

## **SECTION H**

### **SPECIAL CONTRACT REQUIREMENTS**

The specific Section H clauses of the ID/IQ Basic Contract applicable to this task order are listed below and are hereby incorporated by reference and/or full text:

- H.1 DOE-H-1051 CONSECUTIVE NUMBERING (MAY 2009)**
- H.3 DOE-H-1001 OMBUDSMAN ALT I**
- H.5 DOE-H-1004 NO THIRD PARTY BENEFICIARIES**
- H.6 DOE-H-1005 WORKER'S COMPENSATION INSURANCE**
- H.8 DOE-H-1024 ALTERNATIVE DISPUTE RESOLUTION (ADR)**
- H.9 DOE-H-1032 RELEASE OF INFORMATION**
- H.10 EMCBC-H-1001 CONSERVATION OF ENERGY AND FUEL**
- H.11 EMCBC-H-1002 ADDITION AND ALTERATIONS TO IMPLEMENT EXECUTIVE ORDER 13423, STRENGTHENING FEDERAL ENVIRONMENTAL, ENERGY, AND TRANSPORTATION MANAGEMENT AND ITS IMPLEMENTING INSTRUCTIONS**
- H.12 EMCBC-H-1003 CONFIDENTIALITY OF INFORMATION**
- H.13 EMCBC-H-1004 MODIFICATION AUTHORITY**
- H.14 EMCBC-H-1005 ORDERING PROCEDURES**
- H.15 EMCBC-H-1006 MAJOR OR CRITICAL SUBCONTRACTS – DESIGNATION AND CONSENT**
- H.19 EMCBC-H-1010 RESPONSIBLE CORPORATE OFFICIAL**
  - (a) The contractor shall designate a Program Manager who will be the contractor's authorized supervisor for technical and administrative performance of all work performed under each individual Task Order. The Program Manager shall provide the single point of contact between the contractor and the DCOR under each individual Task Order.
  - (b) The Program Manager shall receive and execute, on behalf of the contractor, such

technical directions as the DCOR may issue within the terms and conditions of each individual Task Order.

## **H.20 EMCBC-H-1011 TASK ORDER ADMINISTRATIVE INFORMATION**

## **H.21 EMCBC-H-1012 SECURITY**

## **H.23 EMCBC-H-1014 REQUIRED INSURANCE AND BONDS**

- (a) Contractor's Liability Insurance. The contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the contractor from claims set forth below by which may arise out of or result from the contractor's operations under the Task Order and for which the contractor may be legally liable, whether such operations be by the contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:
- (1) Claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;
  - (2) Claims for damages because of bodily injury, occupational sickness or disease, or death of the contractor's employees;
  - (3) Claims for damages because of bodily injury, sickness or disease, or death of any person other than the contractor's employees;
  - (4) Claims for damages insured by usual personal injury liability coverage;
  - (5) Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
  - (6) Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
  - (7) Claims for bodily injury or property damage arising out of completed operations; and,
  - (8) Claims involving contractual liability insurance applicable to the contractor's obligations.
- (b) The insurance required by this clause shall be written for not less than limits of liability specified in the Task Order or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment.
- (c) Certificates of insurance acceptable to the DCO shall be filed with the DCO prior to commencement of the Work. These certificates and the insurance policies required by this paragraph shall contain a provision that coverages afforded under the policies will

not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the DCO. If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the final Application for Payment as required. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the contractor with reasonable promptness in accordance with the contractor's information and belief.

(d) Performance Bond and Payment Bond

- (1) When required by the Task Order, the contractor shall acquire and provide to the DCO proof of a performance bond or payment bond of obligations to subcontractors, satisfactory to the DCO.
- (2) Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Task Order, the contractor shall promptly furnish a copy of the bonds or shall permit a copy to be made.

- (e) The contractor agrees to insert the substance of this clause in all subcontracts placed under the individual Task Order.

**H.24 EMCBC-H-1015 DISPUTES**

**H.28 EMCBC-H-1019 DEPARTMENT OF LABOR WAGE DETERMINATIONS**

**H.29 EMCBC-H-1020 PRESERVATION OF ANTIQUITIES, WILDLIFE AND LAND AREAS**

**H.30 EMCBC-H-1021 CONTRACTOR INTERFACE WITH OTHER CONTRACTORS AND/OR GOVERNMENT EMPLOYEES**

**H.31 EMCBC-H-1022 CONTRACTOR PRESS RELEASES**

**H.32 EMCBC-H-1023 LOBBYING RESTRICTION (ENERGY AND WATER DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS ACT, 2009)**

**H.34 EMCBC-H-1025 DISPOSITION OF INTELLECTUAL PROPERTY**

**H.36 TASK ORDERS ISSUED BY DOE PRIME CONTRACTORS**

## **H.37 IMPLEMENTING THE PRICE-ANDERSON AMENDMENTS ACT OF 2005**

### **NUCLEAR HAZARDS INDEMNITY AGREEMENT**

- (a) Authority. This clause is incorporated into this contract pursuant to the authority contained in subsection 170d. of the Atomic Energy Act of 1954, as amended (hereinafter called the Act.)
- (b) Definitions. The definitions set out in the Act shall apply to this clause.
- (c) Financial protection. Except as hereafter permitted or required in writing by DOE, the contractor will not be required to provide or maintain, and will not provide or maintain at Government expense, any form of financial protection to cover public liability, as described in paragraph (d)(2) below. DOE may, however, at any time require in writing that the contractor provide and maintain financial protection of such a type and in such amount as DOE shall determine to be appropriate to cover such public liability, provided that the costs of such financial protection are reimbursed to the contractor by DOE.
- (d)
  - (1) Indemnification. To the extent that the contractor and other persons indemnified are not compensated by any financial protection permitted or required by DOE, DOE will indemnify the contractor and other persons indemnified against (i) claims for public liability as described in subparagraph (d)(2) of this clause; and (ii) such legal costs of the contractor and other persons indemnified as are approved by DOE, provided that DOE's liability, including such legal costs, shall not exceed the amount set forth in section 170d. of the Act, as that amount may be increased in accordance with section 170t., in the aggregate for each nuclear incident or precautionary evacuation occurring within the United States or \$500 million in the aggregate for each nuclear incident occurring outside the United States, irrespective of the number of persons indemnified in connection with this contract.
  - (2) The public liability referred to in subparagraph (d)(1) of this clause is public liability as defined in the Act which (i) arises out of or in connection with the activities under this contract, including transportation; and (ii) arises out of or results from a nuclear incident or precautionary evacuation, as those terms are defined in the Act.
- (e)
  - (1) Waiver of Defenses. In the event of a nuclear incident, as defined in the Act, arising out of nuclear waste activities, as defined in the Act, the contractor, on behalf of itself and other persons indemnified, agrees to waive any issue or

defense as to charitable or governmental immunity.

