for our report.

H.12 TRANSITION ACTIVITIES

- (a) During the transition period, as specified in the clause in Section F entitled “Period of Performance,” the Contractor shall perform those activities that are necessary to transition the work from the incumbent Contractor in a manner that (1) assures that all work for which the Contractor is responsible under the contract is continued without disruption; (s) provides for an orderly transfer of resources, responsibilities, and accountability from the incumbent Contractor; and (3) allows the Contractor to

perform the work in an efficient, effective, and safe manner. The Contractor is responsible for providing all necessary personnel and logistical support (office space, computers, telephone, etc.) during the transition period, unless specifically directed otherwise by the Contracting Officer.

- (b) The Contractor shall submit a transition plan consistent with the approach in the proposal as the basis for beginning the transition activities immediately upon award of the contract. The Contractor shall submit a transition plan and budget to the Contracting Officer for approval within 7 days after award of the contract.
- (c) After completion of the transition activities contained in the approved transition plan and such other transition activities as may be authorized or directed by the Contracting Officer, the Contractor shall notify the Contracting Officer in writing that it is ready to assume full responsibility for the work. The Contractor shall assume full responsibility for the work upon the date specified in writing by the Contracting Officer.
- (d) The transition plan shall include a schedule of major activities, and address as a minimum:
 - (1) Communication process among the Contractor, incumbent Contractor, and DOE;
 - (2) Identification of key transition issues and milestones;
 - (3) Identification of a transition team (inclusive of consultants and teaming members, if any);
 - (4) Integration of work packages (direct and indirect) and budgets from incumbent Contractor;
 - (5) Approach to minimizing impacts on continuity of operations;
 - (6) Dispute Resolution;
 - (7) Assumption of SPR related programs and projects;
 - (8) Comprehensive human resource management plan as described in the Section H clause entitled "Employee Compensation: Pay and Benefits";
 - (9) Implementation of proposed management systems (e.g., Project Management, Integrated Safety Management, Accounting, Procurement, Property, Budget and Planning);
 - (10) Assumption of all ES&H responsibilities, functions, and activities;

- (11) Identification and prioritization of issues after transition; and
- (12) A detailed cost breakdown by transition activity (include cost breakdown as an appendix to the plan).

H.13 TECHNICAL DIRECTION – DEAR 952.242-10 (DEC 2000)

- (a) Performance of the work under this contract shall be subject to the technical direction of the DOE Contracting Officer’s Representative (COR). The term “technical direction” is defined to include, without limitation:
 - (1) Providing direction to the Contractor that redirects contract effort, shift work emphasis between work areas or tasks, require pursuit of certain lines of inquiry, fill in details, or otherwise serve to accomplish the contractual PWS.
 - (2) Providing written information to the Contractor that assists in interpreting drawings, specifications, or technical portions of the work description.
 - (3) Reviewing and, where required by the contract, approving, technical reports, drawings, specifications, and technical information to be delivered by the Contractor to the Government.
- (b) The Contractor will receive a copy of the written COR designation from the Contracting Officer. It will specify the extent of the COR’s authority to act on behalf of the Contracting Officer.
- (c) Technical direction must be within the PWS stated in the contract. The COR does not have the authority to, and may not, issue any technical direction that—
 - (1) Constitutes an assignment of additional work outside the PWS;
 - (2) Constitutes a change as defined in the contract clause entitled “Changes;”
 - (3) In any manner causes an increase or decrease in the total estimated contract cost, the fee (if any), or the time required for contract performance;
 - (4) Changes any of the expressed terms, conditions or specifications of the contract; or
 - (5) Interferes with the Contractor’s right to perform the terms and conditions of the contract.
- (d) All technical direction shall be issued in writing by the COR.
- (e) The Contractor must proceed promptly with the performance of technical direction duly issued by the COR in the manner prescribed by this clause and within its

authority under the provisions of this clause. If, in the opinion of the Contractor, any instruction or direction by the COR falls within one of the categories defined in (c)(1) through (c)(5) of this clause, the Contractor must not proceed and must notify the Contracting Officer in writing within five (5) working days after receipt of any such instruction or direction and must request the Contracting Officer to modify the contract accordingly. Upon receiving the notification from the Contractor, the Contracting Officer must—

- (1) Advise the Contractor in writing within thirty (30) days after receipt of the Contractor's letter that the technical direction is within the scope of the contract effort and does not constitute a change under the Changes clause of the contract;
 - (2) Advise the Contractor in writing within a reasonable time that the Government will issue a written change order; or
 - (3) Advise the Contractor in writing within a reasonable time not to proceed with the instruction or direction of the COR.
- (f) A failure of the Contractor and Contracting Officer either to agree that the technical direction is within the scope of the contract or to agree upon the contract action to be taken with respect to the technical direction will be subject to the provisions of the clause entitled "Disputes."

H.14 SMALL BUSINESS SUBCONTRACTING PLAN

The Small Business Subcontracting Plan, submitted by the Contractor consistent with the provisions of the clause entitled "FAR 52.219-9 Small Business Subcontracting Plan" in Section I, and approved by the Contracting Officer is incorporated and made a material part of this contract as an Attachment to Section J.

Prior to the beginning of each Fiscal Year, the Contractor shall also submit an "annual subcontracting plan which shall establish subcontracting goals, as described in paragraph (d)(1) and (2) of Section I clause entitled " FAR 52.219-9 Small Business Subcontracting Plan," to remain in effect for each fiscal year. The annual plan shall be reviewed for approval by the Contracting Officer and shall be incorporated into this contract.

H.15 CYBER SECURITY REQUIREMENTS

- (a) General Computing System Use Policies. DOE policies as well as the Information Technology (IT) policies defined at the SPR are intended to protect computer hardware, software, and data from unauthorized access, intentional compromise or destruction, and inadvertent damage. All users including contractor staff are responsible for the protection of computer resources located in their work areas and those computer resources assigned by the SPR to the user. The following computer security requirements apply to all computer users at the SPR.

- (b) **Computer Access Request (Including Foreign National Special Requirements).** Before any request can be processed the individual needs to have a DOE ID badge or PIV (Personal Identification Verification) card. In order to be assigned a user ID and be allowed access to the SPR computers and network, the person's manager must submit a computer access request or by using the SPR User Management System. The person must also complete the SPRPMO User Certification For Protection of DOE Sensitive Information. If the individual is a foreign national they must fill out a "Foreign National Request" through the Security Department and be properly vetted before being granted access to SPR information systems or data.
- (c) **Password.** Your assigned login ID and password are for your use only. Your password is not to be disclosed to anyone. You are responsible for all computer work processed under your assigned logon ID and password in accordance with DOE policy.
- (d) **User Responsibilities and Prohibited Use.** Users must comply with End-User Rules of Behavior defined in Appendix E of the applicable System Security Plan (SSP) for the SPR system being accessed. Users must attend annual computer security awareness briefings.
- (e) **Personally Identifiable Information (PII).** Protected PII shall not be stored or transmitted on portable/mobile devices or on removable media, or remotely access Protected PII on DOE systems without specific approval of the Designated Approval Official.
- (f) **Remote Access.** Users shall only do remote access to SPRPMO systems using two-factor authentication with SPRPMO supplied credentials. Remote access to protected PII on government systems must be approved in writing by the Designated Approval Authority. Remote access is any access to an organizational information system by a user (or an information system) communicating through an external, non-organization-controlled network (e.g., the Internet).
- (g) **Restriction on the Use of Portable/Removable Media.** SPRPMO policy is to restrict the use of portable and removable media to access, collect, create, process, transmit, disseminate, or store SPR information within and outside SPR security areas. Use of portable and removable media to store or transfer SPR electronic information will be considered the exception rather than the normal operating procedure. Only SPR-issued portable and removable media are allowed to be connected to SPR information systems or networks. Use of Personally Owned Devices (PODs) are not allowed on SPR information systems without prior written approval of the ISSM (Information System Security Manager) or the SPR Designated Approval Official.
- (h) **Restriction on the Use of Cellular Technology.** SPRPMO policy is to restrict the use of cellular wireless communications technology to access SPR information system

assets or data. Cellular technology must be incapacitated or disabled before connecting to any SPR information system or network.

H.16 SEPARATE CORPORATE ENTITY

The Contractor under this contract shall be a separate corporate entity from its parent company(ies). The separate corporate entity must be set up solely to perform this contract, and shall be totally responsible for all contract activities.

H.17 RESPONSIBLE CORPORATE OFFICIAL AND CORPORATE BOARD OF DIRECTORS

Responsible Corporate Official

- (a) The Contractor has provided a guarantee of performance from its parent(s) company(s) in the form set forth in Section J Attachment entitled, "Performance Guarantee Agreement." The individual signing the "Performance Guarantee Agreement" for the parent company(s) should be the Responsible Corporate Official.
- (b) The Responsible Corporate Official is the person who has sole corporate (parent company(s)) authority and accountability for Contractor performance. DOE may contact, as necessary, the single Responsible Corporate Official identified below regarding contract performance issues.

Responsible Corporate Official

Name: Bruce Stanski
Position: President
Company/Organization: Fluor Federal Services, Inc.
Address: 2300 Clarendon Boulevard, Suite 1110
Arlington, VA 22201
Phone: 703-351-6461
Email: bruce.stanski@fluor.com

- (c) Should the Responsible Corporate Official or their contact information change during the period of the contract, the Contractor shall promptly notify the Contracting Officer in writing of the change.

Identified below is each member of the Corporate Board of Directors that will have corporate oversight.

DOE may contact, as necessary, any member of the Corporate Board of Directors, who is accountable for corporate oversight of the Contractor organization and key personnel.

Corporate Board of Directors:

Name: Bruce Stanski
Position: President
Company/Organization: Fluor Federal Services, Inc.
Address: 2300 Clarendon Boulevard, Suite 1110
Arlington, VA 22201
Phone: 703-351-6461
Email: bruce.stanski@fluor.com

Name: J. Greg Meyer
Position: Senior Vice President – Environmental/Nuclear
Operations
Company/Organization: Fluor Government Group
Address: 2300 Clarendon Boulevard, Suite 1110
Arlington, VA 22201
Phone: 703-647-4340
Email: greg.meyer@fluor.com

Name: Tom Phalen
Position: Senior Vice President – Upstream Project Operations
Company/Organization: Fluor Energy and Chemicals
Address: One Fluor Daniel Drive
Sugarland, TX 77478
Phone: 281-263-2785
Email: tom.phalen@fluor.com

Should any change occur to the Corporate Board of Directors or their contact information during the period of the contract, the Contractor shall promptly notify the Contracting Officer in writing of the change.

H.18 HOME OFFICE EXPENSES

Home office expenses, whether direct or indirect, relating to activities of the Contractor are unallowable, except as otherwise specifically provided in the contract or specifically agreed to in writing by the Contracting Officer.

H.19 PROJECT CONTROL SYSTEM

- (a) In the performance of this Contract, the Contractor shall establish, maintain and use a system for the management and control of projects, which meets the requirements set forth in the Contract. The systems shall be cost-effective and of a level of detail commensurate with management principles necessary for management and control of the project. Specific project control systems guideline requirements and time frames for implementation of these requirements shall be transmitted to the Contractor by the Contracting Officer. The systems shall be reviewed by the

Contracting Officer, or duly authorized representative(s), for adequacy in meeting the designated requirements. As part of the review procedure, the Contractor shall furnish the Government a description of the project control system applicable to each project as required by the Contracting Officer. The Contractor agrees to provide access to all pertinent records, data and plans as requested by representatives of the Government for the conduct of this review.

- (b) The description of the project control systems accepted by the Contracting Officer shall be maintained and used by the Contractor in the performance of this Contract.
- (c) Contractor changes to the reviewed systems shall be submitted for review and approval as required by the Contracting Officer. When Contracting Officer approval is required, the Contracting Officer shall advise the Contractor of the acceptability of such changes within sixty (60) calendar days after receipt from the Contractor. When systems existing at the time of contract award do not comply with the designated guidelines, adjustments necessary to assure compliance will be made at no change in contract price or fee.
- (d) The Contractor agrees to provide access to all pertinent records and data requested by the Contracting Officer, or duly authorized representative(s), for the purpose of permitting Government surveillance to insure continuing application of the accepted systems to the project or group of projects under this Contract.
- (e) The Contractor shall require that each selected subcontractor, as determined by the Contracting Officer, meet specific guidelines for the project control systems as set forth in subcontract and shall incorporate in all such subcontracts adequate provisions for review and surveillance of subcontractor's systems to be carried out by the prime Contractor, or by the Government when requested by either the Government, prime or subcontractor.

H.20 REPORTING REQUIREMENTS

- (a) Work Breakdown Structure. Except as provided for elsewhere in the contract, the Work Breakdown Structure (WBS), as approved by the Contracting Officer, shall provide the basis for all reports required under this contract. The WBS shall be derived from the PWS described in this contract and shall also conform to any implementation guidance which may be provided by the Contracting Officer.
- (b) Periodic Plans and 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. These periodic plans and reports shall be submitted at the interval, and to the addresses and in the quantities as specified by the Contracting Officer. Where specific forms are required for individual plans and reports, the Contracting Officer shall provide such forms to the Contractor. The plans and reports expected to be submitted by the Contractor are described generally as follows:

General Management Reports narratively summarize schedule, labor, and cost plans and status, and provide explanations of status variances from plans.

Schedule/Labor Cost Reports provide information on schedule, labor and cost plans and status.

Performance Measurement Reports provide information regarding the actual cost of work performed relative to the budgeted cost for work performed relative to the budgeted cost for work scheduled, and provide for reporting data on performance measurement baseline maintenance and estimates at completion.

Technical Reports are the means by which scientific, technical, and engineering information acquired in the performance of the work is disseminated. Plans and reports shall be prepared by the Contractor in such a manner as to provide for—

- (1) Consistency with the contract PWS, the Work Authorization Directives (WADs), and the approved WBS.
 - (2) Correlation of data among the various plans and reports.
- (c) Changes in Work Effort. The reporting system established and maintained by the Contractor pursuant to this subsection shall recognize changes in work effort directed by the Contracting Officer, as provided for in the Work Control System. During performance of this contract, the Contractor shall update and/or change, as appropriate, the WBS (including any diagrams, supporting work descriptions, and WBS dictionary) to reflect changes in the PWS or discrete WADs. The Contractor's reporting system shall be able to provide for the following at the WAD level, or such lower level, as specified by the Contracting Officer:
- (1) Incorporate contractual changes affecting estimated cost and schedule in a timely manner.
 - (2) Reconcile estimated cost for those elements of the WBS identified in the contract as either priced line items or discrete WADs, and for those elements at the lowest level of the project summary WBS with current performance measurement budgets in terms of:
 - (i) Changes to the authorized work; and
 - (ii) Internal replanning in the detail needed by management for effective control.
 - (3) Prohibit retroactive changes to records pertaining to work performed that will change previously reported costs except for correction of errors and routine accounting adjustments.

- (4) Prevent revisions to the contract estimated costs except for Government-directed changes to the contractual effort.
- (5) Document, internal changes to the performance measurement baseline and, on a timely basis, notify the Contracting Officer of such changes.
- (d) The Contractor agrees to provide the Contracting Officer, or designated authorized representatives, access to any and all information and documents comprising the Contractor's reporting system.
- (e) The Contractor shall include the requirements of this clause in all subcontracts that are cost-reimbursement type of contracts when—
 - (1) The value of the subcontract is greater than \$2 million, unless specifically waived by the Contracting Officer, and,
 - (2) The Contracting Officer determines that the contract/subcontract effort is, or involves, a critical task related to the contract.

