

### **PART III - LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS**

#### **SECTION J – LIST OF ATTACHMENTS**

##### **ATTACHMENT J-16: ENVIRONMENTAL PERMITS, COMPLIANCE DOCUMENTS, AND AGREEMENTS APPLICABLE TO THE EM WORK**

###### **Environmental Permits**

The following list includes the current environmental permits that will be required in the performance of the work in Section C of this contract. The Contractor is expected to comply with these permits as necessary in the execution of the PWS.

1. LANL Hazardous Waste Facility Permit, EPA ID No. NM0890010515, issued by the EPA and transferred to NMED
  - a. Although this permit is currently owned at LANL by NNSA and the M&O Contractor, all EM activities under this contract shall comply with the provisions of the permit.
  - b. The NA-LA Manager, as the “principal executive officer having responsibility for the overall operations of a principal geographic unit of the agency,” will remain the principal signatory for certification of all RCRA permit applications and modifications. NA-LA will coordinate with EM-LA fully on RCRA permit actions. The EM-LA Manager shall be signatory for all RCRA Permit applications and modifications having to do with EM operational control of TSDFs, specifically TA-54, Area G.
  - c. The Contractor shall work with EM-LA, NA-LA, and the NNSA M&O Contractor to modify the RCRA Permit to include EM-LA as “Co-Owner” and the EM Contractor as parties to the permit under a “Co-Operator role.” DOE will submit a written notice to NMED in accordance with 40 CFR 270.30(1)(3) and obtain written approval from NMED. Permit Section 1.9.3. The letter will include a specified date for the transfer of permit responsibilities per 40 CFR 270.40(b).
  - d. DOE will transfer responsibility for the RCRA Permit only for those operations that support EM activities; specifically, TSDF operations at TA-54 and any TSDF-type activities at any other EM work sites.
  - e. Reports required by permits and other regulatory information required by the RCRA permit may be certified by a “duly authorized representative” as so delegated by the EM-LA Manager.
  - f. The Contractor shall conduct all necessary inspections, reporting, issue management corrective actions, and training required for performance of all contracted activities under the HWF Permit.
  - g. The Contractor shall submit all necessary records to the NNSA M&O Contractor for inclusion in the Site-Wide Administrative Records System.
2. National Pollutant Discharge Elimination System (NPDES) Individual Permit for Stormwater (IP); United State Environmental Protection Agency (US EPA), Los Alamos National Security, LLC (LANS), and the DOE NNSA, Permit No. NM0030759, September 30, 2010.

- a. Although the current IP was signed by NNSA and the previous contractor, the Contractor shall comply with the IP as a contract requirement as if the Contractor had signed up to the original agreement themselves.
  - b. EPA is the administrative authority
  - c. The Contractor shall ensure all subcontracts also have the provisions to comply with the IP terms.
  - d. If there is a conflict between this contract and the terms of the IP, the Contractor shall raise such potential conflicts to EM-LA for resolution.
  - e. The Contractor shall initiate and coordinate a Permit Modification Request to transfer the IP from the current contractor to the Contractor. Submit a 30 Day notice to EPA, including a written agreement. 40 CFR 122.61 (b) (Automatic Transfers); Section III.D.3 of the Permit
  - f. The Contractor shall submit a written agreement to NMED containing a specific date for transfer to permit responsibility, coverage and liability between them.
  - g. The Contractor shall coordinate through EM-LA the completion of site work under the IP with the transfer of sites back to the NNSA M&O Contractor and NA-LA.
3. Clean Water Act Nationwide "Dredge and Fill" (Section 404) Permits with the Army Corps of Engineers (ACOE). Dredge and Fill Permits are issued to "LANL" (LANS) and the owner of the facility, DOE. The Contractor shall comply with the provisions of the dredge and fill permits for the execution of EM work scope and any NMED certification requirements. Any jurisdictional determination documentation shall be maintained by the Contractor to prevent conflicts with site planning and NA-LA mission work.
  4. LANL Floodplain (Section 401) Permits with the Army Corps of Engineers (ACOE) Floodplain Permits are issued to "LANL" (LANS) and the owner of the facility, DOE. The Contractor shall comply with the provisions of the floodplain permits for the execution of EM work scope.
  5. Groundwater Discharge Permit LANL Groundwater Projects-DP-1793, is administered by the NMED Ground Water Quality Bureau to control the discharge of water contaminants from activities related to environmental remediation projects including aquifer and pumping tests, well development and rehabilitation, groundwater tracer studies and groundwater remediation activities. Daily discharge volume of treated groundwater is limited to a total of 350,000 gallons per day (cumulative across active projects).
    - a. The Contractor shall initiate the transfer of DP-1793 and the associated work plans from the NNSA M&O Contractor during the transition period. The Contractor shall include EM-LA instead of NA-LA in the change.
    - b. The Contractor shall utilize the Decision Tree for Land Application of Water to determine the disposition path.
    - c. The Contractor shall coordinate the land application of groundwater from these activities with the NNSA M&O Contractor to best utilize the water for site purposes, such as dust control.

