

PART I – THE SCHEDULE

SECTION H – SPECIAL CONTRACT REQUIREMENTS

TABLE OF CONTENTS

H.1	DOE-H-2013 CONSECUTIVE NUMBERING (OCT 2014).....	1
	CONTRACTOR HUMAN RESOURCE MANAGEMENT (CHRM) CLAUSES.....	1
H.2	DEFINITIONS.....	1
H.3	DOE-H-2002 NO THIRD PARTY BENEFICIARIES (OCT 2014).....	1
H.4	WORKFORCE TRANSITION AND EMPLOYEE HIRING PREFERENCE INCLUDING THROUGH PERIOD OF PERFORMANCE.....	2
H.5	GOVERNMENT FURNISHED PROPERTY	3
H.6	LAWFUL PERFORMANCE, OPERATING AUTHORITY, AND INSURANCE ...	3
H.7	U.S. DEPARTMENT OF TRANSPORTATION (DOT) MOTOR CARRIER.....	4
	SAFETY RATING.....	4
H.8	EXCLUSIVE USE OF TRACTORS AND TEAMS.....	4
H.9	SAFE DRIVING BONUSES AND INCENTIVE COMPENSATION PROGRAMS... 	4
H.10	TASK ORDERING PROCEDURES	7
H.11	MOTOR CARRIER EVALUATION PROGRAM (MCEP) AUDIT	8
H.12	PARTNERING	8
H.13	DOE-H-2016 PERFORMANCE GUARANTEE AGREEMENT (OCT 2014)	9
H.14	DOE-H-2017 RESPONSIBLE CORPORATE OFFICIAL AND CORPORATE BOARD OF DIRECTORS (OCT 2014) (REVISED).....	9
H.15	DOE-H-2018 PRIVACY ACT SYSTEM OF RECORDS (OCT 2014) (REVISED) .	10
H.16	DOE-H-2019 DISPOSITION OF INTELLETUAL PROPERTY – FAILURE TO COMPLETE CONTRACT PERFORMANCE (JUL 2018).....	12
H.17	DOE-H-2021 WORK STOPPAGE AND SHUTDOWN AUTHORIZATION (OCT 2014) (REVISED)	12
H.18	DOE-H-2033 ALTERNATIVE DISPUTE RESOLUTION (OCT 2014).....	13
H.19	DOE-H-2034 CONTRACTOR INTERFACE WITH OTHER CONTRACTORS AND/OR GOVERNMENT EMPLOYEES (OCT 2014) (REVISED).....	14
H.20	DOE-H-2048 PUBLIC AFFAIRS – CONTRACTOR RELEASES OF INFORMATION (OCT 2014) (DEVIATION)	15
H.21	DOE-H-2049 INSURANCE REQUIREMENTS (OCT 2014).....	15

H.22 DOE-H-2052 REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF THE OFFEROR (OCT 2014) (REVISED)	15
H.23 DOE-H-2058 DESIGNATION AND CONSENT OF TEAMING SUBCONTRACTS – ALTERNATE I (OCT 2014) (REVISED)	16
H.24 DOE-H-2065 REPORTING OF FRAUD, WASTE, ABUSE, CORRUPTION, OR MISMANAGEMENT (OCT 2014)	16
H.25 DOE-H-2070 KEY PERSONNEL – ALTERNATE I (OCT 2014) (REVISED)	17
H.26 DOE-H-2071 DEPARTMENT OF ENERGY DIRECTIVES (OCT 2014).....	19
H.27 DOE-H-2076 LOBBYING RESTRICTIONS (NOV 2018).....	20
H.28 DOE-H-2078 MULTIFACTOR AUTHENTICATION FOR INFORMATION SYSTEMS	20
H.29 DOE-H-2080 AGREEMENT REGARDING WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES (APR 2018).....	20
H.30 ORGANIZATIONAL CONFLICE OF INTEREST – AFFILIATE(S)	21

H.1 DOE-H-2013 CONSECUTIVE NUMBERING (OCT 2014)

Due to automated procedures employed in formulating this document, clauses and provisions contained within may not always be consecutively numbered.

CONTRACTOR HUMAN RESOURCE MANAGEMENT (CHRM) CLAUSES

H.2 DEFINITIONS

For purposes of clause H.4 Workforce Transition and Employee Hiring Preferences Including through Period of Performance, the following definitions are applicable (unless otherwise specified):

- (a) “Contract Award Date” means the date the contract is signed by the Contracting Officer, noted in Block 28 of the SF 33.
- (b) “Contract Transition Period” means the 60-day transition as defined in Section F of this Contract.
- (c) “Incumbent Contractor” means CAST Specialty Transportation, Inc. (CAST) under Referenced Contract Number DE-EM0004767.
- (d) “Incumbent Employees” means employees who hold regular appointments or who are regular employees of CAST as of the Notice to Proceed on this Contract under the first Task Order issued.
- (e) “Non-Incumbent Employees” means new hires, i.e., employees other than Incumbent Employees who are hired by the Contractor after the Notice to Proceed on this Contract under the first Task Order issued.
- (f) “Notice to Proceed (NTP)” means the authorization issued by the Contracting Officer to start performance on this Contract under the first Task Order issued.