H.21 WORK AUTHORIZATION

- (a) Prior to the start of each fiscal year, the DOE shall provide the Contractor program execution guidance in sufficient detail to develop estimated costs, scope, and schedule for the performance thereof. The Contractor shall submit to the Contracting Officer or other designated authorized representative, a detailed PWS consistent with Section C, "Performance Work Statement," a budget of estimated costs and corresponding schedule of performance for work to be performed during the next fiscal year. The level of work activities, estimated cost, and schedule shall be a task level 2 of the Work Breakdown Structure (WBS), consistent with the PWS or other level as specified by the Contracting Officer.
- (b) Budget Negotiations: Prior to the authorization to proceed with the performance of any work under this contract, the Contractor and the DOE shall mutually establish a budget of estimated costs, a detailed PWS, and schedule of performance for each task at level 2 of the WBS or as otherwise specified by the Contracting Officer for that fiscal year. The established estimated costs, detailed PWS, and schedule of performance shall be incorporated into the contract's Section J, Attachment entitled "Work Authorization Directives (WADs)," and by modification. If agreement cannot be reached on the scope, schedule, and/or estimated cost for the WADs, the Contracting Officer shall issue a unilateral modification establishing the estimated cost and issue the WAD pursuant to this subsection authorizing Contractor performance, which shall not be subject to the Contract Clause entitled "Disputes - Alternate I."
- (c) No activities shall be authorized and no costs incurred until either the Contracting Officer has issued direction concerning continuation of activities.

- (d) Work Authorization Directives: The WADs authorizing the Contractor to proceed with performance of the annual PWS, shall be provided in writing to the Contractor by the Contracting Officer. Each WAD so issued will include the following:
- (1) Authorization number and work initiation date.
 - (2) Description of Work.
 - (3) Revision Number.
 - (4) The total estimated cost for the work to be performed under this authorization and current period estimated cost if the WAD performance schedule exceeds the current fiscal year.
 - (5) Appropriate schedule and milestone dates.
 - (6) Cost, schedule, and all other reporting requirements.
 - (7) Performance, objectives, measures, and targets.
 - (8) Date of issue.
 - (9) Responsible DOE Designated Official signature.
 - (10) Contracting Officer signature.
- (e) Performance Direction: Government direction of the performance of all work authorized for performance under this contract shall be in accordance with the Clause (H.13) entitled "Technical Direction."
- (f) Modification: The Contracting Officer may at any time and without notice issue WADs within the PWS of this contract requiring additional work, or directing the omission of, or changes to the PWS of this contract. A proposal for adjustment in the budget of estimated costs and schedule of performance of work established in accordance with paragraph (g) of this subsection shall be submitted by the Contractor as mutually agreed upon with the Contracting Officer.
- (g) Expenditure of Funds and Incurrence of Cost: The performance of work and the incurrence of cost in the execution of the PWS of this contract shall be initiated only when authorized in accordance with the provisions of this subsection. The expenditure of monies by the Contractor in the performance of all authorized work shall also be governed by the provisions of the Contract Clause entitled "Obligation of Funds." The Contractor shall notify the Contracting Officer whenever it anticipates under-running a WAD by more than 10% or over-running a WAD in any amount.

- (h) Remuneration: An annual fee shall be negotiated in accordance with the contract clause entitled “Total Available Fee: Base Fee Amount and Performance Fee Amount” for the performance of work authorized pursuant to this subsection. In accordance with the Contract Clause entitled “Changes,” when a WAD results in a material change in the negotiated budget of total estimated cost or character of the PWS, an equitable adjustment of the fee shall be made in accordance with the agreement of the parties and the contract shall be modified in writing.
- (i) Order of Precedence: This subsection is of lesser order of precedence than the Contract Clauses entitled “Obligation of Funds,” and “Payments and Advances.” The Contractor is not authorized to incur costs on any WAD which are not in compliance with the other terms and conditions of this contract.
- (j) Conflicts: In the event there is a conflict between the requirements of this subsection and Section J, Attachment entitled “List of Applicable Directives,” as amended, the Contractor shall obtain guidance from the Contracting Officer.
- (k) Reporting: Reporting shall be in accordance with the Special Contract Requirement entitled “Reporting Requirements.”
- (l) Responsibility to Achieve Environmental, Safety and Health Compliance: Notwithstanding the provisions of this subsection, the Contractor has, in the event of an emergency, authority to authorize corrective actions as may be necessary to sustain operations in a manner consistent with applicable environmental, safety and health statutes, regulations, and procedures. In the event that the Contractor takes such an action, the Contractor shall notify the Contracting Officer within 24 hours after such action was initiated and, with 30 days after such action has been initiated, submit a proposal for adjustment in the estimated costs and schedule of performance of work established in accordance with paragraphs (a) and (b) of this subsection.

H.22 WITHDRAWAL OF WORK

- (a) The Contracting Officer reserves the right to have any of the work contemplated by Section C, Performance Work Statement, of this contract performed by either another contractor or Government employees.
- (b) Work may be withdrawn:
 - (1) In order for the Government to conduct pilot programs;
 - (2) If the Contractor’s estimated cost of the work is considered unreasonable;
 - (3) For less than satisfactory performance by the Contractor; or

- (4) For any other reason deemed by the Contracting Officer to be in the best interest of the Government.’
- (c) If any work is withdrawn by the Contracting Officer, the Contractor agrees to fully cooperate with the new performing entity and to provide whatever support is required.
- (d) The contract will be modified to reduce the estimated costs and fee for any work withdrawn by the Contracting Officer.

H.23 PERFORMANCE CRITERIA, MEASURES, OUTPUT TARGETS, AND INCENTIVES

The Government will develop performance criteria, measures and output targets for the coming fiscal year which will be set forth in the Work Authorization Directives developed and issued pursuant to the Section H Provision entitled “Work Authorization.” The Contractor may also propose additional performance measures, which will be negotiated prior to placement in the Work Authorization Directives. The evaluation areas and individual requirements that will be subject to incentivization will be included in the Performance Evaluation and Measurement Plan developed and issued pursuant to the Clause in Section I entitled, “Total Available Fee: Base Fee Amount and Performance Fee Amount.” The evaluation of performance against measures will be a consideration in (1) development of fee awards, if any, (2) the DOE decision whether to exercise the option to extend the contract and (3) terminating the contract for default.

NOTE – COST REDUCTION INCENTIVE: The Department of Energy (DOE) expects the contractor to manage and operate the Strategic Petroleum Reserve in an efficient and effective manner. To this end, the contractor will be provided an incentive to achieve significant cost reduction without adversely affecting the level of performance required by the contract. Details implementing this incentive will be set forth in the annual Performance Evaluation and Measurement Plan issued pursuant to Section I Clause entitled “Total Available Fee: Base Fee Amount and Performance Fee Amount” of this contract. DOE anticipates that up to 25 percent of annual available fee will be assigned to this evaluation area in the Performance Evaluation and Measurement Plan incorporated in the contract in Section J, Attachment J.

The baseline for the measurement of the contractor’s performance will be the contractor’s approved Annual Operating Plan established each fiscal year. Reductions resulting from schedule delays, direction given by the DOE or changes in the mission, work scope, or routine reorganization of the contractor due to changes in the budget do not qualify for this incentive.

H.24 EMPLOYEE CONCERNS PROGRAM (ECP)

The Contractor shall submit an implementation plan to the Contracting Officer for approval within 90 days of contract award that describes an Employee Concerns Program

(ECP) that implements all programmatic requirements of the applicable DOE Order 442.1A.

H.25 ENVIRONMENT, SAFETY, AND HEALTH (ES&H)

- (a) The Contractor shall comply with existing system description document in accordance with the Section I Clause DEAR 970.5223-1 entitled, “Integration of ES&H Into Work Planning and Execution.” The Contractor shall submit an update to the existing Integrated Safety Management System (ISMS) Description Document within 60 days of contract award and thereafter in accordance with the Work Authorization Directive. Any changes to the ISMS Description Document after the Contracting Officer’s or designee’s initial approval, shall be approved by the Contracting Officer or designee.
- (b) The initial update of the ISMS Description Document shall include any revisions to ES&H Plans/Programs and include interfaces with other equivalent plans/program approved by DOE as required by the Contract Clause in Section I entitled “Laws, Regulations, and DOE Directives.”
- (c) This contract establishes the agreed-upon safety requirements and other operating parameters for the site-wide operations covered by the contract.

H.26 ENVIRONMENTAL PERMITS AND APPLICATIONS

Except as otherwise directed by the Contracting Officer, the Contractor is required to prepare all necessary Federal, State, and local permit applications. If any agency or agencies, which regulate the permits, require the signature of an operator on the permit, the Contractor, in recognition of its operator responsibilities, shall sign the permit as required by the regulators. In the event of termination or expiration of this Contract, DOE will require the new Contractor to accept transfer of all environmental permits executed by the Contractor.

H.27 CONTRACTOR ACCEPTANCE OF NOTICES OF VIOLATION(S) AND FINES AND PENALTIES

- (a) The Contractor shall accept, in its own name, notices of violation(s) 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 other provisions of this contract.
- (b) After providing DOE advance written notice, the Contractor shall conduct negotiations with regulators regarding NOVs/NOAVs and fines and penalties. However, the Contractor shall not make any commitments or offers to regulators that would bind the Government, including monetary obligations, without first obtaining written approval from the Contracting Officer. Failure to obtain advance written

approval may result in otherwise allowable costs being declared unallowable and/or the Contractor being liable for any excess costs to the Government associated with or resulting from such offers/commitments.

- (c) The Contractor shall notify DOE promptly when it receives service from the regulators of NOV/NOAVs and fines and penalties.

H.28 PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA

Pursuant to FAR 9.405(b), awards shall not be made to entities that are included on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

Any possible violation of the prohibition against falsely labeling products as made in America, and the entity is not on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs, should be promptly reported through the Contracting Officer. The DOE Contracting Officer is responsible for reporting of an entity in violation of the prohibition against falsely labeling products as American-Made to the Office of Management Systems, Office of Procurement and Assistance Management, for potential debarment of the entity pursuant to FAR 9.406-2(a)(4) and 9.406-2(b)(1)(iii).

H.29 DISPOSITION OF INTELLECTUAL PROPERTY – FAILURE TO COMPLETE CONTRACT PERFORMANCE

The following provision shall apply in the event the Contractor does not complete contract performance for any reason:

- (a) The Government may take possession of all technical data, including limited rights data, restricted computer software, and data and software obtained from subcontractors, licensors, and licensees, necessary to complete the work in conformance with this contract, including right to use the data in any Government solicitations for the completion of the work contemplated under this contract. Technical information includes, but is not limited to specifications, designs, drawings, operational manuals, flowcharts, software, databases and any other information necessary for the completion of work under this contract. Limited rights data and restricted computer software will be protected in accordance with the provisions of the Section I clause entitled “Rights in Data-Facilities.” The Contractor shall ensure that its subcontractors and licensors make similar rights available to the Government and its contractors.
- (b) 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 by the Contractor and any other intellectual property, including technical data, which are owned or controlled by the Contractor, at any time through completion of this contract and which are incorporated or embodied in the construction of the facilities or which are utilized in

the operation or remediation of the facilities or which cover articles of materials or products manufactured at a facility: (1) to practice or to have practiced by or for the Government at the facility, and (2) to transfer such license with the transfer of that facility. The acceptance or exercise by the Government of the aforesaid rights and license shall not prevent the Government at any time from contesting the enforceability, validity, or scope of, or title to, any rights or patents or other intellectual property herein licensed.

- (c) In addition, the Contractor will take all necessary steps to assign permits, authorizations, and any licenses in any third party intellectual property to the Government, or such third party as the Government may designate, that are necessary for the completion of the work contemplated under this contract.

H.30 GOVERNMENT-OWNED PROPERTY AND EQUIPMENT

On December 1, 2013, the Contractor shall accept the transfer of and accountability for Government-owned property and equipment from Contract DE-AC96-03PO92207.

H.31 CONFIDENTIALITY OF INFORMATION

- (a) To the extent that the work under this contract requires that the Contractor be given access to confidential or proprietary business or financial information belonging to the Government or other companies, the Contractor shall, after receipt thereof, treat such information as confidential and agrees not the appropriate such information to its own use or to disclose such information to third parties, unless specifically authorized by the Contracting Officer in writing. The foregoing obligations, however, shall not apply to:
 - (1) Information which, at the time of receipt by the Contractor, is in public domain;
 - (2) Information which is published after receipt thereof by the Contractor or otherwise becomes part of the public domain through no fault of the Contractor;
 - (3) Information which the Contractor can demonstrate was in its possession at the time of receipt thereof and was not acquired directly or indirectly from the Government or other companies;
 - (4) Information which the Contractor can demonstrate was received from a third party who did not require the Contractor to hold it in confidence.
- (b) The Contractor shall obtain the written agreement, in a form satisfactory to the Contracting Officer, of each employee permitted access, whereby the employee agrees that he will not discuss, divulge, or disclose any such information to any

person or entity except those persons within the Contractor's organization directly concerned with the performance of the contract.

- (c) The Contractor agrees, if requested by the Government, to sign an agreement identical, in all material respects, to the provisions of this clause, with each company supplying information to the Contractor under this contract, and to supply a copy of such agreement to the Contracting Officer.
- (d) The Contractor agrees that upon request by DOE it will execute a DOE-approved agreement with any party whose facilities or information data it is given access to or is furnished, restricting the use and disclosure of the information obtained from the facilities. Upon request by DOE, such an agreement shall also be signed by Contractor personnel.
- (e) This clauses shall flow down to all appropriate subcontracts.
- (f) Technical data is addressed in DEAR 970.5227-1.

H.32 TRAVEL RESTRICTIONS

- (a) Costs incurred for lodging, meals, and incidental expenses are considered reasonable and allowable to the extent that they do not exceed the maximum per diem rates in effect at the time of travel as set forth in:
 - (1) Federal Travel Regulations (FTR) for travel within the 48 states;
 - (2) Joint Travel Regulations (JTR) for travel in Alaska, Hawaii, the Commonwealth of Puerto Rico, an territories and possession of the United States; or
 - (3) Standardized Regulations (SR) for travel allowances in foreign areas.

The definitions of lodging, meals, and incidental expenses, and special or unusual situations of the above regulations are applicable to Contractor travel.

- (b) Airfare costs in excess of the lowest customary standard, coach, or equivalent airfare offered during normal business hours are unallowable except when such accommodations require circuitous routing, require travel during unreasonable hours, excessively prolong travel, result in increased cost that would offset transportation savings, are not reasonably adequate for physical or medial needs of the traveler, or are not reasonably available to meet mission requirements. However, in order for airfare costs in excess of the above standard airfare to be allowable, the applicable condition(s) set forth above must be documented and justified.

H.33 LOBBYING RESTRICTIONS

- (a) The Contractor shall not commit any funds obligated on this contract to 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 described in 18 U.S.C 1913. This restriction is in addition to those prescribed elsewhere in applicable status and regulation.
- (b) Any travel associated with legislative monitoring must be approved in advance by the Contracting Officer.

