

SECTION A

**TRIAD NATIONAL SECURITY, INC.
SOLICITATION, OFFER, AND AWARD**

1. Contract No.	2. Solicitation No. 571628	3. Type of Solicitation Negotiated IDIQ	4. Date Issued TBD	5. RFP: Sections A-L Contract: Sections A-K
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6. Issued By: **Triad National Security, Inc.**
Los Alamos, NM 87545-1663

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder."

SOLICITATION

7. Sealed offers in original and 1 copies for furnishing the supplies or services in the Schedule will be received at the place and at the time specified in Section L. CAUTION – LATE Submissions, Modifications, and Withdrawals – See Section L. All offers are subject to all terms and conditions contained in this solicitation.

8. FOR INFORMATION CALL:	A. NAME Chad Riebsomer – Contract Manager	B. TELEPHONE NO. (Include area code) (505) 667-6428
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		PART I – THE SCHEDULE			PART II – CONTRACT CLAUSES
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	B	SUPPLIES OR SERVICES AND PRICES/COSTS			PART III – LIST OF DOCUMENTS, EXHIBITS & OTHER ATTACHMENTS
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OFFER (Must be fully completed by offeror)

10. In compliance with the above, the undersigned agrees, if this offer is accepted within _____ calendar days (**180 calendar days unless a different period is inserted by the offeror**) from the date for receipt of offers

11. DISCOUNT FOR PROMPT PAYMENT	10 CALENDAR DAYS %	20 CALENDAR DAYS %		
12. ACKNOWLEDGMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated)	AMENDMENT NO.	DATE	AMENDMENT NO.	DATE
13. NAME AND ADDRESS OF OFFEROR		14. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (TYPE OR PRINT)		

specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, within the times specified in the offer.

15. TELEPHONE NO. (Include area code)	16. <input type="checkbox"/> CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE ENTER SUCH ADDRESS IN SCHEDULE	17. SIGNATURE	18. OFFER DATE
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AWARD (To be completed by Triad National Security)

19. ACCEPTED AS TO ITEMS NUMBERED	20. AMOUNT	21. EFFECTIVE DATE
22. NAME AND TITLE OF SIGNER	23. SIGNATURE	24. AWARD DATE

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PART I – THE SCHEDULE

SECTION B – SUPPLIES OR SERVICES AND PRICES/COSTS

B.1 PARTIES AND TYPE OF CONTRACT

This Contract is between Triad National Security, Inc. as identified in Section A Block 6 hereafter referred to as “Contractor” or “Triad,” and the party identified in Section A Block 13 hereafter referred to as “Subcontractor.”

This is a Construction Indefinite Delivery-Indefinite Quantity (IDIQ) Multiple Award Task Order Contract (MATOC) hereafter referred to as “MATOC” or “Contract” for maintenance, repair, construction, and design-build services in support of the Los Alamos National Laboratory (LANL). Contract will consist of a Base Award Period through 10/30/2023, and three one-year option periods.

The guaranteed minimum amount over the life of this Contract is \$250,000.00.

B.2 CONTRACT LINE ITEMS (CLIN)

CLIN DELIVERY/TASK ORDER MINIMUM/MAXIMUM QUANTITY AND CLIN ORDER VALUE

The minimum quantity and order value for the given Delivery/Task Order issued for this CLIN shall not be less than the minimum quantity and order value stated in the following table. The maximum quantity and order value for the given Delivery/Task Order issued for this CLIN shall not exceed the maximum quantity and order value stated in the following table.

CLIN	MINIMUM AMOUNT	MAXIMUM AMOUNT	Est. Period of Performance
0001	TBD	TBD	Award Effective Date – 10/30/2023
0002	\$250,000.00	TBD	N/A
0003	TBD	TBD	11/1/2023 – 10/30/2024
0004	TBD	TBD	11/1/2024 – 10/30/2025
0005	TBD	TBD	11/1/2025 – 10/30/2026

Item	Supplies/Service	Qty	Unit	Unit Price	Amount
0001	This CLIN represents the initial ordering period of Award Date through 10/30/2023. The Subcontractor shall provide all plant, labor, equipment, appliances, materials, expertise, and supervision necessary for various Task Order Contracts in accordance with their awarded Capability, as well as any other described needs of Triad National Security, LLC.	1	N/A	TBD	TBD
0002	This CLIN is dedicated to MATOC Minimum Guarantee for the life of the contract. Firm Fixed Price.	1	LS	\$250,000.00	\$250,000.00

B.3 PRICING BASIS FOR IDIQ

1. The Contract prices set forth in the Base MATOC for Time and Material or Labor Hour and Equipment rates in Section B, Commercial Schedules C and D, are firm for the duration of the MATOC unless otherwise specified and include each and every item of Subcontractor's applicable costs, taxes, duties, insurance, license fees, expenses, overhead, and profit for complete performance of the Work. These prices may be used to award Work under a Task Order on a Time and Material basis, or may be applied to extra or changed work performed on Task Orders.
2. The Contract prices set forth in each awarded Task Order are firm for the duration of the Task Order, and include all Subcontractor's costs, taxes, duties, insurance, license fees, expenses, overhead, and profit for complete performance of the Work.
3. Failure by Subcontractor to assess requirements described in this MATOC and any subsequent Task Order shall not be accepted as a basis for entitlements to an equitable adjustment pursuant to the Changes clause. No increase in price shall be permitted for causes which the Subcontractor has failed to take into account, but which could have been foreseen.

B.4 PRICING BASIS (PER TASK ORDER)

1. Full compensation to Subcontractor for full and complete performance by Subcontractor of all the Work, compliance with all terms and conditions of this Contract, and for Subcontractor's payment of all obligations incurred in, or applicable to the performance of the Work, shall be the lump sum price of _____ **[WRITE OUT IN FULL]** (\$ _____), which excludes bonding costs.
2. The lump sum price is broken down as follows:

Reserved For use in Task Orders

Scope of Work	Cost Code	Labor	Materials	Construction Equipment	TOTAL
Contractor Operating Support (Site Indirects)					
Mobilization					
Demobilization					
<i>(List activities as appropriate to the scope of work)</i>					
Total Lump Sum Price					
Bond Price					

Total Contract Value					
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3. The following definitions shall apply with regard to the lump sum pricing breakdown:

3.1 Labor

All direct labor costs, up to and including general foreman, including payroll burdens, benefits, consumables, and expendable materials, small tools, overhead and associated profit.

3.2 Material

Total cost to procure and supply all permanent installed plant materials, including freight, customs duties and taxes.

3.3 Construction Equipment

Total cost to provide and operate construction equipment (excluding the cost of operating labor), inclusive of associated consumables, overhead and associated profit.

3.4 Contractor Operating Support (Indirects)

Includes all management and administrative staff, supervision (above the level of general foreman), temporary facilities and their associated utilities, maintenance and site and home office overhead, associated profit and taxes. (Refer to Commercial Schedule A - Pricing for Indirects).

3.5 Mobilization

The act of bringing resources to the Work Site to commence the Contract Work. This portion of the Contract Price is payable when sufficient Subcontractor Operating Support has been mobilized at the Work Site to allow Subcontractor to commence productive Work. (Refer to Commercial Schedule A - Pricing for Indirects).

3.6 Demobilization

The activity to clear the site of all temporary construction facilities upon completion of the direct Work. This portion of the Contract Price that becomes payable only when Subcontractor has demobilized all its labor, equipment and temporary facilities from the Work Site and returned the allocated temporary facilities area(s) to its pre-mobilization condition. (Refer to Commercial Schedule A - Pricing for Indirects)

B.5 SURETY INSTRUMENTS (PER TASK ORDER)

1. Performance and Payment Bond Option – per Task Order

Subcontractor shall provide, at the option of Contractor, a performance bond and a payment bond, each in an amount equal to one hundred percent (100%) of the Contract Price for a total cost of:

100% Performance Bond _____
 100% Payment Bond _____

Total _____

All such bonds will comply with the provisions set forth in Article entitled SURETY INSTRUMENTS.

The performance bond shall be valid through the end of Subcontractor's obligations, that is, until expiry of the warranty period set forth in Article 39 entitled Warrantees, set forth in CONTRACT

Exhibit A - General Conditions. The payment bond shall remain valid until Subcontractor has made final payments to all obligees of Subcontractor.

Adjustment Rate

The payment and performance bonds set forth in Subsection 1 above shall be adjusted, when instructed by Contractor, for authorized changes, both increases to and decreases from the Contract Price, at the rate of:

Firm Performance Bond Rate: _____ **(WRITE OUT IN FULL)**
(\$ _____) per one thousand dollars of change.

Firm Payment Bond Rate: _____ **(WRITE OUT IN FULL)**
(\$ _____) per one thousand dollars of change.

Generally changes that vary the Contract Price, cumulatively, less than 20% shall not require adjustment to the subject bonds except as specifically instructed by Contractor.

2. Letter of Credit Option – per Task Order

Contractor shall provide, at the option of Contractor, a Letter of Credit in an amount equal to ten percent (10%) of the Contract Price for a total cost of : _____ **(WRITE OUT IN FULL)** (\$ _____)

The Letter of Credit shall comply with the provisions set forth in H.53 SURETY INSTRUMENTS.

The Letter of Credit shall be valid through the entire period of Subcontractor's obligations, that is, until expiry of the warranty period set forth in Article entitled Guarantees.

Adjustment Rate

The Letter of Credit set forth in Subsection 2 above shall be adjusted, when instructed by Contractor, for authorized changes, both increases to and decreases from the Contract Price, at the rate of:

Firm Letter of Credit Rate: _____ **(WRITE OUT IN FULL)**
(\$ _____) per one thousand dollars of change.

Generally changes that vary the Contract Price, cumulatively, less than 20% shall not require adjustment to the subject Letter of Credit except as specifically instructed by Contractor.

3. The awarded Task Order Price, pricing for changes, and all other prices and rates set forth herein shall include, but shall not be limited to all taxes, duties, fees, and insurance.
4. The Task Order Price, pricing for changes, and all other prices and rates set forth herein shall include receipt, offloading, storage and subsequent handling of materials to be installed under the Task Order, and the loading, transport and disposal of surplus materials.
5. All prices and rates set forth herein shall include all costs associated with, and relative to, performing Work in accordance with all applicable local state and federal safety regulations, as well as Owner's and Contractor's safety, security and fire regulations.
6. The lump sum prices for Task Orders for mobilization, demobilization, and site establishment shall be fixed and firm and shall not be subject to adjustment based upon any additions or deletions, irrespective of any change to the unit price portion of the Work, except at the express written order of

Contractor, and in that event, shall be adjusted in accordance with Commercial Schedule A - Pricing for Indirects.

7. The lump sums and unit prices are deemed to cover the compensation relative to performance of the Work described in the preamble to each lump sum or unit price.
8. Task Order Price shall cover all compensation to perform the Work, as described in TASK ORDER – SCOPE OF WORK, even if specific work activities or requirements are not detailed in the preambles to the lump sum or unit prices
9. The lump sum and all unit prices shall apply regardless of when the Work is performed, be it day or night or a holiday, unless Contractor accepts in writing, prior to performance that work performed outside of normal working hours is subject to additional compensation to Subcontractor. Compensation for Work or changes thereto performed using all-in labor rates shall be commensurate with the rates set forth in Commercial Schedule C - All Inclusive Labor Rates applicable to the time of day and calendar day upon which the Work is performed.
10. Failure by the Subcontractor to assess fully the scope of work as required and described by TASK ORDER- SCOPE OF WORK shall not be accepted as a basis for variations to the lump sums or the unit prices for changes.

B.6 PRICING FOR CHANGES

1. Contractor may request, and Subcontractor shall provide, proposals for scope of work changes (additions and deletions) which are priced, at Contractor's option, by one or a combination of the following methods:
 - 1.1. Negotiated lump sums based upon a mutually agreed scope of work.
 - 1.2. Applicable unit prices as set forth in Commercial Schedule B - Unit Prices and Methods of Measurement, if the work can be classified under the unit price items, or by interpolation or extrapolation against similar unit prices.
 - 1.3. Negotiated unit prices not previously established in the Contract or Task Order.
 - 1.4. On a time and material basis, at the labor and equipment rates set forth in Commercial Schedule C - All Inclusive Labor Rates and Commercial Schedule D - Equipment Rates, and the terms set forth below in Section B.6.3.

2. Unit Prices for Changes

If Contractor directs that changes to the Work be performed on a time and material basis:

- 1.1. Subcontractor shall have the responsibility for take-off of quantities and establishing the measurement of Work that is performed on a unit price basis. The foregoing shall then be subject to Contractor's review and approval.
- 1.2. All unit prices shall apply at one hundred percent (100%) of their value for both additions and deletions to the Work.
- 1.3. All unit prices shall apply whether the Work is performed by Subcontractor's own forces or by a subcontractor's labor.
- 1.4. All unit prices shall be deemed to include each and every item of expense required to perform the Work in the respective categories.

3. Time and Material Basis for Changes

If Contractor directs that changes to the Work be performed on a time and material basis, compensation to Subcontractor shall be as follows:

- 3.1. All-inclusive labor rates set forth in Commercial Schedule C – All Inclusive Labor Rates, shall be applied to all agreed hours worked. All labor used for changes and which does not resemble the classifications listed in Commercial Schedule C – All Inclusive Labor Rates, must be approved by Contractor prior to their use.
- 3.2. Construction equipment rates for approved Subcontractor-owned construction equipment having original purchase prices of more than \$1000, set forth in Commercial Schedule D – Equipment Rates, shall apply for equipment used for extra work requested by Contractor. Such rates shall not exceed seventy percent (70%) of the rates specified in the Rental Rate Blue Book published by the Equipment Watch for the applicable period of performance of the change. Such rates shall be appropriately discounted to stand-by rates for idle time reasonably required.
- 3.3. For equipment which is specifically transported to the work site for extra work, Subcontractor shall separately identify such transportation costs (including loading, off-loading, assembly and disassembly) when submitting proposals to Contractor for performing extra work. Transportation costs shall not be applicable to equipment already mobilized on the work site.
- 3.4. When Subcontractor's equipment does not resemble the equipment having rates listed in Commercial Schedule D – Equipment Rates, the rate shall be negotiated and agreed upon in writing by Contractor.
- 3.5. Compensation to Subcontractor for equipment used for extra work which is rented or leased from third parties and which does not resemble the equipment having rates listed in Commercial Schedule D – Equipment Rates, must be approved by Contractor in writing prior to rental and shall be at actual cost to Subcontractor, including transportation to the work site, (as substantiated by invoices certified paid or by such documentation as may be required by Contractor) but exclusive of any applicable taxes, plus a mark-up, for all profit and overhead expense of Subcontractor thereon, of _____ percent (___%).
- 3.6. Compensation to Subcontractor for materials supplied by Subcontractor for incorporation into the permanent facility (excluding consumable, expendable, and small tools as outlined in Commercial Schedule G – Small Tools/Expendable/Consumable/Safety Supply List and which cost Subcontractor less than \$ 1,000.00 USD each, as they are included in the markups on labor rates) shall be at actual invoiced cost to Subcontractor, (exclusive of taxes) documentation as may be required by Contractor, plus a mark-up on the material costs only, for all profit and overhead expense of Subcontractor thereon, of _____percent (___%).
- 3.7. Contractor reserves the right to provide, at no cost to Subcontractor, materials, equipment, services, supplies or incidentals required to perform the Work.
- 3.8. All refunds, trade discounts, rebates on materials, supplies and services, and all monies obtained from the disposal of surplus materials or supplies shall accrue to Contractor.
- 3.9. Subject to the audit provisions of this Contract, all materials authorized by Contractor to be supplied by Subcontractor must be procured in such a manner as to ensure their competitiveness in both price and schedule.
- 3.10. All subcontracts and services provided by others for performance of changes or extra work requested by Contractor, which have not been objected to by Contractor, shall be at actual cost to Subcontractor of such subcontracts or services provided by others (not to exceed such subcontract price) exclusive of any applicable taxes, plus a mark-up for all profit and overhead expense of Subcontractor thereon, which shall not exceed _____ percent (___%).
- 3.11. Time Sheets

For all work performed on a time and material basis under this Contract, Subcontractor shall submit daily time sheets for approval by Contractor. An approved copy of the time sheets, which shall detail all hours worked, materials installed and equipment used, must be submitted in support of Subcontractor's costs of the Work.

4. All costs and expenses (which are not expressly stated in this Section B.6. to be reimbursable) necessary for Subcontractor to perform changes or extra work shall be deemed included within the rates or the markups for overhead or profit set forth herein. Such costs and expenses shall include all items expressly stated in this Contract that are to be at the cost, expense or for the account of Subcontractor, or which are stated to be performed by Subcontractor at no additional cost to Contractor.

