

Part I – The Schedule

Section B

Supplies or Services and Prices/Costs

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B.1 DOE-B-2012 Supplies/Services Being Procured/Delivery Requirements (Oct 2014)

The Contractor shall furnish all personnel, facilities, equipment, material, supplies, and services (except as may be expressly set forth in this Contract as furnished by the Government) and otherwise do all things necessary for, or incident to, the performance of work as described in Section C, Performance Work Statement (PWS), under this Contract and resulting Task Orders.

The Contractor shall provide the requested services, within the minimum and maximum quantities as specified in Section B.3 below, on a schedule to be specified by the Government in accordance with the Contract clause Section H, *Task Ordering Procedure*.

B.2 Type of Contract

This is an Indefinite-Delivery/Indefinite-Quantity (IDIQ) Contract under which Cost-Reimbursement (CR) and/or Fixed-Price (FP) Task Orders may be issued. CR task Orders can include, but are not limited to, CR no fee, Cost-Plus-Incentive-Fee (CPIF), Cost-Plus-Award-Fee (CPAF), and Cost-Plus-Fixed-Fee (CPFF) Task Orders. FP Task Orders can include, but are not limited to, Firm-Fixed-Price (FFP) Task Orders. The preference is CPIF and FFP Task Orders. Task Orders will define objective performance criteria for completion of End States to the maximum extent practical. The term “End State” is defined as the specified situation, including accomplishment of completion criteria, for an environmental cleanup activity within and/or at the end of the Task Order period of performance (POP).

Table B-1. Master IDIQ Contract Line Item Number (CLIN) Structure

| CLIN | CLIN Title | Maximum Value of Services | Contract Ordering Period |
|-------------|-------------------------------|----------------------------------|---|
| 00001 | Oak Ridge Reservation Cleanup | \$8.3 Billion | Ten (10) years from the effective date of the Contract. |

Acronym:

CLIN Contract Line Item Number

Each Task Order will include a price based on the Contractor’s price proposal for the Task Order (see Section H, *Task Ordering Procedure*), negotiations, and agreement on price; and the requisite clauses depending on the Task Order type (including but not limited to the following clauses (a) through (e)). Fill-ins will be completed at the Task Order level.

(a) DOE-B-2001 Cost-Plus-Fixed-Fee Task Order: Total Estimated Cost and Fixed Fee (Oct 2014) (Revised)

(1) This is a Cost-Plus-Fixed-Fee type Task Order. In accordance with the clause at FAR 52.216-8, *Fixed Fee*, the total estimated cost and fixed-fee for this Task Order are as follows:

Total Estimated Cost: [insert total estimated cost]

Fixed Fee: [insert fixed fee]

(2) The Total Estimated Cost and Fee of the Task Order, and/or the Total Estimated Cost and Fee of the Task Order Contract Line Items, is as follows:

[insert, if any, line item numbers and associated amounts for cost and fee]

- (3) Payment of fee will be made in accordance with [insert instructions for fee payment or title of applicable clause addressing payment].

(b) *DOE-B-2002 Cost-Plus-Award-Fee Task Order: Total Estimated Cost and Award Fee (Oct 2014) (Revised)*

- (1) This is a Cost-Plus-Award-Fee type of Task Order. The total estimated cost and award fee are as follows:

Total Estimated Cost: [insert total estimated cost]

Award fee: [insert available award fee]

- (2) The Total Estimated Cost and Fee of the Task Order, and/or the Total Estimated Cost and Fee of the Task Order Contract Line Items, is as follows:

[insert, if any, line item numbers and associated amounts for cost and fee]

- (3) Payment of fee will be made in accordance with [insert instructions for fee payment or title of applicable contract clause addressing payment].

(c) *DOE-B-2003 Cost-Plus-Incentive-Fee Task Order: Total Estimated Cost and Incentive Fee (Oct 2014) (Revised)*

- (1) This is a Cost-Plus-Incentive-Fee type Task Order. In accordance with the clause at FAR 52.216-10, *Incentive Fee*, the target cost, target fee, maximum and minimum fees, and the target fee increase and decrease ratios for this Task Order are:

Target Cost: [insert target cost]

Target Fee: [insert target fee]

Maximum Fee: 15%

Minimum Fee: 0%

As specified at Section I clause FAR 52.216-10, *Incentive Fee*, paragraph (e)(1): the fee payable under this contract shall be the target fee increased by **thirty (30) cents** for every dollar the total allowable cost is less than the target cost or decreased by **thirty (30) cents** for every dollar the total allowable cost exceeds the target cost. In no event shall the fee be greater than **fifteen (15) percent** or less than **zero percent** of the target cost.