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

- i. Arises out of, results from, or occurs in the course of the construction, possession, or operation of a production or utilization facility; or
- ii. Arises out of, results from, or occurs in the course of transportation of source material, by-product material, or special nuclear material to or from a production or utilization facility; or
- iii. Arises out of or results from the possession, operation, or use by the contractor or a subcontractor of a device utilizing special nuclear material or by-product material, during the course of the contract activity; or
- iv. Arises out of, results from, or occurs in the course of nuclear waste activities, the contractor, on behalf of itself and other persons indemnified, agrees to waive:

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

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

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

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

person indemnified.

- v. The term extraordinary nuclear occurrence means an event which DOE has determined to be an extraordinary nuclear occurrence as defined in the Act. A determination of whether or not there has been an extraordinary nuclear occurrence will be made in accordance with the procedures in 10 CFR part 840.
- vi. For the purposes of that determination, "offsite" as that term is used in 10 CFR part 840 means away from "the contract location" which phrase means any DOE facility, installation, or site at which contractual activity under this contract is being carried on, and any contractor-owned or controlled facility, installation, or site at which the contractor is engaged in the performance of contractual activity under this contract.

(3) The waivers set forth above:

- i. Shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action;
- ii. Shall be judicially enforceable in accordance with its terms by the claimant against the person indemnified;
- iii. Shall not preclude a defense based upon a failure to take reasonable steps to mitigate damages;
- iv. Shall not apply to injury or damage to a claimant or to a claimant's property which is intentionally sustained by the claimant or which results from a nuclear incident intentionally and wrongfully caused by the claimant;
- v. Shall not apply to injury to a claimant who is employed at the site of and in connection with the activity where the extraordinary nuclear occurrence takes place, if benefits therefor are either payable or required to be provided under any workmen's compensation or occupational disease law;
- vi. Shall not apply to any claim resulting from a nuclear incident occurring outside the United States;
- vii. Shall be effective only with respect to those obligations set forth in this clause and in insurance policies, contracts or other proof of financial

protection; and

- viii. Shall not apply to, or prejudice the prosecution or defense of, any claim or portion of claim which is not within the protection afforded under (A) the limit of liability provisions under subsection 170e. of the Act, and (B) the terms of this agreement and the terms of insurance policies, contracts, or other proof of financial protection.
- (f) Notification and litigation of claims. The contractor shall give immediate written notice to DOE through its Contracting Officer of any known action or claim filed or made against the contractor or other person indemnified for public liability as defined in paragraph (d)(2). Except as otherwise directed by DOE, the contractor shall furnish promptly to DOE, copies of all pertinent papers received by the contractor or filed with respect to such actions or claims. DOE shall have the right to, and may collaborate with, the contractor and any other person indemnified in the settlement or defense of any action or claim and shall have the right to (1) require the prior approval of DOE for the payment of any claim that DOE may be required to indemnify hereunder; and (2) appear through the Attorney General on behalf of the contractor or other person indemnified in any action brought upon any claim that DOE may be required to indemnify hereunder, take charge of such action, and settle or defend any such action. If the settlement or defense of any such action or claim is undertaken by DOE, the contractor or other person indemnified shall furnish all reasonable assistance in effecting a settlement or asserting a defense.
- (g) Continuity of DOE obligations. The obligations of DOE under this clause shall not be affected by any failure on the part of the contractor to fulfill its obligation under this contract and shall be unaffected by the death, disability, or termination of existence of the contractor, or by the completion, termination or expiration of this contract.
- (h) Effect of other clauses. The provisions of this clause shall not be limited in any way by, and shall be interpreted without reference to, any other clause of this contract, including the clause entitled Contract Disputes, provided, however, that this clause shall be subject to the clauses entitled Covenant Against Contingent Fees, and Accounts, records, and inspection, and any provisions that are later added to this contract as required by applicable Federal law, including statutes, executive orders and regulations, to be included in Nuclear Hazards Indemnity Agreements.
- (i) Civil penalties. The contractor and its subcontractors and suppliers who are indemnified under the provisions of this clause are subject to civil penalties, pursuant to section 234A of the Act, for violations of applicable DOE nuclear-

safety related rules, regulations, or orders. If the contractor is a not-for-profit contractor, as defined by section 234Ad.(2), the total amount of civil penalties paid shall not exceed the total amount of fees paid within any 1-year period (as determined by the Secretary) under this contract.

- (j) Criminal penalties. Any individual director, officer, or employee of the contractor or of its subcontractors and suppliers who are indemnified under the provisions of this clause are subject to criminal penalties, pursuant to section 223(c) of the Act, for knowing and willful violation of the Atomic Energy Act of 1954, as amended, and applicable DOE nuclear safety-related rules, regulations or orders which violation results in, or, if undetected, would have resulted in a nuclear incident.
- (k) Inclusion in subcontracts. The contractor shall insert this clause in any subcontract which may involve the risk of public liability, as that term is defined in the Act and further described in paragraph (d)(2) above. However, this clause shall not be included in subcontracts in which the subcontractor is subject to Nuclear Regulatory Commission (NRC) financial protection requirements under section 170b. of the Act or NRC agreements of indemnification under section 170c. or k. of the Act for the activities under the subcontract.
- (l) Effective Date. This contract was awarded on or after August 8, 2005 and at contract award contained the clause at DEAR 952.250-70 (JUN 1996) or prior version. That clause has been deleted and replaced with this clause. The Price-Anderson Amendments Act of 2005, described by this clause, control the indemnity for any nuclear incident that occurred on or after August 8, 2005. The Contractor's liability for civil penalties for violations of the Atomic Energy Act of 1954 under this contract is described by paragraph (i) of this clause.