B.7 INVOICING INSTRUCTIONS

1. Contractor shall submit separate, consecutively numbered invoices with the Contract number clearly displayed at the top of the page. Each invoice shall be complete with all supporting documentation.
2. Subcontractor shall submit all invoices, in form and format directed by Contractor, electronically to invoices@lanl.gov or through the U.S. Postal Service to:

Triad National Security, LLC
Los Alamos National Laboratory
Accounting Department, MS P240
P.O. Box 1663
Los Alamos, NM 87545-

3. Contractor's invoices shall be accompanied by a progress payment certificate, in a format prescribed by Contractor, itemizing each pay item listed as previously approved by Contractor
4. Contractor's invoices shall indicate the time period during which the Work was performed for which the invoice is submitted.
5. Contractor will not be obligated to pay for invoice items not fully supported by approved progress measurements and any other such documentation as may be required. Contractor reserves the right to make partial or provisional payment on an invoice in dispute, pending audit and reconciliation of the total charge.
6. Contractor shall comply with the requirements of this Contract to furnish the reports and deliverables in a timely manner and in a format satisfactory to Contractor. If Subcontractor does not submit the reports or deliverables on schedule, in the time frame stipulated in the Contract, or as requested from time to time by Contractor, Contractor may, at its discretion, withhold an amount from Subcontractor's monthly progress payments. The amount withheld shall continue to be withheld until Subcontractor submits the reports or deliverables to Contractor's satisfaction.
7. In order for Subcontractor to be eligible to receive any progress payments, Subcontractor is required to transmit to Contractor all applicable Contract documents. Failure to submit these Contract documents in accordance with the instructions set forth herein will delay any and all approved progress payments until these requirements are met. The following is a non-exclusive listing of applicable Contract documents and the condition in which they must be provided to Contractor in order to be acceptable:
 - Contract Agreement – fully and correctly executed in accordance with the instructions set forth in the cover letter transmitted therewith, with no physical modifications made to any part of the Contract.

- Evidence of Insurance – certificate(s) of insurance submitted on the proper forms, from acceptable underwriters, addressed to Contractor, and evidencing the minimum coverage limits and endorsements required by the Contract, are in effect.
 - Performance, Payment or other Surety Instrument Pricing (if required) – submitted on the proper forms, from acceptable sureties, addressed to Contractor and in the amounts required by the Contract.
 - Contract Schedule – a detailed schedule as described in Section H of the Contract.
 - Partial / Final Payment Release Certificates – submitted on proper notarized forms satisfactory to Contractor and which evidence that Subcontractor has paid in full for all labor or materials furnished, all equipment used, and all subcontractors employed during the time period covered by the invoice.
8. The lump sum amounts for Mobilization and Demobilization will be paid in accordance with the provisions of Commercial Schedule A – Pricing for Indirects. The lump sum for Site Establishment shall be payable in equal monthly installments based on the schedule of Work on the Work Site.
 9. The indirect resources dedicated to the Contract and agreed by Contractor as additional to those included in Site establishment will be paid in accordance with the rates set forth in Commercial Schedule A – Pricing for Indirects. Subcontractor shall record the actual allocation and attendance of the subject resources in a form acceptable to Contractor and obtain Contractor's acceptance to such record.
 10. Changes to the Work and/or additions must be incorporated into the Contract by way of an approved Contract modification before being incorporated into an invoice and submitted for payment. In general, the actual charges shall have been agreed and incorporated into the Contract by a fixed price modification that may be invoiced without further substantiation. Where actual charges have not been agreed (i.e. when a modification has been issued on a "not to exceed" basis), or for invoices in respect of the cost plus portion of the Work, the following substantiation will be required:
 11. Charges for labor shall be accompanied by Contractor approved daily reports or time sheets listing workers' names, classification, and straight time and overtime hours. All daily time sheets shall be submitted by 10:00 A.M. for the previous day, approved and signed by Contractor. Labor categories and rates must correspond to those set forth in Commercial Schedule C – All Inclusive Labor Rates.
 12. Charges for equipment shall be accompanied by Contractor approved daily reports or time sheets listing the equipment type, number, size and hours. Equipment descriptions and rates must correspond to those set forth in Commercial Schedule D – Equipment Rates.
 13. Charges for Subcontractor rented equipment shall be accompanied by Contractor approved daily reports or time sheets listing the equipment type, number, size and hours along with a copy of Subcontractor's rental agreement and invoice from the supplier. The applicable markup as set forth in Section B.5 shall be shown separately.
 14. Charges for materials shall be accompanied by Contractor signed field receiving documentation, a copy of Subcontractor's purchase order and invoice from the supplier. All field receiving documentation shall be submitted by 10:00 A.M. for the previous day, approved and signed by Contractor
 - 14.1. For materials purchased on an emergency or small quantity basis not exceeding one thousand United States Dollars (USD\$1,000.00), Subcontractor may submit an itemized supplier invoice in lieu of a purchase order subject to approval by Contractor.
 - 14.2. For materials drawn from Subcontractor's stock, Subcontractor shall obtain approval from Contractor regarding the price and discounts. In no instance shall the price of Subcontractor's material drawn from Subcontractor's stock exceed the prevailing price that Contractor could obtain for comparable quantities and types of material from commercial suppliers.

15. Contractor shall sign each invoice certifying that all Work covered by the invoice is complete and that the invoice is correct, authentic and the only one issued for the Work described therein.

MOBILIZATION

The lump sum price for mobilization set forth in PART II, shall include, but not be limited to all costs, direct and indirect, for the following Work Site activities:

- Recruitment and transportation of labor and supervision from the point of origin to the Work Site.
- Supply, transport and installation as required, of all temporary facilities/offices, associated equipment and tools required in performance of the Work. This includes any further alterations of Subcontractor's temporary facility area or for any alterations to the area status after acceptance by Subcontractor.
- The submittal to Contractor of Subcontractor's approved safety program, including modifications as requested by Contractor.
- This submittal to Contractor of Subcontractor's approved security program, including modifications as requested by Contractor.
- The submittal to Contractor of Subcontractor's approved quality assurance and quality control program, including modifications requested by Contractor.
- The submittal to Contractor of Subcontractor's Contract schedule and other detailed schedules.

DEMOBILIZATION

The lump sum price for demobilization set forth in PART II shall include, but not be limited to all costs, direct and indirect for the removal of labor and supervision from the work site, removal of all plant, facilities and equipment from the work site, submittal of all data, including as-built drawings, clean-up and final clearance of the work site and reinstatement of the areas to the condition originally received from Contractor.

SITE ESTABLISHMENT

This item covers the Subcontractor's overhead costs and other general expenses to maintain the site establishment (i.e. Subcontractor's presence) on the work site for performance of the Work and shall include, but not necessarily be limited, to the following:

- All supervision/management staff above the level of general foreman.
- All field and home office overheads, including field administration, field transportation and temporary facilities.
- The effective control of Subcontractor's safety program.
- The maintenance and issue of Subcontractor's schedules.
- The effective control of quality through Subcontractor's quality assurance and control program.
- Material control and maintenance of records, including offloading, temporary storage, any necessary re-handling of materials and weather protection for materials.
- Maintenance and cleanliness of the work site infrastructure areas, temporary facilities area and temporary buildings. Specifically excluded from this item are all direct costs associated with the performance of the Work and Subcontractor's profit, which are to be included in other line items of the lump sum/unit price portion of the Work.

ADDITIONAL SITE ESTABLISHMENT

In the event that additional and/or reduced number of indirect resources are required to perform the Work, and Contractor agrees that these are due to effects other than those within the responsibility of the Subcontractor, the lump sum price may, with prior Contractor approval, be modified using the rates set forth herein.

The lump sum shall not be adjusted to cover costs associated with an extension of time in accordance with the provisions entitled DELAYS, in Section H

In any event, the indirect lump sum price for Site Establishment shall not be subject to any change should the direct Work/unit price portions of the Work vary by up to and including +/- twenty-five percent (25%) of the original Contract value.

The lump sum for site establishment shall not be subject to re-measurement, except as stated herein.

The rates set forth herein shall be used only for the purposes of evaluation of such an agreed change.

SECTION B COMMERCIAL SCHEDULES	SCHEDULE - A PRICING FOR INDIRECTS
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Reserved For use in Task Orders

SITE ESTABLISHMENT BREAKDOWN

Category	Number of people	Duration in weeks	Weekly Rate	Total
<i>Project Manager</i>			\$	\$
<i>Construction Mgr.</i>			\$	\$
<i>ES&H Representative</i>			\$	\$
<i>Quality Control</i>			\$	\$
<i>Planner</i>			\$	\$
<i>Site Office</i>			\$	\$
<i>Transportation</i>			\$	\$
<i>Other Facilities</i>			\$	\$
			\$	\$
			\$	\$
			\$	\$
			\$	\$
			\$	\$
Total			\$	\$

(Add or delete category items as appropriate)

The total of the above resources multiplied by the rates shall equal the total Lump Sum for Site Establishment set forth in this Contract. The lump sum shall cover the full performance of the Work regardless of the duration set forth herein. Any indirect expense not specifically listed above shall be deemed to be included in the other rates listed above.

END OF COMMERCIAL SCHEDULE - A

Unit price preambles and methods of measurement. Reserved For use in Task Orders

This schedule is also to be used in conjunction with lump sum contracts in order to establish unit prices to be used in the evaluation of changes.

Unit prices shall be split into materials and labor/equipment costs.

END OF COMMERCIAL SCHEDULE - B

1. LABOR: All rates are inclusive of all wages, payroll burdens, fringe benefits, travel and subsistence allowances, home office overheads, bonuses and other forms of extra payment, protective and/or special clothing and construction consumables. The base rates included herein shall be based on labor agreements if any, in effect on the effective date of the Contract.
2. VACATION: Includes vacations, statutory holidays, sick and other leave with pay.
3. ALLOWANCES: Includes workers' compensation, unemployment insurance, and other taxes and insurances measured by payroll, established employee benefits such as pension, health and life insurances, bonus programs, union assessments (if any), training funds, and industry and administration funds.
4. SMALL TOOLS: Replacement value of less than 1,000.00 USD. Refer to Commercial Schedule G for typical listing of these types of items.
5. CONSUMABLE AND EXPENDABLE MATERIALS: Consumable and expendable items not forming part of the permanent work. Refer to Commercial Schedule G for typical listing of these types of items.
6. OVERHEAD AND PROFIT: Calculated on the base rate, overhead includes all additional home office costs. (Note that all site overheads are already covered under Site Establishment).
7. TRAVEL ALLOWANCE: This additional allowance is applicable for only persons designated by Subcontractor prior to performance of associated extra work, approved by Contractor in advance and travelling more than _____ miles to and from the work site on a daily basis or residing in temporary lodging during their performance of extra work on site. Federal Travel Regulations apply. (Applicable to site only).
8. Contractor shall not invoice for field support/supervisory personnel assigned to a change in the scope of Work, that are covered by the lump sum price for Site Establishment.
9. Direct Labor rates for stand-by time when specifically ordered by Contractor shall be at ____ % of the all-inclusive rates in Commercial Schedule A, less the profit portion thereof.
10. OVERTIME: Reimbursement to Subcontractor for changes to the work performed in overtime on a time and materials basis shall be in accordance with the overtime percentages set forth in Article 11 and the rate break-down set forth in this Schedule C, calculated as follows:
 - a) The percentage applicable to the type of overtime (time and one half or double time) shall be applied to the base rate
 - b) The hourly inclusion in the base rate for consumables and small tools shall be added
 - c) Only the costs relative to those benefits and/or burdens that specifically apply, when additional hours are worked, shall be added. (Other benefits, burdens and overhead will not be reimbursed since the full costs to Subcontractor, for these items, has already been compensated in the base working day/week.

The profit percentage shall be applied to the total of the costs in a, b and c.
11. The percentages for one and one-half time and double time apply to the base rate for work performed outside of the base work week and as provided in the formal labor agreement(s) governing the Work.
Time and one half _____ Double time _____
12. SHIFT WORK: In the event that Contractor approves the working of scheduled second or third shifts, Subcontractor shall submit for approval the appropriate shift differentials for use in determination of the applicable labor rates. (The overtime rates are not applicable to shift work)

SECTION B COMMERCIAL SCHEDULES

**SCHEDULE – D
EQUIPMENT RATES**

1. This Commercial Schedule D identifies all Subcontractor owned and leased equipment that may be used for performing the Work or additional and/or changed work in relation to the Contract and has a replacement value of greater than 1,000.00 USD each.
2. The rates are for utilization of Subcontractor owned and/or leased equipment, including mobilization and demobilization, but excluding Operators.
3. All rates are for fully fueled and maintained equipment and include all costs for repairs, re-fuelling, maintaining, servicing, fuels, lubricants, administrative costs, overheads, insurance, licenses, depreciation costs, profit, all industry/standard accessories and all items necessary for safe and proper utilization of the equipment and each and every other item of expense associated with operating the equipment at any time of day, week or year, other than the cost of labor for directly operating the equipment and the cost of transport of the equipment to and from the Work Site. Time spent doing anything other than operating the equipment will not be reimbursed.
4. The daily, weekly and monthly rates are based on single shifts. Hourly charges for any day shall not exceed the daily rate; daily charges for any calendar week shall not exceed the weekly rate; and weekly charges for any calendar month shall not exceed the monthly rate. Payment shall be calculated using, in order of precedence, the monthly rate, then the weekly rate for any period less than four (4) weeks, then the daily rate for any period less than five (5) days and the hourly rate for any period less than eight (8) hours.
5. The specified rental rates shall apply whether the equipment is utilized for operations during any period during day, afternoon, and night shifts.
6. When the operated use of equipment is infrequent and, as determined by Contractor, need not remain at the work site continuously, payment shall be limited to actual hours of use.
7. No payment shall be made for equipment that is not operating because it is broken down or undergoing repair, maintenance or overhaul.
8. In reference to Commercial Schedule A – Pricing for Indirects, please note that this Commercial Schedule D may include items which are part of the site establishment. The inclusion of these types of items in this Commercial Schedule D is for Contractor’s historical pricing collection purposes only and shall not be construed for use for any other purpose.
9. Equipment rates in this commercial schedule will be subject to an annual escalation percentage of _____ %

SECTION B COMMERCIAL SCHEDULES

SCHEDULE – D

OWNED/LEASED EQUIPMENT RATES

DESCRIPTION MAKE AND MODEL	HOURLY	DAILY	WEEKLY	MONTHLY

END OF COMMERCIAL SCHEDULE -

END OF COMMERCIAL SCHEDULE - E

SECTION B COMMERCIAL SCHEDULES

SCHEDULE – F

MATERIAL SUPPLIERS

Reserved For use in Task Orders

The following is a detailed list of Subcontractor’s material suppliers proposed for the Work, together with the brand name and the country of origin of the materials supplied.

Once approved, the material suppliers listed below shall not be changed except with Contractors prior written approval.

Material Supplier	Material	Brand Name	Country of Origin	Value of Purchase Order

END OF COMMERCIAL SCHEDULE - F

SMALL TOOLS AND CONSUMABLES

This Commercial Schedule G is an indicative listing of typical small tools, expendables, consumables and safety supplies. However, it remains the responsibility of the Subcontractor to determine and include for all such items in their labor rates established in Commercial Schedule C and in the labor portion of the Contract Price.

SMALL TOOLS - Cost less than 1,000.00 USD each and are used by a craftsman. These tools may be non-powered or powered by the following means: Manual, electric, hydraulic, air, or gas. These tools are of a very durable nature and are either not easily broken (such as a hand wrench) or are economical to repair (such as a power drill). These tools generally have a life of two (2) or more years.