- (2) The target cost, target fee, minimum and maximum fee, and target fee increase/decrease ratios are applicable to the following Task Order Contract Line Items:

[insert, if any, line item numbers and associated amounts for cost, fee, and fee increase/decrease ratio]

- (3) Payment of fee shall be made in accordance with the clause 52.216-10, *Incentive Fee* and the clause in the Task Order entitled [insert applicable clause addressing fee payment in addition to FAR clause].

(d) *DOE-B-2004 Cost Task Order-No Fee: Total Estimated Cost (Oct 2014) (Revised)*

- (1) This is a Cost Task Order with no fee. In accordance with the clause at FAR 52.216-11, *Cost Contract-No Fee*, the total estimated cost for this Task Order is:

Total Estimated Cost: [insert total estimated cost]

- (2) The Total Estimated Cost of the Task Order, and/or the Total Estimated Cost of the Task Order Contract Line Items, is as follows:

[insert, if any, line item numbers and associated amounts for cost]

(e) *DOE-B-2006 Firm-Fixed-Price Task Order (Oct 2014)(Revised)*

- (1) This is a firm-fixed-price Task Order. The Contractor shall provide the following [insert “supplies” or “services,” as applicable] at the following firm-fixed unit prices:

[Insert Listing of Firm-Fixed-Price for the supplies or services]

- (2) Payments of the Task Order’s firm-fixed-price will be made in accordance with [insert instructions for payment or title of applicable Task Order clause addressing payment].

B.3 Contract Minimum and Maximum Value of Services

- (a) The guaranteed minimum value of Task Orders to be issued is \$500,000.00.
- (b) The maximum value of Task Orders to be issued is \$8.3B.

B.4 DOE-B-2013 Obligation of Funds (Oct 2014) (Applies to Cost-Reimbursement Task Orders only)

- (a) Pursuant to the Clause of this Contract at FAR 52.232-22, *Limitation of Funds*, total funds in the amount(s) specified below are obligated for the payment of allowable costs and fee. It is estimated that this amount is sufficient to cover performance through the date(s) shown below.

To Be Determined on a Task Order basis.

- (b) *Financial plans; cost and encumbrance limitations.* In addition to the limitations provided for elsewhere in this contract, the Department of Energy (DOE) may, through financial plans, such as Approved Funding Programs, or other directives issued to the Contractor, establish controls on the costs to be incurred and encumbrances to be made in the performance of the contract work. Such plans and directives may be amended or supplemented from time to time by DOE. The Contractor shall:
 - (1) Comply with the specific limitations (ceilings) on costs and encumbrances set forth in such plans and directives;
 - (2) Comply with other requirements of such plans and directives; and
 - (3) Notify DOE promptly, in writing, whenever it has reason to believe that any limitation on costs and encumbrances will be exceeded or substantially underrun.

B.5 DOE-B-2015 Task Order Fee/Profit Ceiling (Oct 2014) (Revised)

- (a) Task Order fee/profit ceilings will adhere to the following criteria.
 - (1) *CPIF Task Orders.* The maximum fee amount shall not exceed 15 percent of the target cost, and shall serve as the maximum fee ceiling. The target fee ceiling amount that can be negotiated is [Offeror Fill-In; not to exceed 10% of the target cost] percent of the target cost.

- (2) *CPAF Task Orders*. The award fee ceiling amount that can be negotiated is [Offeror Fill-In; not to exceed 8% of the estimated cost] percent of the estimated cost. There is no base fee available under CPAF Task Orders.
 - (3) *CPFF Task Orders*. The fixed fee ceiling amount that can be negotiated is [Offeror Fill-In; not to exceed 5% of the estimated cost] percent of the estimated cost.
 - (4) *Hybrid Task Orders*. Task Orders comprising multiple CLIN types shall apply the fee/profit ceiling(s) at the CLIN level.
 - (5) *Firm Fixed Price Task Orders*. The profit ceiling amount that can be negotiated, as specified as a percentage of the negotiated cost, is [Offeror Fill-In] percent.
- (b) The fee (target, award, or fixed)/profit amount for each Task Order will be negotiated and established based on risk and complexity. The Contractor may propose a fee/profit amount it determines appropriate as long as the proposed amount adheres to the criteria above.
- (c) The ceiling percentage(s) shall at no time exceed any statutory limitations imposed by 10 United States Code (USC) 2306(d), 41 USC 3905, and FAR 15.404-4(c)(4)(i).

B.6 Funding Profile

The planned funding profile per the Government Fiscal Year (FY) is shown below. Funding is subject to Congressional and Departmental funding authorization.