H.3 DOE-H-2002 NO THIRD PARTY BENEFICIARIES (OCT 2014)

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.4 WORKFORCE TRANSITION AND EMPLOYEE HIRING PREFERENCE INCLUDING THROUGH PERIOD OF PERFORMANCE

The Contractor shall comply with the hiring preferences set forth below:

- (1) The Contractor shall provide Incumbent Employees, during the transition period, preferences in hiring for vacancies for non-managerial positions (i.e., all those below the first line of supervision) in non-construction activities of the Performance Work Statement (PWS) under this contract, in accordance with the hiring preferences in paragraphs (i)–(ii) below, in descending order of priority, any applicable collective-bargaining agreement(s), any applicable site seniority list(s) as provided to the Contractor by the Contracting Officer, and in accordance with applicable law.
 - (i) A preference in hiring for vacancies in non-managerial positions that are substantially equivalent to the position each respective Incumbent Employee held on the Notice to Proceed date.
 - (ii) A preference in hiring for vacancies in non-managerial positions for Incumbent Employees not hired into a substantially equivalent position in (i), but who meet the qualifications for another position.
- (2) The Contractor shall provide, throughout the period of performance, preferences in hiring for vacancies for non-managerial positions (i.e., all those below the first line of supervision), in accordance with the hiring preferences in paragraphs (i) – (iii) below, in descending order of priority.
 - (i) The Contractor shall give a preference in hiring to individuals set forth below in paragraphs (a) and (b), in descending order of priority, who are eligible for the hiring preference contained in the Section I clause of this Contract entitled “DEAR 952.226-74, *Displaced Employee Hiring Preference*,” consistent with the provisions of any applicable Workforce Restructuring Plan and Departmental guidance on workforce restructuring, as amended from time to time, regarding the preferential hiring of employees:
 - (a) Former employees of the Incumbent Contractor or any other DOE contractor [or subcontractor of a DOE contractor] under the incumbent WIPP Transportation Services contract.
 - (b) Former employees of other DOE contractor(s) or subcontractor(s) at a DOE defense nuclear facility eligible for the hiring preference.
 - (ii) The Contractor shall give a preference in hiring to individuals who (a) were formerly employed by the Incumbent Contractor; and (b) were involuntarily separated (other than for cause) from their employment under the incumbent WIPP

Transportation Services contract who are not precluded from seeking employment for this contract by the terms of employee waivers or releases of claims they executed, absent repayment of severance consistent with the terms of those agreements and who are qualified for a particular position; and (c) are qualified for the position or who are not qualified for a particular position, but who agree to become qualified on their own and can become qualified by the date set by the Contractor for commencement of active employment under this Contract.

- (iii) The Contractor shall give a preference in hiring to individuals (a) who have separated from employment under the incumbent WIPP Transportation Services contract for any reason other than for cause; (b) who are not precluded from seeking employment with a DOE or NNSA contractor by the terms of employee waivers or releases of claims they executed, absent repayment of severance consistent with the terms of those agreements; and (c) who are qualified for a particular position.

H.5 GOVERNMENT FURNISHED PROPERTY

- (a) In accordance with the clause FAR 52.245-1, *Government Property* Alternate I the Government will provide the property listed in Section C, Appendix 4, as specifically identified for each Task Order issued.
- (b) Except as otherwise authorized by the Contracting Officer in writing, only that property specifically included in each individual task order is determined to be Government Furnished Property (GFP). The GFP (trailers) for hauling Contact Handled (CH) and Remote Handled (RH) Transuranic (TRU) Waste will be identified in individual Task Orders, as applicable.
- (c) The Contractor is responsible for the maintenance (including spot painting) of the trailers provided as GFP.

H.6 LAWFUL PERFORMANCE, OPERATING AUTHORITY, AND INSURANCE

The Contractor shall comply with all applicable Federal, Tribal, State, and local laws and regulations, including obtaining, maintaining and payment of all applicable licenses, permits, fees, and standards necessary to transport CH- and RH-TRU waste shipments over the designated routes. The Contractor shall also comply with the TRU Waste Transportation Plan (DOE/CBFO 98-3103). Motor carriers, including the Carrier Contractor, shall possess the required operating authority, registered in the name of the Carrier Contractor. Additionally all tractors shall be registered to the Carrier Contractor. Each Commercial Motor Vehicle (CMV) operator shall be employed by the Carrier Contractor. Motor carriers shall possess and maintain minimum levels of financial responsibility as required by 49 CFR 387, DEAR 952.231.71, *Insurance-litigation and Claims*, and FAR 52.228-5, *Insurance – Work on a Government Installation*.

H.7 U.S. DEPARTMENT OF TRANSPORTATION (DOT) MOTOR CARRIER SAFETY RATING

The Contractor shall maintain a satisfactory/fit DOT Motor Carrier Safety rating during the period of performance. An unsatisfactory/unfit or conditional rating may be cause for termination in accordance with the terms and conditions of this contract.

H.8 EXCLUSIVE USE OF TRACTORS AND TEAMS

All tractors and driver teams provided by the Contractor in accordance with this contract shall be reserved for the exclusive use of this contract.