### **H.38 REPORT AND APPROVAL REQUIREMENTS FOR CONFERENCE RELATED ACTIVITIES**

*In addition, the following special provisions will apply to this task order:*

#### **H.101 INTEGRATED CONTRACTOR WORK CONTROL SYSTEMS AND REPORTING REQUIREMENTS (July 2012)**

This clause applies to all Environmental Management (EM) contracts that are affected by Capital Asset projects and Operations Activities guidance listed in Section J Attachment "Integrated Contractor Work Control Systems and Reporting Requirements."

##### **A. Project Control System**

The Contractor shall establish, maintain and use a performance measurement system that accurately records and reports the Task Order performance against the requirements of the Task Order, accurately reflects the Task Order cost in Section B of the Task Order and is consistent with Department of Energy (DOE) and EM policies and guidance for Capital Asset projects and Operations Activities noted in Section J attachment “Integrated Contractor Work Control Systems and Reporting Requirements Clause,” paragraphs A.1 and A.2.

## B. Baseline Development and Performance Reporting

The Performance Baseline (PB) represents the schedule and scope as it relates to the negotiated value of the Task Order. The PB (Interim or final) must be consistent with the terms and conditions of the Task Order and the Contractor’s final proposed technical approach, as incorporated in the final Task Order award and any Task Order modifications after award. The PB must satisfy all applicable requirements for safety, quality, regulatory milestones, budget, schedule, Task Order scope of work, and risk management as stated in the Task Order, and must follow DOE and EM policy and guidance, including DOE Order 413.3B, Program and Project Management for the Acquisition of Capital Projects, as it relates to firm fixed-price contracts.

The PB documents shall be in sufficient detail to demonstrate that the Contractor understands the complexity of work, and has put in place planning, management processes and qualified personnel to execute the work in a safe and efficient manner. The Contractor’s planning and performance reporting processes shall provide DOE with adequate data for independent assessment of Contractor’s work execution plan, basis of schedule estimates for work packages and planning packages, and measurement of progress reporting and change control procedures. The PB document shall include performance milestones, schedules, and a basis for assessing percentage of project completion. A total project cost shall be included in the resource-loaded schedule, and a total cost shall also be included for each individual CLIN. The WBS structure shall support reporting from the work package up through and including the separate CLINs.

The PB will be reviewed by DOE and approved by the Contracting Officer (CO) declaring that the PB meets the Task Order requirements. Once the PB is approved, the Contractor shall follow the approved change control process.

### 1. Interim Performance Baseline Submittal

- a. Within 90 days after the Contractor receives *Notice to Proceed* from the CO, the Contractor shall develop and submit for approval by the CO an Interim PB to cover approximately the first 15 months of performance starting from the date of issuance of the NTP.
- b. The Interim PB shall reflect the requirements of the Task Order PWS for first 15 months of work scope. The 15 month Interim PB shall be aligned with the fiscal year and shall match the scope for that period in the Task Order. The interim PB shall

- establish performance milestones and schedules and shall include measures to establish percentage of work completed.
- c. If other Task Order changes are negotiated within the 90-day Task Order Transition Period, they should be incorporated in the Interim PB. Subsequent changes negotiated after the Task Order Transition Period shall be incorporated in the Interim PB through baseline change approvals.
  - d. The Contractor shall incorporate any revisions provided by the CO within 15 days of receipt.
  - e. Contractor shall begin performance reporting against the Interim PB as submitted immediately.
2. Performance Baseline Submittal

During the first six months after the Task Order Transition Period, in addition to performing and reporting progress against the Interim PB, the Contractor shall develop and submit for DOE approval detailed plans for the base period of the task order. . These plans will include the development of an overall PB which may entail development of multiple segmented PBs. The planning requirements and details for review and approval of PB segments will vary depending upon the type of project and operations activity.

- a. Within 180 days after Task Order Transition, the Contractor shall submit for approval by the CO, a Final PB for the base period of the task order that is made up of PB segments for each CLIN. The Final PB shall establish performance milestones and schedules and shall include measures to establish percentage of work completed. A revised Task Order Performance Baseline shall be required as each option is exercised. PB segments shall be developed in accordance with applicable policy and guidance documents noted in Section J attachment "Integrated Contractor Work Control Systems and Reporting Requirements Clause," paragraphs A.1, A.2 and B.1.
  - b. The Final PB submittal shall include both hard copies and electronic files.
  - c. It is critically important to DOE that alignment between the PB and the Task Order is maintained throughout the Task Order period of performance. The Government will withhold a percentage of payment until the PB has been approved by DOE and determined that it meets the terms and conditions of the Task Order as noted in paragraph 3b below. Similarly, a percentage of payment will be withheld if at any time during Task Order performance the PB and the Task Order go out of alignment.
3. Reviews

- a. After completion of Task Order Transition Period (90 days after CO's notification to proceed) and receipt of Contractor's proposed Interim PB, DOE will complete its review to determine whether it meets the terms and conditions of the Task Order. In cases where the Interim PB does not meet the requirements, the Contractor shall submit a corrective action plan to the CO within 15 days of receipt of DOE's comments for DOE approval. All corrective actions shall be completed in the time-frames established in the approved corrective action plan.
- b. After receipt of Contractor's overall PB and PB segments, DOE will complete its review to determine whether the baseline documentation meets the terms and conditions of the Task Order. The Contractor shall submit a corrective action plan within 15 days of receipt of DOE's comments for DOE approval. All corrective actions shall be completed in the time-frames established in the approved corrective action plan.

#### 4. Performance Reporting

The Contractor shall submit a Monthly Performance Report to the CO with copy to the Office of Project Assessment at [ContractorsMPR@hq.doe.gov](mailto:ContractorsMPR@hq.doe.gov) not later than the eighth business day prior to the end of each calendar month. The report will provide the prior month's performance for each PB segment and an update of the performance to date.

A performance measurement system is required. The performance management system must be submitted to the CO and approved by DOE. The performance management system requirement must be described in detail and provided to the CO with the Interim PB.

FAR Clause 52.232-5, Payments under Fixed-Price Construction Contracts, governs the payment provision and the data that the contractor must provide to support its estimate of work accomplished, and is applicable to all work performed under the Task Order. Substantiation includes an itemization of the amounts requested, related to the various elements of work required by the contract covered by the payment requested and a listing of the amount included for work performed by each subcontractor under the contract, the total amount of each subcontract under the contract, and amounts previously paid to each subcontractor under the contract. Additionally, the Contractor shall provide the schedule of values data per FAR Clause 52.236-15, Schedules for Construction Contracts for each D&D CLIN as each D&D option exercised.