6. Groundwater Discharge Permit (DP)/Underground Injection Control (UIC) Permit DP-1835, is issued by the NMED Ground Water Quality Bureau to control the discharge of water contaminants from the injection of treated groundwater into the regional aquifer beneath LANL. This permit is specific to the injection wells associated with the Chromium Groundwater Remediation Project.
  - a. The Contractor shall initiate the transfer of DP-1835 from the NNSA M&O Contractor during the transition period.
7. LANL NPDEP Multi-Sector General Permit (MSGP) for Industrial Activities, EPA ID No. NMR05A734. As a minimum, EM operational activities in Area G and MDA-L constitute conducting industrial activities at LANL. Additionally, there are impacts with operating a Treatment, Storage, and Disposal Facility (TSD) under Sector K.
  - a. The Contractor shall not conduct activities that interfere with the execution of the MSGP by the NNSA M&O Contractor. The NNSA M&O Contractor is the current "operator" for the MSGP.
  - b. The Contractor shall comply with the MSGP for EM activities that are required under the MSGP and shall coordinate these activities with the NNSA M&O Contractor.
8. LANL NPDES Outfall Permit, NM0028355. The Contractor shall not conduct activities that interfere with the execution of the Outfall Permit by the NNSA M&O Contractor. The Contractor shall not conduct activities that constitute an outfall discharge that would require modification to the NNSA M&O Outfall permit.
9. LANL Construction General Permit, CGP2003. The Contractor shall not conduct activities that interfere with the execution of the CGP by the NNSA M&O Contractor. The Contractor shall not conduct activities that would require modification to the NNSA M&O CGP. The Contractor shall comply with the CGP for any EM work scope activities that require compliance.
10. LANL Air Quality Compliance Programs; Title V Air Quality Operating Permit with NMED-AQB and associated Clean Air Act programs regulated by the EPA. The Contractor shall not inhibit the NNSA M&O contractor from managing the Airnet and Clean Air Act permitting activities. The Contractor shall execute the necessary air sampling activities related specifically to EM work scope activities. The Contractor shall submit information required from EM activities and impacts to NNSA/LANS for annual LANL compliance reporting in ASER, Title V certifications, emissions and monitoring reports, EPCRA, annual emissions inventory, and greenhouse gas reporting.
11. LANL Spill Prevention Control and Countermeasures Plans (SPCCs). The Contractor shall operate so as to minimize the need to apply for coverage from the EPA on the SPCC and from NMED for above-ground storage tanks. Although EM may encounter fuel spills, sample water spills, etc., it is likely that none of the EM activities will be significant. The Contractor shall report to the EM-LA Field Office when any planned activities have the potential to approach or exceed the 600-gallon release threshold.