H.9 SAFE DRIVING BONUSES AND INCENTIVE COMPENSATION PROGRAMS

- (a) Due to the importance of safe transportation of waste throughout the United States, especially waste such as that produced as a result of DOE operations, including transuranic waste as expressed by Southern States Energy Board Transportation Planning Guide for the U.S. Department of Energy's Shipments of Transuranic Waste; Memorandum of Agreement between the Western Governors and U.S. Department of Energy, Regional Protocol for the Safe and Uneventful Transportation of Transuranic Waste; TRU Waste Transportation Plan DOE/CBFO 98-3103; and Western Governors' Association WIPP Transportation Safety Program Implementing Guide, the contractor shall develop a plan or policy in accordance with FAR 31.205-6(f) to reward the safe driving of the drivers transporting the waste under this contract. At the conclusion of each year of performance, the Contractor shall assess the safety performance of its drivers. The contractor shall provide information and records to the Contracting Officer to support the assessment of the safety performance in accordance with procedures approved by the contracting officer and paragraph (g) below.
- (b) At a minimum, the contractor's bonus or incentive plan shall provide for a safety bonus to be awarded to its drivers qualified under 49 CFR 391 at the conclusion of each year of performance under this contract in accordance with the following:
 - (1) The bonus shall be based upon total actual miles driven each year of performance by all drivers collectively in performing Government transportation services under this contract.
 - (2) If there have been no OSHA recordable injuries and/or no "at fault" determinations which include but are not limited to equipment damage greater than \$250.00* or unauthorized route deviations, no civil judgments, and/or no criminal convictions, traffic fines or penalties assessed by courts or administrative bodies, including federal, state, local, tribal law enforcement officials, or tribal tribunals as result of activities related to or during transportation of shipments attributable to the performance of any drivers employed by the Contractor during each year of performance, the amount of

such bonus incentive shall be calculated as follows:

$$\$0.20 \times \text{Total Miles}$$

All of the calculated amount shall be awarded to all of the drivers employed by the Contractor, divided and disbursed in accordance with the contractor's policies and procedures.

*Does not include a one-time occurrence of equipment damage greater than \$250.00, but not more than \$5,000.00, during the life of the contract. This one-time occurrence only applies to the calculation of the Safe Driving Bonuses and Incentive Compensation Program.

- (3) If only one of the incidents listed in paragraph (b)(2) has occurred during the year of performance as a result of activities related to or during transportation of shipments attributable to the performance of any drivers employed by the Contractor, the amount of such bonus incentive shall be calculated for the drivers employed by the Contractor other than the driver(s) involved in the above matters as follows:

$$\$0.15 \times \text{Total miles}^*$$

*Total miles exclude the miles associated with the occurrence of the activities in paragraph (b)(2) above.

All of the calculated amount shall be awarded to all drivers, other than the driver(s) involved in the incidents listed above. It shall be divided and disbursed in accordance with the contractor's procedures.

- (4) If two of the incidents stated in paragraph (b)(2) above have occurred during the year of performance as a result of activities related to or during transportation of shipments attributable to the performance of any drivers employed by the Contractor, the amount of such bonus incentive shall be calculated for the drivers employed by the Contractor other than the driver(s) involved in the activities listed in paragraph (b)(2) as follows:

$$\$0.10 \times \text{Total miles}^*$$

*Total miles exclude the miles associated with the occurrence of the activities in paragraph (b)(2) above.

- (c) All of the calculated amount shall be awarded to all drivers, other than the driver(s) involved in the matters in paragraph (b)(2) above. It shall be divided and disbursed in accordance with the contractor's plan procedures.
- (d) If three or more of the incidents set forth in paragraph (b)(2) above have occurred

- within the year of performance, the contractor's plan shall provide that there will not be a safety bonus incentive issued.
- (e) If there has not been a final resolution or final determination of the matters identified in paragraph (b)(2) above by the end of the year of performance, the bonuses shall not be awarded to the drivers until a final resolution/determination has occurred. The contractor shall notify the contracting officer when there has not been a final determination and provide sufficient documentation to demonstrate that there has not been a final determination. Such documentation should include citation, current stage of process, any notices of violation, any appeals, and/or any other documents requested by the contracting officer. When a final resolution or determination has been made by the appropriate body or fine and penalty has been assessed, the contractor shall immediately provide the final determination or resolution, and/or fines, and/or penalties and any and all documents demonstrating the conclusion of the matter.
 - (f) The contractor's established plan or policy shall be submitted to the contracting officer for approval within seven days of the issuance of the first task order for the 60-day transition period. Any changes to the plan or policy shall be submitted to the contracting officer for approval.
 - (g) The following records shall be maintained and verified by the contractor and proof of verification shall be provided upon submission of an invoice for reimbursement of the bonus incentives paid to the drivers by the contractor. The same records shall also be provided to the contracting officer if requested. These records are in addition to any other records that the contractor is required to maintain under this contract.
 - (1) Copies of all mileage logs for each driver, including those required to be maintained by DOT and any and all federal, state, local or tribal laws, regulations, or authorities;
 - (2) Appropriate records to demonstrate the driving record of each driver, including but not limited to any federal, state, local, or tribal bureau of motor vehicles or law enforcement's records for each driver;
 - (3) Copies of shipment number invoices containing mileage and delay times for each shipment;
 - (4) Copies of the DOT Annual Check which is reported to the Contractor regarding moving violations and accidents of both the company and the drivers. The contracting officer will also verify with DOT the results of the annual check;
 - (5) Copies of all accounting and cost records documenting calculations;
 - (6) Calculations of payments to be made to the individual drivers;

- (7) Any and all other documentation received by the contractor and responses of the contractor regarding any of the incidents listed in paragraph (b)(2) above from any federal, state, local, or tribal body, including courts and law enforcement agencies; and
 - (8) Any and all information pertaining to OSHA inspections and any correspondence between OSHA and the contractor, including but not limited to violations and responses thereto.
- (h) The Government retains the right to verify any information provided by the contractor with the applicable entity and/or obtain the information independently. The contractor agrees to assist the Government in obtaining access to any state, local, federal, or tribal reports and/or records.