Table B-2. Annual Funding Profile

| Government Fiscal Year (FY) | FY 2022 | FY 2023 | FY 2024 | FY 2025 | FY 2026 | FY 2027 | FY 2028 | FY 2029 | FY 2030 | FY 2031 | FY 2032 -2036** |
|---|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|-----------------|
| \$ Amount* | \$400 | \$545 | \$545 | \$545 | \$545 | \$545 | \$545 | \$545 | \$545 | \$590 | \$2,950 |
| *The dollar amounts are represented in (\$ million). The provided funding profile represents the Government’s estimate of future funding. This assumed funding is not a guarantee of available funds. Actual funding may be greater or less than these estimates. There is no commitment by DOE to request funds equivalent to this assumed funding. Available funds depend on Congressional appropriations and priorities within the DOE. The provided funding profile covers estimated costs and fee and/or prices to be identified in Section B of the Task Orders, inclusive of funding of pension and benefit programs described in Section C. ** This funding may be available if Task Orders are issued that extend beyond the 10-year ordering period. | | | | | | | | | | | |

B.7 Allowability of Subcontractor Fee (Applies to Cost-Reimbursement Task Orders only)

- (a) If the Contractor has formed and performs the Contract as a teaming arrangement, as defined in FAR 9.601(1) and (2) *Contractor Team Arrangement*, the team shall share in the total fee for underlying Task Orders. Separate, additional, subcontractor fee is not an allowable cost under Task Orders for individual team members, or for a subcontractor, supplier, or lower-tier subcontractor that is a wholly-owned, a majority-owned, or an affiliate entity of any team member.
- (b) The subcontractor fee restriction in paragraph (a) above does not apply to members of the Contractor’s team that are: (1) small business(es); (2) Protégé entities as part of an approved Mentor-Protégé relationship identified in the Contractor’s Diversity Plan as per the Section H Clause

entitled, DOE-H-2046, *Diversity Program*; (3) subcontractors under a competitively awarded (that is, awarded in a manner that meets all the criteria of full and open competition and results in a reasonable subcontract price) FFP subcontract; or (4) subcontractors providing commercial items as defined in FAR 2.101, *Definitions*, if the subcontract price is fair and reasonable.

B.8 Small Business Subcontracting Fee Reduction

For the purpose of implementing this Clause, the percentage goals established in the separate subcontracting goals submitted at the Task Order level, will remain in effect for the duration of the Task Order period of performance.

- (a) The Contractor's performance in the following areas will be reviewed at least annually: (1) progress toward meeting the cumulative small business performance percentage in accordance with the Section H Clause entitled, *Subcontracted Work*; (2) progress toward meeting the cumulative small business subcontracting goals for the Master IDIQ Contract, established via Task Orders; (3) progress toward meeting the required number of active Mentor-Protégé Agreements.
- (b) If the Contractor has not met any or all of the requirements in paragraph (a) of this clause, and/or has failed to provide meaningful work for small businesses, the Contracting Officer (CO) may reduce the fee by up to 10 percent (CR Task Orders) or the price by up to two percent (FFP Task Orders) depending on the nature and magnitude of the failure.

B.9 Basis for Changes

The Contractor is responsible for total performance of Task Orders issued under this Contract, including its specific technical approach and methods to perform the Task Order PWS, including End States (if applicable). The Contractor is responsible for examining available information, such as drawings and designs, photographs, regulatory documents, and other documents in developing its approach and estimated pricing for individual Task Orders. For all work within the control of the Contractor, the consequences of any adverse Contractor work performance, and the consequences of any regulatory actions in response to adverse Contractor work performance, shall not be a basis for equitable adjustment. As applicable, Task Orders issued under this contract shall clearly identify the fee risk ownership for both the Government and the Contractor such that contract changes are minimized to the extent practicable.

(Table with fee risk ownership to be negotiated and included within individual Task Orders, as applicable)

B.10 Conditional Payment of Fee – DOE Performance Criteria/Requirements

This Clause supplements the Section I Clause DEAR 970.5215-3 entitled, *Conditional Payment of Fee, Profit, and Other Incentives – Facility Management Contracts*, by establishing Site-specific Environmental, Safety, Health, and Quality (ESH&Q) and security performance criteria/requirements. This clause does not replace the Section I clause. Performance failures relating to the performance criteria set forth in this Clause will be processed in accordance with DEAR 970.5215-3. Site-specific performance criteria/requirements for ESH&Q and Safeguards and Security (S&S) are as follows:

- (a) ESH&Q
 - (1) First Degree: Performance failures relating to the criteria set forth in this Clause will be processed in accordance with DEAR 970.5215-3.