### Compliance Documents

12. Compliance Order on Consent, State of New Mexico Environment Department U.S. Department of Energy Los Alamos National Laboratory; June 2016 (2016 Consent Order).
- a. The Contractor shall implement and comply with the 2016 Consent Order as a contract requirement as if the Contractor had signed up to the original agreement itself.
  - b. This contract establishes completion date requirements for the various projects and activities within this period of performance and under this contract.
  - c. The work is organized by what is being called "campaigns." A campaign generally is a discretely defined set of work scope activities that can be completed in a specified number of years. It is expected that interim milestones will be developed to measure progress towards the completion of the campaigns.
  - d. EM-LA will include the Contractor in at least preparation for the annual work planning process (Section 2016 Consent Order, Section VIII.C) through identification of:
    - i. progress for the last annual period for Appendix A updates,
    - ii. identification of changes in SWMUs and AOCs with regard to inclusion in specific campaigns for Appendix A and possibly C updates,
    - iii. selection of Contractor Performance Baseline (CPB) items for milestones and targets for Appendix B for the next period proposal, and
    - iv. identification and discussion of any necessary contract changes necessary to revise the CPB for changes to satisfy NMED needs for Appendix B for the next period proposal.
  - e. DOE shall make a determination of the Contractor's responsibility under the Contract for any stipulated penalties or fines for violations as follows:
    - i. EM-LA shall evaluate the determination and assessment conditions received from the cognizant regulatory authority. EM-LA shall discuss any such assessment with both the cognizant regulatory authority and the Contractor and consider the Contractor's involvement and discussions in the applicable annual work planning process meetings relevant to the alleged violation.
    - ii. EM-LA shall request any response from the Contractor on the allegations and any circumstances that might influence EM-LA's decision-making regarding the Contractor's responsibility.
    - iii. The Contractor shall provide any additional information to EM-LA that supports the Contractor's position, recognizing that the burden of proof is the Contractor's.
    - iv. EM-LA will consider relevant inputs; however, the EM-LA Manager will make a determination on the Contractor's responsibility. The Contracting

Officer shall render a final determination of the Contractor's responsibility under the Contract.

- v. If EM-LA negotiates any settlement with the cognizant regulatory authority, EM-LA may include the Contractor in these discussions.

13. Federal Facility Compliance Order (FFCO) (Site Treatment Plan) NMED issued the FFCO to DOE and the University of California (UC) (later transferred to LANS); it establishes a schedule and plan to bring LANL into compliance with the land disposal restrictions for mixed waste stored for more than one year.

- a. The NNSA M&O Contractor shall retain ownership of all FFCO responsibilities.
- b. The Contractor shall comply with the FFCO STP in the execution of EM work scope for those STP wastes being managed by the Contractor (exclusively located in TA-54 Area G). The list of STP wastes is included in *FY15 Site Treatment Plan Environmental Management MTRU [Mixed Transuranic Waste] at Area G* (pdf and xls files).
- c. The Contractor shall coordinate waste management activities with the NNSA M&O Contractor and NA-LA for potential STP wastes such that the wastes are properly managed and disposed of to prevent additional STP wastes from being generated.
- d. The Contractor shall provide evidence packages for the transfer of all STP wastes to the NNSA M&O Contractor.

14. National Environmental Policy Act (NEPA)

- a. The Contractor shall provide NEPA support to EM-LA to support EM projects and activities under this contract.
- b. The Contractor shall provide specific project and activity information and reference material into the Permits Requirements Identification (PRID) system such that environmental impacts can be identified and assessed and that concludes with a preliminary NEPA review by the Contractor.
- c. The Contractor shall prepare preliminary NEPA documents including drafts of DOE documents to EM-LA for completion of the NEPA process for Contractor project activities.
- d. EM-LA will complete the NEPA process and submit any necessary documents to allow a DOE NEPA Compliance Officer to make categorical exclusions, issue supplement analyses and environmental assessments, and make determinations of significant impacts.

15. Other New Mexico Regulations

- a. Although cleanup activities are under the Consent Order, this does not alleviate the Contractor from compliance with State Hazardous Waste Regulations promulgated by the NMED Hazardous Waste Bureau that would be required in the execution of these activities.