H.34 TRANSITION TO FOLLOW-ON CONTRACT

The Contractor recognizes that the work and services covered by this contract are vital to the DOE mission and must be maintained without interruption, both at the commencement and the expiration of this contract. It is therefore understood and further agreed in recognition of the above that:

At the expiration of the contract term or any earlier termination therefor, the Contractor shall cooperate with a successor Contractor or the Government by allowing either to interview its employees for possible employment, and if such employees accept employment with the replacement Contractor, shall release such employees at the time established by the new employer or by DOE. The Contractor shall cooperate with the replacement Contractor and Government with regard to the termination or transfer arrangements for such employees to assure maximum protection of employee service credits and fringe benefits. After selection by the Government of any successor Contractor, the Contractor and such successor Contractor shall jointly prepare mutual detailed plans for phase-out and phase-in operations. Such plans shall specify a training and orientation program for the successor Contractor to cover each phase of the PWS covered by the contract. A proposed date by which successor Contractor will assume full responsibility for such work shall be established. The Contractor shall assume full responsibility for such work until assumption thereof by the successor Contractor. Execution of the proposed plan or any part thereof shall be accomplished in accordance with the Contracting Officer's direction and approval. This clause shall apply to subcontracts as approved by the Contracting Officer. The Contractor shall be reimbursed for all reasonable phase-in and phase-out costs, i.e., costs incurred within the agreed period after contract expiration that result from phase-in and phase-out operations.

H.35 SERVICES

Services acquired by the Contractor for the Strategic Petroleum Reserve are acquired for the benefit of the Department of Energy and are immediately resold to the Government as a resale of services in accordance with Texas and Louisiana sales tax provisions.

H.36 ASSIGNMENT AND ADMINISTRATION OF CONTRACTS AND SUBCONTRACTS**(a) Assignment of DOE Prime Contracts.**

During the period of performance of this Contract, it may become necessary for the U.S. Department of Energy (DOE) to transfer and assign existing or future DOE prime contracts support site work to this contract. The Contractor shall accept the transfers and assignments of contracts. Any recommendations and/or suggestions regarding individual transfers directed by DOE shall be submitted in writing to the Contracting Officer prior to the transfer or assignment.

(b) Administration of Subcontracts.

The administration of all subcontracts entered into and/or managed by the Contractor, including responsibility for payment hereunder, shall remain with the Contractor. The Government reserves the right at any time to require that the Contractor submit any or all other contractual arrangements, including but not limited to purchase orders or classes of purchase orders, for approval, and provide information concerning methods, practices, and procedures used or proposed to be used in subcontracting and purchasing. Subcontracts and purchase orders shall be made in the name of the 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 be in such form and contain such provisions as are required by this contract or as the Contracting Officer may prescribe. Any consent by the Contracting Officer to the placement of subcontracts shall not be construed to create subcontractor privity of contract with the Government.

(c) Transfer of Subcontracts.

On December 1, 2013, the Contractor shall assume responsibility for existing contracts and other agreements from the Contract Number DE-AC96-03PO92207. These include: (a) all subcontracts and purchase orders with the exception of incumbent contractor's parent company task orders, (b) consulting agreements, (c) regulatory agreement and permits, (d) site-wide plans (e.g., safety and security plans), and (e) other agreements in effect prior to the execution of this contract.

H.37 RECOGNITION OF PERFORMING ENTITY

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

Fluor Federal Petroleum Operations, LLC

- (b) Accordingly, the Contractor and the Government agree that:

The Contractor shall take no action to replace the components of the Offeror named in Paragraph (a) above without the prior written approval of the Contracting Officer.

H.38 LITIGATION MANAGEMENT PROCEDURES

- (a) The Contractor (including entities named in Paragraph (a) of the provision in Section H entitled “Recognition of Performing Entity”) shall prepare a Management of Litigation Procedure(s) compliant with Code of Federal Regulations Title 10 Subpart 719, which shall be submitted to the Contracting Officer within 60 days after the effective date of the contract, and shall be updated thereafter as required.
- (b) The SPR Chief Counsel is the authorized designee of the Contracting Officer for approval of this Procedure.
- (c) Reasonable litigation and other legal expenses are allowable when incurred in accordance with the DOE-approved Contractor legal management procedures (including cost guidelines) as such procedures may be revised from time to time, and if not otherwise made unallowable by law or the provisions of this contract.

H.39 ADVANCE UNDERSTANDING(S)

The following Advance Understanding(s) is (are) made a part of this contract:

TBD.

PART 1 – THE SCHEDULE

SECTION I

CONTRACT CLAUSES

PART 1 – THE SCHEDULE**SECTION I****CONTRACT CLAUSES****Table of Contents**

Application of FAR and DEAR Clauses is incorporated by reference as explained in FAR 52.252-2. Subsequent changes to FAR and DEAR are not applicable to this contract unless incorporated by Contract Modification. Additional information required by certain clauses is provided below.

I.1	FAR 52.252-2	CLAUSES INCORPORATED BY REFERENCE (FEB 1998)	Full Text
I.2	FAR 52.202-1 DEAR 952.202-1	DEFINITIONS (JAN 2012) (AS MODIFIED BY DEAR DEFINITIONS)	Full Text
I.3	FAR 52.203-3	GRATUITIES (APR 1984)	By Reference
I.4	FAR 52.203-5	COVENANT AGAINST CONTINGENT FEES (APR 1984)	By Reference
I.5	FAR 52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEP 2006)	By Reference
I.6	FAR 52.203-7	ANTI-KICKBACK PROCEDURES (OCT 2010)	By Reference
I.7	FAR 52.203-8	CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)	By Reference
I.8	FAR 52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)	By Reference
I.9	FAR 52.203-12	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (OCT 2010)	By Reference

I.10	FAR 52.203-13	CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (APR 2010)	By Reference
I.11	FAR 52.203-14	DISPLAY OF HOTLINE POSTERS (DEC 2007)	Full Text
I.12	FAR 52.204-1	APPROVAL OF CONTRACT (DEC 1989)	Full Text
I.13	FAR 52.204-4	PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER (MAY 2011)	By Reference
I.14	FAR 52.204-7	CENTRAL CONTRACTOR REGISTRY (FEB 2012)	By Reference
I.15	FAR 52.204-9	PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (JAN 2011)	By Reference
I.16	FAR 52.204-10	REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS (FEB 2012)	By Reference
I.17	FAR 52.209-6	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (DEC 2010)	By Reference
I.18	FAR 52.209-9	UPDATE OF PUBLICLY AVAILABLE INFORMATION REGARDING RESPONSIBILITY MATTERS (FEB 2012)	By Reference
I.19	FAR 52.211-5	MATERIAL REQUIREMENTS (AUG 2000)	By Reference
I.20	FAR 52.215-8	ORDER OF PRECEDENCE – UNIFORM CONTRACT FORMAT (OCT 1997)	By Reference
I.21	FAR 52.215-17	WAIVER OF FACILITIES CAPITAL COST OF MONEY (OCT 1997)	By Reference
I.22	FAR 52.217-9	OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)	Full Text
I.23	FAR 52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS (JAN 2011)	By Reference

I.24	FAR 52.219-9	SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2011)	By Reference
I.25	FAR 52.219-16	LIQUIDATED DAMAGES-SUBCONTRACTING PLAN (JAN 1999)	By Reference
I.26	FAR 52.219-25	SMALL DISADVANTAGED BUSINESS PARTICIPATION PROGRAM – DISADVANTAGED STATUS AND REPORTING (DEC 2010)	By Reference
I.27	FAR 52.222-1	NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997)	By Reference
I.28	FAR 52.222-2	PAYMENT OF OVERTIME PREMIUM (JULY 1990)	Full Text
I.29	FAR 52.222-3	CONVICT LABOR (JUNE 2003)	By Reference
I.30	FAR 52.222-4	CONTRACT WORK HOURS AND SAFETY STANDARDS ACT-OVERTIME COMPENSATION (JULY 2005)	By Reference
I.31	FAR 52.222-6	DAVIS-BACON ACT (JULY 2005)	By Reference
I.32	FAR 52.222-7	WITHHOLDING OF FUNDS (FEB 1988)	By Reference
I.33	FAR 52.222-8	PAYROLLS AND BASIC RECORDS (JUNE 2010)	By Reference
I.34	FAR 52.222-9	APPRENTICES AND TRAINEES (JULY 2005)	By Reference
I.35	FAR 52.222-10	COMPLIANCE WITH COPELAND ACT REQUIREMENTS (FEB 1988)	By Reference
I.36	FAR 52.222-11	SUBCONTRACTS (LABOR STANDARDS) (JULY 2005)	By Reference
I.37	FAR 52.222-12	CONTRACT TERMINATION- DEBARMENT (FEB 1988)	By Reference
I.38	FAR 52.222-13	COMPLIANCE WITH DAVIS-BACON AND RELATED ACT REGULATIONS (FEB 1988)	By Reference

I.39	FAR 52.222-14	DISPUTES CONCERNING LABOR STANDARDS (FEB 1988)	By Reference
I.40	FAR 52.222-15	CERTIFICATION OF ELIGIBILITY (FEB 1988)	By Reference
I.41	FAR 52.222-16	APPROVAL OF WAGE RATES (FEB 1988)	By Reference
I.42	FAR 52.222-20	WALSH-HEALEY PUBLIC CONTRACTS ACT (OCT 2010)	By Reference
I.43	FAR 52.222-21	PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)	By Reference
I.44	FAR 52.222-26	EQUAL OPPORTUNITY (MAR 2007)	By Reference
I.45	FAR 52.222-35	EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (SEP 2010)	By Reference
I.46	FAR 52.222-36	AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (OCT 2010)	By Reference
I.47	FAR 52.222-37	EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (SEP 2010)	By Reference
I.48	FAR 52.222-38	COMPLIANCE WITH VETERANS' EMPLOYMENT REPORTING REQUIREMENTS (SEP 2010)	By Reference
I.49	FAR 52.222-40	NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DEC 2010)	By Reference
I.50	FAR 52.222-41	SERVICE CONTRACT ACT OF 1965, AS AMENDED (NOV 2007)	By Reference
I.51	FAR 52.222-50	COMBATING TRAFFICKING IN PERSONS (FEB 2009)	By Reference
I.52	FAR 52.222-54	EMPLOYMENT ELIGIBILITY VERIFICATION (JAN 2009)	By Reference

I.53	FAR 52.223-2	AFFIRMATIVE PROCUREMENT OF BIOBASED PRODUCTS UNDER SERVICE AND CONSTRUCTION CONTRACTS (MAY 2012)	By Reference
I.54	FAR 52.223-3	HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997) ALTERNATE I (JUL 1995)	Full Text
I.55	FAR 52.223-5	POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (MAY 2011)	By Reference
I.56	FAR 52.223-10	WASTE REDUCTION PROGRAM (MAY 2011)	By Reference
I.57	FAR 52.223-11	OZONE-DEPLETING SUBSTANCES (MAY 2001)	By Reference
I.58	FAR 52.223-12	REFRIGERATOR EQUIPMENT AND AIR CONDITIONERS (MAY 1995)	By Reference
I.59	FAR 52.223-15	ENERGY EFFICIENCY IN ENERGY CONSUMING PRODUCTS (DEC 2007)	By Reference
I.60	FAR 52.223-16	IEEE STANDARD FOR THE ENVIRONMENTAL ASSESSMENT OF PERSONAL COMPUTER PRODUCTS (DEC 2007)	By Reference
I.61	FAR 52.223-17	AFFIRMATIVE PROCUREMENT OF EPA-DESIGNATED ITEMS IN SERVICE AND CONSTRUCTION CONTRACTS (MAY 2008)	By Reference
I.62	FAR 52.223-18	ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING (AUG 2011)	By Reference
I.63	FAR 52.223-19	COMPLIANCE WITH ENVIRONMENTAL MANAGEMENT SYSTEMS (MAY 2011)	By Reference
I.64	FAR 52.224-1	PRIVACY ACT NOTIFICATION (APR 1984)	By Reference

I.65	FAR 52.224-2	PRIVACY ACT (APR 1984)	By Reference
I.66	FAR 52.225-1	BUY AMERICAN ACT - SUPPLIES (FEB 2009)	By Reference
I.67	FAR 52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUNE 2008)	By Reference
I.68	FAR 52.227-23	RIGHTS TO PROPOSAL DATA (TECHNICAL) (JUN 1987)	Full Text
I.69	FAR 52.230-2	COST ACCOUNTING STANDARDS (MAY 2012)	By Reference
I.70	FAR 52.230-6	ADMINISTRATION OF COST ACCOUNTING STANDARDS (JUNE 2010)	By Reference
I.71	FAR 52.232-17	INTEREST (OCT 2010)	By Reference
I.72	FAR 52.232-23	ASSIGNMENT OF CLAIMS (JAN 1986)	By Reference
I.73	FAR 52.233-1	DISPUTES (JUL 2002) ALTERNATE I (DEC 1991)	By Reference
I.74	FAR 52.233-3	PROTEST AFTER AWARD (AUG 1996) ALTERNATE I (JUN 1985)	By Reference
I.75	FAR 52.233-4	APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM (OCT 2004)	By Reference
I.76	FAR 52.234-4	EARNED VALUE MANAGEMENT SYSTEM (JULY 2006)	Full Text
I.77	FAR 52.237-2	PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION (APR 1984)	By Reference
I.78	FAR 52.237-3	CONTINUITY OF SERVICES (JAN 1991)	By Reference
I.79	FAR 52.239-1	PRIVACY OR SECURITY SAFEGUARDS (AUG 1996)	By Reference
I.80	FAR 52.242-13	BANKRUPTCY (JUL 1995)	By Reference
I.81	FAR 52.244-5	COMPETITION IN SUBCONTRACTING (DEC 1996)	By Reference

I.82	FAR 52.244-6	SUBCONTRACTS FOR COMMERCIAL ITEMS (DEC 2010)	By Reference
I.83	FAR 52.249-6	TERMINATION (COST REIMBURSEMENT) (MAY 2004)	Full Text
I.84	FAR 52.249-14	EXCUSABLE DELAYS (APR 1984)	By Reference
I.85	FAR 52.251-1	GOVERNMENT SUPPLY SOURCES (APR 2012)	By Reference
I.86	FAR 52.251-2	INTERAGENCY FLEET MANAGEMENT SYSTEM VEHICLES AND RELATED SERVICES (JAN 1991)	By Reference
I.87	FAR 52.252-6	AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984)	Full Text
I.88	FAR 52.253-1	COMPUTER GENERATED FORMS (JAN 1991)	By Reference
I.89	DEAR 952.203-70	WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES (DEC 2000)	By Reference
I.90	DEAR 952.204-2	SECURITY (MAR 2011)	By Reference
I.91	DEAR 952.204-70	CLASSIFICATION/ DECLASSIFICATION (SEP 1997)	By Reference
I.92	DEAR 952.204-75	PUBLIC AFFAIRS (DEC 2000)	By Reference
I.93	DEAR 952.204-77	COMPUTER SECURITY (AUG 2006)	By Reference
I.94	DEAR 952.209-72	ORGANIZATIONAL CONFLICTS OF INTEREST (AUG 2009) ALTERNATE I	Full Text
I.95	DEAR 952.215-70	KEY PERSONNEL (DEC 2000)	Full Text
I.96	DEAR 952.217-70	ACQUISITION OF REAL PROPERTY (MAR 2011)	By Reference
I.97	DEAR 952.219-70	MENTOR-PROTÉGÉ PROGRAM (MAY 2000)	By Reference
I.98	DEAR 952.226-74	DISPLACED EMPLOYEE HIRING PREFERENCE (JUNE 1997)	By Reference