There will not be any distribution of the bonus to the individual drivers by the Government. The amount contained in Section B.2 is an estimated amount. Costs shall be reimbursed in accordance with FAR Part 31 and the terms and conditions of the contract.

- (i) Since the above incentive award is part of the driver's compensation, the contractor shall give any labor organization representing its drivers notice of the proposed policy as soon as practicable after contract award and shall negotiate in good faith until impasse or agreement has been obtained with that labor organization about that policy, consistent with any applicable bargaining agreement and applicable law.
- (j) Any subcontract for drivers shall include the above requirement for incentive bonuses for safe driving.
- (k) The above clause, as are all other clauses contained herein, is not intended for the benefit for third parties.

H.10 TASK ORDERING PROCEDURES

- (a) As described in Section I, FAR 52.216-18, *Ordering*, the Government shall issue Task Orders to the Contractor to provide the required transportation services for a specified period of performance. The total value of the task order will include a firm fixed price for services and an estimated cost for reimbursable items. The values will be established in accordance with Section B.3 of this contract .
- (b) The funding available in each Task Order for cost reimbursable items shall be treated as a separate amount allowed and obligated as described in Section B.6, *Obligation of Funds*, and Section I clause FAR 52.232-22, *Limitation of Funds*, as if such funding were separately set forth in Section B of the contract. The accepted firm-fixed price items may be incrementally funded throughout the Task Order period in accordance with Section B.8, *Limitation of Government's Obligation*.

- (c) The Contractor shall monitor, collect, control, and report reimbursable costs in accordance with the terms of each Task Order. Fee is not allowed on reimbursable costs.
- (d) The Government will issue a minimum of one Task Order for the Contract Transition Period and Basic Transportation Services described in Section B.3(a) and B.3(b) for Period 1. In addition to the Basic Transportation Services, the Government, at its sole discretion, may issue additional Task Orders for Additional Transportation Services, described in Section B.3(c), during the 5-year Contract Ordering Period.
- (e) Task orders will be issued by unilateral execution of an Optional Form 347 “Order for Supplies/Services.”
- (f) The Government will specify in each Task Order the quantity of services ordered and the period in which the Contractor is to provide those services.
- (g) The quantity of services ordered shall be in accordance with Section I clause, FAR 52.216-19, *Order Limitations*.

H.11 MOTOR CARRIER EVALUATION PROGRAM (MCEP) AUDIT

The Contractor shall undergo and pass the Motor Carrier Evaluation Program (MCEP) Audit. Per MCEP Volume I, section 2.2, carriers of TRU waste shall be evaluated to Tier 1 grading. The MCEP Audit that is conducted by DOE is an extensive audit of all facets of a carrier’s business operations including an extensive on-site physical review of records and equipment. This inspection is covered in the DOE MCEP Plan and Procedures (latest revision applies). If the Contractor does not pass the Audit, the Government reserves the right to terminate the contract for default. If the contractor has already undergone and passed an MCEP audit CBFO shall determine what if any review is required.

H.12 PARTNERING

In order to most effectively accomplish this Contract, 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. Any cost associated with effectuating this partnership will be agreed to by both parties during Contract performance.

H.13 DOE-H-2016 PERFORMANCE GUARANTEE AGREEMENT (OCT 2014)

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 A, *Executed Performance Guarantee*.

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.14 DOE-H-2017 RESPONSIBLE CORPORATE OFFICIAL AND CORPORATE BOARD OF DIRECTORS (OCT 2014) (REVISED)

The Contractor has provided a guarantee of performance from its parent company(s) in the form set forth in Section L, Attachment L-1 entitled, *Performance Guarantee Agreement*. The individual signing the *Performance Guarantee Agreement* for the parent company(s) should be the Responsible Corporate Official. 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. The parent companies shall proactively support the Responsible Corporate Official to ensure adverse contract performance issues are avoided, identified, and/or resolved in a timely manner. The Responsible Corporate Official shall promptly notify the DOE Contracting Officer of the corrective actions (both taken and planned) to address the adverse contract performance.

Responsible Corporate Official: **[Offeror Fill-In]**

Name: _____

Position: _____

Company/Organization: _____

Address: _____

Phone: _____

Facsimile: _____

Email: _____

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: **[Offeror Fill-In]**

Name: _____

Position: _____

Company/Organization: _____

Address: _____

Phone: _____

Facsimile: _____

Email: _____

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

The Responsible Corporate Official and Corporate Board of Directors shall be engaged and accountable for performance of the contract scope and the highest standard of business integrity through the Contractor's robust performance assurance system in accordance with DOE Order 226.1B *Implementation of Department of Energy Oversight Policy* and the Section H clause entitled *Contractor Assurance System*. The Responsible Corporate Official through the Contractor shall submit to the Contracting Officer a quarterly report using appropriate corporate metrics for DOE review. The quarterly report shall be risk-informed and a credible self-assessment that includes individual project performance, technical solutions, as needed, and appropriate coverage of potentially high consequence activities under the contract, including work of subcontractors. The annual Contractor Performance Assessment Reporting System (CPARS) evaluation shall consider the execution of the requirements of this clause, including the Contractor's performance managing its subcontractors.

H.15 DOE-H-2018 PRIVACY ACT SYSTEM OF RECORDS (OCT 2014) (REVISED)

The Contractor shall adopt or recommend the amendment of the following systems of records on individuals to accomplish an agency function pursuant to the Section I clause FAR 52.224-2 entitled, *Privacy Act*.