#### C. Baseline Management

1. The PB is the source document for all Task Order work scope and schedule. The PB and changes to the PB (Interim and Final PB) at all levels shall be managed using formal documented procedures as approved by the CO.
2. The PB must remain aligned with the Task Order.
3. If Task Order scope is changed, the Contractor must submit a Task Order change proposal concurrently with a PB change proposal to the CO. If the CO issues a unilateral Task Order modification, the Contractor will submit a revised PB in accordance with direction accompanying the Task Order modification.

Any changes to the PB that do not affect these items shall also be provided to the CO for notification upon the Contractor internal approval. All change control actions will follow the Task Order and project approved change control procedures approved by the CO as part of the PB submittal documentation.

#### **H.102 TASK ORDER OVERSIGHT**

The Contractor shall expect routine surveillance and observation of work performed to the task requirements by DOE personnel and shall correct violations of laws, regulations, permits, Radiological Protection Plan, Worker Safety & Health Program, upon discovery, within one working day. The Contractor shall correct all other deficiencies within five working days. Suggestions for the improvement of contractually mandated work shall be enacted upon mutual agreement between the Contractor and the DCO or DCOR. The Contractor shall provide logistical support to facilitate conducting oversight activities on an as-needed basis, at the discretion of the DCOR.

The Contractor shall respond to DOE oversight and to concerns, findings and observations as identified by the DCO or DCOR during the conduct of these oversight activities. The six fundamental areas of oversight that may be conducted during the course of the execution of this task order are as follows:

1. Project Management Oversight: This includes daily field inspections and the weekly and monthly assessment of project status, which will be used to determine and validate project performance and invoices submitted by the Contractor.
2. Task Order Management Oversight: Administration and monitoring of the task order will be performed by the Task manager, DCOR or their designee. All information and documentation relinquished by the Contractor will be retained by the DCOR for the Task Order File.

3. Integrated Safety Management/Operations Oversight: The Contractor shall provide documentation and participate in meetings to allow DOE to monitor the Contractor's compliance with DOE P 450.4A, "Integrated Safety Management Policy."
4. Daily Oversight: DOE may utilize Facility Representatives, Project Managers and Subject Matter Experts in addition to the DCOR, to conduct daily oversight for the duration of this task order. The purpose of this oversight will be to assess compliance with the terms and conditions of the task order. In addition to this oversight, the Contractor shall support:
  - a. Senior management walk-throughs, conducted in locations where work is ongoing;
  - b. Periodic walk-through by the regulators, Defense Nuclear Facilities Safety Board (DNFSB), DOE Headquarters personnel, Department of Toxic Substances Control (DTSC) and/or other stakeholders;
  - c. Employee concerns elevated to DOE for evaluation.
  - d. Unannounced inspections and visits by regulatory personnel
5. Assessments: DOE or other regulatory agencies may conduct assessments of the Contractor's performance. Advance notice of these performance assessments will be given to the Contractor fourteen (14) calendar days in advance of the assessment when possible.

### **H.103 QUALITY ASSURANCE (QA)**

The Contractor shall establish and maintain an effective Quality Assurance Program (QAP) approved by DOE in compliance with 10 CFR 830 Subpart A and DOE Order 414.1D and in accordance with the EM Quality Assurance Program, EM-QA-001 Rev 1, prior to commencement of work affecting nuclear safety. The EM QAP provides the basis to achieve quality across the EM complex for all mission-related work while providing a consistent approach to Quality Assurance (QA).

EM has adopted the American Society of Mechanical Engineers (ASME) NQA-1, 2008, with addenda through 2009, Quality Assurance Requirements for Nuclear Facility Applications, as a consensus standard and requires the implementation of NQA-1 requirements into the contractors Quality Implementation Plan (QIP) based on the activities being performed.

Contractors shall develop and submit for DOE approval a QAP within 60 days after Notice to Proceed (NTP). Development of a new QAP or modification of the existing version of a QAP from a prior contractor, does not alter a contractor's legal obligation to comply with 10 CFR 830, other regulations affecting quality assurance (QA) and DOE Order 414.1D.

The Contractor's QAP shall describe the overall implementation of the EM QA requirements and shall be applied to all work performed by the Contractor (e.g., research, design/engineering, construction, operation, budget, mission, safety, and health).

The Contractor shall, at a minimum, annually review and update as appropriate, their QAP. The review and any changes shall be submitted to DOE for approval. Changes that reduce the level of commitments affecting nuclear safety shall be approved before implementation by the Contractor.

All software acquisition, development, operation and maintenance included in the IMS shall be compliant with requirements identified in EM-QA-001 Rev 1, Attachment G. Safety software shall be acquired, developed and implemented using ASME NQA-1-2008 with addenda through 2009, Part I and Subpart 2.7. Non-safety, quality-related software for nuclear facility or EM mission critical applications shall be managed and controlled in accordance with the requirements of DOE 0 414.1D, Attachment 2, Sections 2 & 3 as well as Attachment 4 for Nuclear Facilities.

The Contractor shall develop and submit for DOE approval a comprehensive Issues Management System within 90 days of NTP for the identification, assignment of significance category, and processing of nuclear safety-related issues identified within the Contractor's organization. The significance assigned to the issues shall be the basis for all actions taken by the contractor in correcting the issue from initial causal analysis, reviews for reporting to DOE, through completion of Effectiveness Reviews if required based on the seriousness of the issue.

#### **H.104 INSURANCE - WORK ON A GOVERNMENT INSTALLATION**

In accordance with section H.6 DOE-H-1005 WORKER'S COMPENSATION INSURANCE, H.23 EMCBC-H-1014 REQUIRED INSURANCE AND BONDS, section I clause FAR 52.228-5, *Insurance – Work on a Government Installation* (per the ID/IQ Basic Contract), section I DEAR clause 952.231-71, *Insurance – Litigation and Claims*, and per Exhibit E of the Section C Appendix entitled *DOE and Landowner Access Agreement*, the Contractor shall carry the following kinds and minimum amounts of insurance during the performance of this Task Order:

- (a) *Workers' compensation and employer's liability.* Contractors are required to comply with applicable Federal and State workers' compensation and occupational disease statutes. If occupational diseases are not compensable under those statutes, they shall be covered under the employer's liability section of the insurance policy, except when contract operations are so commingled with a contractor's commercial operations that it would not be practical to require this coverage. Employer's liability coverage of at least \$100,000 shall be required, except in States with exclusive or monopolistic funds that do not permit workers' compensation to be written by private carriers.