I.99	DEAR 952.247-70	FOREIGN TRAVEL (JUNE 2010)	By Reference
I.100	DEAR 952.251-70	CONTRACTOR EMPLOYEE TRAVEL DISCOUNTS (AUG 2009)	By Reference
I.101	DEAR 970.5203-1	MANAGEMENT CONTROLS (JUNE 2007)	By Reference
I.102	DEAR 970.5203-2	PERFORMANCE IMPROVEMENT AND COLLABORATION (MAY 2006)	By Reference
I.103	DEAR 970.5203-3	CONTRACTOR'S ORGANIZATION (DEC 2000)	By Reference
I.104	DEAR 970.5204-1	COUNTERINTELLIGENCE (DEC 2010)	By Reference
I.105	DEAR 970.5204-2	LAWS, REGULATIONS, AND DOE DIRECTIVES (DEC 2000)	By Reference
I.106	DEAR 970.5204-3	ACCESS TO AND OWNERSHIP OF RECORDS (JULY 2005)	Full Text
I.107	DEAR 970.5208-1	PRINTING (DEC 2000)	By Reference
I.108	DEAR 970.5211-1	WORK AUTHORIZATION	By Reference
I.109	DEAR 970.5215-1	TOTAL AVAILABLE FEE: BASE FEE AMOUNT AND PERFORMANCE FEE AMOUNT (DEC 2000), ALTERNATE II (DEC 2000) AND ALTERNATE IV (DEC 2000)	Full Text
I.110	DEAR 970.5215-3	CONDITIONAL PAYMENT OF FEE, PROFIT, AND OTHER INCENTIVES – FACILITY MANAGEMENT CONTRACTS (AUG 2009), ALTERNATE II (AUG 2009)	Full Text
I.111	DEAR 970.5215-4	COST REDUCTION (AUG 2009)	By Reference
I.112	DEAR 970.5222-1	COLLECTIVE BARGAINING AGREEMENTS-MANAGEMENT AND OPERATING CONTRACTS (DEC 2000)	By Reference
I.113	DEAR 970.5222-2	OVERTIME MANAGEMENT (DEC 2000)	By Reference

I.114	DEAR 970.5223-1	INTEGRATION OF ENVIRONMENT, SAFETY AND HEALTH INTO WORK PLANNING AND EXECUTION (DEC 2000)	By Reference
I.115	DEAR 970.5223-4	WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES (DEC 2010)	By Reference
I.116	DEAR 970.5223-6	EXECUTIVE ORDER 13423, STRENGTHENING FEDERAL, ENVIRONMENTAL, ENERGY, AND TRANSPORTATION MANAGEMENT (OCT 2010)	By Reference
I.117	DEAR 970.5223-7	SUSTAINABLE ACQUISITION PROGRAM (OCT 2010)	By Reference
I.118	DEAR 970.5226-1	DIVERSITY PLAN (DEC 2000)	By Reference
I.119	DEAR 970.5226-3	COMMUNITY COMMITMENT (DEC 2000)	By Reference
I.120	DEAR 970.5227-1	RIGHTS IN DATA—FACILITIES (DEC 2000)	By Reference
I.121	DEAR 970.5227-4	AUTHORIZATION AND CONSENT (AUG 2002)	By Reference
I.122	DEAR 970.5227-5	NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (AUG 2002)	By Reference
I.123	DEAR 970.5227-6	PATENT INDEMNITY SUBCONTRACTS (DEC 2000)	By Reference
I.124	DEAR 970.5227-8	REFUND OF ROYALTIES (AUG 2002)	By Reference
I.125	DEAR 970.5227-11	PATENT RIGHTS - MANAGEMENT AND OPERATING CONTRACTS, FOR PROFIT CONTRACTOR, NON-TECHNOLOGY TRANSFER (DEC 2000)	By Reference
I.126	DEAR 970.5228-1	INSURANCE-LITIGATION AND CLAIMS (AUG 2009)	By Reference

I.127	DEAR 970.5229-1	STATE AND LOCAL TAXES (DEC 2000)	By Reference
I.128	DEAR 970.5231-4	PREEXISTING CONDITIONS (DEC 2000) ALTERNATE II (DEC 2000)	Full Text
I.129	DEAR 970.5232-1	REDUCTION OR SUSPENSION OF ADVANCE, PARTIAL, OR PROGRESS PAYMENTS (DEC 2000)	By Reference
I.130	DEAR 970.5232-2	PAYMENTS AND ADVANCES (DEC 2000) ALTERNATE II (DEC 2000), ALTERNATE III (DEC 2000)	Full Text
I.131	DEAR 970.5232-3	ACCOUNTS, RECORDS, AND INSPECTION (DEC 2010)	By Reference
I.132	DEAR 970.5232-4	OBLIGATION OF FUNDS (DEC 2000)	Full Text
I.133	DEAR 970.5232-5	LIABILITY WITH RESPECT TO COST ACCOUNTING STANDARDS (DEC 2000)	By Reference
I.134	DEAR 970.5232-6	WORK FOR OTHERS FUNDING AUTHORIZATIONS (DEC 2000)	By Reference
I.135	DEAR 970.5232-7	FINANCIAL MANAGEMENT SYSTEM (DEC 2000)	By Reference
I.136	DEAR 970.5232-8	INTEGRATED ACCOUNTING (DEC 2000)	By Reference
I.137	DEAR 970.5236-1	GOVERNMENT FACILITY SUB-CONTRACT APPROVAL (DEC 2000)	By Reference
I.138	DEAR 970.5242-1	PENALTIES FOR UNALLOWABLE COSTS (AUG 2009)	By Reference
I.139	DEAR 970.5243-1	CHANGES (DEC 2000)	By Reference
I.140	DEAR 970.5244-1	CONTRACTOR PURCHASING SYSTEM (AUG 2009)	By Reference
I.141	DEAR 970.5245-1	PROPERTY (DEC 2000)	By Reference
I.142	FAR 52.243-2	CHANGES – COST REIMBURSEMENT (AUG 1987)	By Reference

I.1 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):

<http://farsite.hill.af.mil>, <http://www.acquisition.gov/far/>

<http://energy.gov/sites/prod/files/maprod/documents/EDEARMarch142011-OPAM-Policy.pdf>

I.2 FAR 52.202-1 DEFINITIONS (JAN 2012) AS MODIFIED BY DEAR 952.202-1 DEFINITIONS

- (a) 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—
 - (1) The solicitation, or amended solicitation, provides a different definition;
 - (2) The contracting parties agree to a different definition;
 - (3) The part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning; or
 - (4) The word or term is defined in FAR Part 31, for use in the cost principles and procedures.
- (b) The FAR Index is a guide to words and terms the FAR defines and shows where each definition is located. The FAR Index is available via the Internet at <http://www.acquisition.gov> at the end of the FAR, after the FAR Appendix.
- (c) 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.

I.11 52.203-14 DISPLAY OF HOTLINE POSTER(S) (DEC 2007)

- (a) Definition.

“United States,” as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

- (b) Display of fraud hotline poster(s). Except as provided in paragraph (c)—
- (1) During contract performance in the United States, the Contractor shall prominently display in common work areas within business segments performing work under this contract and at contract work sites—
 - (i) Any agency fraud hotline poster or Department of Homeland Security (DHS) fraud hotline poster identified in paragraph (b)(3) of this clause; and
 - (ii) Any DHS fraud hotline poster subsequently identified by the Contracting Officer.
 - (2) Additionally, if the Contractor maintains a company website as a method of providing information to employees, the Contractor shall display an electronic version of the poster(s) at the website.
 - (3) Any required posters may be obtained as follows:

Poster(s): Obtain from:
DOE Hotline:
<http://energy.gov/ig/downloads/office-inspector-general-hotline-poster>
- (c) If the Contractor has implemented a business ethics and conduct awareness program, including a reporting mechanism, such as a hotline poster, then the Contractor need not display any agency fraud hotline posters as required in paragraph (b) of this clause, other than any required DHS posters.
- (d) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (d), in all subcontracts that exceed \$5,000,000, except when the subcontract—
- (1) Is for the acquisition of a commercial item; or
 - (2) Is performed entirely outside the United States.

I.12 52.204-1 APPROVAL OF CONTRACT (DEC 1989)

This contract is subject to the written approval of the DOE Procurement Executive or designee and shall not be binding until so approved.

I.22 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 180 days of the expiration of the base contract; provided that the Government gives the Contractor a preliminary written notice of its intent to extend

at least 12 months 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.28 52.222-2 PAYMENT FOR OVERTIME PREMIUM (JUL 1990)

- (a) The use of overtime is authorized under this contract if the overtime premium does not exceed [*] or the overtime premium is paid for work –
 - (1) Necessary to cope with emergencies such as those resulting from accidents, natural disasters, breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature;
 - (2) By indirect-labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting;
 - (3) To perform tests, industrial processes, laboratory procedures, loading or unloading of transportation conveyances, and operations in flight or afloat that are continuous in nature and cannot reasonably be interrupted or completed otherwise; or
 - (4) That will result in lower overall costs to the Government.
- (b) Any request for estimated overtime premiums that exceeds the amount specified above shall include all estimated overtime for contract completion and shall –
 - (1) Identify the work unit; *e.g.*, department or section in which the requested overtime will be used, together with present workload, staffing, and other data of the affected unit sufficient to permit the Contracting Officer to evaluate the necessity for the overtime;
 - (2) Demonstrate the effect that denial of the request will have on the contract delivery or performance schedule;
 - (3) Identify the extent to which approval of overtime would affect the performance or payments in connection with other Government contracts, together with identification of each affected contract; and

- (4) Provide reasons why the required work cannot be performed by using multishift operations or by employing additional personnel.

** Overtime premium established annually by modification.*

I.54 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997) - ALTERNATE I (JUL 1995)

- (a) Hazardous material, as used in this clause, includes any material defined as hazardous under the latest version of Federal Standard No. 313 (including revisions adopted during the term of the contract).
- (b) The offeror must list any hazardous material, as defined in paragraph (a) of this clause, to be delivered under this contract. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information shall also be included on the Material Safety Data Sheet submitted under this contract.

MATERIAL (*COMPLETE AS REQUIRED*)

(If none, insert None)	Identification No.
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- (c) This list must be updated during performance of the contract whenever the Contractor determines that any other material to be delivered under this contract is hazardous.
- (d) The apparently successful offeror agrees to submit, for each item as required prior to award, a Material Safety Data Sheet, meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous material identified in paragraph (b) of this clause. Data shall be submitted in accordance with Federal Standard No. 313, whether or not the apparently successful offeror is the actual manufacturer of these items. Failure to submit the Material Safety Data Sheet prior to award may result in the apparently successful offeror being considered nonresponsible and ineligible for award.
- (e) If, after award, there is a change in the composition of the item(s) or a revision to Federal Standard No. 313, which renders incomplete or inaccurate the data submitted under paragraph (d) of this clause, the Contractor shall promptly notify the Contracting Officer and resubmit the data.

- (f) Neither the requirements of this clause nor any act or failure to act by the Government shall relieve the Contractor of any responsibility or liability for the safety of Government, Contractor, or subcontractor personnel or property.
- (g) Nothing contained in this clause shall relieve the Contractor from complying with applicable Federal, State, and local laws, codes, ordinances, and regulations (including the obtaining of licenses and permits) in connection with hazardous material.
- (h) The Government's rights in data furnished under this contract with respect to hazardous material are as follows:
 - (1) To use, duplicate and disclose any data to which this clause is applicable. The purposes of this right are to –
 - (i) Apprise personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of hazardous materials;
 - (ii) Obtain medical treatment for those affected by the material; and
 - (iii) Have others use, duplicate, and disclose the data for the Government for these purposes.
 - (2) To use, duplicate, and disclose data furnished under this clause, in accordance with subparagraph (h)(1) of this clause, in precedence over any other clause of this contract providing for rights in data.
 - (3) The Government is not precluded from using similar or identical data acquired from other sources.
 - (i) Except as provided in paragraph (i)(2), the Contractor shall prepare and submit a sufficient number of Material Safety Data Sheets (MSDS's), meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous materials identified in paragraph (b) of this clause.
 - (A) For items shipped to consignees, the Contractor shall include a copy of the MSDS's with the packing list or other suitable shipping document which accompanies each shipment. Alternatively, the Contractor is permitted to transmit MSDS's to consignees in advance of receipt of shipments by consignees, if authorized in writing by the Contracting Officer.

- (B) For items shipped to consignees identified by mailing address as agency depots, distribution centers or customer supply centers, the Contractor shall provide one copy of the MSDS's in or on each shipping container. If affixed to the outside of each container, the MSDS's must be placed in a weather resistant envelope.

I.68 FAR 52.227-23 RIGHTS TO PROPOSAL DATA (TECHNICAL) (JUN 1987)

Except for data in Volumes II and III, it is agreed that as a condition of award of this contract and notwithstanding the conditions of any notice appearing thereon, the Government shall have unlimited rights (as defined in the "Rights in Data—General" clause contained in this contract) in and to the technical data contained in the proposal dated June 28, 2012, upon which this contract is based.

I.76 FAR 52.234-4 EARNED VALUE MANAGEMENT SYSTEM (JUL 2006)

- (a) The Contractor shall use an earned value management system (EVMS) that has been determined by the Cognizant Federal Agency (CFA) to be compliant with the guidelines in ANSI/EIA Standard - 748 (current version at the time of award) to manage this contract. If the Contractor's current EVMS has not been determined compliant at the time of award, see paragraph (b) of this clause. The Contractor shall submit reports in accordance with the requirements of this contract.
- (b) If, at the time of award, the Contractor's EVM System has not been determined by the CFA as complying with EVMS guidelines or the Contractor does not have an existing cost/schedule control system that is compliant with the guidelines in ANSI/EIA Standard - 748 (current version at time of award), the Contractor shall—
- (1) Apply the current system to the contract; and
 - (2) Take necessary actions to meet the milestones in the Contractor's EVMS plan approved by the Contracting Officer.
- (c) The Government will conduct an Integrated Baseline Review (IBR). If a pre-award IBR has not been conducted, a post award IBR shall be conducted as early as practicable after contract award.
- (d) The Contracting Officer may require an IBR at—
- (1) Exercise of significant options; or
 - (2) Incorporation of major modifications.
- (e) Unless a waiver is granted by the CFA, Contractor proposed EVMS changes require approval of the CFA prior to implementation. The CFA will advise the Contractor

of the acceptability of such changes within 30 calendar days after receipt of the notice of proposed changes from the Contractor. If the advance approval requirements are waived by the CFA, the Contractor shall disclose EVMS changes to the CFA at least 14 calendar days prior to the effective date of implementation.

- (f) The Contractor shall provide access to all pertinent records and data requested by the Contracting Officer or a duly authorized representative as necessary to permit Government surveillance to ensure that the EVMS conforms, and continues to conform, with the performance criteria referenced in paragraph (a) of this clause.
- (g) The Contractor shall require the subcontractors specified below to comply with the requirements of this clause: (Insert list of applicable subcontractors.)

As Required.