- (2) Second Degree: Performance failures relating to the criteria set forth in this Clause will be processed in accordance with DEAR 970.5215-3.
- (3) Third Degree: Performance failures that reflect a lack of focus on ESH&Q or failures to comply with an approved Integrated Safety Management System (ISMS) that may result in a negative impact to the public, workers, or environment. The following performance failures, or events of similar import, are examples of performance failures that are considered third degree:
 - (i) Multiple similar non-compliances identified by external oversight (e.g., federal) that in the aggregate indicate a significant programmatic breakdown.
 - (ii) Non-compliances or adverse performance trends that either have or may have significant negative impact to the public, workers, or environment or that indicate a significant programmatic breakdown.
 - (iii) Failure to notify the CO upon discovery of events or conditions where notification is required by the terms and conditions of the Contract.
 - (iv) Failure to report required data accurately and within required timeframes (e.g., within 24 hours of incident).

(b) Safeguards and Security

- (1) First Degree: Performance failures that have been determined, in accordance with applicable law, regulation, or DOE directive, to have resulted in, or that can reasonably be expected to result in, exceptionally grave damage to the national security. The following are examples of performance failures or performance failures of similar import that will be considered first degree:
 - (i) Theft, loss, or diversion of Category I or II Special Nuclear Material (SNM); adversarial attacks or acts of sabotage that result in significant consequences to the safety or security of personnel, facilities, or the public due to a failure or inadequacy of performance by the Contractor.
 - (ii) Receipt of an overall rating of Unsatisfactory on any DOE S&S survey, audit, and/or inspection.
 - (iii) Failure to implement effective corrective action(s) in response to any first degree performance failure.
- (2) Second Degree: Performance failures that have been determined, in accordance with applicable law, regulation, or DOE directive, to have actually resulted in, or that can reasonably be expected to result in, serious damage to the national security. The following are examples of performance failures or performance failures of similar import that will be considered second degree:
 - (i) Loss, theft, diversion, or unauthorized disclosure of information classified as Secret.
 - (ii) Theft, loss or diversion of Category III SNM that is due to a failure or inadequacy of performance by the Contractor.
 - (iii) Inventory differences of Category I/II/III SNM beyond alarm limits where there is no evidence that the difference is created by loss, theft, or diversion.
 - (iv) Any amount of SNM found in a dangerous/hazardous or unapproved storage environment, or unapproved mode of transportation/transfer.

- (v) Failure to implement effective corrective action(s) in response to an occurrence of any second degree performance failure.
- (3) Third Degree: Performance failures that have been determined, in accordance with applicable law, regulation, or DOE directive, to have actually resulted in, or that can reasonably be expected to result in, undue risk to the common defense and security, and/or jeopardizes protection of the facility or Site security interests. The following are examples of performance failures or performance failures of similar import that will be considered third degree:
- (i) Loss, theft, diversion, or unauthorized disclosure of information classified as Confidential.
 - (ii) Evidence that SNM data has been manipulated or falsified.
 - (iii) Inventory differences of Category IV SNM beyond alarm limits where there is no evidence that the difference is created by loss, theft, or diversion.
 - (iv) Loss, theft, or diversion of Category IV quantities of SNM that is due to a failure or inadequacy of performance by the Contractor.
 - (v) Five or more incidents that involve noncompliance with physical security requirements or a potential compromise of classified information and/or unsecured classified repository, in any three (3) month period, of any type.
 - (vi) Receipt of any topical area rating of Unsatisfactory on any DOE S&S survey, audit, and/or inspection.
 - (vii) Failure to implement effective corrective action(s) in response to any third degree performance failure.
 - (viii) Non-compliant or adverse cyber security performance that indicates serious cyber security program degradation (e.g., negative mission impacts or compromise of sensitive information [Sensitive Unclassified Information, Personally Identifiable Information, Unclassified Controlled Nuclear Information]).

B.11 Provisional Payment of Fee (Oct 2013) (Revised) (Applies to Cost-Reimbursement Task Orders only)

- (a) Notwithstanding any other term or condition of this Contract and the resulting Task Orders to the contrary, this clause applies to and has precedence over all other terms and conditions of this Contract and the resulting Task Orders that provide for provisional payment of fee.
- (b) The Contractor must notify the CO immediately if it believes any incongruence exists between this clause and any other term or condition of this Contract or the resulting Task Orders that provides for provisional payment of fee. If a term or condition of this Contract or the resulting Task Orders provides for provisional payment of fee but fails to include all of the requirements of this clause, that term or condition will be considered to include the omitted requirements.
- (c) This clause conforms to the FAR and DOE fee policy and constructs. The following definitions and concepts apply.
 - (1) Price means cost plus any fee or profit applicable to the Task Order.
 - (2) The terms profit and fee are synonymous.