DOE Privacy Act System No.	DOE Privacy Act System Description
DOE-5	Personnel Records of Former Contractor Employees (Includes All Former Workers)
DOE-11	Emergency Operations Notification Call List
DOE-14	Report of Compensation
DOE-28	General Training Records
DOE-38	Occupational and Industrial Accident Records
DOE-63	Personal Identity Verification (PIV) Files

If the above list does not address all of the systems of records that are generated based on contract performance, then the Contractor shall notify the CO as soon as the discrepancy is discovered. The Contractor shall monitor the identified systems and notify the CO immediately if there is a change to an existing system or if a new system is needed. Lack of notification does not exempt the Contractor from complying with the Privacy Act. To ensure that systems are monitored consistently, the Contractor must review the list annually and notify the CO, in writing, that the list is accurate and up to date.

The above list shall be revised by mutual agreement between the Contractor and the CO, in consultation with the local Privacy Act Officer and/or General Counsel, as necessary, to keep it current. A formal modification to the contract 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 they were actually among the systems listed in the table above, for the purpose of satisfying the listing requirement contained in paragraph (a)(1) of the contract clause for FAR 52.224-2 entitled, *Privacy Act*. The revisions will be formally incorporated at the next convenient contract modification. Additional information on Privacy Act Systems of Records can be found on the DOE Privacy Office home page.

FAR 52.224-1 entitled, *Privacy Act Notification*, and FAR 52.224-2 entitled, *Privacy Act*, are mandatory flow-down clauses that must be included in any subcontract requiring design, development, or operation of a Privacy Act system of record, including third-party medical services contracts. Such subcontracts also require flow down of clauses specifically identifying applicable Privacy Act systems of records into the subcontracts. For example, medical services contracts must include the substance of this clause identifying system of record DOE-33, *Personnel Medical Records*, along with language on records turnover when employees terminate. Subcontracts must also contain scope requirements necessary to ensure DOE and contractor compliance with applicable records management and Privacy Act requirements.

H.16 DOE-H-2019 DISPOSITION OF INTELLETUAL PROPERTY – FAILURE TO COMPLETE CONTRACT PERFORMANCE (JUL 2018)

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

- (a) The Government may take possession of and use 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 the right to use the data in any Government solicitations for the completion of the work contemplated under this contract. Technical data includes, but is not limited to, specifications, designs, drawings, operational manuals, flowcharts, software, databases and any other information necessary for of the completion of the work under this contract. Limited rights data and restricted computer software will be protected in accordance with the provisions of the Section I clause FAR 52.227-14, Rights in Data – General. 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, non-exclusive, 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, 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, leases, and licenses in any third party intellectual property to the Government, or such other third party as the Government may designate, that are necessary for the completion of the work contemplated under this Contract.

H.17 DOE-H-2021 WORK STOPPAGE AND SHUTDOWN AUTHORIZATION (OCT 2014) (REVISED)

- (a) Imminent Health and Safety Hazard is a given condition or situation which, if not immediately corrected, could result in serious injury or death, including exposure to radiation and toxic/hazardous chemicals. Imminent Danger in relation to the facility safety envelope is a condition, situation, or proposed activity which, if not terminated, could

cause, prevent mitigation of, or seriously increase the risk of (1) nuclear criticality, (2) radiation exposure, (3) fire/explosion, and/or (4) toxic hazardous chemical exposure.

- (b) **Work Stoppage.** In the event of an Imminent Health and Safety Hazard, an activity that could adversely affect the safe operation of, or could cause serious damage to the facility if allowed to continue, or an action that could result in the release of radiological or chemical hazards to the environment in excess of regulatory limits, identified by facility line management or operators or facility health and safety personnel overseeing facility operations, or other individuals, the individual or group identifying the imminent hazard situation shall immediately take actions to eliminate or mitigate the hazard (e.g., directing the operator/implementer of the activity or process causing the imminent hazard to stop work, 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. In the event an Imminent Health and Safety Hazard is identified, the individual or group identifying the hazard should coordinate with an appropriate Contractor official, who will direct the shutdown or other actions, as required. Such mitigating action(s) 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) **Shutdown.** In the event of an imminent danger in relation to the facility safety envelope or a non-Imminent Health and Safety Hazard identified by facility line managers, facility operators, health and safety personnel overseeing facility operations, or other individuals, the individual or group identifying the potential health and safety hazard may recommend facility shutdown in addition to any immediate actions needed to mitigate the situation. However, the recommendation must be coordinated with Contractor management, and the DOE Site Manager. Any written direction to suspend operations shall be issued by the Contracting Officer.
- (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.18 DOE-H-2033 ALTERNATIVE DISPUTE RESOLUTION (OCT 2014)

- (a) The DOE and the Contractor both recognize that methods for fair and efficient resolution of contractual issues in controversy by mutual agreement are essential to the successful and timely completion of contract requirements. Accordingly, DOE and the Contractor shall use their best efforts to informally resolve any contractual issue in controversy by mutual agreement. Issues of controversy may include a dispute, claim, question, or other disagreement. The parties agree to negotiate with each other in good faith, recognizing their mutual interests, and attempt to reach a just and equitable solution satisfactory to both parties.
- (b) If a mutual agreement cannot be reached through negotiations within a reasonable period of time, the parties may use a process of alternate dispute resolution (ADR) in accordance with the clause at FAR 52.233-1, *Disputes*. The ADR process may involve mediation, facilitation, fact-finding, group conflict management, and conflict coaching by a neutral party. The neutral party may be an individual, a board

comprised of independent experts, or a company with specific expertise in conflict resolution or expertise in the specific area of controversy. The neutral party will not render a binding decision, but will assist the parties in reaching a mutually satisfactory agreement. Any opinions of the neutral party shall not be admissible in evidence in any subsequent litigation proceedings.