I.83 FAR 52.249-6 - TERMINATION (COST REIMBURSEMENT) (MAY 2004)

- (a) The Government may terminate performance of work under this contract in whole or, from time to time, in part, if-
 - (1) The Contracting Officer determines that a termination is in the Government's interest; or
 - (2) The Contractor defaults in performing this contract and fails to cure the default within 10 days (unless extended by the Contracting Officer) after receiving a notice specifying the default. "Default" includes failure to make progress in the work so as to endanger performance.
- (b) The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying whether termination is for default of the Contractor or for convenience of the Government, the extent of termination, and the effective date. If, after termination for default, it is determined that the Contractor was not in default or that the Contractor's failure to perform or to make progress in performance is due to causes beyond the control and without the fault or negligence of the Contractor as set forth in the Excusable Delays clause, the rights and obligations of the parties will be the same as if the termination was for the convenience of the Government.
- (c) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:
 - (1) Stop work as specified in the notice.
 - (2) Place no further subcontracts or orders (referred to as subcontracts in this clause), except as necessary to complete the continued portion of the contract.

- (3) Terminate all subcontracts to the extent they relate to the work terminated.
- (4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts terminated, in which case the Government shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.
- (5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts, the cost of which would be reimbursable in whole or in part, under this contract; approval or ratification will be final for purposes of this clause.
- (6) Transfer title (if not already transferred) and, as directed by the Contracting Officer, deliver to the Government-
 - (i) The fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated;
 - (ii) The completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the Government; and
 - (iii) The jigs, dies, fixtures, and other special tools and tooling acquired or manufactured for this contract, the cost of which the Contractor has been or will be reimbursed under this contract.
- (7) Complete performance of the work not terminated.
- (8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Government has or may acquire an interest.
- (9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in paragraph (c)(6) of this clause; provided, however, that the Contractor (i) is not required to extend credit to any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Government under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.

- (d) The Contractor shall submit complete termination inventory schedules no later than 120 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 120-day period.
- (e) After expiration of the plant clearance period as defined in Subpart 49.001 of the Federal Acquisition Regulation, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove those items or enter into an agreement for their storage. Within 15 days, the Government will accept the items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and shall correct the list, as necessary, before final settlement.
- (f) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than 1 year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 1-year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after 1 year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and shall pay the amount determined.
- (g) Subject to paragraph (f) of this clause, the Contractor and the Contracting Officer may agree on the whole or any part of the amount to be paid (including an allowance for fee) because of the termination. The contract shall be amended, and the Contractor paid the agreed amount.
- (h) If the Contractor and the Contracting Officer fail to agree in whole or in part on the amount of costs and/or fee to be paid because of the termination of work, the Contracting Officer shall determine, on the basis of information available, the amount, if any, due the Contractor, and shall pay that amount, which shall include the following:
 - (1) All costs reimbursable under this contract, not previously paid, for the performance of this contract before the effective date of the termination, and those costs that may continue for a reasonable time with the approval of or as directed by the Contracting Officer; however, the Contractor shall discontinue those costs as rapidly as practicable.
 - (2) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in paragraph (h)(1) of this clause.

- (3) The reasonable costs of settlement of the work terminated, including-
 - (i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;
 - (ii) The termination and settlement of subcontracts (excluding the amounts of such settlements); and
 - (iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory. If the termination is for default, no amounts for the preparation of the Contractor's termination settlement proposal may be included.
- (4) A portion of the fee payable under the contract, determined as follows:
 - (i) If the contract is terminated for the convenience of the Government, the settlement shall include a percentage of the fee equal to the percentage of completion of work contemplated under the contract, but excluding subcontract effort included in subcontractors' termination proposals, less previous payments for fee.
 - (ii) If the contract is terminated for default, the total fee payable shall be such proportionate part of the fee as the total number of articles (or amount of services) delivered to and accepted by the Government is to the total number of articles (or amount of services) of a like kind required by the contract.
- (5) If the settlement includes only fee, it will be determined under paragraph (h)(4) of this clause.
 - (i) The cost principles and procedures in Part 31 of the Federal Acquisition Regulation in effect on the date of this contract, shall govern all costs claimed, agreed to, or determined under this clause.
- (j) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraph (f), (h), or (l) of this clause, except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (f) and failed to request a time extension, there is no right of appeal. If the Contracting Officer has made a determination of the amount due under paragraph (f), (h) or (l) of this clause, the Government shall pay the Contractor-

- (1) The amount determined by the Contracting Officer if there is no right of appeal or if no timely appeal has been taken; or
 - (2) The amount finally determined on an appeal.
- (k) In arriving at the amount due the Contractor under this clause, there shall be deducted-
- (1) All unliquidated advance or other payments to the Contractor, under the terminated portion of this contract;
 - (2) Any claim which the Government has against the Contractor under this contract; and
 - (3) The agreed price for, or the proceeds of sale of materials, supplies, or other things acquired by the Contractor or sold under this clause and not recovered by or credited to the Government.
- (l) The Contractor and Contracting Officer must agree to any equitable adjustment in fee for the continued portion of the contract when there is a partial termination. The Contracting Officer shall amend the contract to reflect the agreement.
- (m) (1) The Government may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.
- (2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the Government upon demand, together with interest computed at the rate established by the Secretary of the Treasury under 50 U.S.C. App. 1215(b)(2). Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.
- (n) The provisions of this clause relating to fee are inapplicable if this contract does not include a fee.

I.87 FAR 52.252-6 - AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984)

- (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 Regulation (48 CFR Part 9) clause with an authorized deviation is indicated by the addition of “(DEVIATION)” after the name of the regulation.

**I.94 DEAR 952.209-72 ORGANIZATIONAL CONFLICTS OF INTEREST (AUG 2009)-
ALTERNATE I (AUG 2009)**

- (a) Purpose. The purpose of this clause is to ensure that the Contractor (1) is not biased because of its financial, contractual, organizational, or other interests which relate to the work under this contract, and (2) does not obtain any unfair competitive advantage over other parties by virtue of its performance of this contract.
- (b) Scope. The restrictions described herein shall apply to performance or participation by the Contractor and any of its affiliates or their successors in interest (hereinafter collectively referred to as “Contractor”) in the activities covered by this clause as a prime Contractor, subcontractor, cosponsor, joint venturer, consultant, or in any similar capacity. For the purpose of this clause, affiliation occurs when a business concern is controlled by or has the power to control another or when a third party has the power to control both.
 - (1) Use of Contractor’s Work Product.
 - (i) The Contractor shall be ineligible to participate in any capacity in Department contracts, subcontracts, or proposals therefore (solicited and unsolicited) which stem directly from the Contractor’s performance of work under this contract for a period of three (3) years after the completion of this contract. Furthermore, unless so directed in writing by the Contracting Officer, the Contractor shall not perform any advisory and assistance services work under this contract on any of its products or services or the products or services of another firm if the Contractor is or has been substantially involved in their development or marketing. Nothing in this subparagraph shall preclude the Contractor from competing for follow-on contracts for advisory and assistance services.
 - (ii) If, under this contract, the Contractor prepares a complete or essentially complete statement of work or specifications to be used in competitive acquisitions, the Contractor shall be ineligible to perform or participate in any capacity in any contractual effort which is based on such statement of work or specifications. The Contractor shall not

incorporate its products or services in such statement of work or specifications unless so directed in writing by the Contracting Officer, in which case the restriction in this subparagraph shall not apply.

- (iii) Nothing in this paragraph shall preclude the Contractor from offering or selling its standard and commercial items to the Government.
- (2) Access to and use of information.
- (i) If the Contractor, in the performance of this contract, obtains access to information, such as Department plans, policies, reports, studies, financial plans, internal data protected by the Privacy Act of 1974 (5 U.S.C. 552a), or data which has not been released or otherwise made available to the public, the Contractor agrees that without prior written approval of the Contracting Officer it shall not-
 - (A) Use such information for any private purpose unless the information has been released or otherwise made available to the public;
 - (B) Compete for work for the Department based on such information for a period of six (6) months after either the completion of this contract or until such information is released or otherwise made available to the public, whichever is first;
 - (C) Submit an unsolicited proposal to the Government which is based on such information until one year after such information is released or otherwise made available to the public; and
 - (D) Release such information unless such information has previously been released or otherwise made available to the public by the Department.
 - (ii) In addition, the Contractor agrees that to the extent it receives or is given access to proprietary data, data protected by the Privacy Act of 1974 (5 U.S.C. 552a), or other confidential or privileged technical, business, or financial information under this contract, it shall treat such information in accordance with any restrictions imposed on such information.
 - (iii) The Contractor may use technical data it first produces under this contract for its private purposes consistent with paragraphs (b)(2)(i) (A) and (D) of this clause and the patent, rights in data, and security provisions of this contract.

- (c) Disclosure after award.
 - (1) The Contractor agrees that, if changes, including additions, to the facts disclosed by it prior to award of this contract, occur during the performance of this contract, it shall make an immediate and full disclosure of such changes in writing to the Contracting Officer. Such disclosure may include a description of any action which the Contractor has taken or proposes to take to avoid, neutralize, or mitigate any resulting conflict of interest. The Department may, however, terminate the contract for convenience if it deems such termination to be in the best interest of the Government.
 - (2) In the event that the Contractor was aware of facts required to be disclosed or the existence of an actual or potential organizational conflict of interest and did not disclose such facts or such conflict of interest to the Contracting Officer, DOE may terminate this contract for default.
- (d) Remedies. For breach of any of the above restrictions or for nondisclosure or misrepresentation of any facts required to be disclosed concerning this contract, including the existence of an actual or potential organizational conflict of interest at the time of or after award, the Government may terminate the contract for default, disqualify the Contractor from subsequent related contractual efforts, and pursue such other remedies as may be permitted by law or this contract.
- (e) Waiver. Requests for waiver under this clause shall be directed in writing to the Contracting Officer and shall include a full description of the requested waiver and the reasons in support thereof. If it is determined to be in the best interests of the Government, the Contracting Officer may grant such a waiver in writing.
- (f) Subcontracts.
 - (1) The Contractor shall include a clause, substantially similar to this clause, including this paragraph (f), in subcontracts expected to exceed the simplified acquisition threshold determined in accordance with 48 CFR part 13 and involving the performance of advisory and assistance services as that term is defined at 48 CFR 2.101. The terms “contract,” “Contractor,” and “Contracting Officer” shall be appropriately modified to preserve the Government’s rights.
 - (2) Prior to the award under this contract of any such subcontracts for advisory and assistance services, the Contractor shall obtain from the proposed subcontractor or consultant the disclosure required by 48 CFR 909.507-1, and shall determine in writing whether the interests disclosed present an actual or significant potential for an organizational conflict of interest. Where an actual or significant potential organizational conflict of interest is identified, the Contractor shall take actions to avoid, neutralize, or mitigate the

organizational conflict to the satisfaction of the Contractor. If the conflict cannot be avoided or neutralized, the Contractor must obtain the approval of the DOE Contracting Officer prior to entering into the subcontract.

I.95 DEAR 952.215-70 KEY PERSONNEL (DEC 2000)

- (a) The personnel listed below or elsewhere in this contract, Section J, Attachment G are considered essential to the work being performed under this contract. Before removing, replacing, or diverting any of the listed or specified personnel, the Contractor must:
 - (1) Notify the Contracting Officer reasonably in advance;
 - (2) Submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on this contract; and
 - (3) Obtain the Contracting Officer's written approval. Notwithstanding the foregoing, if the Contractor deems immediate removal or suspension of any member of its management team is necessary to fulfill its obligation to maintain satisfactory standards of employee competency, conduct, and integrity under the clause at 48 CFR 970.5203-3, Contractor's Organization, the Contractor may remove or suspend such person at once, although the Contractor must notify Contracting Officer prior to or concurrently with such action.
- (b) The list of personnel may, with the consent of the contracting parties, be amended from time to time during the course of the contract to add or delete personnel.

I.106 DEAR 970.5204-3 ACCESS TO AND OWNERSHIP OF RECORDS (JUL 2005)

- (a) Government-owned records. Except as provided in paragraph (b) of this clause, all records acquired or generated by the Contractor in its performance of this contract shall be the property of the Government and shall be delivered to the Government or otherwise disposed of by the Contractor either as the Contracting Officer may from time to time direct during the progress of the work or, in any event, as the Contracting Officer shall direct upon completion or termination of the contract.
- (b) Contractor-owned records. The following records are considered the property of the Contractor and are not within the scope of paragraph (a) of this clause.
 - (1) Employment-related records (such as worker's compensation files; employee relations records, records on salary and employee benefits; drug testing records, labor negotiation records; records on ethics, employee concerns; records generated during the course of responding to allegations of research misconduct; records generated during other employee related investigations conducted under an expectation of confidentiality; employee assistance

program records; and personnel and medical/health-related records and similar files), and non-employee patient medical/health-related records, except for those records described by the contract as being maintained in Privacy Act systems of records.

- (2) Confidential contractor financial information, and correspondence between the Contractor and other segments of the Contractor located away from the DOE facility (i.e., the Contractor's corporate headquarters);
 - (3) Records relating to any procurement action by the Contractor, except for records that under 48 CFR 970.5232-3, Accounts, Records, and Inspection, are described as the property of the Government; and
 - (4) Legal records, including legal opinions, litigation files, and documents covered by the attorney-client and attorney work product privileges; and
 - (5) The following categories of records maintained pursuant to the technology transfer clause of this contract:
 - (i) Executed license agreements, including exhibits or appendices containing information on royalties, royalty rates, other financial information, or commercialization plans, and all related documents, notes and correspondence.
 - (ii) The Contractor's protected Cooperative Research and Development Agreement (CRADA) information and appendices to a CRADA that contain licensing terms and conditions, or royalty or royalty rate information.
 - (iii) Patent, copyright, mask work, and trademark application files and related contractor invention disclosures, documents and correspondence, where the Contractor has elected rights or has permission to assert rights and has not relinquished such rights or turned such rights over to the Government.
- (c) Contract completion or termination. In the event of completion or termination of this contract, copies of any of the contractor-owned records identified in paragraph (b) of this clause, upon the request of the Government, shall be delivered to DOE or its designees, including successor contractors. Upon delivery, title to such records shall vest in DOE or its designees, and such records shall be protected in accordance with applicable federal laws (including the Privacy Act), as appropriate.
- (d) Inspection, copying, and audit of records. All records acquired or generated by the Contractor under this contract in the possession of the Contractor, including those described at paragraph (b) of this clause, shall be subject to inspection, copying, and audit by the Government or its designees at all reasonable times, and the Contractor

shall afford the Government or its designees reasonable facilities for such inspection, copying, and audit; provided, however, that upon request by the Contracting Officer, the Contractor shall deliver such records to a location specified by the Contracting Officer for inspection, copying, and audit. The Government or its designees shall use such records in accordance with applicable federal laws (including the Privacy Act), as appropriate.

- (e) Applicability. Paragraphs (b), (c), and (d) of this clause apply to all records without regard to the date or origination of such records.
- (f) Records retention standards. Special records retention standards, described at DOE Order 200.1, Information Management Program (version in effect on effective date of contract), are applicable for the classes of records described therein, whether or not the records are owned by the Government or the Contractor. In addition, the Contractor shall retain individual radiation exposure records generated in the performance of work under this contract until DOE authorizes disposal. The Government may waive application of these record retention schedules, if, upon termination or completion of the contract, the Government exercises its right under paragraph (c) of this clause to obtain copies and delivery of records described in paragraphs (a) and (b) of this clause.
- (g) Subcontracts. The Contractor shall include the requirements of this clause in all subcontracts that are of a cost-reimbursement type if any of the following factors is present:
 - (1) The value of the subcontract is greater than \$2 million (unless specifically waived by the Contracting Officer);
 - (2) The Contracting Officer determines that the subcontract is, or involves, a critical task related to the contract; or
 - (3) The subcontract includes 48 CFR 970.5223-1, Integration of Environment, Safety, and Health into Work Planning and Execution, or similar clause.

