

(h) This article, including this paragraph (h) shall be included in all subcontracts which involve access to UCNI.

H.07 PROTECTION OF CLASSIFIED MATTER

Documents originated by the Contractor or furnished by the DCO to the Contractor in connection with this Contract may contain classified matter. The Contractor shall be responsible for protecting such information from unauthorized dissemination in accordance with applicable DOE Regulations and Directives as specified in the Task Order.

H.08 ORDERING PROCEDURES

Prior to issuance of a Request for Task Proposal (RTP) or award of a Task Order, the DCO is required to verify that ceiling remains on the IDIQ contract(s) and that the RTP is within the scope of this contract. The DCO must notify the CO identified in Clause G.06 of the DCO's intention to issue an RTP or award a Task Order. This notification should be made in writing and will include the estimated dollar value of the Task Order and a copy of the draft Performance Work Statement. The CO will provide a response to the DCO within five days of their request.

For the work specified in the Performance Work Statement of this contract, the DCO may periodically issue Task Orders to one or more of these contractors, pursuant to the procedures set forth in this clause. The contractor shall commence performance upon the receipt of a Task Order signed by the DCO. Costs not attributed to the performance of each individual Task Order will not be allowed without the prior written consent of the DCO. The contractor shall not be reimbursed for the costs of preparing task proposals as a direct cost under this contract or any Task Order.

(a) The contractor agrees that issuance of a task order in accordance with any of the procedures as described below is deemed to have provided the contractor a "fair opportunity to be considered" as that phrase is used in Section 303J(b) of the Federal Property and Administrative Services Act of 1949, as amended.

(b) The DCO shall give every awardee a fair opportunity to be considered for a delivery-order or task-order exceeding \$3,000 unless one of the following statutory exceptions applies:

- (1) The agency need for the supplies or services is so urgent that providing a fair opportunity would result in unacceptable delays;
- (2) Only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized;

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- (3) The order must be issued on a sole-source basis in the interest of economy and efficiency as a logical follow-on to an order already issued under the contract, provided that all awardees were given a fair opportunity to be considered for the original order.
- (4) It is necessary to place an order to satisfy a minimum guarantee.

The Contracting Officer may offer a fair opportunity solely among small businesses awardees in accordance with FAR Part 19.

(c) Procedures for Issuance of Request for Task Proposals:

The DCO will furnish the contractor(s) with a Request for Task Order Proposal (RTP) which will include, at a minimum:

- (1) A description of the specified work and deliverables required, including the site location;
 - (2) The anticipated performance period;
 - (3) A description of the Task Order type;
 - (4) Any property, material or services to be made available for performance of the order; and
 - (5) Any other pertinent information, such as applicable Service Contract Act Wage rates, site visit date, Certificate of Current Cost or Pricing Data.
 - (6) A reasonable response time
 - (7) Basis for award of the Task Order
 - (8) For Task Orders exceeding \$5M, the following additional information will be provided:
 - a. A notice of the Task Order that includes a clear statement of the requirements
 - b. Disclosure of the significant factors or subfactors (if any) including cost or price that the agency will consider in evaluating proposals and their relative importance, if award is to be made based upon other than low price technically acceptable
 - (9) The contractor shall, within the time specified in the RTP, provide the required number of copies of the proposal as set forth in the RTP. The contractor's proposal shall address the requirements as specified in the RTP which includes the requirement for cost and technical information.
 - (10) At no time shall the contractor propose a price higher than listed on Section J, Attachment B, Price List for CLINs 0001-0012 and 0014.
- (d) In issuing tasks under this procedure, the DCO may base the issuance on factor(s) that he or she deems appropriate in the exercise of sound business judgment. This includes low cost technically acceptable and best value determinations.