SECTION I

Anvil	Combination Sets - 6" to 18"
Auger, Gasoline (Post Hole Digger)	Creeper, Floor
Banding Machine, Hand Type	Crimper, Band
Bar, Crow	Crimping Tool, Wire
Bar, Decking	Cutter, Bolt
Bar, Pinch	Cutter, Cable
Bar, Pull Handle	Cutter, Gasket
Bar Wrecking	Cutter, Tube
Base, Magnetic/Daily Test Indicator	Cutter, Glass
Bender, Cable	Cutter, Tube
Bender, Pipe	Cutter, Weed, Gas or Hand
Bender, Tubing	Cylinder, Hydraulic for Porta Powers
Bender, Load	Divider, Spring Type
Blocks Wood	Dolly, Barrel
Blocks Metal - Snatch	Dolly, Beam
Blower, Pneumatic Powered	Dolly, Caterpillar
Bob, Plumb	Dolly, Machine
Bosun Chairs	Dolly, Pipe
Box, Tool, Hand 32" (Length) Max.	Dolly, Pry
Box, Gang (Craft Storage)	Dolly, Warehouse
Burner, Weed	Door and Jamb, Butt Template, Kit
Caliper	Door Hanging Kit
Cart, Welding Bottle 2	Drill, Air
Center Finder Set, Wiggler	Drill, Electric
Chair, Bosun's	Drill, Hammer
Charger, Battery	Drill, Hand
Clamp "C"	Drill Press
Clamp, Carpenters	Embossing, Tape, Hand
Clamp, Machinist	Etcher, Electric
Clamp, Pipe Alignment 2	Extension, Socket Set
Clamp, Plate	Fan, Exhaust to 48"
Cleaner, Drain - Hand	Float, Concrete, Hand Only
Cleaner, Drain - Electric	Furnace, Propane, Melting
Climber, Adjustable w/Pad and Straps	Gauge, Depth
	Gauge, Feeler

SMALL TOOLS AND CONSUMABLES

SMALL TOOLS – (continued)

SECTION I

Gauge, Out of Round	Meter, Millivolt
Gauge, Thickness	Meter, Moisture
Gauge, Wire	Meter, Volt, OHM w/Case
Grab, Pipe of 20"	Micrometer, Depth
Grinder, Air	Micrometer, Inside
Grinder, Electric	Micrometer, Outside
Grip, Wire	Mirror, Inspection
Grooving, Tool	Miter Box, Electric or Hand
Gun, Heat (115V)	Mortiser, Lock, Electric
Gun, Pop Rivet	Nailer, Air
Gun, Powder Actuated	Nibbler, Sheet Metal
Gun, Soldering	Notcher, Pipe
Hacksaw, Power	Oiler, Hand
Hammer, Chipping, Electric, Pneumatic	Oven, Rod
Hammer, Rotary, Electric	Pedestal, Grinder
Handle, Pull for Socket Sets	Pin, Barrel
Handle, Speed	Pin, Bull
Heater, Electric (115V)	Pin, Draft
Heater, LP	Plane, Bench Jack
Heater, Gas	Plane, Block
Heater, Kerosene	Plane, Electric
Hoist, Chain	Plane, Versi
Hoist, Come a Long	Planer, Power Block, Electric HD
Hoist, Puller, Wire	Pliers, All Types
Hoist, Trolley, I Beam	Pole, Pike
Indicator, Dial Test	Pot, Lead
Iron, Soldering	Prestolite Outfit
Jack, Hydraulic	Protractor
Jack, Mechanical	Puller, Fuse Safety
Jack, Screw	Puller, Wheel Gear
Knockout, Hand	Pulley, Cable
Ladle, Lead	Pulley, Well
Level, Mahogany, 48" Brass Bound	Pump, Barrel, Hand
Excludes digital levels	Pump, Hydraulic, Hand
Level, Precision, Hand, Bench Type	Pump, Test, Hand Operated, Hydro
Level, Rod	Punch, Arch
Marker, Lime, Rolling	Punch, Clip
Megger Meter	Punch, Knockout
Meter, AMP, Clamp-on w/Case	

SMALL TOOLS AND CONSUMABLES

SMALL TOOLS - (continued)

SECTION I

Punch, Sheet Metal	Square, Framing 24"
Punch, Stud	Square, Tri
Rush Drill	Stand, Drill
Hatchet and Handle for Hand Threader Sets	Stand, Grinder
Hatchet, Wrench	Stand, Pipe
Reamer, Inner, Outer for Copper Tubing	Stand, Reel, Telescoping Screw
Reamer, Spiral, Pipe Only	Stapler, Electric or Hand
Reamer, Straight, Pipe Only	Straight Edge
Reel, Tie Wire	Stripper, Wire
Regulator, Acetylene	Support, Pipe - Roller Type
Regulator, Argon	Tank, LP, 20# only
Regulator, Nitrogen	Tapewriter, Embossing (Hand Type)
Regulator, Oxygen	Tapper
Riveter, Hand	Telephone, Electrician's Testing
Roller, Pipe	Template, Hinge-Butt
Router, Electric	Tester, Antifreeze
Sander, Air, Electric	Tester, Battery
Saw, Abrasive, Electric Hand	Tester, Circuit
Saw, Abrasive, Gasoline Hand	Tester, Insulation
Saw, Chain, Gasoline	Tester, Motor Rotation
Saw Circular, Electric 1	Threader, Bolt 00-RB, 1/4"-1"
Saw, Hand	Threader, Pipe, 12R, 1/8"-2
Saw, Jig	Threader, Pipe 00-R, 1/8"-1"
Saw, Porta Band	Tongs, Brick Carrier
Saw, Reciprocating	Tongs, Chain
Scaler, Needle	Tongs, Pipe
Speed, Portable	Tongs, Sheet Metal
Sharpener, Drill Bit	Tool, Flaring
Shear, Angle Iron	Tool, Pick up, Mag
Shears, Electric, Hand	Tool, Soil Pipe Assembly
Shears, Trimming, Rotary	Torch, Acetylene
Sheaves, Cable, Tray Metal	Torch, Prestolite
Siren, Electric	Torch, Propane
Snips, Aviation, Hand	Universal, For Socket Sets
Snips Metal Cut, Hand	Vacuum Cleaner, HD, Wet or Dry w/Accessories
Snips Trim Hand	Vibrator, Concrete
Socket for Hand Tools Only	Vise, Machinist
Socket Set	Vise, Pipe
Sprayer, Orchard	Welding and Cutting Outfit (Oxy/Acetylene)
Spreader, Flange	Wrenches, Electric Impact
Square, Combination	Wrenches, Hand, All Types
	Wrenches, Pneumatic Impact

SMALL TOOLS AND CONSUMABLES

EXPENDABLE TOOLS AND SUPPLIES – Cost less than 1,000.00 USD each and are used, worn or worked by a craftsman. They may be items that are manually powered, relatively inexpensive and generally not of a durable nature. Expendable supplies are gradually worn out over a period of days, weeks or months and normally these items cannot be reused.

SECTION II

Adaptors, Tool, All Types	Cloth, Emery
Apron, Welders	Connectors, Cord, Cotter Pins
Arbors, Hole Saw	Coolers, Water, All Types (Non-Electric)
Auger, Hand (Post Hold Digger)	Cord Extension
Axe	Cutter Wheels, Tools, All Types
Awl	Die Nuts, Hexagon Rethread
Bag, Dust, for Belt Sander	Dies, Button
Bag, Bolt	Dies, Knockout
Battery, Flashlight and Lantern	Dies, Pipe for Hand Threaders Only
Belt, Safety	Dies, TMB, 8, Compression Tools
Bins, Trash, Wire, Stencil, Etc.	Digger, Post Hole
Bits, (Small Hand Tool, All Types)	Dippers
Blades, (Small Hand Tool, All Types)	Disc, Grinding
Block, Welding Helmet	Dispenser, Paper Cup
Plot, Black Rubber, Standard w/o	Drill Bit (Small Hand Tool, All Types)
Buckles	Edger, Concrete Hand
Boot, Knee-Black Rubber w/o Buckles	Electrode Holders
Bracket for Face Shield	Expander, Tuberolls and Mandrels
Bracket, Fiber Brow, Safety Shield	Extractor Pipe
Bracket, Float Handle	Extractor, Screw
Brick, Rubbing	Eyeshield for Bench Grinder
Broom, All Types	Fasteners
Brush, All Types	File, Metal Cutting
Bucket, All Types	File, Wood Cutting
Bulb, Blow-Out, Dust	Filter for Vacuum Cleaner
Bulb, Flashlight, Lantern	Filters
Cables, Rigging	Fishtape, Hand
Can, Oil	Fittings, Alemite and Hose
Can, Safety	Flambeau, Kerosene
Chain, Loadbinder	Flashlight
Chalk Line Box	Flux
Chisel, All Types	Fork, Seed
Choker, All Types	Form Ties
Chucks, Tool, All Types	Frame, Hacksaw
Clamp, Cable	Fuels, Gasoline, Diesel, Kerosene
Cleaner, Tip	Funnels, All Types
Clips, Wire Rope	

SMALL TOOLS AND CONSUMABLES

EXPENDABLE TOOLS AND SUPPLIES - (continued)

SECTION II

Fuses	Latterns, 6 Volt Lens, Welding
Gaskets, Hose	Light, Drop
Glasses, Safety	Lighter, Spark
Gloves, Work, All Types	Lubricants
Goggles, Work, All Types	Lugs
Grips, Plastic for Pliers	Mallet
Guards, Shin	Mandels
Guards, Toe, Metal w/Strap	Mask, Filter
Guide, Hinge-Butt for Router	Maul
Gun, Caulking	Mattock
Gun, Grease	Marker, Pipe Contour
Hammer, Ball Pein	Menders, Hose
Hammer, Claw	Mirror, Inspection
Hammer, Welders Slag	Mop
Hammer, Sledge	Mounting Visort and Kwik-Klip
Hammer, Tinner	Nails
Handles, All Types	Nipples, Hose
Hasps	Nozzle, Water
Hatchet	Nut Runner
Hinges	Nut Setter
Hoe	Office Supplies
Hood, Welding (Jackson H9-86A)	Oils, Cutting, Lube, Diesel
Hook, Cant	Pad, Polishing
Hook, Timber	Padlocks
Hose, Air, 3/4" /Dia. Max. (Air Tools Only)	Pail, Galvanized Paint Spray
Hose Water to 3/4"	Respirators
Hose, Grease, Gun	Patterns
Hose, Twin Welding	Pan, Drain
Iron, Caulking	Paper, Abrasive, Wet/Dry
Iron, Packing	Paper, Towels, Toilet
Iron, Yarning	Pens, Writing, Marking
Jaw, Bolt Cutter Replacement	Pick, Clay
Jitterbug - Concrete Hand	Plug, Pipe Test
Joint Runner	Pocket, Lineman's
Key, Chuck	Pouch, Canvas
Key, Ejector for Roto Hammers	Puller, Wire
Key, Hex	Punch and Chisel Sets
Knife, Putty	Punch Center
Knife, Utility (Razor Blade Only)	Punch, Conduit
Ladders, All	Punch, Pin Set
Lanyard for Safety Belts	Rain Wear, Jacket and Overalls
Lashing, Wire Rope	Rake, Garden
Latches	Rake, Concrete

SMALL TOOLS AND CONSUMABLES

EXPENDABLE TOOLS AND SUPPLIES - (continued)

SECTION II

Rake, H.D, Road	Visor, Shield, Clear
Reamer, Bridge (Hand Only)	Visqueen, Non-Reinforced
Reamer, Taper Pin (Hand Only)	Washers
Respirator, Dust Only, Non-cannister	Washroom Supplies
Rigging Hooks	Water Cans
Rope, Manila	Welding Electrodes
Rope Polypropylene	Welding Gases
Rope, Wire	Wheel, Depressed Center
Rule, Extension, Wood, Fiberglass,	Wheelbarrow, All Types
Folding	Wheel Abrasive
Rule, Tape	Wheel, Wire
Sandblast Nozzles	Wicks, Lantern
Scissors, Electrician	Wire, Construction
Scraper, Hand	Wool, Steel
Scraper, Sidewalk	Wrap Arounds
Scraper, Wall	
Screw Runner	
Screw Starter	
Screwdriver, All Types	
Shackles	
Sheath, Plumb Bob	
Shield, Eye	
Shims, Shimstock	
Tap, Taper, Hand	
Tape, Sewer, Hand	
Tape, Fish - Wire Pulling	
Tape, Masking, Friction	
Tarpaulins	
Tempil Sticks	
Thimbles, Wire Rope	
Tip, Torch Welding	
Tool Boxes, Bins	
Tool, Brushing for Vacuum cleaner	
Tool, Crevice, 15" for Vacuum	
Tool, Major Floor, 14" Inserts/Vacuum	
Tool Steel	
Towels	
Torch Heating	
Torch Cutting	
Trowel, Hand	
Trunbuckles	
Twine	

SMALL TOOLS AND CONSUMABLES

CONSUMABLE SUPPLIES - Are completely consumed upon initial use (i.e., hand cleaner, spray lubricant, etc.) or are not reusable (drinking cups, rags). Contract tool accounts do not include supplies which become a permanent part of the plant.

SECTION III

Abrasives	Grommets
Adhesives	Hook, Snap
Alcohol	Ink, Layout, for Millwrights
Anti-Splatter Spray	Insecticide
Badges	Key
Bag	Lime, Marking
Bands, Safety Hat	Line, Fish
Barrels, Water or Trash	Litharge
Belting, Belt Dressing	Lock Outs
Blanket, Rubber and Concrete	Marker, Metal
Box, Cardboard	Oil, Penetrating Only
Burlap	Oil Cutting Only
Carborundum, Blocks, Stones	Oil Absorbent
Walk	Packing Material
Chamois	Padlock
Charcoal and Coke	Paint Stick
Clamp, Bandit, Strap and Buckle	Paper, Toilet
Clamp, Hose	Paste
Cleaner, Hand	Pencil, Carpenter
Cloth, Drop, Painter's	Petroleum Jelly
Cloth, Straining	Plunger, Bathroom
Compound, Grinding	Pouch, Rod
Compound, Sweeping	Powder, Scouring
Compound, Wire Pulling	Pumice
Cord, Plumb Bob	Preventative, Rust
Cord, Sash	Rag
Cork	Silicone Spray
Crayon, Lumber	Soap
Crayon, Temperature Indicating	Soapstone
Creosote	Solvent
Cup, Drinking	Sponge
Curtain, Welder	Stake
Disinfectant	Steel Wool
Dressing, Belt	String, Nylon
Feeler Stock	Tablet, salt
Flare, Road, Non-electric	Tape, All
Flint	Tag, Blank, Wire Twist
Fluid Cleaning	Turpentine
Glue	Twine
Glycerine	Wire, Music
Graphite	

SMALL TOOLS AND CONSUMABLES

SAFETY SUPPLIES - Are all items that are required for the safety of the work site personnel.

SECTION IV

Apron, Welders	Puller, Fuse Safety
Belt, Safety	Rain Wear, Jacket and Overalls
Blanket, Fire	Respirator, Dust Only, Non-Canister
Block, Welding Helmet	Shield, Eye
Boot, Knee - Black Rubber w/o Buckles (Steel Toe)	Siren, Electric
Boot, Black Rubber, Standard w/o Buckles (Steel Toe)	Strap, Chin
Bracket, for Face Shield	Sweat Bands
Bracket, Fiber Brow, Safety Shield	Tablet, Salt
Can, Safety	Visor, Shield, Clear
Caps, Plastic Safety (For Rebar)	
Curtain, Welder	
Eyeshield, for Bench Grinder	
First Aid Supplies	
Flare, Road, Non-Electric	
Glasses, Safety	
Gloves, Work, All Types	
Goggles, All Types	
Grips, Plastic for Pliers	
Guards, Shin	
Guards, Toe, Metal w/Strap	
Hard Hat	
Harness, Body	
Hearing Protection Devices	
Hood, Welding (Jackson H9-86A)	
Insecticide	
Lanyard for Safety Belts	
Lens, Welding	
Life Line	
Lock Outs	
Mask, Filter	
Mounting Visor and Kwik-Klip	

END OF COMMERCIAL SCHEDULE – G

END OF SECTION B

PART I – THE SCHEDULE

SECTION C – STATEMENT OF WORK

C.1 SCOPE

The work covered by this Multiple Award Task Order Contract (MATOC) consists of the Subcontractor furnishing all layout, survey, plant, labor, supervision, quality control, materials, equipment, machines, tools, appliances, services, supplies, and incidentals required for performing all operations in connection with each Task Order awarded under the MATOC. All work will be conducted at Los Alamos National Laboratory or Subcontractor's facility. Each individual Task Order shall be completed in accordance with the plans, specifications, and drawings assigned to each Task Order.

PART I – THE SCHEDULE

SECTION D – PACKAGING AND MARKING

D.1 PACKAGING AND MARKING – TASK ORDER SPECIFIC

Packaging and marking of items to be delivered shall be in accordance with work authorization requirements or other written direction of the Contract Administrator or the Subcontract Technical Representative (STR).

PART I – THE SCHEDULE

SECTION E – INSPECTION AND ACCEPTANCE

E.1 INSPECTION AND ACCEPTANCE – TASK ORDER SPECIFIC

PART I – THE SCHEDULE

SECTION F – DELIVERIES OR PERFORMANCE

F.1 DELIVERIES OR PERFORMANCE – TASK ORDER SPECIFIC

PART I – THE SCHEDULE

SECTION G – CONTRACT ADMINISTRATION DATA

G.1 PREAMBLE

1. All references to Triad National Security, LLC, the Contractor, or Triad in correspondence, memoranda, or other writings arising under, relating to, or otherwise required by any provision of this Contract will be understood to refer to Triad National Security, LLC.
2. This Contract is entered into to meet in part the requirements of the United States Department of Energy (DOE) Contract No. 89233218CNA000001, a contract in which the Contractor is the Prime Contractor and DOE is the Client. By the terms of that contract the Contractor has agreed to treat appropriately requirements of federal statutes and Presidential executive orders in procurements using funds provided under the Contract. Consequently, many of the standard terms and conditions contained herein are similar to terms and conditions used by federal agencies. However, the Contractor is not a federal agency or instrumentality and is not awarding this Contract as an agent of the DOE; the use of similar terms and conditions is only for the administrative compliance of the Contractor.
3. Subcontractor represents that it is fully experienced, properly qualified, registered, licensed, equipped, organized, and financed to perform the Work under this contract. Subcontractor shall act as an independent Contractor and not as the agent of the Contractor or the Government in performing this contract, maintaining complete control over its employees and all of its suppliers and subcontractors of any tier. Nothing in this Contract shall be deemed to constitute Subcontractor or any of Subcontractors employees or agents to be the agent, representative, or employee of Contractor or Owner. Subcontractor shall be an independent subcontractor and shall have responsibility for and control over the details and means for performing the Work and shall be subject to the directions of Contractor only with respect to the scope and general results required.
4. The Subcontractor shall furnish the goods and/or services covered by the Contract or Task Order subject to all the terms and conditions set forth. The Subcontractor, in accepting the Contract, agrees to be bound by and to comply with all particulars, and no other terms or conditions shall be binding upon the parties unless hereafter accepted by them in writing. The terms of any quotation/proposal referred to in the Contract or Task Order are included and made a part of the Contract only to the extent that such terms are consistent with the terms and conditions of this Contract.
5. The IDIQ Contract or Task Order issued hereunder, nor any portion hereof, shall be assigned or delegated without the Contractor's prior written consent and any such assignment or delegations shall be void. The Contractor has the right to assign this Contract to DOE or its designee, and in case of such assignment and notice thereof to the Subcontractor, the Contractor shall have no further responsibility hereunder.
6. The Subcontractor shall comply with the requirements of applicable federal, state, and local laws and regulations. The Subcontractor shall also comply with DOE Directives, National Nuclear Security Administration (NNSA) Policy Letters, and Laboratory policies and procedures, or parts thereof, which are identified in this IDIQ Contract and any Task Order. Copies of any such directives, letters, policies, and procedures will be provided to the Subcontractor upon request.
 - 6.1. It is the purpose of this Attachment to specify the coordination procedures to be employed by Subcontractor in the performance of this Contract.
 - 6.2. The Contract Price, set forth in Part II to this Contract, is deemed to include the provision of supervision, manpower, equipment, materials, and facilities necessary for Subcontractor to

operate in accordance with this Attachment. The Attachment shall be read in conjunction with all terms and conditions of the Contract and the performance of these requirements is deemed included in the Contract scope.