- (c) Either party may request that the ADR process be used. The Contractor shall make a written request to the Contracting Officer, and the Contracting Officer shall make a written request to the appropriate official of the Contractor. A voluntary election by both parties is required to participate in the ADR process. The parties must agree on the procedures and terms of the process, and officials of both parties who have the authority to resolve the issue must participate in the agreed upon process.
- (d) ADR procedures may be used at any time that the Contracting Officer has the authority to resolve the issue in controversy. If a claim has been submitted by the Contractor, ADR procedures may be applied to all or a portion of the claim. If ADR procedures are used subsequent to issuance of a Contracting Officer's final decision under the clause at FAR 52.233-1, *Disputes*, their use does not alter any of the time limitations or procedural requirements for filing an appeal of the Contracting Officer's final decision and does not constitute reconsideration of the final decision.
- (e) If the Contracting Officer rejects the Contractor's request for ADR proceedings, the Contracting Officer shall provide the Contractor with a written explanation of the specific reasons the ADR process is not appropriate for the resolution of the dispute. If the Contractor rejects the Contracting Officer's request to use ADR procedures, the Contractor shall provide the Contracting Officer with the reasons for rejecting the request.

H.19 DOE-H-2034 CONTRACTOR INTERFACE WITH OTHER CONTRACTORS AND/OR GOVERNMENT EMPLOYEES (OCT 2014) (REVISED)

The Government may award contracts to other contractors for work to be performed at a DOE-owned, or DOE-controlled site or facility. The Contractor shall cooperate fully with all other onsite DOE contractors and Government employees. The Contractor shall coordinate its own work with such other work as may be directed by the Contracting Officer or a duly authorized representative. The Contractor shall not commit any act which will interfere with the performance of work by any other contractor or by a Government employee and seek Contracting Officer direction if there is an unresolved conflict.

H.20 DOE-H-2048 PUBLIC AFFAIRS – CONTRACTOR RELEASES OF INFORMATION (OCT 2014) (DEVIATION)

In implementation of the clause at DEAR 952.204-75, *Public Affairs*, all communications or releases of information to the public, the media, or Members of Congress prepared by the Contractor related to work performed under the contract/Task Order shall be reviewed and approved by DOE prior to printing, issuance, or distribution. Therefore, the Contractor shall, at least **10** calendar days prior to the planned issue date, submit a draft copy of the proposed releases to DOE- CBFO, Office of Public Affairs, P.O. Box 3090, Carlsbad, New Mexico 88221, or by email to an email address to be approved by the Contracting Officer. All proposed releases should conform to the requirements of the applicable DOE Orders pertaining to the public release of information. The Contracting Officer will obtain necessary reviews and clearances and provide the Contractor with the results of such reviews prior to the planned issue date.

H.21 DOE-H-2049 INSURANCE REQUIREMENTS (OCT 2014)

(a) In accordance with the clauses FAR 52.228-5, *Insurance – Work on a Government Installation*, and DEAR 952.231-71, *Insurance-Litigation and Claims*, the following types and minimum amounts of insurance shall be maintained by the Contractor:

- (1) Workers’ compensation – Amount in accordance with applicable Federal and State workers’ compensation and occupational disease statutes.
- (2) Employer’s liability - \$100,000 (except in States with exclusive or monopolistic funds that do not permit worker’s compensation to be written by private carriers).
- (3) Comprehensive bodily injury liability - \$500,000.
- (4) Property damage liability – None, unless otherwise required by the Contracting Officer.
- (5) Comprehensive automobile bodily injury liability - \$200,000 per person and \$500,000 per occurrence.
- (6) Comprehensive automobile property damage - \$20,000 per occurrence.

(b) The Contractor shall provide evidence of such insurance, if requested by the Contracting Officer; and the Contracting Officer may require such evidence to be provided prior to the commencement of work under the contract.

H.22 DOE-H-2052 REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF THE OFFEROR (OCT 2014) (REVISED)

The Contractor’s Representations, Certifications, and Other Statements, dated [**Offeror Fill-In**]

made in response to Solicitation No. [Offeror Fill-In] are hereby incorporated into the contract.

H.23 DOE-H-2058 DESIGNATION AND CONSENT OF TEAMING SUBCONTRACTS – ALTERNATE I (OCT 2014) (REVISED)

(a) The following subcontractors have been determined to be Teaming Subcontractors:
[Offeror Fill-In]

(b) In the event that the Contractor plans either to award or use a new Teaming Subcontract or replace an existing, approved teaming subcontract identified in paragraph (a) above, the Contractor shall provide advance notification to, and obtain consent from, the Contracting Officer, notwithstanding the consent requirements under any approved purchasing system or any other terms or conditions of the contract. Consent to these subcontracts is retained by the Contracting Officer and will not be delegated.