I.109 DEAR 970.5215-1 TOTAL AVAILABLE FEE: BASE FEE AMOUNT AND PERFORMANCE FEE AMOUNT (DEC 2000), ALTERNATE II (DEC 2000), ALTERNATE IV (DEC 2000)

- (a) Total available fee. Total available fee, consisting of a base fee amount (which may be zero) and a performance fee amount (consisting of an incentive fee component for objective performance requirements, an award fee component for subjective performance requirements, or both) determined in accordance with the provisions of this clause, is available for payment in accordance with the clause of this contract entitled, "Payments and advances."

- (b) Fee Negotiations. Prior to the beginning of each fiscal year under this contract, or other appropriate period as mutually agreed upon and, if exceeding one year, approved by the Senior Procurement Executive, or designee, the Contracting Officer and Contractor shall enter into negotiation of the requirements for the year or appropriate period, including the evaluation areas and individual requirements subject to incentives, the total available fee, and the allocation of fee. The Contracting Officer shall modify this contract at the conclusion of each negotiation to reflect the negotiated requirements, evaluation areas and individual requirements subject to incentives, the total available fee, and the allocation of fee. In the event the parties fail to agree on the requirements, the evaluation areas and individual requirements subject to incentives, the total available fee, or the allocation of fee, a unilateral determination will be made by the Contracting Officer. The total available fee amount shall be allocated to a twelve month cycle composed of one or more evaluation periods, or such longer period as may be mutually agreed to between the parties and approved by the Senior Procurement Executive, or designee.
- (c) Determination of Total Available Fee Amount Earned.
- (1) The Government shall, at the conclusion of each specified evaluation period, evaluate the Contractor's performance of all requirements, including performance based incentives completed during the period, and determine the total available fee amount earned. At the Contracting Officer's discretion, evaluation of incentivized performance may occur at the scheduled completion of specific incentivized requirements.
 - (2) The DOE Operations/Field Office Manager, or designee, will be the Deputy Assistant Secretary for Petroleum Reserves. The Contractor agrees that the determination as to the total available fee earned is a unilateral determination made by the DOE Operations/Field Office Manager, or designee.
 - (3) The evaluation of Contractor performance shall be in accordance with the Performance Evaluation and Measurement Plan(s) described in subparagraph (d) of this clause unless otherwise set forth in the contract. The Contractor shall be promptly advised in writing of the fee determination, and the basis of the fee determination. In the event that the Contractor's performance is considered to be less than the level of performance set forth in the Statement of Work, as amended to include the current Work Authorization Directive or similar document, for any contract requirement, it will be considered by the DOE Operations/Field Office Manager, or designee, who may at his/her discretion adjust the fee determination to reflect such performance. Any such adjustment shall be in accordance with the clause entitled, "Conditional Payment of Fee, Profit, and Other Incentives-Facility Management Contracts" if contained in the contract.

- (4) Award fee not earned during the evaluation period shall not be allocated to future evaluation periods.
- (d) Performance Evaluation and Measurement Plan(s). To the extent not set forth elsewhere in the contract:
- (1) The Government shall establish a Performance Evaluation and Measurement Plan(s) upon which the determination of the total available fee amount earned shall be based. The Performance Evaluation and Measurement Plan(s) will address all of the requirements of contract performance specified in the contract directly or by reference. A copy of the Performance Evaluation and Measurement Plan(s) shall be provided to the Contractor-
 - (i) Prior to the start of an evaluation period if the requirements, evaluation areas, specific incentives, amount of fee, and allocation of fee to such evaluation areas and specific incentives have been mutually agreed to by the parties; or
 - (ii) Not later than thirty days prior to the scheduled start date of the evaluation period, if the requirements, evaluation areas, specific incentives, amount of fee, and allocation of fee to such evaluation areas and specific incentives have been unilaterally established by the Contracting Officer.
 - (2) The Performance Evaluation and Measurement Plan(s) will set forth the criteria upon which the Contractor will be evaluated relating to any technical, schedule, management, and/or cost objectives selected for evaluation. Such criteria should be objective, but may also include subjective criteria. The Plan(s) shall also set forth the method by which the total available fee amount will be allocated and the amount earned determined.
 - (3) The Performance Evaluation and Measurement Plan(s) may, consistent with the contract statement of work, be revised during the period of performance. The Contracting Officer shall notify the contractor-
 - (i) Of such unilateral changes at least ninety calendar days prior to the end of the affected evaluation period and at least thirty calendar days prior to the effective date of the change;
 - (ii) Of such bilateral changes at least sixty calendar days prior to the end of the affected evaluation period; or
 - (iii) If such change, whether unilateral or bilateral, is urgent and high priority, at least thirty calendar days prior to the end of the evaluation period.

- (e) Schedule for total available fee amount earned determinations. The DOE Operations/Field Office Manager, or designee, shall issue the final total available fee amount earned determination in accordance with: the schedule set forth in the Performance Evaluation and Measurement Plan(s); or as otherwise set forth in this contract. However, a determination must be made within sixty calendar days after the receipt by the Contracting Officer of the Contractor's self-assessment, if one is required or permitted by paragraph (f) of this clause, or seventy calendar days after the end of the evaluation period, whichever is later, or a longer period if the Contractor and Contracting Officer agree. If the Contracting Officer evaluates the Contractor's performance of specific requirements on their completion, the payment of any earned fee amount must be made within seventy calendar days (or such other time period as mutually agreed to between the Contracting Officer and the Contractor) after such completion. If the determination is delayed beyond that date, the Contractor shall be entitled to interest on the determined total available fee amount earned at the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the payment date. This rate is referred to as the "Renegotiation Board Interest Rate," and is published in the Federal Register semiannually on or about January 1 and July 1. The interest on any late total available fee amount earned determination will accrue daily and be compounded in 30-day increments inclusive from the first day after the schedule determination date through the actual date the determination is issued. That is, interest accrued at the end of any 30-day period will be added to the determined amount of fee earned and be subject to interest if not paid in the succeeding 30-day period.
- (f) Contractor self-assessment. Following each evaluation period, the Contractor may submit a self-assessment, provided such assessment is submitted within five (5) work days after the end of the period. This self-assessment shall address both the strengths and weaknesses of the Contractor's performance during the evaluation period. Where deficiencies in performance are noted, the Contractor shall describe the actions planned or taken to correct such deficiencies and avoid their recurrence. The DOE Operations/Field Office Manager, or designee, will review the Contractor's self-assessment, if submitted, as part of its independent evaluation of the Contractor's management during the period. A self-assessment, in and of itself may not be the only basis for the award fee determination.

I.110 DEAR 970.5215-3 - CONDITIONAL PAYMENT OF FEE, PROFIT, AND OTHER INCENTIVES — FACILITY MANAGEMENT CONTRACTS (AUG 2009) ALTERNATE II (AUG 2009)

- (a) General.
- (1) The payment of earned fee, fixed fee, profit, or share of cost savings 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), which includes worker safety and health (WS&H), including performance under an approved Integrated Safety Management System (ISMS); 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) The ES&H performance requirements of this contract are set forth in its ES&H terms and conditions, including the DOE approved Contractor ISMS or similar document. Financial incentives for timely mission accomplishment or cost effectiveness shall never compromise or impede full and effective implementation of the ISMS and full ES&H compliance.
 - (3) The performance requirements of this contract relating to the safeguarding of Restricted Data and other classified information are set forth in the clauses of this contract entitled, "Security" and "Laws, Regulations, and DOE Directives," as well as in other terms and conditions.
 - (4) If the Contractor does not meet the performance requirements of this contract relating to ES&H or to the safeguarding of Restricted Data and other classified information during any performance evaluation period established under the contract pursuant to the clause of this contract entitled, "Total Available Fee: Base Fee Amount and Performance Fee Amount," otherwise earned fee, fixed fee, profit or share of cost savings may be unilaterally reduced by the Contracting Officer.
- (b) Reduction Amount.
- (1) The amount of earned fee, fixed fee, profit, or share of cost savings that may be unilaterally reduced will be determined by the severity of the performance failure pursuant to the degrees specified in paragraphs (c) and (d) of this clause.
 - (2) If a reduction of earned fee, fixed fee, profit, or share of cost savings is warranted, unless mitigating factors apply, such reduction shall not be less than 26% nor greater than 100% of the amount of earned fee, fixed fee, profit, or the Contractor's share of cost savings for a first degree performance failure, not less than 11% nor greater than 25% for a second degree performance failure, and up to 10% for a third degree performance failure.
 - (3) 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 (see 48 CFR 970.1504-1-2). The mitigating factors include, but are not limited to, the following ((v), (vi), (vii) and (viii) apply to ES&H only).

- (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.
- (4) (i) The amount of fee, fixed fee, profit, or share of cost savings that is otherwise earned by a Contractor during an evaluation period may be reduced in accordance with this clause if it is determined that a performance failure warranting a reduction under this clause occurs within the evaluation period.
- (ii) 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 fee, fixed fee, profit, or the Contractor's share of cost savings that is otherwise earned during the evaluation period.

- (iii) For the purposes of this clause, earned fee, fixed fee, profit, or share of cost savings for the evaluation period shall mean the amount determined by the Contracting Officer or Fee Determination Official as otherwise payable based on the Contractor's performance during the evaluation period. Where the contract provides for financial incentives that extend beyond a single 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 evaluation period. The allocable amount shall be the total amount of the earned incentive divided by the number of evaluation periods over which it was earned.
- (iv) The Government will effect the reduction as soon as practicable after the end of the evaluation period in which the performance failure occurs. If the Government is not aware of the failure, it will effect the reduction as soon as practical after becoming aware. For any portion of the reduction requiring an allocation the Government will effect the reduction at the end of the evaluation period in which it determines the total amount earned under the incentive. If at any time a reduction causes the sum of the payments the Contractor has received for fee, fixed fee, profit, or share of cost savings to exceed the sum of fee, fixed fee, profit, or share of cost savings the Contractor has earned (provisionally or otherwise), the Contractor shall immediately return the excess to the Government. (What the Contractor "has earned" reflects any reduction made under this or any other clause of the contract.)
- (v) At the end of the contract –
 - (A) The Government will pay the Contractor the amount by which the sum of fee, fixed fee, profit, or share of cost savings the Contractor has earned exceeds the sum of the payments the Contractor has received; or
 - (B) The Contractor shall return to the Government the amount by which the sum of the payments the Contractor has received exceeds the sum of fee, fixed fee, profit, or share of cost savings the Contractor has earned. (What the Contractor "has earned" reflects any reduction made under this or any other clause of the contract.)

- (c) Environment, Safety and Health (ES&H). Performance failures occur if the Contractor does not comply with the contract's ES&H terms and conditions, including the DOE approved Contractor ISMS. The degrees of performance failure under which reductions of earned or fixed fee, profit, or share of cost savings will be determined are:
- (1) First Degree: Performance failures that are most adverse to ES&H. Failure to develop and obtain required DOE approval of an ISMS is considered first degree. The Government will perform necessary review of the ISMS in a timely manner and will not unreasonably withhold approval of the Contractor's ISMS. The following performance failures or performance failures of similar import will be considered first degree.
 - (i) Type A accident (defined in DOE Order 225.1A).
 - (ii) Two Second Degree performance failures during an evaluation period.
 - (2) Second Degree: Performance failures that are significantly adverse to ES&H. They include failures to comply with an approved ISMS that result in an actual injury, exposure, or exceedence that occurred or nearly occurred but had minor practical long-term health consequences. They also include breakdowns of the Safety Management System. The following performance failures or performance failures of similar import will be considered second degree:
 - (i) Type B accident (defined in DOE Order 225.1A).
 - (ii) Non-compliance with an approved ISMS that results in a near miss of a Type A or B accident. A near miss is a situation in which an inappropriate action occurs, or a necessary action is omitted, but does not result in an adverse effect.
 - (iii) Failure to mitigate or notify DOE of an imminent danger situation after discovery, where such notification is a requirement of the contract.
 - (3) Third Degree: Performance failures that reflect a lack of focus on improving ES&H. They include failures to comply with an approved ISMS that result in potential breakdown of the System. The following performance failures or performance failures of similar import will be considered third degree:
 - (i) Failure to implement effective corrective actions to address deficiencies/non-compliances documented through: external (e.g., Federal) oversight and/or reported per DOE Order 231.1-2

requirements; or internal oversight of DOE Order 440.1A requirements.

- (ii) Multiple similar non-compliances identified by external (e.g., Federal) oversight that in aggregate indicate a significant programmatic breakdown.
 - (iii) Non-compliances 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 upon discovery of events or conditions where notification is required by the terms and conditions of the contract.
- (d) Safeguarding Restricted Data and 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 other classified information. The degrees of performance failure under which reductions of fee, profit, or share of cost savings will be determined are as follows:
- (1) First Degree: Performance failures that have been determined, in accordance with applicable law, DOE regulation, or directive, to have resulted in, or that can reasonably be expected to result in, exceptionally grave damage to the national security. The following are examples of performance failures or performance failures of similar import that will be considered first degree:
 - (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 classification level of information in a Special Access Program (SAP), 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 classification level of information in a SAP, 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 classification level of information in a SAP, information identified as SCI, or high risk nuclear weapons-related data.

- (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 classification level of information in a SAP, information identified as SCI, or high risk nuclear weapons-related data.
- (2) Second Degree: Performance failures that have been determined, in accordance with applicable law, DOE regulation, or directive, to have actually resulted in, or that can reasonably be expected to result in, serious damage to the national security. The following are examples of performance failures or performance failures of similar import that will be considered second degree:
- (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 (d)(1)(iii) of this clause).
 - (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) Third Degree: Performance failures 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. The following are examples of performance failures or performance failures of similar import that will be considered third degree:

- (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.
- (e) Minimum requirements for specified level of performance.
- (1) At a minimum the Contractor must perform the following:
 - (i) The requirements with specific incentives which do not require the achievement of cost efficiencies in order to be performed at the level of performance set forth in the Statement of Work, Work Authorization Directive, or similar document unless an otherwise minimum level of performance has been established in the specific incentive;
 - (ii) All of the performance requirements directly related to requirements specifically incentivized which do not require the achievement of cost efficiencies in order to be performed at a level of performance such that the overall performance of these related requirements is at an acceptable level; and
 - (iii) All other requirements at a level of performance such that the total performance of the contract is not jeopardized.
 - (2) The evaluation of the Contractor's achievement of the level of performance shall be unilaterally determined by the Government. To the extent that the Contractor fails to achieve the minimum performance levels specified in the Statement of Work, Work Authorization Directive, or similar document, during the performance evaluation period, the DOE Operations/Field Office

Manager, or designee, may reduce any otherwise earned fee, fixed fee, profit, or shared net savings for the performance evaluation period. Such reduction shall not result in the total of earned fee, fixed fee, profit, or shared net savings being less than 25% of the total available fee amount. Such 25% shall include base fee, if any.