G.2 AUTHORIZED REPRESENTATIVES AND CONTRACT ADMINISTRATION

1. The Contractor Authorized Representative for this MATOC, identified as the “MATOC Contract Manager” is: Chad Riebsomer
2. Task Orders will be administered by the Contract Administrator who will be named in the individual Task Orders

G.3 MODIFICATION AUTHORITY

1. The Contractor Representatives identified as the “Contract Administrator” and the “Contract Manager” in Section G.2 of this Contract are the only individuals authorized to bind the Contractor contractually in performance of work under this Contract and to
 - Waive any requirement of this Contract;
 - Modify any term of this Contract,
 - Modify the price of this Contract; or,
 - Accept nonconforming work.

G.4 AUTHORITY OF PERSONNEL (NOV 2018)

1. **Contractor** designates the below named individual as the Contract Administrator to administer the Contract and act as Contractor’s authorized representative.

TBD on Task Order Basis
Triad National Security, LLC
Los Alamos National Laboratory
P.O. Box 1663, Mail Stop J
Los Alamos, NM 87545-1663
Phone:
Email:

Additionally, all correspondence shall be issued and received by the designated Subcontract Administrator. The Subcontract Administrator is the only individual authorized to direct Subcontractor to deviate from the express, written terms of the contract.

2. Contractor designates the below named individual as the subcontract technical representative (hereafter STR), who is the point of contact for all of the technical aspects of the contract and is responsible for oversight of Subcontractor’s technical performance under this subcontract. The STR is also responsible for monitoring and facilitating Subcontractor compliance with various contract requirements, such as submission of technical deliverables and evidence of completion of training requirements.

TBD on Task Order Basis
Triad National Security, LLC
Los Alamos National Laboratory
P.O. Box 1663, Mail Stop
Los Alamos, NM 87545-1663

Phone:
Email:

The STR may employ qualified technical personnel and administrative assistants to assist him/her in the performance of the STR's duties. However, the designated STR is ultimately responsible for Technical Oversight of the Work (i.e., the process by which a subcontract technical representative monitors and surveils a subcontractor's performance and compliance with contract terms and conditions). Should Subcontractor and the STR disagree over the technical aspects of the contract, such matters will be immediately referred to Contractor's Subcontract Administrator for resolution. The STR does not possess any authority, express or implied, to direct Subcontractor to deviate from the terms and conditions of the contract.

3. The Subcontract Administrator's Property Representative (SAPR) is:

Acquisition Services Management—Property Management (ASM-PM) Disposition Office
Triad National Security, LLC
Los Alamos National Laboratory
P.O. Box 1663, Mail Stop C308
Los Alamos, NM 87545
Phone: (505) 665-8079
Fax: (505) 667-3195
Email: disposition@lanl.gov

The ASM-PM Disposition Office is designated to monitor the government property provided, acquired, or used in the performance of this contract. Any questions concerning said government property should be addressed to the Subcontract Administrator with a copy to the SAPR. The SAPR is also authorized to take any action necessary to ensure compliance with Federal Property Management Regulations, DOE Property Management Regulations, the LANL Property Management Manual and the terms of this contract regarding the appropriate use, loss, replacement, transfer, return, or other disposition of government-furnished property or subcontractor-acquired property. Notwithstanding the foregoing, the SAPR does not possess authority to change any of the requirements under this contract.

4. The Acquisition Services Management Division Manager, or the Manager's designee, may change the Subcontract Administrator, STR, or SAPR at any time upon written notice to the Subcontractor.

G.5 IDIQ MATOC CEILING

1. The ceiling is identified below for each awarded MATOC Construction capability category. Once a Subcontractor has reached the ceiling limit or reached a limit whereby the award of a particular task order will take them above the limit, they will be removed from the MATOC pool and consideration for any additional work under this pool of Subcontractors. Ceiling limits shall not be increased for individual Subcontractors. The anticipated ceiling by discipline is identified below:

Capability Category	Base Year Ceiling	Ceiling per Option Year
General Construction (Design-Build, Design-Bid-Build, Build construction, maintenance and alteration of various facilities)	\$120,000,000.00	\$40,000,000.00
Electrical Systems (Construction, maintenance, and alterations)	\$100,000,000.00	\$30,000,000.00
Modular office / laboratory facilities (Design, fabrication, supply, install)	\$100,000,000.00	\$30,000,000.00
Mechanical (Construction, maintenance and alterations)	\$75,000,000.00	\$25,000,000.00
Fire Suppression, Fire Protection	\$30,000,000.00	\$10,000,000.00
Demolition, decontamination, and renovations of various facilities	\$75,000,000.00	\$25,000,000.00
Asphalt paving	\$30,000,000.00	\$10,000,000.00

G.6 CONDITIONS OF TASK ORDER

1. Any services to be furnished under this MATOC will be ordered by issuance of Task Orders by the individuals designated. Any Contract Administrator is authorized to issue orders under the MATOC contracts within the individual's warrant levels.
2. Task Orders may be issued from date of MATOC award until the last day of the basic period and any options exercised. The total term of the MATOC and any options may not exceed seven years. However, Task Orders issued during the MATOC period may be completed in accordance with the terms of the Task Order after the MATOC period has expired.
3. Task Orders may be issued in any contract type as determined by the Contract Administrator.
4. All Task Orders are subject to the terms and conditions of this Contract. In the event of conflict between a Task Order and this Contract, this Contract will take precedence. The Contractor reserves the right to incorporate additional clauses, as appropriate, into individual Task Orders solicitations and awards.

G.7 PROCEDURES FOR REQUEST FOR PROPOSAL AND AWARD OF TASK ORDERS

1. Requests for Task Order Proposals (RTP)

When the Contractor requires work under the MATOC, a Request for Task Order Proposal (RTP) or similar will be issued to the MATOC Awardee, as appropriate (see Section H.3 d). Projects will be of varying size and complexity. The RTP will generally include as applicable:

- 1.1. The requirement Statement of Work (specifications, drawings, etc.)
- 1.2. Period of Performance and Completion of Work schedule
- 1.3. Instructions for completing the proposal in response to the RTP
- 1.4. Additional clauses/provisions unique to the Task Order not included in this MATOC contract.
- 1.5. Pre-bid date/time
- 1.6. Project on site

- 1.7. The basis of award that will be used to select a Subcontractor, as well as criteria that will be most advantageous to the Contractor. The Contractor may use lowest price technically acceptable or Best Value.
 - 1.8. Liquidated damage amount if applicable
 - 1.9. Bonding requirement
 - 1.10. Construction Wage Rate Requirements
 - 1.11. Other applicable information
2. Task Order Competition
- 2.1. A wide variety of projects, determined by the Contract Administrator to be within the general scope of this contract, will be offered to MATOC Subcontractors for the purpose of providing a price or best value proposal. Individual Task Order awards on those projects will be based on competitive proposals to the maximum extent possible, received exclusively from MATOC Subcontractors.
 - 2.2. Firm fixed price and fixed unit price Task Orders with defined deliverables or completions are the preferred pricing arrangements for Task Order Releases issued under this Contract, including any modifications made thereto. To the extent that firm fixed pricing arrangements are impracticable, Contract Administrator, at its sole discretion, may negotiate other types of task order pricing arrangements. Such arrangements may include, but are not limited to, time and material, cost plus fixed fee, and fixed price incentive fee.
 - 2.3. Subcontractors will only be requested for task order proposals based on their awarded capability criteria as defined in Section B.5.
 - 2.4. To satisfy the Contractor's Small Business goals/targets, the Contract Administrator may set aside a Task Order for participation exclusively by awardees in a specified Small Business socioeconomic group. The Contractor also reserves the right to set aside Task Orders for other authorized socioeconomic programs approved for use during the existence of this MATOC.
 - 2.5. All eligible MATOC Subcontractors, unless a Task Order is set aside for a socioeconomic group within their awarded Areas of Consideration, will be provided a fair opportunity to compete for Task Order offered under this Contract unless the exceptions stated in H.4 apply.
 - 2.6. Past performance on work completed under these contracts, or work completed at Los Alamos National Laboratory will be considered. Timely performance by the Subcontractor is very important. Failure to prosecute the work diligently in compliance with scope, quality, safety, and schedule requirements on a currently awarded task order may be cause for the Contract Administrator to exclude a Subcontractor from the competitive fair-opportunity pool for future task orders. When the Subcontractor's delinquency has been cured, it may be considered for competition in future task orders. Current Subcontractor work load may be considered.
 - 2.7. Subcontractors are expected to submit an offer on all task orders requested. In the event a Subcontractor is unable to submit an offer in response to it, the Subcontractor shall notify the Contract Administrator as soon as practicable.
 - 2.8. In the event a Subcontractor fails to submit an offer on a reasonable number of task orders offered, the Contract Administrator will notify the Subcontractor when their offer record indicates an unacceptable number of offerings. In the event the Subcontractor fails to correct this situation, the Contractor reserves the right to unilaterally cancel the MATOC without further obligation and engage another potential MATOC Offeror.

- 2.9. The Subcontractor will not be reimbursed for proposal preparation, attendance during negotiations, site visits, walk-through, or other pre-Task Order costs.
- 2.10. Pre-Bid Meeting and Site Visit
- 2.10.1. Upon receipt of the notification from the Contract Administrator, the MATOC Subcontractor should respond by attending the pre-bid meeting. The project on-site conference may be scheduled as early as two days from issuance of the "Request for Task Order Proposal."
- 2.10.2. Offeror's attendance at walk-through (site visits) is considered vital to preparation of competitive and cost-effective offers, and to understanding the total results desired by the Contractor. In some cases, a walk-through may be determined mandatory in order for a Subcontractor to submit a proposal. However, failure to attend walk-through may not be used as an excuse for omission or miscalculation in offers.
- 2.11. Proposal Contents.
- 2.11.1. Depending upon the requirements of each Task Order, the Subcontractor will typically provide a price proposal in response to an RTP. Subcontractors shall respond within the number of calendar days stated in the RTP by submitting a proposal to the Contract Administrator in accordance with requirements stated in the RTP.
- 2.11.2. Proposal Pricing Schedules. The Contractor's payment for the items listed in the Pricing Schedules of individual Task Orders will constitute full compensation to the Subcontractor for-- (1) Furnishing all plant, labor, equipment, services, appliances, and materials; and (2) Performing all operations required to complete the work in conformity with task order and MATOC. The Subcontractor shall include all costs to perform the work in the prices for items listed in the Pricing Schedule, whether the costs are specifically listed in the Pricing Schedule or not.
- 2.11.3. Deviations and Alternate Proposals. Subcontractors shall specifically identify all deviations from the minimum RTP requirements in a cover letter in a section entitled "Alternate Proposal" or "Deviations." This requirement applies for all proposal revisions and Final Proposal Revisions. Proposed alternates/deviations shall specifically address in detail the alternate and rationale for proposing. Alternate solutions and deviations shall include separate pricing information. If an alternate/deviation is proposed, the work as specified in the solicitation must also be priced.
- 2.12. Task Order Evaluation Method and Procedures
- 2.12.1. The basis of award will be a confirming offer, the price or cost of which may not be the lowest. Contractor intends to select the most advantageous, responsive, and responsible proposal, considering price and other factors considered. Each RTP will describe the criteria to be utilized in evaluating Task Order proposals.
- 2.13. Award Decision
- 2.13.1. Whenever possible, award will be made without discussions.
- 2.13.2. If discussions are required, each Subcontractor will be requested to provide a final proposal revision, unless eliminated from discussions through the establishment of a competitive range.

- 2.13.3. If the Contract Administrator determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contract Administrator may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals.

2.14. Task Order Issuance

- 2.14.1. Notification of Task Order award may be made via mail, or electronic means. Notification by email is the preferred method. A MATOC Subcontractor shall keep an up-to-date email address on file with the Contract Administrator at all times. Backup addresses are encouraged. If mailed, a Task Order is considered "issued" when the Contractor provides a bilateral order.
- 2.14.2. Plans and Specifications. The Subcontractor will be provided one copy of the Statement of Work (with pertinent supplemental specifications and construction drawings and other documents as applicable) upon issue of each Task Order. The Contractor may provide these as hard copy or as electronic media, such as web postings, email, or CD ROM, at its option. All further reproduction shall be at the Subcontractor's expense.
- 2.14.3. Notice to Proceed (NTP) will be issued separately after receipt of acceptable performance and payment bonds, if applicable, and all pre-mobilization requirements as defined in the MATOC and task orders.
- 2.14.4. All terms and conditions of this MATOC, including clauses, are incorporated by reference into each Task Order unless specifically excluded in writing.

G.8 ORDERING PROCEDURES FOR SOLE SOURCE ORDERS AND MODIFICATIONS

1. Circumstances Permitting Sole Source Orders. All MATOC Subcontractors will be given a fair opportunity to submit a proposal on projects unless, at the sole discretion of the Contractor the Contract Administrator determines:
 - 1.1. An urgent need exists and seeking competition would result in unacceptable delay;
 - 1.2. Only one Subcontractor is capable at the level of quality required because the requirement is unique or highly specialized; or
 - 1.3. A sole source is in the interest of economy and efficiency as a logical follow-on to an order already competed; or
 - 1.4. It is in the best interest of the Contractor and the government to award a task on a sole source basis.

G.9 CHANGES TO SUBCONTRACTORS BONDING LIMIT

Award of a Task Order to a Subcontractor under this MATOC will be limited to the dollar value of the bonding capacity under which it is awarded. In the event a Subcontractor desires to increase the value of their individual task order limit as defined by their bonding capacity and past performance they may submit a request to the Contract Administrator. The Contract Administrator may ask for any documentation they feel necessary to verify the Subcontractor's ability to perform at the higher limit, including but not limited to requesting information on bonding and financial capability. Requests may be submitted not later than 60 days prior to any option period being exercised and will be

effective at the beginning of the next option period. The granting of the higher task order limit is at the sole discretion of the Contractor.

G.10 ASSESSMENT OF SUBCONTRACTOR'S PERFORMANCE (AUG 2014)

Contractor shall periodically assess Subcontractor's performance to document how well Subcontractor performed to the various standards/requirements described in this contract. That information will be used by Contractor in the future to determine whether Subcontractor will be invited to submit proposals/bids for future solicitations for similar work.

G.11 CORRESPONDENCE PROCEDURES

1. Routine communication between Contractor and Subcontractor shall be in letter format. Letters may be sent via email as a portable document format (PDF) file, but shall still be in letter format. Such communication shall not be identified as Requests for Information (RFIs) nor shall they substitute for any other written requirement pursuant to the provisions of the Contract.
2. Correspondence Numbering – All correspondence shall be between Contractor and Subcontractor and shall be uniquely numbered by both Contractor and Subcontractor.
3. Correspondence Register – Subcontractor shall maintain a register of all correspondence with Contractor noting the sequence number, the correspondence date, the originator, and a description (subject, reference, etc.).
4. All communications (with the exception of RFIs and responses thereto, Contract Document Transmittals, and Contract Daily Reports, and Invoices) will be covered by written correspondence.
5. All written correspondence from Subcontractor shall be signed by Subcontractor's authorized representative and shall be issued and/or delivered to Contractor's authorized representative. Correspondence from Contractor shall be issued in the name of Contractor's authorized representative, and shall be signed by Contractor's authorized representative.
6. All formal correspondence from Subcontractor will be addressed to Contractor's authorized representative and delivered to Contractor's Contract Manager.
7. Any correspondence not issued in accordance with this procedure will not have contractual validity and Subcontractor waives any entitlement, recourse, or otherwise under this Contract that may arise as a result of acting in accordance with unofficial correspondence.
8. Use of email and other forms of electronic communication
 - 8.1. Communication between Subcontractor and Contractor by email is permissible for the expedient transfer of preliminary technical data and non-contractual information. Email may also be used as a means of transmission of signed documents attached as PDF files.
 - 8.2. Emails or documentation included therein, with the exception of signed documents attached as PDF files, sent from Subcontractor to Contractor are not accepted as fulfillment of any requirement of the Contract or obligation of Subcontractor under the Contract. Subcontractor shall provide all contractually required submittals, notifications, and the like by means of official correspondence or formal document transmittal as set forth elsewhere in this Attachment.