- (1) The insurance program must be approved by the CO and cover all eligible employees of the Contractor and comply with applicable Federal and State workers' compensation and occupational disease statutes.
  - (2) 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 CO.
  - (3) The Contractor shall submit to the CO an annual evaluation and analysis of workers' compensation program and 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 CO. The Contractor's self-evaluation shall discuss:
    - Periodic audits of claims servicing units; and,
    - The reasonableness of self-insurance reserves and methods and assumptions used to closeout claims or losses to present value.
  - (4) The Contractor shall obtain approval from the CO before making any significant change to its workers compensation coverage and shall furnish reports as may be required from time to time by the CO.
- (b) *Commercial General liability insurance.* Available limits of not less than Five Million Dollars (\$5,000,000) per occurrence for bodily injury, including death, and property damage combined, Five Million Dollars (\$5,000,000) general aggregate.
- (c) *Automobile Liability Insurance.* Coverage shall be provided on a comprehensive basis on all vehicles, whether owned, hired, rented, borrowed or otherwise, with limits of liability of not less than One Million Dollars (\$1,000,000) per occurrence combined single limit for bodily injury and property damage. It shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performance of this contract.
- (d) *Contractor Pollution Liability Insurance.* Contractor Pollution Liability insurance with available limits of not less than Ten Million Dollars (\$10,000,000) per occurrence for bodily injury, including death, or loss of or damage to property, or clean-up costs for pollutants, combined. Such per occurrence limits of insurance may be satisfied through a combination of "primary" and "umbrella" or "excess" policies. Any deductible or self-assumed layer shall be no greater than Two Hundred Fifty Thousand Dollars (\$250,000). Such insurance shall (i) be in occurrence form, (ii) specify the Permitted Activities as covered operations, (iii) contain coverage for completed operations, (iv) provide coverage for incidents or clean up costs based upon or arising out of the radioactive, toxic or explosive properties of any nuclear

material, and (v) be endorsed to include an environmental transportation endorsement.

The amount of liability coverage on other policies shall be commensurate with any legal requirements of the state and locality, plus sufficient to meet normal and customary claims.

Proof of all required insurance shall be provided to the Contracting Officer prior to the commencement of work.

#### **H.105 VARIATION IN ESTIMATED QUANTITY**

If the quantity of the unit-priced item in this task order for CLINs 00003 and 00006 is an estimated quantity and the actual quantity of the unit-priced item varies more than 5 percent above or below the estimated quantity, an equitable adjustment in the contract price shall be made upon demand of either party. The equitable adjustment shall be based upon any increase or decrease in costs due solely to the variation above 105 percent or below 95 percent of the estimated quantity. If the quantity variation is such as to cause an increase in the time necessary for completion, the Contractor may request, in writing, an extension of time, to be received by the Contracting Officer within 10 days from the beginning of the delay, or within such further period as may be granted by the Contracting Officer before the date of final settlement of the contract. Upon the receipt of a written request for an extension, the Contracting Officer shall ascertain the facts and make an adjustment for extending the completion date as, in the judgment of the Contracting Officer, is justified.

#### **H.106 KEY PERSONNEL**

- A. Introduction. Key Personnel are considered essential to the success of all work being performed under this contract. This Clause provides specific requirements, in addition to the requirements of the clause in Section I entitled, "DEAR 952.215-70 Key Personnel," for the Key Personnel Team, requirements for changes to Key Personnel, and identification of all Key Personnel for this Task Order.
- B. Key Personnel Team Requirements. The Contracting Officer and designated Contracting Officer's Representative(s) shall have direct access to the Key Personnel. All Key Personnel shall be assigned to their respective positions for a minimum of two years.
- C. Definitions. For the purposes of this Clause, changes to Key Personnel are defined as: (i) any change to the position assignment of a current Key Person under the Task Order, except for a person who acts for short periods of time, in the place of a Key Person during his or her absence the total time of which shall not exceed 30 working days during any given year; or (ii) utilizing the services of a new substitute Key Person for assignment to the contract.

- D. Key Personnel for this Task Order. The Key Personnel for this contract are identified below. This list will be amended during the course of the contract to change Key Personnel as approved by the Contracting Officer.

NAME	TITLE
<i>To be filled out at time of award</i>	Program Manager
<i>To be filled out at time of award</i>	ESH&Q Manager

**H.107 DOE-H-1067 PRICE-ANDERSON AMENDMENTS ACT NONCOMPLIANCE (JULY 2011)**

The Contractor shall establish an internal Price-Anderson Amendments Act (PAAA) noncompliance identification, tracking, and corrective action system and shall provide access to and fully support DOE reviews of the system. The Contractor shall also implement a Price-Anderson Amendments Act reporting process which meets applicable DOE standards. The Contractor shall be accountable for ensuring that subcontractors adhere to these requirements.

**H.108 LEGAL MANAGEMENT**

- A. The Contractor shall maintain a legal function to support litigation, arbitration, environmental, procurement, employment, labor, and the Price-Anderson Amendments Act areas of law. The Contractor shall provide sound litigation management practices. Within 60 days of the NTP, the Contractor shall provide a Legal Management Plan (defined as a document describing the contractor’s practices for managing legal costs and legal matters for which it procures the services of retained legal counsel) compliant with Code of Federal Regulations Title 10 Subpart 719, Contractor Legal Management Requirements. The Plan shall describe the Contractor’s practices for managing legal costs and matters for which it procures the services of retained legal counsel. In doing so, the plan shall describe the matters in-house counsel will perform as well as anticipates performing throughout the life of the contract. The Contractor should not retain outside counsel for matters that can be performed by in-house counsel. The Contractor shall provide an annual legal budget to Department Counsel along with the Legal Management Plan. Within 30 days of the conclusion of the period covered by each annual legal budget, the Contractor shall provide a report to Department Counsel comparing its budgeted and actual legal costs.
- B. As required by the CO and upon mutual agreement of the parties to allow such costs under the Task Order, the Contractor shall provide support to the Government on regulatory matters, third-party claims, and threatened or actual litigation. Support includes, but is not

necessarily limited to: case preparation, document retrieval, review and reproduction, witness preparation, expert witness testimony, and assistance with discovery or other information requests responsive to any legal proceeding.