- (3) Incentive means a term or condition whose purpose is to motivate the Contractor to provide supplies or services at lower costs, and in certain instances with improved delivery or technical performance, by relating the amount of profit or fee earned to the Contractor's performance.
 - (4) Earned fee for an incentive means fee due the Contractor by virtue of its meeting the Task Order's requirements entitling it to fee. Earned fee does not occur until the Contractor has met all conditions stated in the Task Order for earning fee.
 - (5) Available fee for an incentive means the fee the Contractor might earn but has not yet earned.
 - (6) Provisional payment of fee for an incentive means the Government's paying available fee for an incentive to the Contractor for making progress towards meeting the performance measures for the incentive before the Contractor has earned the available fee.
 - (7) Provisional payment of fee has no implications for the Government's eventual determination that the Contractor has or has not earned the associated available fee. Provisional payment of fee is a separate and distinct concept from earned fee. The Contractor could, for example, receive 100% of possible provisional fee payments yet not earn any fee (the Contractor would be required to return all of the provisional fee payments). The Contractor could, for example, receive 0% of possible provisional fee payments yet earn the entire amount of available fee (it would not receive any fee payments until the Government's determination that the Contractor had earned the associated available fee for the incentive).
 - (8) Clause means a term or condition used in this Contract.
- (d) The Task Order's price, incentives included in its price, and all other terms and conditions reflect the Government's and the Contractor's agreement to link, to the maximum extent practical, the Contractor's earning of fee to its achievement of final outcomes rather than interim accomplishments.
 - (e) Certain terms and conditions of the Task Order provide for provisional payment of fee for certain incentives. Other terms and conditions of the Task Order provide for each such incentive the requirements the Contractor must meet to earn the fee linked to the incentive. The terms and conditions of the Task Order that provide for provisional payment of fee for certain incentives include for each such incentive the requirements the Contractor must meet before the Government is obligated to pay fee, provisionally, to the Contractor and for the Contractor to have any right to retain the provisionally paid fee.
 - (f) The CO, at his/her sole discretion, will determine if the Contractor has met the requirements under which the Government will be obligated to pay fee, provisionally, to the Contractor and for the Contractor to have any right to retain the provisionally paid fee.
 - (g) If the CO determines the Contractor has not met the requirements to retain any provisionally paid fee and notifies the Contractor, the Contractor must return that provisionally paid fee to the Government within 30 days:
 - (1) The Contractor's obligation to return the provisional paid fee is independent of its intent to dispute or its disputing the CO's determination; and
 - (2) If the Contractor fails to return the provisionally paid fee within 30 days of the CO's determination, the Government, in addition to all other rights that accrue to the Government and all other consequences for the Contractor due to the Contractor's failure, may deduct the amount of the provisionally paid fee from: amounts it owes under invoices; amounts it would otherwise authorize the Contractor to draw down under a Letter of Credit; or any other amount it owes the Contractor for payment, financing, or other obligation.

- (h) If the Contractor has earned fee associated with an incentive in an amount greater than the provisional fee the Government paid to the Contractor for the incentive, the Contractor will be entitled to retain the provisional fee and the Government will pay it the difference between the earned fee and the provisional fee.
- (i) If provisional fee is provided for under a Task Order and the CO determines the Contractor has met all of the other applicable terms and conditions in both the Task Order and the Master IDIQ Contract required to be eligible for provisional payment of fee and the Contractor has accomplished established incentive(s) under the Task Order, the Contractor is authorized to submit a request for provisional fee payment not more often than once per calendar quarter, at a prorated amount of up to 50 percent of the target and/or available fee for the Task Order, pending satisfactory performance.

B.12 Performance Management Incentive

This clause is intended to motivate efficient and effective contract performance in accordance with FAR 15.404-4 Profit and encourages the Contractor to strive for outstanding results. This clause also motivates the Contractor to implement, if needed, effective and timely corrective actions.

The Performance Management Incentive (PMI) is a contract-wide incentive measured individually among all applicable active Task Orders. PMI will not be applied to Transition Task Orders and Task Orders that provide for Award Fee as defined in FAR 16.405-2. In the event a Task Order includes CLINs of multiple contract types, including CPAF, PMI may be applicable to the non-CPAF portion of the Task Order. The PMI shall be included in the maximum fee amounts described in DOE-B-2015 Task Order Fee/Profit Ceiling (Oct 2014) (Revised), and the estimated PMI fee allocation will be provided to the Contractor when Requests for Task Order Proposals (RTPs) are issued. The PMI is exclusive of any Performance Evaluation and Measurement Plan. For any applicable active Task Order, available PMI fee may be reduced unilaterally by the CO based on the degree of non-achievement. Fee actions described in this clause will not duplicate any other fee action.