- 8.3. Emails or documentation included therein, with the exception of signed documents attached as PDF files, sent from Contractor to Subcontractor do not, in themselves, constitute either acceptance of a Subcontractor's proposal or an instruction under the terms of the Contract, either of which may be or may result in a change to the Contract. Subcontractor shall not act on any email that Subcontractor believes results in a change to the Contract whether or not the email by Contractor stated that it constituted a change. Subcontractor shall request formal written confirmation of any instruction that may be or may result in a change and shall receive this confirmation through formal correspondence, Document Transmittal, RFP, Directed Change Order (DCO), or Contract Modification, before acting on such an instruction.

PART I – THE SCHEDULE

SECTION H – SPECIAL CONTRACT REQUIREMENTS

H.1 DEFINITIONS (NOV 2018)

“Contractor” means Triad National Security, LLC (Triad), a limited liability company, which manages and operates Los Alamos National Laboratory (LANL) pursuant to Contract No. 89233218CNA000001 between the U.S. DOE/NNSA and Triad. also means Subcontract Administrator, the individual authorized to act on behalf of Triad.

“Beneficial Occupancy” or “Use and Possession Prior to Completion,” if used in this contract or task order, means the procedure where Contractor occupies or makes use of any part of the Work, in accordance with General Condition GC-29, USE OF COMPLETED PORTIONS OF WORK.

“Days” means calendar days unless otherwise provided.

“FAR” means the Federal Acquisition Regulations in 48 CFR Chapter 1.

“Final Acceptance” means Contractor’s acceptance of all of the Work as a whole following Subcontractor completion and successful inspection and testing. It is conclusive except for latent defects, gross mistakes, or fraud.

“Final Completion,” if used in this contract or task order, means the point when all of the Work reasonably inferable from Contract Documents has been completed, as determined by Contractor. This includes the final cleanup of the premises, completion of all final inspection punch list items, and submission of all remaining contractual documents.

“Government” means the United States of America and includes the DOE/NNSA.

“Jobsite” means a site at which the Work shall be performed under this contract.

“Laboratory” or “LANL” means the geographical location of Los Alamos National Laboratory, a federally funded research and development center owned by the DOE/NNSA.

“Contract Documents” denotes the Contract Form of Agreement and those appendices and exhibits referenced thereon.

“Subcontractor” means the entity listed on the Contract Form of Agreement, and its authorized representatives, successors, and permitted assigns.

“Substantial Completion,” if used in this contract or task order, means the point when the Work or a designated portion of the Work is sufficiently complete, in accordance with the Contract Documents, so that Contractor may use or occupy the Work or designated portion thereof for its intended purpose, as determined by Contractor. Additional requirements for achieving Substantial Completion are provided in Exhibit D, Scope of Work and Technical Specifications.

“Work,” “Goods,” or “Services” means all the stated or implied activities to be performed by Subcontractor as required by the Contract Documents, including the furnishing and supervision of all technical personnel and labor, and the supply of equipment, materials, and supplies necessary to perform this Contract.

H.2 ORDER OF PRECEDENCE

In resolving conflicts, discrepancies, errors or omissions between Contract Documents, the following order of precedence from highest to lowest shall be used, with the acknowledgement that a particular contract may not be comprised of all the documents listed below.

- (1) Section A – Triad National Security, Inc. Solicitation, Offer, and Award
- (2) Section I – Contract Clauses
- (3) Section G – Administrative Data
- (4) Section H – Special Contract Requirements
- (5) Attachment J-1 - Exhibit “F” – Environmental, Safety and Health Requirements
- (6) Attachment J-2 - Exhibit “G” – Security Requirements
- (7) Attachment J-3 - Exhibit “H” – Quality Assurance Requirements
- (8) Section B – Supplies or Services and Prices/Costs
- (9) Section C – Statement of Work
- (10) Task Order Specific – Technical Specifications
- (11) Task Order Specific – Drawings
- (12) All other contract documents

H.3 TASK ORDERS INCLUDING DESIGN AND CONSTRUCTION SERVICES (DESIGN BUILD TASK ORDERS)

- a) Conflict of Interest: To avoid conflict of interest issues on Design Build Task Orders the following will apply.
 - i) In the event an architectural and engineering (AE) firm has prepared or otherwise participated in the development of the Design Build RFP documents under a Task Order with the Contractor, that AE will be precluded from participating as a member of the design build MATOC team for the affected project. The Notice of Proposed Task Order will identify any firm(s) that this exclusion shall apply to.
- b) Procedures for Design Build Projects: Design Build Projects for the purpose of this Contract are divided into two categories: Complex and Non-Complex.
 - i) Non-Complex Design Build Projects: An RTP may be issued for design and construction along with, but not limited to, a Statement of Work, Design Criteria, Project layout or similar data and a cost target for the project. Non-complex Design Build Projects will generally not require the services of an AE firm but will require a Registered Architect (RA) or Professional Engineer (PE) stamp certain requirements. It is the Subcontractor’s responsibility to design the project so that it can be constructed within the Task Order value. Failure to do so is at the Subcontractor’s risk.
 - ii) Complex Design Build Projects:
 - (a) The Contract Administrator will normally issue an email soliciting interest on these type projects. MATOC Subcontractors who are interested shall respond affirmatively to the email within the time specified or be eliminated from further correspondence concerning the offering. These type task orders will be solicited using the following process.
 - (b) The RTP issued for design and construction (Design Build) may include, but is not limited to, a statement of work, design criteria, and/or concept design and a cost target for the project. In addition, the Subcontractor may be provided with a performance based specifications and design criteria. The performance-based specifications and design criteria will provide the Subcontractor with the Contractor’s design and performance objectives. The Subcontractor will be responsible for the

design services as well as each every cost for construction as described in the task order. A detailed proposal will be required to include the price proposal.

- c) Design Reviews.
 - i) Review(s) of the design will be accomplished in accordance with the Statement of Work for each Task Order. The Subcontractor is responsible for submitting the number of copies to the addresses identified when review is not accomplished at the Subcontractor's office. Design subcontractor in accordance with the procedure identified in this Contract as modified in the Task Order.
 - ii) The time required by the Contractor to review submissions made during design or construction may vary with the Task Order. However, the Contractor will attempt to expedite the review. The review periods, as established in the Task Order SOW are the maximum anticipated periods required. Every effort will be made to accomplish reviews within shorter periods. Over-the-shoulder reviews will be used to the maximum extent practicable.
 - iii) The Subcontractor is responsible for incorporation of review comments as soon as possible and within the time scheduled in the Task Order.

H.4 GUARANTEES

- (a) Subcontractor guarantees Contractor and Owner/United States Government that the Work shall comply strictly with the provisions of this Contract and all specifications, drawings, and standards referred to in this Contract or thereafter furnished by Contractor, and that the Work shall be first-class in every particular and free from defects in materials and workmanship and in any design or engineering furnished by Subcontractor. Subcontractor further guarantees Contractor and Owner/United States Government that all materials, equipment, and supplies furnished by Subcontractor for the Work shall be new, merchantable, of the most suitable grade, and fit for their intended purposes. Without limitation of any other rights or remedies of Contractor or Owner/United States Government, if any defect in the Work in violation of the foregoing guarantees arises within the period set forth below, Subcontractor shall, upon receipt of written notice of such defect, promptly furnish, at no cost to Contractor or Owner/United States Government, design and engineering, labor, equipment, and materials necessary to correct such defect and cause the Work to comply fully with the foregoing guarantees.
- (b) Subcontractor's guarantees set forth in paragraph (a), above, shall extend for twenty-four (24) months after the date of final written acceptance of the Work by Contractor, or eighteen (18) months after the start of regular operation or use of the Work by Contractor, whichever occurs first. Any period wherein the Work is not available for use due to defects in materials, workmanship, or engineering furnished by Subcontractor shall extend the guarantee period by an equal period of time.
- (c) Design and engineering, labor, equipment, and materials furnished by Subcontractor pursuant to paragraph (a) to correct defects shall be guaranteed by Subcontractor in accordance with the guarantees set forth in paragraph (a) for a period of eighteen (18) months from the date of completion of the correction, or for the remainder of the guarantee period set forth in paragraph (b) above, whichever is longer.
- (d) In the event Subcontractor has been notified of any defects in the Work in violation of Subcontractor's foregoing guarantees and fails to promptly and adequately correct such defects, Contractor and Owner/United States Government shall have the right to correct or to have such defects corrected on the account of Subcontractor, and Subcontractor shall promptly pay Contractor or Owner/United States Government the costs incurred in correcting such defects.

- (e) Subcontractor shall include, at a minimum, the foregoing guarantee requirements in any lower-tier subcontract that it places.

H.5 CONDITIONS AND RISK OF WORK

Subcontractor represents that, to the extent necessary to perform the Work, Subcontractor has examined and acquainted itself with the conditions relevant to the Work, the plant site, and its surroundings, and Subcontractor assumes the risk of such conditions and will fully complete the Work for the stated Contract Price. Except for items and information which Contractor is expressly obligated under this Contract to furnish to Subcontractor, information on the plant site and local conditions at such site furnished by Contractor or Owner is not guaranteed by Contractor or Owner and is furnished only for the convenience of Subcontractor.

H.6 SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK

- (a) The Subcontractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to
 - 1) conditions bearing upon transportation, disposal, handling, and storage of materials;
 - 2) the availability of labor, water, electric power, and roads;
 - 3) uncertainties of weather, river stages, tides, or similar physical conditions at the site;
 - 4) the conformation and conditions of the ground; and
 - 5) the character of equipment and facilities needed preliminary to and during work performance.
- (b) The Subcontractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the Contractor, as well as from the drawings and specifications made a part of this contract. Any failure of the Subcontractor to take the actions described and acknowledged in this paragraph will not relieve the Subcontractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the Contractor.
- (c) The Contractor assumes no responsibility for any conclusions or interpretations made by the Subcontractor based on the information made available by the Contractor. Nor does the Contractor assume responsibility for any understanding reached or representation made concerning conditions which can affect the Work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract.

H.7 DIFFERING SITE CONDITIONS

- (a) The Subcontractor shall promptly, and before the conditions are disturbed, give a written notice to the Contractor of the following:
 - (1) Subsurface or latent physical conditions at the site which differ materially from those indicated in this contract; or
 - (2) Unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the Contract.
- (b) The Contractor shall investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in the Subcontractor's cost

of, or the time required for, performing any part of the work under this contract, whether or not changed as a result of the conditions, an equitable adjustment shall be made under this clause and the Contract modified in writing accordingly.

- (c) No request by the Subcontractor for an equitable adjustment to the Contract under this clause shall be allowed, unless the Subcontractor has given the written notice required; provided that the time prescribed in paragraph (a) of this clause for giving written notice may be extended by the Contractor.
- (d) No request by the Subcontractor for an equitable adjustment to the Contract for differing site conditions shall be allowed if made after final payment under this contract.

H.8 INTENT OF SPECIFICATIONS AND DRAWINGS

- (a) The specifications and drawings may not be complete in every detail. Subcontractor shall comply with their manifest intent and general purpose, taken as a whole, and shall not make use of any errors or omissions therein to the detriment of the Work. Should any conflict, error, omission or discrepancy appear in the drawings, specifications, instructions, in work done by others, or in site conditions, Subcontractor shall notify Contractor in writing at once and Contractor will issue written instructions to be followed. If Subcontractor proceeds with any of the Work in question before receiving such instructions, then required corrections shall be at Subcontractor's expense.
- (b) Subcontractor shall not deviate from the specifications and drawings without prior written approval from Contractor.
- (c) Materials shall not be substituted for those specified, nor shall "or equal" items be furnished pursuant to the specifications without Contractor prior written approval.

H.9 STANDARDS AND CODES (JUN 2009)

Wherever references are made in this contract to standards or codes in accordance with which the Work under this contract is to be performed, the edition or revision of the standards or codes current on the effective date of this contract shall apply unless otherwise expressly stated. In case of conflict between any referenced standards and codes and any Contract Documents, the provision entitled "Contract Interpretation" shall apply.

H.10 COOPERATION WITH OTHERS (JUN 2009)

Contractor, Government, other government agency employees, other contractors and other subcontractors may be working at the Jobsite during the performance of this contract and Subcontractor's work or use of certain facilities may be interfered with as a result of such concurrent activities. Contractor reserves the right to require Subcontractor to schedule the order of performance of the Work to minimize interference with work of any of the parties involved.

H.11 OVERSIGHT OF WORK BY SUBCONTRACTOR (JUN 2009)

At all times during performance of this Contract and until the Work is completed and accepted, Subcontractor shall directly oversee the Work, and when Work is performed on site at LANL, assign and have on site a competent individual, who is satisfactory to Contractor, who has authority to act for Subcontractor.

H.12 RESPONSIBILITY FOR WORK, PHYSICAL SECURITY AND PROPERTY (JUN 2009)

(a) Work in Progress, Equipment, and Material. Subcontractor shall be responsible for and shall bear any and all risk of loss or damage to work in progress and, pursuant to the provision entitled "Title and Risk of Loss," to equipment and materials.

(b) Delivery, Unloading, and Storage. Subcontractor's responsibility for materials and plant equipment required for the performance of this contract shall include:

- (1) Receiving and unloading;
- (2) Storing in a secure place and in a manner subject to Contractor's review. Outside storage of materials and equipment subject to degradation by the elements shall be in weather tight enclosures provided by Subcontractor;
- (3) Delivering from storage to construction site all materials and plant equipment as required; and
- (4) Maintaining complete and accurate records for Contractor's inspection of all materials and plant equipment received, stored and issued for use in the performance of the contract.

(c) Custody

- (1) Subcontractor shall, at all times, conduct all operations under this contract in a manner to avoid the risk of loss, theft, or damage by vandalism, sabotage, or any other means to any equipment, materials, or other property in its custody at the Jobsite. Subcontractor shall continuously inspect all equipment, materials and property within its custody and control and shall be solely responsible for discovery and correction of any conditions that constitute a risk of loss or damage.
- (2) Subcontractor shall comply with Contractor's and Government's security requirements for the Jobsite. Subcontractor shall cooperate with Contractor and Government on all security matters and shall promptly comply with any project security arrangements established by Contractor or Government. Such compliance with these security requirements shall not relieve Subcontractor of its responsibility for maintaining proper security for the items in its custody, nor shall it be construed as limiting in any manner Subcontractor's obligation with respect to all applicable laws and regulations and to undertake reasonable action to establish and maintain secure conditions at the Jobsite.

(d) Interface. Subcontractor shall plan and conduct its operations so as not to:

- (1) Enter upon lands in their natural state unless authorized by Contractor;
- (2) Damage, close, or obstruct any utility installation, highway, road, or other property until permits and Contractor's permission therefor have been obtained;
- (3) Disrupt or otherwise interfere with the operation of any pipeline, telephone, electric transmission line, ditch, or structure unless otherwise specifically authorized by this contract; or
- (4) Damage or destroy cultivated and planted areas, and vegetation such as trees, plants, shrubs, and grass on or adjacent to the premises which, as determined by Contractor, do not interfere with the performance of this contract. This includes damage arising from performance of Work by operating equipment or stockpiling materials.

(e) Subcontractor shall not be entitled to any extension of time or compensation on account of Subcontractor's failure to protect all facilities, equipment, materials, and other property as described herein. All costs in connection with any repairs or restoration necessary or required by reason of unauthorized obstruction, damage or use shall be borne by Subcontractor.

H.13 SC-112 REGIONAL PURCHASING PRICING PREFERENCE (APR 2014)

In accordance with Appendix M of the Triad National Security, LLC (Triad) contract with DOE/NNSA, Triad will maximize procurement opportunities for Northern New Mexico (NNM) small business concerns and economic development companies representing the pueblos of Ohkay Owingeh, San Ildefonso, and Acoma by providing the following two pricing preferences when evaluating bids/offers submitted in response to a Triad solicitation.

- a. In acquisitions exceeding \$100,000, the price preference will be given by adding 10% to the proposed total price/cost (including priced options) to an offeror's bid/offer whose business does not meet the definition of a NNM small business concern.
 1. A NNM small business concern is a small business that is actively engaged in doing business in NNM, has an operative business location in NNM, and uses labor from NNM. NNM includes the counties of Taos, Santa Fe, Rio Arriba, Sandoval, Mora, San Miguel, and Los Alamos, and the eight regional Pueblos of Nambe, Picuris, Pojoaque, San Ildefonso, Ohkay Owingeh (formerly known as San Juan), Santa Clara, Taos, and Tesuque.
 2. If a business claims to be a NNM small business concern, it must demonstrate to Triad's satisfaction when requested, through the submission of New Mexico gross receipts tax and unemployment compensation tax forms or otherwise, that for the calendar year preceding the submission of its bid/offer that:
 - (i) it has been properly authorized to do business and has been operating in NNM with a staff of three or more full time equivalent employees (of which 51% must reside in NNM), and that it currently has a facility in NNM that can support the business activity contemplated by the Statement of Work / Scope of Work; or
 - (ii) it has historically operated in NNM with two or less full time equivalent employees who reside in NNM, it is independently owned (i.e., its owner(s) exercise(s) close control over operations and decisions which are not subject to control or the power to control by others), its majority ownership interest is held by residents of NNM, it has been properly authorized to do business in NNM and it currently has a facility in NNM that can support the business activity contemplated by the Statement of Work / Scope of Work.
- b. In addition to the pricing preference specified in paragraph "a", in acquisitions exceeding \$2,000,000 a price preference will be given by deducting 5% from the proposed total price/cost (including priced options) of an offeror's bid/offer whose business is a part of the Triad Pueblo Business Alliance.
- c. Examples of the application of the regional purchasing pricing preferences are shown below:

Example A:

Offeror A (not a NNM small business concern) bids \$1,200,000

Offeror B (is a NNM small business concern) bids \$1,300,000

Offeror C (is a NNM small business concern) bids \$1,400,000

Based on the pricing preference given to NNM small business concerns, an additional 10% will be added to Offeror A's bid for evaluation purposes. Consequently, Offeror A's bid will be deemed to be \$1,320,000 (i.e., \$1.2M plus 10%).