#### **H.109 MANDATORY CHANGE ORDER ACCOUNTING**

- A. The Contractor shall establish change order accounting for each change or series of related changes whose estimated cost exceeds \$100,000. At a minimum, the Contractor shall maintain separate accounts, by job order or other suitable accounting procedure, of all incurred segregable, direct costs (less allocable credits) of work, both changed and not changed, allocable to the change or series of related changes. The Contractor shall maintain such accounts until the parties agree to an equitable adjustment for the changes ordered by the Contracting Officer or the matter is conclusively disposed of in accordance with the Disputes clause.
- B. The Contractor shall promptly provide the information required in paragraph (a) of this clause to the Contracting Officer upon request.
- C. If the contractor separately identifies costs in its invoices that pertain to the changed work, the contractor may invoice costs for both changed work and other work in the same invoice.
- D. The Government has no obligation under this clause or any other term or condition of this contract to remind the Contractor of its obligations under this clause. The Government may or may not, for example, refer to this clause when issuing change orders.
- E. If the Contractor fails to provide an adequate, auditable definitization proposal within 180 days, the Government may consider some or all of the associated bid and proposal costs to be unallowable.
- F. If the Contractor fails to comply fully with the requirements of this clause, the Government may reflect the Contractor's failure in its past performance evaluation of the Contractor's performance.

#### **H.110 CYBER SECURITY PROGRAM**

In accordance with DOE O 205.1B DEPARTMENT OF ENERGY CYBER SECURITY MANAGEMENT PROGRAM, regardless of the performer of the work, the contractor is responsible for compliance with the provisions and requirements, flowing down applicable Contractor Requirements Document (CRD) requirements to subcontractors at any tier, and to ensure compliance with DOE O 205.1B.

#### **H.111 PRIVACY ACT SYSTEMS OF RECORDS (JULY 2011)**

The Contractor shall design, develop, or adopt the following systems of records on individuals to accomplish an agency function pursuant to the Section I Clause, FAR 52.224-2, Privacy Act.

<u>DOE System No.</u>	<u>Title</u>
DOE-05	Personnel Records of Former Contractor Employees (includes all former workers)
DOE-10	Energy Employees Occupational Illness Compensation Program Act Files
DOE-13	Payroll and Leave Records
DOE-14	Report of Compensation
DOE-23	Property Accountability System
DOE-28	General Training Records
DOE-33	Personnel Medical Records (present and former DOE employees and Contractor employees)
DOE-35	Personnel Radiation Exposure Records
DOE-38	Occupational and Industrial Accident Records
DOE-51	Employee and Visitor Access Control Records
DOE-52	Access Control Records of International Visits, Assignments, and Employment at DOE Facilities and Contractor Sites
DOE-88	Epidemiologic and Other Health Studies, Surveys, and Surveillances

The contractor shall notify the Contracting Officer immediately when it is first known that this list does not address all the systems of records that are generated based on task order performance. The Contractor shall monitor the identified systems and notify the Contracting Officer immediately if there is a change to existing systems or if there is a need for a new system. Lack of notification does not exempt the Contractor from complying with the Privacy Act. To ensure systems are monitored consistently, Contractors are required to review and provide a written notification to the Contracting Officer annually that the list is accurate and up-to-date.

The above list shall be revised by mutual agreement between the Contractor and the Contracting Officer, as necessary, to keep it current. A formal modification to the task order is not required to incorporate these revisions; however, the revisions become effective upon mutual written agreement of the parties. The mutually agreed upon revisions shall have the same effect as if actually listed above for the purpose of satisfying the listing requirement contained in paragraph (a)(1) of the contract clause entitled, FAR 52.224-2, Privacy Act (APR 1984). The revisions will be formally incorporated at the next convenient task order modification. The link at: <http://energy.gov/sites/prod/files/maprod/documents/FinalPASORNCompilation.1.8.09.pdf> provides additional information on Privacy Act Systems of Records.

Inclusion in subcontracts. The contractor shall insert this clause in all subcontracts placed under the individual Task Order that involves performance where a systems of records shall be required to be maintained on individuals to accomplish an agency function pursuant to the Section I Clause, FAR 52.224-2, Privacy Act.

## **H.112 ENVIRONMENTAL RESPONSIBILITY**

- A. General. The contractor is required to comply with all environmental laws, regulations, directives, orders, and procedures applicable to the work being performed under this task order. This includes, but is not limited to, compliance with applicable federal, state and local laws and regulations, permits, interagency agreements such as consent orders, consent decrees, and settlement agreements between the U. S. Department of Energy (DOE) and federal and state regulatory agencies. The ETEC Consent Decree and Consent Order constitute a requirement pursuant to which the contractor agrees to plan and perform the contract work.
- B. Environmental Permits. This paragraph addresses three permit scenarios, where the contractor is the sole permittee; where the contractor and DOE are joint permittees; and where multiple contractors are permittees.
1. Contractor as Sole Permittee. To the extent permitted by law and subject to other applicable provisions of the contract that impose responsibilities on DOE, and provisions of law that impose responsibilities on DOE or third parties, the contractor shall be responsible for obtaining in its own name, shall sign, and shall be solely responsible for compliance with all permits, authorizations and approvals from federal, state, and local regulatory agencies which are necessary for the performance of the work required of the contractor under this contract.

Under this permit scenario, the contractor shall make no commitments or set precedents that are detrimental to DOE or other contractors. The contractor shall coordinate its permitting activities with DOE, and with other contractors which may be affected by the permit or precedent established therein, prior to taking the permit action.

2. DOE as Permittee, or Contractor and DOE as Joint Permittees. Where appropriate, required by law, or required by applicable regulatory agencies, DOE will sign permits as permittee, or as owner or as owner/operator with the contractor as operator or co-operator, respectively. DOE will co-sign hazardous waste permit applications as owner/operator where required by applicable law. In this scenario, the contractor shall coordinate its actions with DOE. DOE is responsible for timely notification to the contractor of any issues or changes in the regulatory environment that impact or may impact contractor implementation of any permit requirement. The contractor shall be responsible for timely notification to DOE of any issues or changes in the regulatory environment that impact or may impact contractor implementation of any permit requirement.
3. Multiple Contractors as Permittees. Where appropriate, in situations where multiple contractors are operators or co-operators of operations requiring environmental permits,

DOE will sign such permits as owner or co-operator and affected contractors shall sign as operators, or co-operators. In this scenario, the contractor shall coordinate as appropriate with DOE and other contractors affected by the permit.