- (f) Minimum requirements for cost performance.
- (1) Requirements incentivized by other than cost incentives must be performed within their specified cost constraint and must not adversely impact the costs of performing unrelated activities.
 - (2) The performance of requirements with a specific cost incentive must not adversely impact the costs of performing unrelated requirements.
 - (3) The Contractor's performance within the stipulated cost performance levels for the performance evaluation period shall be determined by the Government. To the extent the Contractor fails to achieve the stipulated cost performance levels, the DOE Operations/Field Office Manager, or designee, may reduce in whole or in part any otherwise earned fee, fixed fee, profit, or shared net savings for the performance evaluation period. Such reduction shall not result in the total of earned fee, fixed fee, profit, or shared net savings being less than 25% of the total available fee amount. Such 25% shall include base fee, if any.

I.128 DEAR 970.5231-4 PREEXISTING CONDITIONS (DEC 2000) -- ALTERNATE II (DEC 2000)

- (a) The Department of Energy agrees to reimburse the Contractor, and the Contractor shall not be held responsible, for any liability (including without limitation, a claim involving strict or absolute liability and any civil fine or penalty), expense, or remediation cost, but limited to those of a civil nature, which may be incurred by, imposed on, or asserted against the Contractor arising out of any condition, act, or failure to act which occurred before the Contractor assumed responsibility on April 1, 2013. To the extent the acts or omissions of the Contractor cause or add to any liability, expense or remediation cost resulting from conditions in existence prior to [Insert date contract began], the Contractor shall be responsible in accordance with the terms and conditions of this contract.
- (b) The obligations of the Department of Energy under this clause are subject to the availability of appropriated funds.
- (c) The Contractor has the duty to inspect the facilities and sites and timely identify to the Contracting Officer those conditions which it believes could give rise to a liability, obligation, loss, damage, penalty, fine, claim, action, suit, cost, expense, or disbursement or areas of actual or potential noncompliance with the terms and

conditions of this contract or applicable law or regulation. The Contractor has the responsibility to take corrective action, as directed by the Contracting Officer and as required elsewhere in this contract.

I.130 DEAR 970.5232-2 PAYMENTS AND ADVANCES (DEC 2000) -- ALTERNATE II (DEC 2000), ALTERNATE III (DEC 2000)

- (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 contributions are paid on a quarterly or more frequent basis, accrual therefore may be included in costs for payment purposes, provided that they are paid to the fund within 30 days after the close of the period covered. If payments are not made to the fund within such 30-day period, pension contribution costs shall be excluded from cost for payment purposes until payment has been made.
- (c) 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-. 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'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.132 DEAR 970.5232-4 OBLIGATION OF FUNDS (DEC 2000)

- (a) Obligation of funds. The amount presently obligated by the Government with respect to this contract is dollars set forth in Section B. Such amount may be increased unilaterally by DOE by written notice to the Contractor and may be increased or decreased by written agreement of the parties (whether or not by formal modification of this contract). Estimated collections from others for work and services to be performed under this contract are not included in the amount presently obligated. Such collections, to the extent actually received by the Contractor, shall be processed and accounted for in accordance with applicable requirements imposed by the Contracting Officer pursuant to the Laws, regulations, and DOE directives clause of this contract. Nothing in this paragraph is to be construed as authorizing the Contractor to exceed limitations stated in financial plans established by DOE and furnished to the Contractor from time to time under this contract.
- (b) Limitation on payment by the Government. Except as otherwise provided in this contract and except for costs which may be incurred by the Contractor pursuant to the Termination clause of this contract or costs of claims allowable under the contract

occurring after completion or termination and not released by the Contractor at the time of financial settlement of the contract in accordance with the clause entitled "Payments and Advances," payment by the Government under this contract on account of allowable costs shall not, in the aggregate, exceed the amount obligated with respect to this contract, less the Contractor's fee and any negotiated fixed amount. Unless expressly negated in this contract, payment on account of those costs excepted in the preceding sentence which are in excess of the amount obligated with respect to this contract shall be subject to the availability of-

- (1) Collections accruing to the Contractor in connection with the work under this contract and 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
 - (2) Other funds which DOE may legally use for such purpose, provided DOE will use its best efforts to obtain the appropriation of funds for this purpose if not otherwise available.
- (c) Notices-Contractor excused from further performance. The Contractor shall notify DOE in writing whenever the unexpended balance of available funds (including collections available under paragraph (a) of this clause), plus the Contractor's best estimate of collections to be received and available during the 90 day period hereinafter specified, is in the Contractor's best judgment sufficient to continue contract operations at the programmed rate for only 90 days and to cover the Contractor's unpaid fee and any negotiated fixed amounts, and outstanding encumbrances and liabilities on account of costs allowable under the contract at the end of such period. Whenever the unexpended balance of available funds (including collections available under paragraph (a) of this clause), less the amount of the Contractor's fee then earned but not paid and any negotiated fixed amounts, is in the Contractor's best judgment sufficient only to liquidate outstanding encumbrances and liabilities on account of costs allowable under this contract, the Contractor shall immediately notify DOE and shall make no further encumbrances or expenditures (except to liquidate existing encumbrances and liabilities), and, unless the parties otherwise agree, the Contractor shall be excused from further performance (except such performance as may become necessary in connection with termination by the Government) and the performance of all work hereunder will be deemed to have been terminated for the convenience of the Government in accordance with the provisions of the Termination clause of this contract.
- (d) Financial plans; cost and encumbrance limitations. In addition to the limitations provided for elsewhere in this contract, DOE may, through financial plans, such as Approved Funding Programs, or other directives issued to the Contractor, establish controls on the costs to be incurred and encumbrances to be made in the performance of the contract work. Such plans and directives may be amended or supplemented from time to time by DOE. The contractor agrees-

- (1) To comply with the specific limitations (ceilings) on costs and encumbrances set forth in such plans and directives;
 - (2) To comply with other requirements of such plans and directives; and
 - (3) To notify DOE promptly, in writing, whenever it has reason to believe that any limitation on costs and encumbrances will be exceeded or substantially underrun.
- (e) Government's right to terminate not affected. The giving of any notice under this clause shall not be construed to waive or impair any right of the Government to terminate the contract under the provisions of the Termination clause of this contract.

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

SECTION J

LIST OF ATTACHMENTS

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ATTACHMENT A – ADVANCE UNDERSTANDING

In accordance with the Section H Clause entitled “Advance Understanding(s),” any advance understandings between DOE and the Contractor will be added as an attachment here.

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ATTACHMENT B - WORK AUTHORIZATION DIRECTIVES

The Contracting Officer will issue all Work Authorization Directives under separate cover.

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ATTACHMENT C

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

NOTE: THE OFFEROR SELECTED FOR AWARD WILL BE REQUIRED TO AWARD A COMPETITIVE SUBCONTRACT TO A FINANCIAL INSTITUTION DURING THE TRANSITION PERIOD

(Name of Contractor)
Contract Number DE-AC96-XXXXXXXXXX
Department of Energy Account

Agreement entered into this, _____ day of _____, _____, between the UNITED STATES OF AMERICA, represented by the Department of Energy (hereinafter referred to as “DOE”), and _____, a corporation/legal entity existing under the laws of the State of _____ (hereinafter referred to as the Contractor) and the _____, a financial institution corporation existing under the laws of the State of _____, located at _____ (hereinafter referred to as the “Financial Institution”).

RECITALS

- (a) On the effective date of _____, _____, _____, DOE and the Contractor entered into Agreement(s) No. _____, or a Supplemental Agreement(s) thereto, providing for the transfer of funds on a payments-cleared basis.
- (b) DOE requires that amounts transferred to the Contractor thereunder be deposited in a special demand deposit account at a financial institution covered by Department of the Treasury-approved Government deposit insurance organizations that are identified in I TFM 6-9000 (See Figure IX-10).

These special demand deposits must be kept separate from the Contractor’s general or other funds, and the parties agreeable to so depositing said amounts with the Financial Institution.

- (c) The Special Bank Account shall be designated [Name of Contractor], [account title] Account.

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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 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 with respect to such accounts.
- (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 withdrawal from the above special demand deposit 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 said Account. 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 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.
- (4) In the event of the services of any writ of attachment, levy of execution, or commencement of garnishment proceedings with respect to the special demand deposit account, the Financial Institution shall promptly notify DOE at-

U.S. Department of Energy
Project Management Office
Planning and Financial Management Division
900 Commerce Road East
New Orleans, LA 70123

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- (5) DOE shall authorize funds that shall remain available to the extent obligations have been incurred in good faith thereunder by the Contractor to the Financial Institution for the benefit of the special demand deposit 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 balance in the special demand deposit account in a net positive and as close to zero as administratively possible. In addition, it is also agreed that the Financial Institution shall pay interest penalties on positive balances as follows:

The Financial Institution agrees to service the account in this manner based on the requirements and specifications contained in Solicitation No. DE-SOL-0003490 dated TBD. The Financial Institution agrees that per item costs, detailed in the form “Schedule of Financial Institution Processing Charges,” contained in the Financial Institution’s aforesaid bid 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 clearing house 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 _____ years, beginning on the ____ day of _____, _____ and ending on the _____ day of _____, _____.
- (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 others parties ninety (90) days prior to the desired termination date. The specific provisions for operating the account during this 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 obligations in a manner which 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 the Agreement referenced in Recital (a), 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.

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- (11) In the event of termination, the Financial Institution agrees to retain the Contractor’s special demand deposit account for an additional 90-day period to clear outstanding payment items. (For compensation by noninterest-bearing time deposit only.)

Within 7 days of the expiration of the Agreement term, an analysis of the special demand deposit account shall be made by DOE to determine whether an insufficient or excessive balance was maintained in the time deposit account to compensate the Financial Institution for service rendered up to the expiration date.

- (a) If the analysis indicates that the Financial Institution has been insufficiently compensated for services rendered up to the expiration of the Agreement, the Contractor shall-
1. Maintain on deposit, during this 90-day period, sufficient Federal funds to reimburse the Financial Institution for prior cumulative loss of earnings, and
 2. Maintain on deposit in the time deposit account sufficient Federal funds to compensate the Financial Institution for services rendered.
- (b) If the analysis indicates that the Financial Institution has been overcompensated for services rendered up to the expiration of the Agreement, DOE shall close out the time deposit account and secure from the Financial Institution a payment in an amount equal to the cumulative excess compensation less compensation for estimated services to be rendered during the 90-day period.
- (c) If cumulative excess compensation is not sufficient to compensate the Financial Institution for services rendered during the 90-day period, adjustments shall be made to the time deposit account to compensate the Financial Institution for the difference between the cost of services rendered during the 90-day period and the cumulative excess compensation.

This Agreement shall continue in effect for the 90-day additional period, with the exception of the following:

1. Term Agreement (Covenant 7)
2. Termination of Agreement (Covenants 8 and 9)

All terms and conditions of the aforesaid bid submitted by the Financial Institution that are not inconsistent with this 90-day additional term shall remain in effect for this period.

The Financial Institution has submitted the forms entitled “Technical Representations and Certifications,” “Schedule of Financial Institution Processing Charges,” and “Calculation of Time Account Balance Required.” These forms have been accepted by the Contractor and the Government and are incorporated herein with the document entitled, “Financial Institution’s Information on the Payments Cleared Arrangement” as an integral part of this Agreement.

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

Date Signed By: _____
(Typed Name of Contracting Officer)

(Signature of Contracting Officer)

WITNESS

(Typed Name of Witness) _____
(Typed Name of Contractor)

(Signature of Witness) By: _____
(Name of Contractor’s Representative)

Note: In the case of a corporation,
a witness is not required. Type or
print names under all signatures.

(Signature of Contractor’s Representative)

(Title)

(Address)

(Date Signed)

(Name of Witness) _____
(Name of Financial Institution)

By: _____
(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.

(Title)

(Address)

(Date Signed)

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

SECTION J
LIST OF ATTACHMENTS

NOTE

The Contractor, 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 corporation named as Contractor herein; that _____, who signed this Agreement on behalf of the Contractor, was then _____ of said corporation; and that said Agreement was duly signed for in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

(Corporate Seal) (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 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 in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

(Corporate Seal) (Signature)

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

SECTION J
LIST OF ATTACHMENTS

CERTIFICATE

I, _____, certify that I am the _____ of corporation named as Contractor herein; that _____, who signed this Special Bank Account Agreement on behalf of the Contractor, was then _____ of said corporation; and that said Special Bank Account Agreement was duly signed for in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

(Corporate Seal) (Signature)

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 Bank; and that said Special Bank Account Agreement was duly signed for in behalf of said Bank by authority of its governing body and is within the scope of its corporate powers.

(Corporate Seal) (Signature)

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

SECTION J
LIST OF ATTACHMENTS

ATTACHMENT D - SMALL BUSINESS SUBCONTRACTING PLAN

The Subcontracting Plan dated, June 28, 2012, which was approved on September 10, 2013, is hereby incorporated by reference.

Annual Goals for future fiscal years will be incorporated in the contract by modification.

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

SECTION J
LIST OF ATTACHMENTS

ATTACHMENT E - SERVICE CONTRACT ACT (SCA) WAGE DETERMINATIONS

The SCA Wage Determinations applicable to the current Management and Operating contract for the period April 1, 2013 through August 31, 2013 are:

State(s)	Wage Determination No.
Louisiana: (Jefferson Parish)	2005-2233 Revision No. 15 (06/13/12)
Louisiana: [Iberville Parish (Bayou Choctaw site)]	2005-2231 Revision No. 13 (06/13/12)
Louisiana/Texas: [Cameron Parish, LA (West Hackberry site) and Jefferson County, TX (Big Hill site)]	2005-2505 Revision No. 14 (06/13/12)
Mississippi: (Hancock County)	2005-2301 Revision No. 12 (06/13/12)
Texas: [Brazoria County (Bryan Mound)]	2005-2515 Revision No. 14 (06/13/12)

These Wage Determinations are available at: [FedWorld Service Contract Act Online Homepage](#).

Wage Determinations are incorporated annually by bi-lateral contract modification. Revised Wage Determinations will be incorporated during transition.

PART III – LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS**SECTION J**
LIST OF ATTACHMENTS**ATTACHMENT F – LIST OF APPLICABLE DOE/SPRPMO DIRECTIVES**

Documents are available at:

DOE Directives at: <https://www.directives.doe.gov>.

SPRPMO Directives are available in the additional documents section of the M&O Contract Recompensation Reading Room at:

http://www.spr.doe.gov/readingroom/rr_files.html.