Example B:

Offeror A (not a NNM small business concern) bids \$2,100,000

Offeror B (a NNM small business concern) bids \$2,300,000

Offeror C (a NNM small business concern) bids \$2,400,000

Offeror D (an Acoma pueblo business enterprise) bids \$2,350,000

Based on the pricing preference given to NNM small business concerns, an additional 10% will be added to Offeror A's bid for evaluation purposes. Consequently, Offeror A's bid will be deemed to be \$2,310,000 (i.e., \$2.1M plus 10%). In addition, based on the pricing preference given to Triad Pueblo Business Alliance Companies, Offeror D's bid will be reduced by 5% for evaluation purposes. Consequently, Offeror D's bid will be deemed to be \$2,232,500 (i.e., \$2.35M less 5%).

H.14 SC-113 SUBCONTRACTOR'S REGIONAL AND COMMUNITY DEVELOPMENT PLAN

(JUN 2009) – TASK ORDER BASIS

- (a) Subcontractor will begin developing a Subcontractor's Regional and Community Development Plan (SRCDP) immediately upon notice of award and shall deliver its proposed SRCDP to the Contractor for review and approval within 60 days after notice of award. The Subcontractor's approved SRCDP shall be incorporated into the contract by reference through a contract modification, and shall apply with the same force and effect as if incorporated in full text.
- (b) During performance of the contract, the Subcontractor shall maintain records, including receipts, payroll information, and any other documents that demonstrate Subcontractor's compliance with its SRCDP. Subcontractor shall submit reports to Contractor semi-annually documenting its compliance with its SRCDP and, if requested by Contractor, shall provide evidence to substantiate any statement contained in a report.

H.15 SC-114 SUBCONTRACTOR'S SMALL BUSINESS SUBCONTRACTING PLAN

(NOV 2018) – TASK ORDER BASIS

- (a) Unless exempt, Subcontractor shall comply with the requirements set forth in —Section I, FAR clause 52.219-9, Small Business Subcontracting Plan. Subcontractor's Small Business Subcontracting Plan (Plan) is subject to Contractor's approval, and once approved is incorporated into this contract by reference as if fully set forth herein.
- (b) Contracting reports shall be submitted on the Individual Subcontracting Report (ISR) and the Summary Subcontracting Report (SSR) in accordance with the instructions on the Electronic Subcontracting Reporting System (eSRS) website at <http://www.esrs.gov>. Subcontractor shall ensure that its lower-tier subcontractors with subcontracting plans submit the ISR and/or the SSR using eSRS.
- (c) ISR data must be submitted online at <http://www.esrs.gov> semi-annually during contract performance for the periods ending March 31 and September 30. A report is also required for each contract within 30 days of contract completion. Reports are due 30 days after the close of each reporting period. Reports are required when due, regardless of whether there has been any contracting activity since the inception of the contract or the previous reporting period.
- (d) SSR data must be submitted online at <http://www.esrs.gov> annually for the twelve month period ending September 30. Reports are due 30 days after the close of each reporting period.

(e) Failure of SUBCONTRACTOR to comply in good faith with its Contractor-approved Plan and the above reporting requirements may be considered a material breach of this subcontractcontract and constitute grounds for termination.

H.16 SUBCONTRACTS WITH TRIAD TEAM MEMBERS AND TEAM MEMBER AFFILIATES (NOV 2018)

As used in this provision:

- (1) Team Members means any of the following entities: Battelle Memorial Institute, The Texas A&M University System, and The Regents of the University of California.
- (2) Team Member Affiliate means any person or entity which is a wholly owned, majority owned, or otherwise an affiliate of any Team Member. The term 'affiliate' is defined at FAR 2.101.

Because of restrictions in the contract between NNSA and Contractor concerning the payment of fee or profit when subcontracting with any Team Member or any Team Member Affiliate, as well as Organizational Conflict of Interest concerns, neither Subcontractor nor any tier of its lower-tier subcontractors or suppliers shall enter into a contract with any Team Member or any Team Member Affiliate to provide goods or services under this contract without the advance written approval of the Subcontract Administrator. In the event that written approval is granted to enter into a contract with a Team Member or a Team Member Affiliate, no fee or profit shall be paid to such Team Member or Team Member Affiliate under the proposed contract. In the event it is later determined that a Team Member or a Team Member Affiliate has been paid a fee or profit, Subcontractor shall reimburse Contractor the amount of this fee or profit.

Subcontractor shall include the substance of this provision in all lower-tier subcontracts and purchase orders.

H.17 PERFORMANCE OF THE WORK BY SUBCONTRACTOR

The Subcontractor shall perform on the site, and with its own organization, work equivalent to at least thirty (30%) percent of the total amount of work to be performed under the Contract. This percentage may be reduced by a supplemental agreement to this Contract if, during performing the work, the Subcontractor requests a reduction and the Contractor determines that the reduction would be to the advantage of the Government.

H.18 CONTRACTOR WORKING DAYS

Unless otherwise approved in writing by the Contract Administrator, Subcontractor's work shall be performed during LANL work days. In addition, Subcontractor shall plan its work in recognition of the 10-year average of adverse weather days experienced in Los Alamos, New Mexico.

A LANL work day means Monday through Friday of each week, except as specified below:

- The days designated as national holidays (i.e., New Year's Day, Martin Luther King, Jr. Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day) are not LANL work days;
- If a national holiday falls on a Saturday or Sunday, the preceding Friday or the following Monday may not be a LANL work day;
- The Friday after Thanksgiving is not a LANL work day;
- The days falling between Christmas Day and New Year's Day are not LANL work days;
- Any day that LANL closes unexpectedly will not be a LANL work day.

H.19 OVERTIME

Unless expressly stated elsewhere in this Contract, Work at the jobsite shall be compatible with Contractor's starting and quitting times or other times approved by Contractor. Scheduled overtime work by Subcontractor must be approved in advance and in writing by Contractor. Subcontractor shall notify Contractor in advance of any incidental spot overtime which Subcontractor elects to work due to such operations as concrete placement, non-disruptable work activities, and emergencies to protect life and/or property. Overtime work, whether scheduled or incidental, shall be to Subcontractor's account unless the compensation therefor is specifically authorized in writing by Contractor. In the event Contractor approves compensation of Subcontractor's overtime in advance, such compensation as separately authorized shall be limited to the actual cost to Subcontractor of the premium portion only of all applicable wages, craft fringe benefits, and payroll burdens imposed by any governmental authority and measured by the compensation payable to employees. To establish the amount of payment, Subcontractor shall submit supporting documents satisfactory in form and content to Contractor for its verification and approval.

H.20 SCHEDULE FOR CONSTRUCTION

(a) SUBCONTRACTOR shall, within ten (10) calendar days following contract award, submit to CONTRACTOR a partial schedule consisting of a precedence network diagram using the critical path method (CPM) to show each individual essential activity in sequence for the first sixty (60) calendar days of work. The diagram shall show durations and dependencies including off-Jobsite activities such as design, fabrication of equipment, procurement, delivery of materials, and items to be furnished by CONTRACTOR or GOVERNMENT.

(b) SUBCONTRACTOR shall, within thirty (30) calendar days following contract award and before the first progress payment is made, submit to CONTRACTOR for its written approval a complete Baseline Schedule consisting of a precedence network diagram using the critical path method (CPM) to show each individual essential activity in sequence to meet the Subcontract Milestones of the Special Condition titled "COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK." The diagram shall show durations and dependencies including off-Jobsite activities such as design, fabrication of equipment, procurement, delivery of materials, and items to be furnished by CONTRACTOR or GOVERNMENT. It shall show total float and free-float times. Float shall not be considered to be for the exclusive benefit of either CONTRACTOR or SUBCONTRACTOR. Extensions of time for performance required under other contract clauses shall be made only to the extent that equitable time adjustments for affected activities exceed the total float available along their paths.

(c) The activity listing shall show the following information for each activity on the diagram:

- Identification by node number;
- A description of each activity, including shop drawings submittal and approval and the ordering and delivery of major materials and equipment to be incorporated into the Work. (The description for site activities should be in sufficient detail to identify the activities by location and/or elevation.)
- The estimated duration for each activity (with the exception of shop drawing approvals and material and equipment deliveries) shall not exceed twenty-one (21) calendar days. One (1) day shall be the smallest time unit used.
- The early start, late start, early finish and late finish dates for each activity and the total float, if any, for each activity.
- The manpower requirements for each activity.
- The major construction equipment required for each activity.

- The sequence, restraints and interfaces between and among SUBCONTRACTOR'S activities, as well as the sequence, restraints and interfaces between SUBCONTRACTOR'S activities and the activities of any separate Subcontractor or known Lower-tier Subcontractor or by CONTRACTOR.
- The Milestone Dates identified in the Special Condition titled "COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK."
- The dollar value loading each activity. The sum of all activity dollar values shall equal the total amount of the Contract.
- Commodity Curves for items selected by CONTRACTOR as follows:

(d) SUBCONTRACTOR shall schedule his work activities to early start and early finish dates.

(e) SUBCONTRACTOR is responsible for determining the sequence and duration of the detailed construction activities. Approval of SUBCONTRACTOR'S Baseline Schedule by CONTRACTOR shall in no way constitute or be construed as an admission or representation by CONTRACTOR that the Baseline Schedule, as approved, is feasible or practical. SUBCONTRACTOR assumes the risk of the practicality and feasibility of the Baseline Schedule.

(f) In addition SUBCONTRACTOR shall submit a complementary and detailed narrative description of its plan for performing the Work. The narrative description shall summarize equipment and personnel requirements by craft to complete a resource loaded schedule.

(g) Upon approval by CONTRACTOR of SUBCONTRACTOR'S Baseline Schedule, SUBCONTRACTOR shall be responsible for maintaining such Baseline Schedule. If at any time SUBCONTRACTOR'S Work is behind schedule, the SUBCONTRACTOR shall submit a recovery plan for getting the Work back on schedule. The plan shall be subject to review and approval by CONTRACTOR.

(h) SUBCONTRACTOR shall promptly inform CONTRACTOR of any proposed change in the Baseline Schedule and narrative and shall furnish CONTRACTOR with a Revised Baseline Schedule and narrative within ten (10) calendar days after approval by CONTRACTOR of such change. The Baseline Schedule and narrative shall be kept up to date, taking into account the actual work progress and shall be revised, if necessary, every thirty (30) calendar days. The Revised Baseline Schedule and narrative shall, as determined by CONTRACTOR, be sufficient to meet the requirements for completion of any separable part and all of the Work as set forth in this contract. Revisions shall not modify Milestone Schedule dates except to reflect contract Change Orders or Amendments.

(i) If SUBCONTRACTOR performs rework on activities that were previously completed or partially completed, and such rework will be performed in more than one financial period:

- previously completed activities shall not be revised;
- partially completed activities must be closed in the current period and their rework scope shall be reflected in new activities;
- new activities, identified as "rework" activities, shall be inserted into the schedule to reflect the scope of the rework and linked to ensure correct sequence of the work; and
- proposed changes to the Baseline Schedule shall be approved by CONTRACTOR as stated in paragraph (h).

(j) During the performance of the Work, SUBCONTRACTOR shall submit periodic reports to CONTRACTOR on the actual progress. Such progress reports shall include the information contained on the document entitled Subcontract Schedule - Required Reports which is incorporated herein by reference on a task order basis.

(k) Schedules and reports shall be furnished in hardcopy and electronic files as specified by CONTRACTOR. PN: This subclause should be tailored to Office/Project requirements, such as

number of hardcopies, electronic copy delivery details, or required scheduling software, e.g. Primavera TM It is important to tie-down such requirements as they have a pricing impact.

(l) To permit electronic exchange of data to the maximum extent, SUBCONTRACTOR shall use Primavera P6 software or CONTRACTOR-approved equal.

H.21 TAXES (JUN 2009)

(a) Subcontractor shall pay all taxes, levies, duties, and assessments of every nature due in connection with the Work under this contract, and shall make any and all payroll deductions and withholdings required by law. Subcontractor agrees to indemnify and hold harmless Contractor and Government from any liability on account of any and all such taxes, levies, duties, assessments, and deductions.

(b) Subcontractor shall with the approval of Contractor apply for and obtain for the benefit of the project any available exemption, deduction or exclusion under applicable laws for which Subcontractor, Contractor or Government qualify.

H.22 NEW MEXICO GROSS RECEIPTS TAX (JUN 2009)

Subcontractor is required to pay such New Mexico Gross Receipts Tax (NMGRT) as may be required by law. Contractor will issue a New Mexico Nontaxable Transaction Certificate (NTTC) to all Subcontractors who provide goods or services to Contractor, on the condition that Subcontractor only uses the NTTC as permitted by New Mexico law. In no event will the payment of NMGRT by Subcontractor or its immediate and lower-tier subcontractors be considered an allowable cost under this contract if Subcontractor or its immediate and lower-tier subcontractors are eligible for applicable deductions or exemptions from NMGRT under New Mexico law.

H.23 CONTRACT CLOSEOUT CERTIFICATION AND RELEASE REQUIREMENTS (JUN 2009)

To administratively close out this contract, Subcontractor shall submit, in addition to other requirements of this subcontract, the following documentation:

(1) Property Status

Include a certification that states the following:

"All Government- and Contractor-furnished property, material, special tooling, and special test equipment furnished, acquired, or generated and accountable to this contract has been consumed, delivered, or otherwise disposed of by transfer, plant clearance, or other authorized means as instructed by Contractor."

(2) Release and Certificate of Final Payment

Subcontractor and each assignee, if any, under an assignment entered into under this contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of, and as a condition precedent to, final payment under this contract, a release in the format and content provided by Contractor, discharging Contractor, Government, and their respective officers, agents, and employees, of and from all liabilities, obligations and claims arising out of or under this contract.

H.24 RELEASE AGAINST CLAIMS (JUN 2009)

Subcontractor shall promptly pay all claims of persons or firms furnishing labor, equipment or materials used in performing the Work hereunder. Contractor reserves the right to require Subcontractor to submit satisfactory evidence of payment and releases of all such claims. Contractor may withhold any payment until Subcontractor has furnished such evidence of payment and release and shall indemnify and defend Contractor and Government against any liability or loss from any such claim.

H.25 BANKRUPTCY (JUN 2009)

In the event Subcontractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, Subcontractor agrees to furnish Contractor written notification of the bankruptcy within five (5) days of the proceedings.

H.26 CONTRACTOR'S RIGHT TO OFFSET (JAN 2010)

Contractor may collect any amount determined by the Subcontract Administrator to be owed to Contractor by offsetting the amount against any payment due to the Subcontractor under any contract it has with Contractor issued pursuant to Contractor's contract with Government for management and operation of Los Alamos National Laboratory. Any challenge to the amount of an offset under this clause shall be resolved under the Disputes clause of this contract.

H.27 RECORDS AND AUDIT (JUN 2009)

(a) Subcontractor shall maintain records and accounts in connection with the performance of this contract which will accurately document incurred costs, both direct and indirect, of whatever nature for a period of three (3) years from final payment unless otherwise specified by applicable law. Contractor, Government, or their representatives shall have the right to examine and copy, at all reasonable times and with advance notification, such records and accounts for the purpose of verifying payments or requests for payment when costs are the basis of such payment and to evaluate the reasonableness of proposed contract price adjustments and claims.

(b) If Contractor or Government establishes uniform codes of accounts for the project, Subcontractor shall use such codes in identifying its records and accounts.

(c) If applicable, FAR clause 52.215-2, Audit and Records – Negotiation shall also apply, when included in Appendix SFA-1, FAR and Department of Energy Acquisition Regulation (DEAR) Clauses Incorporated By Reference.