- C. Permit Applications. The contractor shall provide to DOE for review and comment in draft form any permit applications and other regulatory materials necessary to be submitted to regulatory agencies for the purposes of obtaining a permit. Whenever reasonably possible all such materials shall be provided to DOE initially not later than 90 days prior to the date they are to be submitted to the regulatory agency. The contractor shall normally provide final regulatory documents to DOE at least 30 days prior to the date of submittal to the regulatory agencies for DOE's final review and signature or concurrence. Special circumstances may require permits to be submitted in a shorter time frame. As soon as the contractor is aware of any such special circumstance, the contractor will provide notice to DOE as to the timeframe in which the documents will be submitted to DOE. The contractor may submit for DOE's consideration, requests for alternate review, comment, or signature, schedules for environmental permit applications or other regulatory materials covered by this Clause. Any such requests shall be submitted 30 days before such material would ordinarily be required to be provided to DOE. Any such schedule revision shall be effective only upon approval from the Contracting Officer.
- D. Copies, Technical Information. The contractor shall provide DOE copies of all environmental permits, authorizations, and regulatory approvals issued to the contractor by the regulatory agencies. DOE will, upon request, make available to the contractor access to copies of all environmental permits, authorizations, and approvals issued by the regulatory agencies to DOE that the contractor may need to comply with under applicable law. The contractor and DOE will provide to each other copies of all documentation, such as, letters, reports, or other such materials transmitted either to or from regulatory agencies relating to the contract work. The contractor and DOE shall maintain all necessary technical information required to support applications for revision of DOE or other Site contractor environmental permits when such applications or revisions are related to the contractor's operations. Upon request, the contractor or DOE shall provide to the other access to all necessary and available technical information required to support applications for or revisions to permits or permit applications. The contractor shall provide to DOE a certification statement relating to such technical information in the form required by the following paragraph.
- E. Certifications. The contractor shall provide a written certification statement attesting that information DOE is requested to sign was prepared in accordance with applicable requirements. The contractor shall include the following certification statement in the submittal of such materials to DOE:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of

the person or persons who manage the system, or those persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. The certification statement shall be signed by the individual authorized to sign such certification statements submitted to federal or state regulatory agencies under the applicable regulatory program.

**H.113 GOVERNMENT-FURNISHED SERVICES AND ITEMS (GFSI)**

- A. The DOE will provide the GFSI listed in the table below. If DOE cannot provide GFSI committed to below, the Contractor may be entitled to pursue remedies in the manner and subject to the limitations set out in subparagraphs (d) and (i) of the Section I, FAR 52.245-1 “Government Property.”
- B. Government-Furnished Property is identified in Section J. The Contractor shall evaluate the adequacy of GFSI and notify DOE when GFSI-supplied equipment or services do not meet contract or DOE Order requirements.
- C. The Contractor shall provide the Contracting Officer a projection of when the GFSI identified in the table below are needed within thirty (30) calendar days after the issuance of the notice to Proceed (NTP) and quarterly thereafter. Amendments to the projection, if any, shall be provided to the Contracting Officer at least 45 calendar days in advance of the GFSI need date.

DOE will review each Contractor submittal of GFSI needs and, within 15 calendar days, shall notify the Contractor whether it will provide the requested GFSI.

Scope	Requirements	Government-Furnished Services and Items
The Contractor shall perform activities as described in Section C.	DOE shall ensure Government controlled data systems are available for Contractor access as needed.	DOE will ensure the following systems are available to the Contractor throughout the period of performance of this contract: Facility Information Management System (FIMS) Computerized Accident/Incident Reporting System (CAIRS) Non-Compliance Tracking System (NTS) database Occurrence Reporting and Processing System (ORPS)

Scope	Requirements	Government-Furnished Services and Items
		Geographical Information System (GIS) Performance and Accounting Reporting System II (PARS II) – for D&D only Integrated Planning, Accountability, and Budgeting System (IPABS)
Section C.5.5  The Contractor shall maintain, safeguard, and disposition records/information content acquired or created under the task order with DOE in accordance with applicable federal laws, regulations and DOE Directives as described in Section C.	DOE shall review/inspect the Government records/information content before release to a successor contractor (if applicable).	Records/Information content created under contract with DOE, not defined under Section I Clause, "Access to and Ownership of Records" as Contractor owned," and retained by the contractor for the performance of work under this contract are being provided as Government Furnished Items. These records include, but are not limited to, research & development records (including liquid metal research), environmental records, monitoring records, safety and health records, radiation protection records, D&D records, sampling and analysis (including all back-up data) waste disposal records, and permits.

**H.114 PAPERLESS DIRECTIVE PROCESSING SYSTEM**

- A. The Contractor, in addition to complying with applicable laws, rules, and other regulations, shall comply with those DOE Orders and other Directives applicable to Contractors, with the applicable departmental policies, plans, programs, and management Directives, and with all changes to assigned work as agreed to by the Contractor and the CO or designee.
- B. DOE has developed a list of applicable DOE Directives, and is appended to the contract as Section J, Attachment J2. The Contractor shall comply with the Directives identified in such list. The Contractor shall make no claim, including a claim for equitable adjustment under the Changes clauses of this contract, for additional costs, fee or extension of time of performance relating to compliance with the Directives in such list.
- C. The Baseline List of Directives Applicable to the contract will be revised and issued, by the DOE CO, as a contract modification, as necessary. The CO may direct the Contractor to comply with additional DOE Directives and local Directives and revisions thereto, as follows:

1. Pursuant to and in accordance with the Changes clause of the contract with respect to changes in Directives within the general scope of this contract.
  2. Pursuant to any Environment, Safety, and Health provisions of this contract, and in accordance with the Changes clause of this contract with respect to changes in Directives involving safety, environment, health, and quality.
- D. At least once a month, the Contractor will extract Directives from the DOE Paperless Directive System utilizing the Internet as notification of their availability by DOE electronic prompting. Copies of DOE Directives may be obtained without charge from the CO or by citing the number of this contract in a written request sent to the following address:
- U.S. DOE  
Distribution Section  
Forrestal Building  
Washington, DC 20585
- E. The CO and his/her representative(s) expressly authorized in writing to do so are the only Government officials authorized to provide explanations as to the applicability of Directives. The CO is the only Government Official authorized to resolve possible conflicting requirements involving Directives.
- F. Upon receipt of a new or revised directive, the Contractor shall review it for consistency with the other terms of this contract and for impacts on funding, manpower and other provisions of the contract. If the Contractor considers the directive to be consistent with the other terms of this contract and it can be implemented within existing funds, manpower, and other provisions of the contract and the implementation will not have a negative impact on the cost, schedule, or other obligations of the Contractor, the Contractor shall establish an implementation schedule, and so advise the CO within 30 calendar days of receipt. In the event the Contractor considers the directive to be inconsistent with the other terms of this contract or the requirements of the directive cannot be implemented within existing funding, manpower, and other provisions of the contract, the Contractor shall so advise the CO within 30 calendar days of receipt. Such notice shall include the basis for the claimed inconsistency and the projected cost of implementation in excess of current funding, manpower, and other provisions of the contract. After evaluation of the Contractor's position, the CO shall issue direction to the Contractor, pursuant to the clause entitled Changes concerning appropriate implementation of the directive.
- G. The Contractor will, at least quarterly, notify DOE of those Directives extracted. The Contractor cognizant personnel will review these Directives and recommend for concurrence disposition of the Directives to DOE.

- H. Upon agreement between the Contractor and DOE, the Directive will be implemented as outlined in a Contractor Management Summary or Implementation Plan, whichever is appropriate, and the Directive added to the Baseline List of Directives Applicable to the Contractor and issued by the CO. The same process will be utilized for deletion of Directives.
- I. The Contractor shall incorporate the substance of this clause with respect to applicable Directives, excluding any reference to the Changes clause, in subcontracts for performance of work at the site and as directed by the CO.

#### **H. 115 WORK STOPPAGE AND SHUTDOWN AUTHORIZATION (JULY 2011)**

- (a) Imminent Health and Safety Hazard is a given condition or situation which, if not immediately corrected, could result in a serious injury or death, including exposure to radiation and toxic/hazardous chemicals.
- (b) Work Stoppage. In the event of an Imminent Health and Safety Hazard, identified by facility line management or operators or facility health and safety personnel overseeing facility operations, or other individuals (including Contractor workers and DOE personnel), the individual or group identifying the imminent hazard situation shall immediately take actions to eliminate or mitigate the hazard (i.e., by directing the operator/implementer of the activity or process causing the imminent hazard to stop work, or by initiating emergency response actions or other actions) to protect the health and safety of the workers and the public, and to protect DOE facilities and the environment. All Contractor and DOE employees have the right to stop any activity, regardless of who is performing the activity, if continuation of that activity would be considered an imminent health and safety hazard. Such mitigating action should subsequently be coordinated with the DOE and Contractor management. The suspension or stop-work order should be promptly confirmed in writing by the Contracting Officer.
- (c) Facility Representatives. DOE personnel designated as Facility Representatives provide the technical/safety oversight of operations. The Facility Representative has the authority to "Stop Work," which applies to the shutdown of an entire plant, activity, or job. This Stop Work authority will be used for an operation of a facility which is performing work the Facility Representative believes:
1. Poses an imminent danger to health and safety of workers or the public if allowed to continue;
  2. Could adversely affect the safe operation of, or could cause serious damage to the facility if allowed to continue; or
  3. Could result in the release of radiological or chemical hazards to the environment in excess of regulatory limits.

- (d) This clause flows down to all subcontractors at all tiers. Therefore, the Contractor shall insert a clause, modified appropriately to substitute "Contractor Representatives" for "the Contracting Officer" in all subcontracts.

#### **H.116 DOE-H-1048 SUSTAINABLE ACQUISITION UNDER DOE SERVICE CONTRACTS (MAY 2011)**

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.117 DOE-H-1049 SUSTAINABLE ACQUISITION UNDER DOE CONSTRUCTION CONTRACTS (MAY 2011)**

Pursuant to Executive Order 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 an environmentally preferable manner that will promote the natural environment and protect the health and well-being of its Federal employees and Contractor service providers. In the performance of work under this contract, the Contractor shall exert its best efforts to provide its services in a manner that will promote the natural environment and protect the health and well-being of Federal and contract employees at the facility. Sustainable acquisition or environmentally preferable contracting has several interacting initiatives. Among the initiatives are the following:

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

To the extent that the services provided by the Contractor require provision of any of the above types of products, the Contractor is expected to provide the sustainable, environmentally preferable type of product unless that type of 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. The clauses at FAR 52.223-2, Affirmative Procurement of Biobased Products under Service and Construction Contracts, 52.223-15, Energy Efficiency in Energy Consuming Products, and 52.223-17 Affirmative Procurement of EPA-Designated Items in Service and Construction Contracts, in Section I of this contract require the use of products that have biobased content, are energy efficient, or have recycled content.

In case of an apparent inconsistency between this provision and any specification elsewhere in the contract, consult the contracting officer for resolution.

## **H.118 PARTNERING**

In order to most effectively accomplish this Task Order, the Government proposes to form a cohesive partnership with the Contractor. It is a way of doing business based upon trust, dedication to common goals, and an understanding and respect of each other's expectations and values. The process creates a teambuilding environment which fosters better communication and problem solving, and a mutual trust between the participants. These key elements create a climate in which issues can be raised, openly discussed, and jointly settled, without getting into

an adversarial relationship. In this way, partnering is a mindset, and a way of doing business. It is an attitude toward working as a team, and achieving successful project execution. This endeavor seeks an environment that nurtures team building cooperation, and trust between the Government and the Contractor. The partnership strives to draw on the strengths of each organization in an effort to achieve a quality project done right the first time, within budget, and on schedule.

Participation in the partnership will be totally voluntary by the parties. The U.S. Army Corps of Engineers has championed partnering and their guidelines will be utilized in organizing partnering meetings and establishing a partnering agreement.

#### **H.119 RESERVED**

#### **H.120 REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF THE OFFEROR**

The Representations, Certifications, and Other Statements of the contractor, dated [Date], made in response to Solicitation No. DE-SOL-0005803 are hereby incorporated into this task order by reference.