It is a prerequisite of this contract that the Contractor shall accomplish the work in a safe and efficient manner. It is the expectation that the Contractor will strive for outstanding results in the areas described below. A PMI fee of up to [TBD] per fiscal year* may be earned based upon outstanding results in Contractor performance, as determined by the CO, in the following areas: (1) safety and operational performance; (2) meeting regulatory or court ordered milestones; (3) quality assurance performance per Section C and Section E clause FAR 52.246-11, where continuous monitoring and performance improvement are evident; (4) maintaining the operability of facilities and other infrastructure throughout the performance period such that degradation is addressed to prevent mission impact; (5) management of the Contractor's team, including teaming subcontractors to ensure efficient and effective partnering with the Government and all parties; (6) establishment, maintenance, and implementation of sound business systems to ensure efficient and effective business management performance in a complex IDIQ task order environment; and (7) IDIQ management, including timely, good faith and fair dealings in conducting negotiations with DOE with the goal of a reasonable outcome, including equitable risk sharing, for all parties.

The [annual not-to-exceed amount*; TBD] will be allocated among all applicable active Task Orders, at the discretion of the CO, on an annual fiscal year basis. The PMI is a unilateral action that shall not exceed [TBD] per fiscal year, applied for all applicable active Task Orders combined, and will not be negotiated with the Contractor.

*Amount may be prorated based on the timing of the 12 month fiscal year.

The CO has discretion for the degree of the PMI fee reduction but shall be reasonable based on the degree of non-achievement, up to the PMI dollar amount per each applicable active Task Order. The CO also has

the discretion to allow the Contractor to correct performance issues and potentially recover withheld fee. Upon successful completion of corrective actions and at the discretion of the CO, the Contractor may potentially recover any and all withheld fee.

The CO will establish a quarterly evaluation process to evaluate performance under all elements of the PMI fee. This evaluation will also be reflected in the annual CPARS evaluation of any applicable Task Order. The CO will consider feedback from the Contractor as part of the quarterly evaluation. Provisional PMI payment will not occur until the CO's evaluation has been completed.

For each applicable active Task Order, quarterly provisional PMI fee payments will be paid by taking [TBD]% of the PMI fee, divided by four quarters for each 12-month period, minus any CO-determined PMI fee reductions. The remaining [TBD]% of the PMI fee will be held until the end of each fiscal year. The PMI fee, minus any PMI fee reductions described above, is considered earned at the end of the fiscal year. Any unearned fee will not roll over into the following fiscal year.

B.13 Limitation of Government's Obligation (Applies to Firm-Fixed-Price Task Orders only)

- (a) This Contract's fixed-price Task Orders issued under CLIN 00001 have traditional FAR fixed-prices and contract terms and conditions, with the exceptions that: fixed-price Task Orders issued under CLIN 00001 may be incrementally funded; and if a CLIN or Task Order is incrementally funded, in the event of termination before it is fully funded the Government's maximum liability for the CLIN or Task Order will be the lower of the amount of funds allotted to the CLIN or Task Order or the amount payable to the Contractor per the Termination for Convenience (Fixed-Price) clause of this Contract. For each CLIN or Task Order there is:
 - (1) A fixed-price for the action;
 - (2) A fixed amount of work that corresponds to the fixed price;
 - (3) A planned funding schedule that corresponds to the fixed price and the fixed amount of work;
 - (4) No Government obligation to the Contractor until the Government allots funds to the contract for the action;
 - (5) If the Government allots funds, a maximum Government obligation, including any termination obligations, to the Contractor equal to the allotted funds; and
 - (6) An obligation that the Government will pay the Contractor for the work the Contractor performs for which funds were allotted based on the price of the work performed, not the costs the Contractor actually incurs.
- (b) For each CLIN or Task Order:
 - (1) The Government's maximum obligation, including any termination obligations and obligations under change orders, equitable adjustments, or unilateral or bilateral contract modifications, at any time is always less than or equal to the total amount of funds allotted by the Government to the contract for the CLIN or Task Order;
 - (2) The Contractor explicitly agrees it reflected (that is, included or could have included an additional amount) in its offered price and in the subsequent negotiated fixed-price for each of the fixed-price CLINs or Task Orders included in this contract:

- (i) The added complexity, challenges, and risks (including all risks, costs or otherwise, associated with termination as articulated in this clause) to which the Contractor is subject due to the incremental funding arrangement established in this Clause; and
 - (ii) The specific risk that in the event of termination of an incrementally funded CLIN or Task Order before the CLIN or Task Order is fully funded, the Contractor could receive less than the Termination for Convenience (Fixed-Price) Clause of this Contract would allow. The maximum Government obligation for a fixed-price CLIN or Task Order is the allotted funds for the CLIN or Task Order; as a result, the Contractor will receive the lower of the allotted funds or what the Termination for Convenience (Fixed-Price) Clause of this contract would allow.
 - (3) The Contractor is not authorized to continue work beyond the point at which the total amount payable by the Government, which is the price of the services the allotted funds cover, equals the total amount allotted to the contract for the services;
 - (4) If funds become available and the Government's need continues, the Government will allot funds periodically to the CLIN or Task Order, the Contractor will provide a fixed amount of work for the funds allotted, and the Government will pay the Contractor based on the price of the fixed amount of work. The Government will not pay the Contractor based on the costs the Contractor incurs in performing the work; and
 - (5) The Contractor agrees to provide the fixed amount of work for the fixed-price identified in the Contract's Section B, *Supplies or Services and Prices/Costs*, and in accordance with the delivery schedule identified in the Contract's Section F, *Deliveries or Performance*, provided the Government provides the funding per or earlier than the Planned Funding Schedule in paragraph (n) of this Clause. At any time, the cumulative amount of funds allotted is the fixed-price for the cumulative fixed amount of work identified with the funds.
- (c) For each CLIN or Task Order:
- (1) The fixed price (of both the entire CLIN or Task Order and of the current cumulative amount of funds allotted to the CLIN or Task Order at any time during contract performance) is not subject to any adjustment on the basis of the Contractor's cost experience;
 - (2) The Contract places the maximum risk and full responsibility on the Contractor for all costs and resulting profit or loss; and
 - (3) If the Government meets the entire Planned Funding Schedule:
 - (i) The cumulative amount of funds allotted will equal the CLIN's or Task Order's fixed-price; and
 - (ii) The Contractor must provide the work the contract requires for the CLIN or Task Order.
- (d) The fixed price for each CLIN or Task Order is listed in Section B of this Contract.
- (e) The Planned Funding Schedule for each CLIN or Task Order is in paragraph (n) of this Clause. The sum of the planned funding for each CLIN or Task Order equals the fixed-price of the CLIN or Task Order.
- (f) The Actual Funding Schedule for each CLIN or Task Order is in paragraph (o) of this clause. It specifies the actual amount of funds allotted and presently available for payment by the Government separately for Task Orders issued under CLIN 00001, and the work to be performed for the funds allotted.

- (1) The Contractor may bill against a CLIN or Task Order only after the Government has allotted funds to the CLIN or Task Order and the Contractor has delivered the services and earned amounts payable for the CLIN or Task Order.
 - (i) The Contractor may bill only the lower of the two preceding amounts, that is, the lower of allotted funds or amount payable.
 - (ii) If the Contractor does not perform the contract's requirements for the CLIN or Task Order, it must return the amounts that it billed that the Government reimbursed.
- (g) If during the course of this Contract the Government is allotting funds to a CLIN or Task Order per or earlier than the Planned Funding Schedule, this Contract to that point will be considered a simple fixed-price contract for that CLIN or Task Order regardless of the rate at which the Contractor is, or is not, earning amounts payable, and:
 - (1) The Government's and the Contractor's obligations under the contract for the CLIN or Task Order—with the exception that the Government's obligation for the CLIN or Task Order is limited to the total amount of funds allotted by the Government to the CLIN or Task Order and similarly the Contractor is not authorized to continue work beyond the point at which the total amount payable by the Government equals the total amount allotted—will be as if the CLIN or Task Order were both fixed price and fully funded at time of contract execution, that is, the Contractor agrees that: it will perform the work of the Contract for that CLIN or Task Order; and neither the fixed-price for the CLIN or Task Order nor any other term or condition of the contract will be affected due to the CLINs or Task Orders being incrementally funded.
 - (i) The Contractor agrees, for example, if the Government allots funds to a CLIN or Task Order per or earlier than all of the funding dates in the Planned Funding Schedule for the CLIN or Task Order, the Government has met all of its obligations just as if the CLIN or Task Order were fully funded as of the time of contract execution and the Contractor retains all of its obligations as if the CLIN or Task Order were fully funded as of the time of contract execution, while at the same time the Contractor is not authorized to continue work beyond the point at which the total amount payable by the Government equals the total amount allotted to the contract; consequently, if the Contractor earns amounts payable at any time in performing work for the CLIN or Task Order that exceed the total amount of funds allotted by the Government to the contract for the CLIN or Task Order:
 - (A) It (not the Government) will be liable for those excess amounts payable;
 - (B) It will remain liable for its obligations under every term or condition of the contract; and
 - (C) If it fulfills all of its obligations for that CLIN or Task Order and the Government allots funds to the CLIN or Task Order equal to the CLIN's or Task Order's fixed price, the Government will pay it the fixed price for the CLIN or Task Order and no more.
 - (ii) The Contractor also agrees, for example, if the Government allots funds to a CLIN or Task Order by the first funding date in the Planned Funding Schedule, the Government has met all of its obligations up to that point in the contract as if the CLIN or Task Order were fully funded (that is, as if progress payments based on cost had been agreed to and had been made, or milestone payments had agreed to and been made, or etc.) and the Contractor retains all of its obligations up to that point (such as meeting delivery schedules, maintaining quality, etc.) as if the CLIN or Task Order were fully funded; consequently, if the Government subsequently terminates the CLIN or Task Order it will pay the Contractor the lower of the following two amounts: the amount allotted by the Government to the CLIN or Task Order;

or the amount payable per the Termination for Convenience (Fixed-Price) Clause of this Contract.