H.28 BACK CHARGES (JUN 2009)

(a) Contractor may, in addition to any other amounts to be retained hereunder, retain from any sums otherwise owing to Subcontractor amounts sufficient to cover the full costs of any of the following:

- (1) Subcontractor's failure to comply with any provision of this contract or Subcontractor's acts or omissions in the performance of any part of this contract, including, but not limited to, violation of any applicable law, order, rule or regulation, including those regarding safety, hazardous materials or environmental requirements;
- (2) Correction of defective or nonconforming work by redesign, repair, rework, replacement, or other appropriate means when Subcontractor states, or by its actions indicates, that it is unable or unwilling to proceed with corrective action in a reasonable time; and/or

- (3) Contractor agrees to or is required to take action or perform work for Subcontractor, such as cleanup, off-loading, or completion of incomplete work.
- (b) Contractor may also back charge against Subcontractor for work done or cost incurred to remedy these or any other Subcontractor defaults, errors, omissions or failures to perform or observe any part of this contract or set-offs due Contractor from the Subcontractor as a result of other subcontracts with Contractor. Contractor may, but shall not be required to, give Subcontractor written notice before performing such actions or work or incurring such cost.
- (c) The cost of back-charge work shall include:
 - (1) Contractor's incurred labor costs including all payroll additives;
 - (2) Incurred net delivered material costs;
 - (3) Incurred lower-tier supplier and subcontractor costs directly related to performing the corrective action;
 - (4) Equipment and tool rentals at prevailing rates in the jobsite area;
 - (5) Contractor's Government-approved indirect rates for overhead and general and administrative costs, and
 - (6) A reasonable amount for profit on Contractor's efforts.
- (d) Contractor may request Subcontractor's concurrence for Contractor to proceed with the required action or work but Subcontractor's failure to concur shall not impair Contractor's right to proceed.
- (e) Contractor shall separately invoice or deduct from payments otherwise due to Subcontractor the costs as described. Contractor's right to back charge is in addition to any and all other rights and remedies provided in this contract or by law. The performance of back charge work by Contractor shall not relieve Subcontractor of any of its responsibilities under this contract including but not limited to express or implied warranties, specified standards for quality, contractual liabilities and indemnifications, and meeting the Subcontract Milestones of the Special Condition titled "Commencement, Progress and Completion of the Work."

H.29 DELAYS

- (a) In the event Subcontractor or the Contractor is delayed in performing any of their respective obligations in this Contract and such delay is caused by acts of God, war, riots, civil insurrection, acts of the public enemy, accidents, acts of civil or military authority, fires, floods, or earthquakes, beyond the reasonable control of the party delayed, such delay will be excused and the period of such delay will be added to the time for performance of the obligation delayed, unless the date, schedule, or time period for performance of the obligation is expressly stated in this Contract to be guaranteed. In the event any delay due to the foregoing causes or events occurs or is anticipated, the party delayed or anticipating delay shall promptly notify the other party in writing of such delay or expected delay and the cause and estimated duration of such delay. In the event of a delay due to the foregoing causes or events, the party delayed shall, at no cost to the other party, exercise due diligence to shorten and avoid the delay and shall keep the other party advised as to the continuance of the delay and steps taken to shorten or terminate the delay.
- (b) Subcontractor shall, within 24 hours of the commencement of any delay, give to Contractor written notice thereof and of the anticipated effects thereof. Within two (2) working days of the

termination of any delay, Subcontractor shall file a written notice with Contractor specifying the actual duration of the delay. If Contractor determines that a delay was beyond the control and without the fault or negligence of Subcontractor or its lower-tier subcontractors and not foreseeable by Subcontractor at the effective date of this MATOC, Contractor may consider the delay to be excusable and will determine the duration of the delay and extend the time of performance of this Contract thereby.

(c) Subcontractor shall not be entitled to, and hereby expressly waives recovery of, any damages suffered by reason of excusable delays, and extension of time shall constitute the sole liability of Contractor and Owner, and Subcontractor's sole remedy for delays.

H.30 STOP WORK IN EVENT OF IMMINENT DANGER

The Subcontractor shall immediately cease any activity that is imminently dangerous to the life or health of workers, the public, or the environment. In the event of imminent danger, any Federal or Triad employee is authorized to instruct the Subcontractor to stop work. The Subcontract Administrator must be contacted immediately after the event such that a written notice to suspend work can be issued in accordance with the Suspension clause of this contract. Employees of the Subcontractor shall be apprised of their right to stop work pursuant to this clause. The Subcontractor shall include this clause in all lower-tier subcontracts to be performed at LANL.

H.31 SUSPENSION (JUN 2009)

(a) Contractor may by written notice to Subcontractor suspend the Work under this contract in whole or in part at any time. Upon receipt of such notice, Subcontractor shall discontinue work to the extent specified in the notice; continue to protect and maintain the Work; and take any other steps to minimize costs associated with such suspension.

(b) Upon receipt of notice to resume suspended work, Subcontractor shall immediately resume performance under this contract to the extent required in the notice.

(c) If Subcontractor intends to assert a claim for equitable adjustment under this clause it must, pursuant to the General Condition titled "Changes" and within ten (10) calendar days after receipt of notice to resume work, submit a written notification of claim and within twenty (20) calendar days thereafter a written proposal setting forth the impact of such suspension. Any such claim for equitable adjustment must exclude profit.

H.32 CHANGES

(a) CONTRACTOR may, at any time, without notice to the sureties if any, by written Directed Change Order unilaterally direct additions, deletions or changes, including rescheduling, acceleration or deceleration, to all or any part of the Work and SUBCONTRACTOR agrees to perform such work as changed. If at any time SUBCONTRACTOR believes that acts or omissions of CONTRACTOR constitute a change to the Work not covered by a Directed Change Order, SUBCONTRACTOR must within five (5) calendar days of discovery of such act or omission submit a written Change Notice Request explaining in detail the basis for the request. CONTRACTOR will either issue a Directed Change Order or deny the request in writing.

(b) Subcontractor shall not comply with oral changes in the Work. If Subcontractor believes that any oral notice or instruction received from Contractor will involve a change in the cost, time to perform, or integrity of the Work, it shall require that the notice or instruction be given in writing by a representative with actual authority under Section G. Any costs incurred by Subcontractor to perform oral changes shall be for Subcontractor's account, and Subcontractor waives any and all rights to claim from Contractor or Owner for such costs or additional time to perform the Work as

a result of compliance by Subcontractor with such oral changes.

(c) If any change under this clause directly or indirectly causes an increase or decrease in SUBCONTRACTOR'S cost of, or the time required for, the performance of any part of the Work, whether or not changed by any order, an equitable adjustment shall be made and the contract modified accordingly. If SUBCONTRACTOR intends to assert a claim for such equitable adjustment, it must within five (5) calendar days after receipt of a Directed Change Order, provide written notification of such intent and within a further twenty (20) calendar days a written proposal setting forth the impact of such claim. CONTRACTOR reserves the right to shorten the time periods specified to no more than fourteen (14) calendar days for both written notification of intent and submission of a written proposal. CONTRACTOR shall notify SUBCONTRACTOR in writing of its election to shorten the time periods when it issues a Directed Change Order. SUBCONTRACTOR waives its rights, if any, to an equitable adjustment if it fails to comply with the requirements of this subclause.

(d) Failure by CONTRACTOR and SUBCONTRACTOR to agree on any adjustment shall be a dispute within the meaning of the General Condition titled "DISPUTES."

(e) In addition, in the event of an emergency which CONTRACTOR determines endangers life or property, CONTRACTOR may use oral orders to SUBCONTRACTOR for any work required by reason of such emergency. SUBCONTRACTOR shall commence and complete such emergency work as directed by CONTRACTOR. Such orders will be confirmed by Directed Change Order.

(f) All other modifications to this contract shall be by written Modification signed by both parties.

(g) SUBCONTRACTOR shall proceed diligently with performance of the Work, pending final resolution of any request for relief.

H.33 PRICING OF ADJUSTMENTS (JUN 2009)

Subcontractor's proposals for price adjustments shall comply with the cost principles in FAR Part 31 and any applicable Government agency supplement thereto.

H.34 CONTRACTOR-FURNISHED GOVERNMENT-OWNED RECORDS JUN 2009)

Contractor will, without cost to Subcontractor, formally transmit records to be used in performance of the Work under the Contract. Subcontractor shall, immediately upon receipt thereof, check all records furnished against an inventory, also furnished, and shall promptly notify Contractor of any omissions or discrepancies. Subcontractor shall acknowledge receipt of records by signing and returning a copy of the transmittal.

All government-owned records acquired by Subcontractor under this Subcontract that are in the possession of Subcontractor, shall be subject to inspection, copying, and audit by Contractor or its designees at all reasonable times, and upon the request of Contractor, Subcontractor shall deliver such records to a location specified by Contractor for inspection, copying, and audit. Subcontractor shall prepare and submit annually an inventory of government-owned records in the possession of Subcontractor in accordance with the General Condition entitled "Government Property."

In the event of completion or termination of this Contract, Government-owned records shall be formally transmitted to Contractor or its designees as directed by Contractor.

H.35 GOVERNMENT PROPERTY

(a) The term "property" as used in this clause means property as defined in FAR Part 45.101. Contractor may furnish to Subcontractor property as may be required for performance of Work under this contract, or have Subcontractor acquire such property as mutually agreed. Title to property furnished or acquired shall vest in the Government, and hereafter is referred to as "Government Property." If Subcontractor purchases property for which it is entitled to be reimbursed as a direct item of cost, title shall pass directly to the Government upon delivery of the property to Subcontractor. Title to all other property, the cost of which is reimbursable to Subcontractor, shall pass to the Government upon the earliest of 1) issuance of property for use in performance, 2) processing of property for use in performance, or 3) reimbursement of cost of property. Title shall not be affected by incorporation or attachment to any property not owned by the Government, nor shall any Government property become a fixture or lose its identity because it is affixed to any realty.

(b) Contractor shall deliver to Subcontractor the Government property stated in this contract.

(c) If the property is not suitable for its intended use or is not delivered to Subcontractor as specified in this contract, Contractor shall equitably adjust affected provisions when the facts warrant an equitable adjustment and Subcontractor submits a written request for such adjustment within 14 days of delivery of the Government property. Said equitable adjustment shall be Subcontractor's exclusive remedy.

(d) Subcontractor shall establish and maintain a property control program for use, maintenance, repair, protection, and preservation of Government property consistent with good business practices and/or as may be prescribed by Contractor until disposed of in accordance with this clause. Subcontractor shall cause all Government property to be clearly marked as Government property. Except as may be authorized in writing, Government property shall only be used in the performance of this contract.

(e) Responsibility for loss or damage to Government property shall be determined in accordance with FAR 52.245-2.

(f) Upon completion of the Work under this contract, Subcontractor shall submit, in a form acceptable to Contractor, inventory schedules covering all Government property not consumed in the performance of this contract (including any scrap) and comply with FAR 52.245-1(j), Inventory Disposal, as incorporated.

H.36 PROTECTION OF MATERIALS, EQUIPMENT, AND WORK

(a) Subcontractor shall at all times, in accordance with the best practices and at no additional cost to Contractor, preserve and protect material and equipment used by Subcontractor in the execution of the Work from damage or loss due to weather, fire, theft, unexplained disappearance, or other similar casualty.

(b) Subcontractor shall at all times, in accordance with the best practices and at no additional cost to Contractor, protect from damage due to Subcontractor's operations, equipment, and materials (whether stored or installed), paving, structures, and any and all other items on the jobsite belonging to Owner/United States Government, Contractor, or others.

(c) Neither Contractor nor Owner/United States Government shall be responsible for any loss suffered by Subcontractor, or damage to the Work, or to materials, tools, and equipment of Subcontractor or of any other subcontractor, regardless of the cause, including the negligence of Contractor and Owner/United States Government, and Subcontractor assumes responsibility for

any such loss or damage and for any cost of repairing, making good, or replacing any such loss or damage that may be directed by Contractor or Owner/United States Government.

H.37 CONTROL OF CONTRACTOR-FURNISHED MATERIALS

(a) Materials and equipment furnished by Contractor shall be received by Subcontractor in the presence of Contractor's authorized representative and quantities thereof shall be checked jointly by Subcontractor and Contractor. The delivery and acceptance of all such materials and equipment shall be recorded in writing, and Subcontractor shall evidence receipt and acceptance of such materials and equipment by signing forms satisfactory to Contractor.

(b) Subcontractor shall carefully note any visible damage to Contractor-furnished materials and equipment prior to Subcontractor's acceptance of delivery. After Subcontractor has accepted delivery of such materials and equipment, Subcontractor shall assume full responsibility for any loss of or damage to such materials and equipment. Subcontractor shall notify Contractor of any materials and equipment supplied to Subcontractor by Contractor which are surplus and, without additional compensation, shall cooperate with Contractor and Owner in the disposition of such surplus as directed by Contractor.

Subcontractor shall notify Contractor of any lack of, or requirement for, materials and equipment required under this Contract to be supplied by Contractor in sufficient time for Contractor to furnish said materials or equipment in advance of Subcontractor's need. In the event of misfit of Contractor furnished materials or equipment, Subcontractor shall promptly notify Contractor of such misfit.

Subcontractor shall take all reasonable steps to avoid standby time due to such misfit or lack of Contractor-furnished materials or equipment and to continue progress of other portions of Work pending correction of such misfit and/or the furnishing of materials or equipment.

H.38 CARE, CUSTODY, CONTROL, AND TITLE TO MATERIALS AND EQUIPMENT

(a) Good and clear title to all materials and equipment furnished by Subcontractor under this Contract for the Work shall, except as expressly provided otherwise elsewhere in this Contract, pass to Owner/United States Government upon incorporation into the permanent plant. Subcontractor shall ensure that the subcontractor from whom Subcontractor obtains materials and equipment does not retain, encumber, or reserve title to such items, and Subcontractor shall defend, indemnify, and hold Contractor and Owner/United States Government harmless from any such claims by its subcontractor.

(b) Notwithstanding the provisions of paragraph (a) above, the care, custody, and control of Subcontractor's Work incorporated into the permanent plant shall remain with Subcontractor until such Work has been accepted in writing by Contractor and shall thereupon pass to Contractor unless Contractor or Owner/United States Government notify Subcontractor in writing that such care, custody, and control is assumed by Contractor or Owner/United States Government at an earlier date. The taking of possession of such Work pursuant to the clause of this Contract entitled "Possession Prior to Completion," shall not constitute the assumption of care, custody, and control of such Work until such time as such Work has either been accepted in writing by Contractor or Subcontractor has been notified as set forth herein.

(c) Contract revenues representing payments to Subcontractor shall not be considered to be earned by Subcontractor unless and until Subcontractor has paid the current invoices of such Subcontractor. In the event Contractor determines, in its sole discretion, that Subcontractor has become insolvent or is in danger of becoming insolvent, then Contractor is authorized, but not required, to make direct payment to Subcontractor's lower-tier subcontractors with respect to any current or past-due invoices then outstanding. Alternatively, Contractor may, in its sole discretion,

require that contracts between Subcontractor and any such lower-tier subcontractor be assigned to Owner/United States Government or Contractor, and Subcontractor hereby authorizes and consents to any such assignment. Owner/United States Government and Contractor shall be entitled to full credit against any obligations to Subcontractor for any payments made to any Subcontractor under this paragraph (c), whether made pursuant to assigned subcontracts or otherwise. Title to any materials or equipment for which such direct payment is made shall pass directly from such subcontractor to Contractor or Owner/United States Government.

H.39 SECURITY INTEREST (AUG 2014)

(a) Subcontractor grants Contractor a security interest in the Goods and any special tooling and special test equipment as defined in FAR 45.101, Definitions, together with all raw materials, components, and inventory identified thereto ("Collateral"), whether now owned or hereafter acquired, and products and proceeds thereof as security for any and all advances or progress payments now or hereafter made under or in connection with this contract. Subcontractor further agrees to the following:

- (1) to execute such financing statements or other related documents evidencing such security interest as Contractor may request from time to time for the purpose of perfecting or continuing such security interest in the Collateral;
- (2) to allow Contractor to unilaterally file unexecuted financing statements or other related documents to the extent legally permitted without notice to Subcontractor; and
- (3) to provide to Contractor such information as is necessary for filing financing statements or related documents.

(b) Subcontractor agrees that it will, and will permit Contractor's representatives to, appropriately mark and/or segregate the Collateral so as to indicate Contractor's and Government's interest therein. Subcontractor further agrees that it will not sell, assign, or otherwise dispose of any of the Collateral and that it will not create, suffer, or permit to attach or exist any lien or encumbrance thereon, except for the interest granted Contractor hereunder. Subcontractor further agrees that Contractor's right to a security interest is in addition to and not in lieu of any other rights of Contractor or Government to the Collateral under this contract or at law.

(c) Subcontractor shall insert the substance of this clause, including this subclause, in all its purchase orders and subcontracts pursuant to which advances or progress payments are to be made.

H.40 TITLE AND RISK OF LOSS (JUN 2009)

(a) Where Subcontractor fabricates or purchases equipment, materials, or other tangible items (Property) for incorporation into the Work or any of its separate parts, the title of such Property shall be vested in Government when the first of the following events occurs:

- (1) The Property or part thereof is first identifiable as being appropriated to the contract,
- (2) When Contractor pays for the Property or part thereof in accordance with the contract, or
- (3) When the Property or part thereof is dispatched to or from Subcontractor's fabrication yard or to the jobsite.

(b) However, such transfer of title in the Property will be without prejudice of Contractor's right to refuse the Property in case of nonconformity with the requirements of the contract.

(c) Irrespective of transfer of title in the Property, Subcontractor shall remain responsible for risk of loss or damage to work in progress and all Property until Final Acceptance.

(d) Subcontractor shall ensure that the above provisions are imposed upon its suppliers and subcontractors of any tier and shall execute all documents and take all steps necessary or required by Contractor to vest title as specified above.