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- (e) At the conclusion of discussions/negotiations, if requested by the DCO, the Contractor shall provide a Certificate of Current Cost or Pricing Data pursuant to FAR 15.403-4 using the format as set forth in FAR 15.406-2, if applicable.
- (f) If in compliance with DOE Order 435.1 (reference Section J, Attachment C), the DCO may order directly off the price list for CLINS 0001-0012, & 0014.
- (g) The Task Order issued will include the following information, but is not limited to:
 - (1) Date of the order;
 - (2) Contract and Task Order numbers;
 - (3) Performance-Based Statement of Work, including references to applicable specifications;
 - (4) Task Order Performance Period
 - (5) Task Order deliverables;
 - (6) Any property, material, or site support to be made available for performance of the Task Order (GFS/I);
 - (7) The total dollar value of the Task Order, and appropriate breakout for the specific task order type, if applicable;
 - (8) Accounting and appropriation data;
 - (8) The names, addresses, and phone numbers of the applicable DCO and DCOR as well as any other necessary points of contact; and
 - (9) Any other pertinent information deemed necessary to the performance of the order.
- (h) No protest is authorized in connection with the issuance or proposed issuance of a Task Order except for
 - (1) A protest on the grounds that the order increases the scope, period, or maximum value of the contract; or
 - (2) A protest of a Task Order valued in excess of \$10 million. Protests of Task Orders in excess of \$10 million may only be filed with the Government Accountability Office through May 27, 2011, or as extended by statute, in accordance with the procedures at FAR 33.104.
- (i) To ensure that all contractors are afforded a fair opportunity to be considered for task or delivery orders pursuant to FAR 16.5 the DOE has a Task Order Ombuds. The purpose of the Ombuds is not to diminish the authority of the Contracting Officer, but to receive on behalf of and to communicate to the appropriate Government personnel concerns and disagreements of contractor(s) not receiving a specific task and to work to resolve the matter. When requested, the Ombuds will maintain strict confidentiality as to the source of the concern. The Ombuds does not participate in the original selection of contractors or in the evaluation or determination of the issuance of task or delivery orders under this contract, does not act in the capacity of a Contracting Officer, and does not participate in the adjudication of contract disputes,

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in regard to multiple award task or delivery order contracts awarded pursuant to FAR 16.5. Interested parties may contact the Ombuds with concerns or disagreements.

H.09 TASK ORDERS ISSUED BY DOE PRIME CONTRACTORS

Any DOE Prime Contractor performing environmental cleanup services for DOE is authorized to use the terms and conditions of this contract and may place orders as subcontracts in accordance with FAR Part 44, *Subcontracting Policies and Procedures*, and the terms of this prime contract between the DOE and the Prime Contractor for services described in Section C, Performance Work Statement, directly with the IDIQ Contractor as provided herein:

- (1) Is within scope of this IDIQ contract,
- (2) Is consistent with all of the terms and conditions of the IDIQ contract except for those clauses/provisions that have been identified as peculiar to the Government procurement (disputes resolution, prompt payment, and payment by electronic funds transfer), as well as specific provisions that may be applicable to work performed on a particular DOE site. These provisions will be identified and addressed in the specific order (subcontract) issued by the DOE Prime Contractor.
- (3) Orders shall be within the maximum order quantity limitation identified in Section B.03, and
- (4) Provided that the Contracting Officer for the DOE prime contract has specifically authorized, in writing, the placement of such subcontracts using the same terms and conditions of this contract. Before providing such approval, the Contracting Officer for the DOE prime contract, shall have coordinated with the IDIQ Contracting Officer identified in G.06 and obtained approval to use this IDIQ contract's identical terms and conditions except as specifically set forth in this clause.

The Government shall not be liable under this Contract for any subcontracts/orders entered into by such DOE Prime Contractors. Additionally, the DOE Prime Contractor may use substantially similar forms that meet the intent of the attached forms contained in Part III – Section J. The DOE Prime Contractor and the IDIQ Contractor shall execute a separately signed subcontract document that incorporates the terms and conditions of this IDIQ contract. However, while such subcontracts/orders are considered to create privity of contract only between the DOE Prime Contractor and the IDIQ Contractor that have entered into the subcontract/task order, the total dollar value of the subcontract/task order shall apply to the maximum order quantity under B.03.