- (h) The Contractor shall notify the CO in writing whenever it has reason to believe that the amount payable it expects to earn for the CLIN or Task Order in the next 60 days, when added to all amounts payable previously earned, will exceed 75 percent of the total amount allotted to the CLIN or Task Order by the Government.
 - (1) The notification is for planning purposes only and does not change any obligation of either the Government or the Contractor.
 - (2) The Contractor is not authorized to continue work beyond the point at which the total amount payable by the Government equals the total amount allotted to the CLIN or Task Order.
 - (3) The Government may require the Contractor to continue performance of that CLIN or Task Order for as long as the Government allots funds for that CLIN or Task Order sufficient to cover the amount payable for that CLIN or Task Order.
- (i) If the Government does not allot funds to a CLIN or Task Order per or earlier than its Planned Funding Schedule, the Contractor will be entitled to an equitable adjustment and:
 - (1) The Government's maximum obligation, including any termination obligation, to reimburse the Contractor remains limited to the total amount of funds allotted by the Government to the contract for that CLIN or Task Order;
 - (2) The Contractor is not authorized to continue work beyond the point at which the total amount payable by the Government, equals the total amount allotted to the contract;
 - (3) If the Government subsequently terminates the CLIN or Task Order, it will pay the Contractor the lower of the following two amounts: the total amount of funds allotted by the Government to the contract for the CLIN or Task Order; or the amount payable per the Termination for Convenience (Fixed-Price) clause of this contract.
- (j) Except as required by either other provisions of this Contract specifically citing and stated to be an exception to this Clause, or by, among other things, terminations, change orders, equitable adjustments, or unilateral or bilateral contract modifications specifically citing and stated to be an exception to this Clause, for either CLIN or Task Order:
 - (1) The Government is not obligated to reimburse the Contractor in excess of the total amount allotted by the Government to this contract for the CLIN or Task Order; and
 - (2) The Contractor is not obligated to continue performance under this Contract related to the CLIN or Task Order or earn amounts payable in excess of the amount allotted to the Contract by the Government until the CO notifies the Contractor in writing that the amount allotted by the Government has been increased and specifies an increased amount, which shall then constitute the total amount allotted by the Government to the CLIN or Task Order.
- (k) No notice, communication, or representation in any form, including, among other things, change orders, equitable adjustments, or unilateral or bilateral contract modifications, other than that specified in this clause, or from any person other than the CO, shall affect the amount allotted by the Government to this contract for a CLIN or Task Order, which will remain at all times the Government's maximum liability for a CLIN or Task Order. In the absence of the specified notice, the Government is not obligated to reimburse the Contractor for any amounts payable earned for a CLIN or Task Order in excess of the total amount allotted by the Government to this contract for a CLIN or Task Order, whether earned during the course of the contract or as a result of termination.

- (l) Change orders, equitable adjustments, unilateral or bilateral contract modifications, or similar actions shall not be considered increases in the Government’s maximum liability or authorizations to the Contractor to exceed the amount allotted by the Government for a CLIN or Task Order unless they contain a statement increasing the amount allotted.
- (m) Nothing in this Clause shall affect the right of the Government to terminate this Contract for convenience or default.
- (n) Planned Funding Schedule:

The following table and requisite information shall be inserted by the Government in each fixed-priced Task Order to account for incrementally funded FFP CLINs:

CLIN [TBD in each Task Order] (Table B-3):

Table B-3. CLIN to be Determined by Each Task Order

| CLIN | Date | Funds To Be Allotted | Work To Be Accomplished | Cumulative Funds To Be Allotted | Cumulative Work To Be Accomplished |
|------|------|----------------------|-------------------------|---------------------------------|------------------------------------|
| | | | | | |

- (o) Actual Funding Schedule:

The following table and requisite information shall be inserted by the Government in each fixed-priced Task Order to account for incrementally funded FFP CLINs:

CLIN [TBD in each Task Order] (Table B-4):

Table B-4. CLIN to be Determined by Each Task Order

| CLIN | Date | Funds Allotted | Work To Be Accomplished | Cumulative Funds Allotted | Cumulative Work To Be Accomplished |
|------|------|----------------|-------------------------|---------------------------|------------------------------------|
| | | | | | |