(c) In the event that the Contractor proposes to use a new, or replace, one or more of the approved Teaming Subcontractors identified in paragraph (a) above in performance of an individual Task Order, the Contractor shall provide advance notification to, and obtain consent from the cognizant Contracting Officer notwithstanding any other terms and conditions of the contract. Consent of these subcontracts is retained by the cognizant Contracting Officer for the Task Order and will not be delegated. The requirements of this paragraph (c) apply when the Contractor proposes the use of a new Teaming Subcontractor either prior to or subsequent to the award of the individual Task Order. The Contractor shall provide rationale and a detailed explanation including the equivalency or similarity of the experience and qualifications to the above listed Teaming Subcontractor and any other information requested by the cognizant Contracting Officer. Consent may be provided on a one time basis only and should not be construed as authorizing the use of the new Teaming Subcontractor on future Task Orders.

H.24 DOE-H-2065 REPORTING OF FRAUD, WASTE, ABUSE, CORRUPTION, OR MISMANAGEMENT (OCT 2014)

The Contractor shall comply with the following:

(a) Notify employees annually of their duty to report allegations of fraud, waste, abuse, misuse, corruption, criminal acts, or mismanagement relating to DOE programs, operations, facilities, contracts, or information technology systems to an appropriate authority (e.g., OIG, other law enforcement, supervisor, employee concerns office, security officials). Examples of violations to be reported include, but are not limited to, allegations of false statements; false claims; bribery; kickbacks; fraud; DOE environment, safety, and health violations; theft; computer crimes; contractor mischarging; conflicts of interest; and conspiracy to commit any of these acts.

Contractors must also ensure that their employees are aware that they may always report incidents or information directly to the Office of Inspector General (OIG).

- (b) Display the OIG hotline telephone number in buildings and common areas such as cafeterias, public telephone areas, official bulletin boards, reception rooms, and building lobbies.
- (c) Publish the OIG hotline telephone number in telephone books and newsletters under the Contractor’s cognizance.
- (d) Ensure that its employees report to the OIG within a reasonable period of time, but not later than 24 hours after discovery, all alleged violations of law, regulations, or policy, including incidents of fraud, waste, abuse, misuse, corruption, criminal acts, or mismanagement, that have been referred to Federal, State, or local law enforcement entities.
- (e) Ensure that its employees report to the OIG any allegations of reprisals taken against employees who have reported to the OIG fraud, waste, abuse, misuse, corruption, criminal acts, or mismanagement.
- (f) Ensure that its managers do not retaliate against DOE contractor employees who report fraud, waste, abuse, misuse, corruption, criminal acts, or mismanagement.
- (g) Ensure that all their employees understand that they must –
 - (1) Comply with requests for interviews and briefings and must provide affidavits or sworn statements, if so requested by an employee of the OIG so designated to take affidavits or sworn statements;
 - (2) Not impede or hinder another employee's cooperation with the OIG; and
 - (3) Not take reprisals against DOE contractor employees who cooperate with or disclose information to the OIG or other lawful appropriate authority.
- (h) Seek more specific guidance concerning reporting of fraud, waste, abuse, corruption, or mismanagement, and cooperation with the Inspector General, in DOE directives.

H.25 DOE-H-2070 KEY PERSONNEL – ALTERNATE I (OCT 2014) (REVISED)

- (a) Pursuant to the clause DEAR 952.215-70 entitled, *Key Personnel*, the required key personnel for this Contract are identified below (Table H-1):

Table H-1. Key Personnel

Name	Position
[Offeror Fill-In]	Project/Terminal Manager

In addition to the requirement for the Contracting Officer's approval before removing, replacing, or diverting any of the listed key personnel, the Contracting Officer's approval is also required for any change to the position assignment of a current key person.

- (1) Key personnel team requirements. The Contracting Officer and designated Contracting Officer's Representative(s) COR(s) shall have direct access to the key personnel assigned to the contract. All key personnel shall be assigned full-time to their respective positions and their permanent duty station is located at the Carlsbad, NM terminal. The Contractor shall notify the Contracting Officer and request approval in writing at least 60 days in advance of any changes to key personnel.
 - (2) No key person position shall remain vacant for a period more than 30 days following Contracting Officer approval of a change in key personnel or the Contractor will be subject to reduction of fee according to (c)(1) or (c)(2) below respective to the key position vacated.
 - (3) Approval of changes to key personnel is at the unilateral discretion of the Contracting Officer.
- (b) Definitions. In addition to the definitions contained in the clause DEAR 952.215-70, the following shall apply:
- (1) Key personnel are considered "managerial personnel" under the clause DEAR 952.231-71 entitled, *Insurance – Litigation and Claims*.
 - (2) For the purposes of this Clause, "Changes to Key Personnel," is defined as:
 - (i) any change to the position assignment of a current key person under the Contract, 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
 - (ii) utilizing the services of a new substitute key person for assignment to the Contract beyond 30 working days; or
 - (iii) assigning a current key person for work outside the Contract.
 - (3) For the purposes of this Clause, "Beyond the Contractor's Control," is defined as an event for which the Contractor lacked legal authority or ability to prevent "Changes to Key Personnel."
- (c) Contract price reductions for changes to Key Personnel.

Any key person change according to the definition for "Changes to Key Personnel" above shall be subject to reduction of fee according to (c)(1) or (c)(2) below respective to the key position vacated.

- (1) Notwithstanding the approval by the Contracting Officer, any time the Project/Terminal Manager is removed, replaced, or diverted within **two (2)** years

of being placed in the position, the contract price of may be permanently reduced by **\$25,000** for each and every such occurrence. A change to a key person “Beyond the Contractor’s Control” shall not result in a permanent reduction of fee under this subsection.