<u>DOE/SPRPMO DIRECTIVES</u>	<u>Date</u>	<u>Title</u>
DOE O 130.1	09/29/95	Budget Formulation Process
DOE O 142.3A	10/14/10	Unclassified Foreign Visits and Assignments
DOE O 150.1	05/08/08	Continuity Program
DOE O 151.1C	11/02/05	Comprehensive Emergency Management System
DOE O 200.1A	12/23/08	Information Management Program
DOE O 205.1B	05/16/11	Department of Energy Cyber Security Program
DOE O 206.1	01/16/09	Department of Energy Privacy Program
DOE O 210.2A	04/08/11	DOE Corporate Operating Experience Program
DOE O 221.1A	04/19/08	Reporting Fraud, Waste, and Abuse to the Office of Inspector General
DOE O 221.2A	02/25/08	Cooperation with the Office of Inspector General
DOE O 225.1B	03/04/11	Accident Investigations
DOE O 226.1B	04/25/11	Implementation of DOE Oversight Policy
DOE O 227.1	08/30/11	Independent Oversight Program
DOE O 231.1B	06/27/11	Environment, Safety and Health Reporting
DOE O 232.2	08/30/11	Occurrence Reporting and Processing of Operations Information
DOE O 243.1A	11/07/11	Records Management Program
DOE O 243.2	02/02/06	Vital Records
DOE O 251.1A	01/30/98	Directives System
DOE O 252.1A	02/23/11	Technical Standards

PART III – LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS**SECTION J**
LIST OF ATTACHMENTS

DOE O 350.1	09/30/96	Contractor Human Resource Management Programs
Change 001	05/08/98	
Change 002	11/22/09	
Change 003	02/23/10	
DOE O 412.1	04/20/99	Work Authorization System
DOE O 413.1B	10/28/08	Internal Control Program
DOE O 413.3B	11/29/10	Program and Project Management for the Acquisition of Capital Assets
DOE O 414.1D	04/25/11	Quality Assurance
DOE O 420.1B	12/22/05	Facility Safety
Change 1	04/19/10	
DOE O 422.1	06/29/10	Conduct of Operations
DOE O 430.1B	09/24/03	Real Property Asset Management
Change 1	02/08/08	
Change 2	04/25/11	
DOE O 436.1	05/02/11	Departmental Sustainability
DOE O 440.2C	06/15/11	Aviation Management and Safety
Admin Change 1	06/22/11	
DOE O 442.1A	06/06/01	Employee Concerns Program
DOE O 442.2	07/29/11	Differing Professional Opinions for Technical Issues Involving Environment, Safety and Health
DOE O 460.1C	05/14/10	Packaging and Transportation Safety
DOE O 460.2A	12/22/04	Departmental Materials Transportation and Packaging Management
DOE O 470.3B	08/12/08	Graded Security Protection Plan
DOE O 470.4B	07/21/11	Safeguards and Security Program
DOE O 471.1B	03/01/10	Identification and Protection of Unclassified Controlled Nuclear Information
DOE O 471.3	04/09/03	Identifying and Protecting Official Use Only Information
Admin Chg 1	01/13/11	
DOE O 475.1	12/10/04	Counterintelligence Program
DOE O 471.6	06/20/11	Information Security
DOE O 475.2A	02/01/11	Identifying Classified Information

PART III – LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS**SECTION J**
LIST OF ATTACHMENTS

DOE O 534.1B	01/06/03	Accounting
DOE O 544.1	10/12/04	Priorities and Allocations Program
DOE O 551.1D	04/02/12	Official Foreign Travel
DOE O 580.1A	03/30/12	Department of Energy Personal Property Management Program
DOE O 2340.1C	06/08/92	Coordination of General Accounting Office Activities
DOE 5639.8A	07/23/93	Security of Foreign Intelligence Information and Sensitive Compartmented Information Facilities
DOE 5670.1A	01/15/92	Management and Control of Foreign Intelligence
DOE M 205.1-3	04/17/06	Telecommunications Security Manual
DOE M 251.1-1A	01/30/98	Directives System Manual
DOE M 440.1-1A	01/09/06	DOE Explosives Manual
DOE M 441.1-1	03/07/08	Nuclear Material Packaging Manual
DOE M 450.4-1	11/01/06	Integrated Safety Management System Manual
DOE M 470.4-2A	07/23/09	Physical Protection
DOE M 470.4-3A	11/05/08	Contractor Protective Force
DOE M 470.4-4A Section D	01/16/09	Technical Surveillance Countermeasures
DOE M 470.4-5	08/26/05	Personnel Security
DOE M 470.4-6	08/26/05	Nuclear Material Control and Accountability
DOE M 470.4-7	08/26/05	Safeguards and Security Program References
DOE M 471.3-1	04/09/03	Manual for Identifying and Protecting Official Use Only Information
Admin Chg 1	01/13/11	
DOE M 475.1-1B	08/28/07	Manual for Identifying Classified Information
DOE N 206.4	06/29/07	Personal Identity Verification
SPRPMO O 130.1B Change 1	03/14/05	Management and Operating Contractor's Annual Operating Plan Formulation and Execution
SPRPMO O 151.2B	06/06/06	Drawdown Readiness Program
SPRPMO O 200.2A	08/29/06	Information Management Council and Information Systems Planning Committee
SPRPMO O 200.3	07/12/07	Information Technology Guidance Implementation Process

PART III – LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS**SECTION J**
LIST OF ATTACHMENTS

SPRPMO O 206.4	09/01/10	Background Checks and Badging
SPRPMO O 210.1A	09/22/06	Milestone Control
SPRPMO O 220.1C	10/04/06	On-Site Management Appraisals
SPRPMO O 220.2D	07/15/09	Observation Reports
SPRPMO O 226.1A	01/31/12	Implementation of DOE Oversight Policy
SPRPMO O 231.1A	03/22/07	Occurrence Reporting and Processing System
Change 1	11/26/08	
Change 2	03/23/11	
SPRPMO O 413.3	12/22/10	Crude Oil Quality and Test Criteria
SPRPMO O 414.1C	11/02/11	Quality Assurance
SPRPMO O 416.1	08/10/10	SPRPMO Petroleum Accountability
SPRPMO O 420.1C	12/05/11	Conduct of Operations Requirements for SPR Facilities
SPRPMO O 430.1B	12/14/07	SPRPMO Reliability, Availability and Maintainability Program
Change 1	12/23/08	
SPRPMO O 431.1A	07/25/11	SPR Design Criteria
SPRPMO O 432.1B	05/13/09	SPR Facilities/Equipment Turnover and Startup Procedure
SPRPMO O 433.1B Chg 1	12/20/11	Maintenance Management Program
SPRPMO O 434.1C	03/12/08	Recovery Program
SPRPMO O 440.2B	02/27/08	Aviation Implementation Plan
SPRPMO O 440.4	08/16/07	Policy on Preventing Violence in the Workplace
SPRPMO O 451.1D	12/22/10	SPRPMO National Environmental Policy Act (NEPA) Implementation Plan
SPRPMO O 471.4	06/30/04	Reporting Incidents of Security Concern
SPRPMO O 534.1A	03/27/06	Financial Accounting for the SPR Crude Oil Inventory
SPRPMO M 243.1-1C	04/10/06	Records Disposition Manual
SPRPMO M 410.1-1A	11/10/03	Configuration Management Program Manual
Change 1	08/30/06	
SPRPMO M 442.1-1A	06/04/02	Employee Concerns Manual
Change 1	08/25/04	
SPRPMO M 470.4-1	07/13/07	SPRPMO Security Manual

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

SECTION J
LIST OF ATTACHMENTS

SPRPMO N 450.1	12/02/11	Implementation of ES&H Contractor Requirements Documents
SPRPMO N 450.5B Change 1	02/01/12	SPR Environment, Security, Safety, Health, and Emergency Preparedness Goals, FY 2012

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

SECTION J
LIST OF ATTACHMENTS

ATTACHMENT G - KEY PERSONNEL

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

(This Attachment will be completed at time of award.)

<u>Title</u>	<u>Name</u>
Project Manager	Ron Gallagher
Director, Operations and Maintenance / Deputy Project Manager	Pete Knollmeyer
Director, Engineering	Norm Grady
Director, Environment, Safety and Health	Rudy Moraga
Director, Business Management/ Chief Financial Officer (CFO)	Bruce Hanni

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

SECTION J
LIST OF ATTACHMENTS

ATTACHMENT H
DOE FORM 1332.1, REPORTING REQUIREMENTS CHECKLIST

The Reporting Requirements Checklist and specific guidance will be provided to the successful Offeror during the transition period.

U.S. DEPARTMENT OF ENERGY
REPORTING REQUIREMENTS CHECKLIST

<p>1. PROGRAM/PROJECT TITLE Management and Operation (M&O) Strategic Petroleum Reserve</p>	<p>2. IDENTIFICATION NUMBER TBD</p>									
<p>3. PARTICIPANT NAME AND ADDRESS TBD</p>										
<p>4. PLANNING AND REPORTING REQUIREMENTS</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%; vertical-align: top;"> <p>A. General Management</p> <p><input type="checkbox"/> Management Plan <input type="checkbox"/> Status Report <input type="checkbox"/> Summary Report</p> <p>B. Schedule/Labor/Cost</p> <p><input type="checkbox"/> Milestone Schedule/Plan <input type="checkbox"/> Labor Plan <input type="checkbox"/> Facilities Capital Cost of Money Factors Computation <input type="checkbox"/> Contract Facilities Capital and Cost of Money <input type="checkbox"/> Cost Plan <input type="checkbox"/> Milestone Schedule/Status <input type="checkbox"/> Labor Management Report <input type="checkbox"/> Cost Management Report</p> <p>C. Exception Reports</p> <p><input type="checkbox"/> Conference Record <input type="checkbox"/> Hot Line Report</p> <p>D. Performance Measurement</p> <p><input type="checkbox"/> Management Control System Description <input type="checkbox"/> WBS Dictionary</p> <p style="padding-left: 20px;"><input type="checkbox"/> Index <input type="checkbox"/> Element Definition</p> <p><input type="checkbox"/> Cost Performance Reports</p> <p style="padding-left: 20px;"><input type="checkbox"/> Format 1 – WBS Lev. 4 <input type="checkbox"/> Format 2 - Function <input type="checkbox"/> Format 3 – Baseline</p> </td> <td style="width:50%; vertical-align: top;"> <p style="text-align: center;">Frequency</p> </td> <td style="width:50%; vertical-align: top;"> <p>E. Financial Incentives</p> <p><input type="checkbox"/> Statement of Income and Expense <input type="checkbox"/> Balance Sheet <input type="checkbox"/> Cash Flow Statement <input type="checkbox"/> Statement of Changes in Financial Position <input type="checkbox"/> Loan Drawdown Report <input type="checkbox"/> Operating Budget <input type="checkbox"/> Supplementary Information</p> <p>F. Technical</p> <p><input type="checkbox"/> Notice of Energy RD&D Project (Required with any of the following)</p> <p><input type="checkbox"/> Technical Progress Report</p> <p style="padding-left: 20px;"><input type="checkbox"/> Draft for Review <input type="checkbox"/> Final for Approval</p> <p><input type="checkbox"/> Topical Report</p> <p><input type="checkbox"/> Final Technical Report</p> <p style="padding-left: 20px;"><input type="checkbox"/> Draft for Review <input type="checkbox"/> Final for Approval</p> <p><input type="checkbox"/> Software <input type="checkbox"/> Other (Specify) As Needed</p> </td> <td style="width:50%; vertical-align: top;"> <p style="text-align: center;">Frequency</p> </td> </tr> </table>		<p>A. General Management</p> <p><input type="checkbox"/> Management Plan <input type="checkbox"/> Status Report <input type="checkbox"/> Summary Report</p> <p>B. Schedule/Labor/Cost</p> <p><input type="checkbox"/> Milestone Schedule/Plan <input type="checkbox"/> Labor Plan <input type="checkbox"/> Facilities Capital Cost of Money Factors Computation <input type="checkbox"/> Contract Facilities Capital and Cost of Money <input type="checkbox"/> Cost Plan <input type="checkbox"/> Milestone Schedule/Status <input type="checkbox"/> Labor Management Report <input type="checkbox"/> Cost Management Report</p> <p>C. Exception Reports</p> <p><input type="checkbox"/> Conference Record <input type="checkbox"/> Hot Line Report</p> <p>D. Performance Measurement</p> <p><input type="checkbox"/> Management Control System Description <input type="checkbox"/> WBS Dictionary</p> <p style="padding-left: 20px;"><input type="checkbox"/> Index <input type="checkbox"/> Element Definition</p> <p><input type="checkbox"/> Cost Performance Reports</p> <p style="padding-left: 20px;"><input type="checkbox"/> Format 1 – WBS Lev. 4 <input type="checkbox"/> Format 2 - Function <input type="checkbox"/> Format 3 – Baseline</p>	<p style="text-align: center;">Frequency</p>	<p>E. Financial Incentives</p> <p><input type="checkbox"/> Statement of Income and Expense <input type="checkbox"/> Balance Sheet <input type="checkbox"/> Cash Flow Statement <input type="checkbox"/> Statement of Changes in Financial Position <input type="checkbox"/> Loan Drawdown Report <input type="checkbox"/> Operating Budget <input type="checkbox"/> Supplementary Information</p> <p>F. Technical</p> <p><input type="checkbox"/> Notice of Energy RD&D Project (Required with any of the following)</p> <p><input type="checkbox"/> Technical Progress Report</p> <p style="padding-left: 20px;"><input type="checkbox"/> Draft for Review <input type="checkbox"/> Final for Approval</p> <p><input type="checkbox"/> Topical Report</p> <p><input type="checkbox"/> Final Technical Report</p> <p style="padding-left: 20px;"><input type="checkbox"/> Draft for Review <input type="checkbox"/> Final for Approval</p> <p><input type="checkbox"/> Software <input type="checkbox"/> Other (Specify) As Needed</p>	<p style="text-align: center;">Frequency</p>					
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<p>5. FREQUENCY CODES</p> <table style="width:100%;"> <tr> <td>A – As Required</td> <td>M – Monthly</td> <td>S – Semi-Annually</td> </tr> <tr> <td>C – Change to Contractual Agreement</td> <td>O – Once After Award</td> <td>X – With Proposal/Bid/Application or with Significant Changes</td> </tr> <tr> <td>F – Final (end of effort)</td> <td>Q – Quarterly</td> <td>Y – Yearly or Upon Renewal of Contractual Agreement</td> </tr> </table>		A – As Required	M – Monthly	S – Semi-Annually	C – Change to Contractual Agreement	O – Once After Award	X – With Proposal/Bid/Application or with Significant Changes	F – Final (end of effort)	Q – Quarterly	Y – Yearly or Upon Renewal of Contractual Agreement
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<p>6. SPECIAL INSTRUCTIONS (ATTACHMENTS)</p> <table style="width:100%;"> <tr> <td><input type="checkbox"/> Report Distribution List/Addressees</td> <td><input type="checkbox"/> Analysis Thresholds</td> </tr> <tr> <td><input type="checkbox"/> Reporting Elements</td> <td><input type="checkbox"/> Work Breakdown Structure</td> </tr> <tr> <td><input type="checkbox"/> Due Dates</td> <td><input type="checkbox"/> Other</td> </tr> </table>		<input type="checkbox"/> Report Distribution List/Addressees	<input type="checkbox"/> Analysis Thresholds	<input type="checkbox"/> Reporting Elements	<input type="checkbox"/> Work Breakdown Structure	<input type="checkbox"/> Due Dates	<input type="checkbox"/> Other			
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<input type="checkbox"/> Due Dates	<input type="checkbox"/> Other									
<p>7. PREPARED BY (SIGNATURE AND DATE)</p>	<p>8. REVIEWED BY (SIGNATURE AND DATE)</p>									

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

SECTION J
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ATTACHMENT I – PERFORMANCE GUARANTEE AGREEMENT

Performance Guarantee Agreements dated June 28, 2012, are hereby incorporated by reference.

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

SECTION J
LIST OF ATTACHMENTS

**ATTACHMENT J – PERFORMANCE EVALUATION AND
MEASUREMENT PLAN**

The Contracting Officer will issue the Performance Evaluation and Measurement Plan annually under separate cover.

PART IV – REPRESENTATIONS AND INSTRUCTIONS

SECTION K

**REPRESENTATIONS, CERTIFICATIONS, AND
OTHER STATEMENTS OF OFFERORS**

The Contractor's Representations and Certifications dated June 28, 2012, are hereby incorporated by reference.

PART IV – REPRESENTATIONS AND INSTRUCTIONS

SECTION K

**REPRESENTATIONS, CERTIFICATIONS, AND
OTHER STATEMENTS OF OFFERORS**