- b. The Contractor shall comply with the State Surface and Groundwater Regulations and discharge permits promulgated by the NMED Surface Water Quality Bureau and the NMED Ground Water Quality Bureau.
- c. The Contractor shall comply with regulations promulgated by the NM Office of the State Engineer (OSE).
- d. The Contractor shall comply with the underground injection control (UIC) requirements and permitting promulgated by the NMED Ground Water Quality Bureau.

**Memorandums of Understanding, Memorandums of Agreement, and Agreements**

The following table includes the current Memorandums of Understanding (MOU), Memorandums of Agreement (MOA), and other agreements the Contractor must comply with in the execution of the PWS.

Subject of Agreement	Parties to Agreement	Lead
"Monitoring for Radioactive and Chemical Contamination"; MOU Among the U.S. Department of Energy and the Bureau of Indian Affairs, and the Pueblo de San Ildefonso; AL MOU # DE-GM32-96AL76832	BIA, DOE, Pueblo de San Ildefonso	EM
"Appendix A Plan for Environmental Sampling at Pueblo de San Ildefonso and Los Alamos National Laboratory for October 1, 2015 through December 31, 2016." Annual sampling plan under the above MOU.	EM-LA, Pueblo de San Ildefonso	
Accord	DOE, Pueblo de San Ildefonso	EM
Accord	DOE, Pueblo of Jemez	EM
Accord	DOE, Pueblo of Cochiti	EM
Accord	DOE, Pueblo of Santa Clara	EM
"Memorandum of Understanding between the U.S. Department of Energy and the Buckman Direct Diversion Board Water Regarding Water Quality Monitoring	DOE, BDDDB	EM
Agreement in Principle for Environmental Oversight and Monitoring	DOE, NMED	EM
Memorandum of Agreement - Natural Resource Trustee Council	DOE, USDA, New Mexico, Pueblo de San Ildefonso, Pueblo of Jemez, Santa Clara Pueblo	EM
Memorandum of Agreement regarding management of the Rendija Canyon Traditional Cultural Properties District	DOE, NA-LA, Los Alamos County, NM State Historic Preservation Office	NA
Memorandum of Agreement for Funding to Conduct Regulatory Activities at LANL	DOE, NMED	EM

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<b>Subject of Agreement</b>	<b>Parties to Agreement</b>	<b>Lead</b>
Supplemental Fee Agreement with NMED-HWB	DOE, NMED-HWB	NA
Framework Agreement	DOE, NMED-GWQB	EM
Access Agreement for Environmental Cleanup and Remediation Work	DOE, Los Alamos County	EM
“Memorandum of Agreement between the U.S. Department of Energy and the Pueblo de San Ildefonso” and the three associated protocols: <ul style="list-style-type: none"> <li>- Protocol for Access to Pueblo Lands,</li> <li>- Protocol for Protecting Pueblo Information, and</li> <li>- Protocol for Inadvertent Discovery of Native American Human Remains and Cultural Items.</li> </ul>	DOE/NNSA, Pueblo de San Ildefonso	EM
“Limited Access Agreement for the Installation and Operation of a Regional Aquifer Well on Pueblo de San Ildefonso Land” Between the Department of Energy and the Pueblo de San Ildefonso	DOE/NNSA, Pueblo de San Ildefonso	EM
Airspace Agreement	DOE, NMDOT	EM
<i>Memorandum of Understanding between National Nuclear Security Administration (NNSA) Los Alamos Field Office (NA-LA) and Department of Energy Environmental Management Los Alamos Field Office (EM-LA) for Transition of Legacy Environmental Cleanup Work at Los Alamos from NNSA to EM, signed September 17, 2015</i>	DOE NA-LA and EM-LA	NA & EM
<i>Candidate Conservation Agreement with the U.S. Fish and Wildlife Service</i>	DOE, USFWS	USFWS
<i>Interface Agreement between the Central Characterization Project and Los Alamos National Laboratory (LANL) for the Handling of Transuranic Wastes, CCP-PO-012.</i> This required a Contractor to CCP replacement.	CCP, LANL	N/A