- (2) The Contractor may request in writing that the Contracting Officer consider waiving all or part of a reduction in earned fee. Such written request shall include the Contractor’s basis for the removal, replacement, or diversion of any key personnel. The Contracting Officer shall have the unilateral discretion to make the determination to waive all or part of the reduction in earned fee.

H.26 DOE-H-2071 DEPARTMENT OF ENERGY DIRECTIVES (OCT 2014)

- (a) In performing work under this contract, the Contractor shall comply with the requirements of those Department of Energy (DOE) directives, or parts thereof listed in Section C.6, *Applicable Statutory and Regulatory Requirements and Other Guidance*, or identified elsewhere in the contract.
- (b) The Contracting Officer may, at any time, unilaterally amend this clause, or other clauses which incorporate DOE directives, in order to add, modify or delete specific requirements. Prior to revising the listing of directives, the Contracting Officer shall notify the Contractor in writing of the Department's intent to revise the list, and the Contractor shall be provided with the opportunity to assess the effect of the Contractor's compliance with the revised list on contract cost and funding, technical performance, and schedule, and identify any potential inconsistencies between the revised list and the other terms and conditions of the contract. Within 30 days after receipt of the Contracting Officer's notice, the Contractor shall advise the Contracting Officer in writing of the potential impact of the Contractor's compliance with the revised list. Based on the information provided by the Contractor and any other information available, the Contracting Officer shall decide whether to revise the listing of directives and so advise the Contractor not later than 30 days prior to the effective date of the revision.
- (c) Notwithstanding the process described in paragraph (b), the Contracting Officer may direct the Contractor to immediately begin compliance with the requirements of any directive.
- (d) The Contractor and the Contracting Officer shall identify and, if appropriate, agree to any changes to other contract terms and conditions, including cost and schedule, associated with the revision pursuant to the changes clause in Section I of this contract.
- (e) Regardless of the performer of the work, the Contractor is responsible for compliance with the requirements of this clause. The Contractor shall include this clause in all subcontracts to the extent necessary to ensure the Contractor’s compliance with these requirements.

H.27 DOE-H-2076 LOBBYING RESTRICTIONS (NOV 2018)

In accordance with 18 U.S.C. § 1913, the Contractor agrees that none of the funds obligated on this award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress. This restriction is in addition to those prescribed elsewhere in statute and regulation.

H.28 DOE-H-2078 MULTIFACTOR AUTHENTICATION FOR INFORMATION SYSTEMS

The Contractor shall take all necessary actions to achieve multifactor authentication (MFA) for standard and privileged user accounts of all classified and unclassified networks. In so doing, the Contractor shall comply with the requirements and procedures established in the document "U.S. Department of Energy Multifactor Authentication Implementation Approach" and its appendices as determined by the Contracting Officer.

H.29 DOE-H-2080 AGREEMENT REGARDING WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES (APR 2018)

- (a) Program implementation. The Contractor shall, consistent with 10 CFR part 707, Workplace Substance Abuse Programs at DOE Sites, and Department of Transportation regulations in 49 CFR Part 40, incorporated herein by reference with full force and effect, develop, implement, and maintain a workplace substance abuse program.
- (b) Remedies. In addition to any other remedies available to the Government, the Contractor's failure to comply with the requirements of 10 CFR part 707 or 49 CFR Part 40 or to perform in a manner consistent with its approved program may render the Contractor subject to: the suspension of contract payments, or, where applicable, a reduction in award fee; termination for default; and suspension or debarment.
- (c) Subcontracts.
 - (1) The Contractor agrees to notify the Contracting Officer reasonably in advance of, but not later than 30 days prior to, the award of any subcontract the Contractor believes may be subject to the requirements of 10 CFR part 707 or 49 CFR Part 40 unless the Contracting Officer agrees to a different date.
 - (2) The DOE Prime Contractor shall require all subcontracts subject to the provisions of 10 CFR part 707 or 49 CFR Part 40 to agree to develop and implement a workplace substance abuse program that complies with the requirements of 10 CFR part 707, Workplace Substance Abuse Programs at DOE Sites, and 49 CFR Part 40 as a condition for award of the subcontract. The

DOE Prime Contractor shall review and approve each subcontractor's program, and shall periodically monitor each subcontractor's implementation of the program for effectiveness and compliance with 10 CFR part 707 and 49 CFR Part 40.

- (3) The Contractor agrees to include, and require the inclusion of, the requirements of this clause in all subcontracts, at any tier, that are subject to the provisions of 10 CFR part 707 or 49 CFR Part 40.

H.30 ORGANIZATIONAL CONFLICT OF INTEREST – AFFILIATE(S)

The prime contractor, [Offeror to insert name of Prime Contractor] comprised of [Offeror to insert names of partner companies], is responsible for the completion of all aspects of this contract. In order to effectively and satisfactorily execute its responsibility to manage and accomplish the contract work, the prime contractor must have complete objectivity in its oversight and management of its subcontractors. Therefore, consistent with the principle contained in Federal Acquisition Regulation subpart 9.5 and specifically section 9.505(a), and notwithstanding any other provision of this Contract, the prime contractor is, absent prior written consent from the CO as provided herein, prohibited from entering into a subcontract arrangement with any affiliate or any affiliate of its partners, or utilize any affiliate or affiliate of its partners, to perform work under a subcontract. Such contractual relationship(s) are presumed to create an impaired objectivity type conflict of interest. If the contractor believes the capabilities of an affiliate could be utilized in such a manner as to neutralize or avoid the existence of an organizational conflict of interest, the Contractor must obtain the CO's written consent prior to placing the subcontract.

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.