(e) Title to standard Property of the type usually bought in bulk such as reinforcement bars, piping materials, non-tagged instruments and instrument installation material, cable, and similar items which are not incorporated into the Work shall revert to Subcontractor upon agreement by Contractor that such Property is not required for the Work.

H.41 LABOR, PERSONNEL AND WORK RULES (JUN 2009)

(a) SUBCONTRACTOR shall employ only competent and skilled personnel to perform the Work and shall remove from the Jobsite any SUBCONTRACTOR personnel determined to be unfit or to be acting in violation of any provision of this contract. SUBCONTRACTOR is responsible for maintaining labor relations in such manner that there is harmony among workers and shall comply with and enforce project and Jobsite procedures, regulations, work rules and work hours established by CONTRACTOR and GOVERNMENT.

(b) CONTRACTOR may, at its sole discretion, temporarily or permanently bar from the Work, and any other location within the Los Alamos National Laboratory (LANL), any employee of SUBCONTRACTOR or any of its lower-tier subcontractors by written notice to SUBCONTRACTOR. In the event an employee is excluded from the Jobsite, SUBCONTRACTOR shall, promptly replace such individual with another who is fully competent and skilled to perform the Work. SUBCONTRACTOR shall not be entitled to compensation for any costs resulting from the removal of such employee.

(c) SUBCONTRACTOR shall, to the extent permissible under applicable law, comply with the provisions of all labor agreement(s) which apply to the Work performed under this contract. If required by the terms of any such labor agreement(s), SUBCONTRACTOR shall, immediately after contract award, agree to comply with and be bound by the terms of such labor agreement(s).

(d) If SUBCONTRACTOR has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, SUBCONTRACTOR shall immediately give notice, including all relevant information, to CONTRACTOR.

(e) SUBCONTRACTOR shall include the substance of this clause in all lower-tier subcontracts which require work to be performed at LANL.

H.42 LOWER-TIER SUBCONTRACTORS (AUG 2014)

(a) Subcontractor shall submit to Contractor the list of all lower-tier (at all tiers) subcontractors and their function, together with a point of contact address and telephone number for each such subcontractor. Whenever, for any reason, Subcontractor needs to substitute for, add to, or remove one or more of the aforementioned lower-tier subcontractors from Work under this Contract, Subcontractor shall do so only with the prior approval of Contractor.

(b) Contractor may not approve any proposed additional or substitute lower-tier subcontractor if Contractor has actual knowledge of the proposed additional or substitute lower-tier subcontractor's poor environmental compliance or safety performance under existing contracts with Contractor or any work performed for others even if the proposed lower-tier subcontractor has otherwise met all other environment, safety, and health (ES&H) qualification requirements in Exhibit F of this contract.

(c) Subcontractor's request for Contractor approval of additional or substitute lower-tier subcontractor(s) must include the following information for each proposed additional or substitute lower-tier subcontractor:

- A brief explanation of the need to alter the list of lower-tier subcontractors
- Name, address, contact, and phone number of proposed lower-tier subcontractor
- Summary list of tasks to be performed under this Contract by the proposed lower-tier subcontractor
- ESH qualification data for the proposed lower-tier subcontractor if required under Exhibit F of this Scontract.

H.43 DEPARTMENT OF LABOR WAGE DETERMINATION

When the Service Contract Act is applicable to the performance of Task Orders awarded under this MATOC, the Subcontractor shall comply with the requirements of the U.S. Department of Labor Wage Determination included in the Task Order. The Subcontractor shall comply with the revised wage determination for employees covered by the Service Contract Act.

When the Davis-Bacon Act is applicable to the performance of Task Orders awarded under this MATOC, the Subcontractor shall comply with the requirements of Davis-Bacon Wage Determination incorporated into awarded Task Orders. The Subcontractor shall comply with the wage determination for employees covered by the Davis-Bacon Act.

H.44 DAVIS-BACON WAGE DETERMINATION (JUN 2015) – TASK ORDER BASIS

Subcontractor and all of its lower-tier subcontractors shall, unconditionally, and not less often than once a week, pay not less than the specified prevailing wage rate to all workers employed in the execution of this contract. Applicable Davis Bacon Wage Determination will be incorporated in each Task Order issued pursuant to the Multiple Award Task Order Contract.

Subcontractor is required to post the Department of Labor Wage and Hour Division (WH) Publication 1321 Employee Rights under the Davis-Bacon Act, currently available at <http://www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf>, in a prominent and accessible location at the worksite where it may be seen by all Subcontract employees performing work on the contract. In addition, Subcontractor shall either post, in a prominent and accessible location at the worksite where it may be seen by all Subcontractor employees performing work on the contract, a copy of the wage determination or delivery a copy of the wage determination to each employee on the date that the employee commences work on the contract.

H.45 SERVICE CONTRACT LABOR STANDARDS DETERMINATION (JUN 2017) – TASK ORDER BASIS

Subcontractor shall pay, and ensure its lower-tier subcontractors pay, all service employees employed in the performance of this contract in accordance with the requirements set forth in FAR clause 52.222-41, Service Contract Labor Standards (SCLS), as amended. Applicable Service Contract Wage Determination will be incorporated in each Task Order issued pursuant to the Multiple Award Task Order Contract.

Subcontractor is required to post the Department of Labor Wage and Hour Division (WH) Publication 1313 Employee Rights on Government Contracts, currently available at <http://www.dol.gov/whd/regs/compliance/posters/govc.pdf>, with the applicable wage determination, in a prominent and accessible location at the worksite where both may be seen by all Subcontractor employees performing work on the contract.

H.46 SC-27 WORK-SITE BULLETIN BOARD (JAN 2010) – TASK ORDER BASIS

The Subcontractor shall provide and maintain during the entire period covered by this subcontract a weather-tight bulletin board approximately 3 ft. high by 5 ft. long. It shall be mounted in a conspicuous place at the Jobsite, as approved by the Subcontract Administrator, accessible to all employees of the Subcontractor and lower-tier subcontractors. The bulletin board will remain the property of the Subcontractor. The Subcontractor shall display on the bulletin board all Contractor-provided posters and notices, Subcontractor Safety Program, and any other publications required by this Contract or applicable law to be posted or of interest to workers at the site.

H.47 SUBCONTRACTOR'S CONSTRUCTION EQUIPMENT

Construction equipment obtained or furnished by Subcontractor which is to be used by Subcontractor on the jobsite shall be in first-class operating condition, safe, fit for the uses for which intended, and suitable for the safe, legal, and efficient performance of the Work. Such equipment shall be subject to inspection from time to time by Contractor.

Any such equipment of Subcontractor which is rejected by Contractor as not conforming to the foregoing shall be promptly removed by Subcontractor and replaced with equipment acceptable to Contractor, without additional cost to Contractor and without delaying the schedule for performance of the Work by Subcontractor.

H.48 WORK RULES

Subcontractor shall comply strictly with Contractor's and Owners rules governing the conduct of Subcontractor and Subcontractors employees, agents, and lower-tier subcontractors at and about the jobsite. Subcontractor agrees that it shall ensure that its supervisory personnel, employees, agents, and lower-tier subcontractors at the jobsite comply strictly with such rules. Contractor and Owner reserve the right to, from time to time, revise any such rules, and Subcontractor shall comply fully with such rules as revised in accordance with the foregoing provisions.

H.49 CLEANING UP

The Subcontractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. Before completing the work, the Subcontractor shall remove from the work and premises any rubbish, tools, scaffolding, equipment, and materials that are not the property of the Contractor or Government. Upon completing the work, the Subcontractor shall leave the work area in a clean, neat, and orderly condition satisfactory to the Contractor.

H.50 INDEMNITY

- (a) To the maximum extent permitted by applicable law, but no further, SUBCONTRACTOR hereby releases and shall indemnify, defend and hold harmless CONTRACTOR, GOVERNMENT and their subsidiaries and affiliates and the officers, agents, employees, successors and assigns and authorized representatives of all the foregoing from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorney's fees, costs, expenses, and losses of whatsoever kind or nature in connection with or incidental to the performance of this contract, whether arising before or after completion of the Work hereunder and in any manner directly or indirectly caused, occasioned, or contributed to in whole or in part, or claimed to be caused, occasioned or contributed to in whole or in part, by reason of any act,

omission, fault or negligence whether active or passive of SUBCONTRACTOR, its lower-tier suppliers, subcontractors or of anyone acting under its direction or control or on its behalf.

- (b) The foregoing shall include, but is not limited to, indemnity for:
- (1) Property damage and injury to or death of any person, including employees of CONTRACTOR, GOVERNMENT or SUBCONTRACTOR.
 - (2) The breach by SUBCONTRACTOR of any representation, warranty, covenant, or performance obligation of this contract.
 - (3) Events which are directly or indirectly caused by or incident to the radioactive, toxic and/or hazardous properties of any substances and/or
 - (4) Events which arise out of any state or federal statute relating to radioactive, toxic and/or hazardous properties, such as the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) or Resource Conservation and Recovery Act (RCRA), and shall apply to any clean-up or response costs occasioned by the transport, treatment, storage or disposal by SUBCONTRACTOR or any third party of radioactive, toxic and/or hazardous properties.
- (c) SUBCONTRACTOR specifically waives any immunity provided against this indemnity by an industrial insurance or workers' compensation statute.

H.51 REQUIRED INSURANCE

(a) Subcontractor shall, at its expense, maintain in effect at all times, during the performance of the Work, insurance coverage with limits not less than those set forth below with insurers with an A.M. Best rating of not less than A-VII and under forms of policies satisfactory to Contractor.

- (1) Workers' Compensation with limits and coverage as required by any applicable State and Federal law or regulation.
- (2) Employer's Liability of not less than \$1,000,000 each accident.

The above policy shall include an Insurer's Waiver of Subrogation in favor of Contractor, the Government, each of their members, subsidiaries and affiliates, and the officers, directors and employees of each such entity.

- (3) Commercial General Liability Insurance
 - (i) Subcontractor shall carry Commercial General Liability Insurance covering all operations by or on behalf of Subcontractor providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:
 - (A) Premises and Operations;
 - (B) Independent Contractors
 - (C) Products and Completed Operations for at least (24 months following final acceptance of the Project as a whole;
 - (D) Contractual Liability applying to the indemnity agreement in the General Condition titled "Indemnity;"
 - (E) Broad Form Property Damage (including Completed Operations);
 - (F) Explosion, Collapse and Underground Hazards; and
 - (G) Personal and Advertising Injury Liability.

- (ii) The limits of liability for bodily injury, property damage and personal injury shall not be less than:
- | | |
|-------------|--|
| \$2,000,000 | Combined single limit for Bodily Injury and Property Damage each occurrence; |
| \$2,000,000 | Personal Injury Limit each occurrence; |
| \$4,000,000 | Products-Completed Operations Annual Aggregate Limit; and |
| \$4,000,000 | General Annual Aggregate Limit (other than Products-Completed Operations). |
- (iii) Coverage (a)(3) shall apply to the indemnity agreement in the General Condition titled "Indemnity."
- (iv) To the maximum extent permitted by applicable law but no further, Government and Contractor, and their members, subsidiaries and affiliates, and the officers, directors, and employees of the foregoing shall each be named as an Additional Insured under the Commercial General Liability Insurance policy, including any Excess or Umbrella Liability Insurance(s) but only with respect to liability caused by or arising out of the acts or omissions of Subcontractor or its officers, employees or agents in the performance of ongoing operations for Contractor and Government. Such insurance shall: (1) include an Insurer's waiver of subrogation in favor of each Additional Insured; (2) be primary and non-contributory as regards any similar insurance coverage maintained for or by the Additional Insureds whether primary, excess, contingent, or on any other basis; (3) contain a cross-liability clause, also known as separation of interest / severability of interests / separation of insureds condition; and (4) be on an occurrence policy form, not a claims made form. The insurance limits provided by Subcontractor's insurance (primary and excess) to the Additional Insureds must be exhausted before any contribution from such Additional Insureds' own insurance, but not other insurance applicable to a loss which may be subject to contribution.
- (4) Automobile Liability (Owned, hired and non-owned) with combined single limits of liability for bodily injury or property damage of not less than \$2,000,000 for any one occurrence. Subcontractor's Automobile Liability Insurance shall include coverage for Automobile Contractual Liability.
- (5) In the event Subcontractor maintains insurance covering loss or damage to equipment, tools, or any other property of Subcontractor such insurance shall include an Insurer's waiver of subrogation in favor of Government and Contractor.
- (6) Pollution Liability Insurance in an amount not less than \$5,000,000 per occurrence/annual aggregate. Such insurance shall provide bodily injury and property damage and clean-up costs coverage for both sudden and gradual occurrences arising from the Work performed under this contract. If Subcontractor activities involve professional services, coverage shall include pollution losses resulting from any deficient professional services. If Completed Operations is limited in the policy, such Completed Operation Coverage shall be for a period of not less than five (5) years. If such insurance is written on a claim-made form, such insurance shall include minimally a six (6) year extended discovery period. Insurance shall name Government and Contractor, and their members, subsidiaries and affiliates, and the officers, directors, and employees of the foregoing each as Additional Insureds, but only with respect to liability caused by or arising out of the acts or omissions of Subcontractor or its officers, employees or agents in the performance of ongoing operations for Contractor and Government. In addition, Subcontractor's insurer shall waive its right of subrogation against the Additional Insureds.

(b) The required limits of coverage specified in (a) (1) through (a)(4) may be satisfied by a combination of a primary policy and an excess or umbrella policy. Coverage shall be provided on a follow form basis, include a Priority of coverage endorsement applying immediately before any other Subcontractor Insurance coverage, whether primary, excess, contingent or any other basis and as excess over the primary policies of Employer's Liability, Commercial General Liability and Automobile Liability as required above. Such insurance shall include the same Additional Insured and Insurer's Waiver of Subrogation provisions required by the primary policies and shall be primary and non-contributory with any similar insurance coverage maintained by the Additional Insureds.

(c) Should any of the Work involve

(1) Construction or renovation of a building or structure, Subcontractor shall carry Builders Risk Insurance, written on an "All Risk" basis with a limit equal to the total installed cost of the Subcontractor's Work. "Total installed cost" shall include the value of material and equipment provided by Contractor and Government while such property is in the care, custody, and control of Subcontractor. This insurance will cover all material and equipment installed or to be installed in permanent buildings and facilities and will include coverage for material in transit and in offsite storage. To the maximum extent permitted by applicable law but no further, Government and Contractor, and their members, subsidiaries and affiliates, and the officers, directors, and employees of the foregoing shall each be named as an Additional Insured, but only with respect to liability caused by or arising out of the acts or omissions of Subcontractor or its officers, employees or agents in the performance of ongoing operations for Contractor and Government. In addition, Subcontractor's insurer shall waive its right of subrogation against the Additional Insureds. Should any loss or damage to the Work occur, deductibles under this policy shall be for Subcontractor's account.

(2) Marine operations, Subcontractor shall provide or have provided coverage for liabilities arising out of such marine operations, including contractual liability under its Commercial General Liability Insurance or Marine Hull and Machinery Insurance and Protection and Indemnity Insurance. In the event such marine operations involve any Subcontractor owned, hired, chartered, or operated vessels, barges, tugs or other marine equipment, Subcontractor agrees to provide or have provided Marine Hull and Machinery Insurance and Protection and Indemnity Insurance and/or Charterer's Liability Insurance. The combined limit of the Protection and Indemnity Insurance and/or Charterer's Liability Insurance shall be at least \$5,000,000 per occurrence or the market value of the vessel, whichever is greater. The Protection and Indemnity and/or Charterer's liability and the Hull and Machinery coverage's shall include coverage for contractual liability, wreck removal, sudden and accidental pollution, tower's liability if applicable; special operations, and full collision coverage and shall be endorsed:

- (i) To the maximum extent permitted by applicable law but no further, to provide full coverage to Contractor and Government, and their members, subsidiaries, and affiliates, and the officers, directors, and employees of the foregoing each as Additional Insureds, but only with respect to liability caused by or arising out of the acts or omissions of Subcontractor or its officers, employees, or agents in the performance of ongoing operations for Contractor and Government, without limiting coverage to liability "as owner of the vessel" and to delete any "as owner" clause or other language that would limit coverage to liability of an insured "as owner of the vessel;" and
- (ii) To waive any limit to full coverage for the Additional Insureds provided by any applicable liability statute.

All marine insurances provided by Subcontractor shall include an Insurer's waiver of subrogation in favor of the Additional Insureds.

- (3) aircraft (fixed wing or helicopter) owned, operated, or chartered by Subcontractor, liability arising out of such aircraft shall be insured for a combined single limit not less than \$10,000,000 each occurrence and such limit shall apply to Bodily Injury (including passengers) and Property Damage Liability. To the maximum extent permitted by applicable law but no further, such insurance shall name Contractor and Government, and their members, subsidiaries, and affiliates, and the officers, directors, and employees of the foregoing each as Additional Insureds, but only with respect to liability caused by or arising out of the acts or omissions of Subcontractor or its officers, employees, or agents in the performance of ongoing operations for Contractor and Government. The insurance shall also include an Insurer's waiver of subrogation in favor of the Additional Insureds, state that it is primary insurance as regards the Additional Insureds and contain a cross-liability or severability of interest clause. If the aircraft hull is insured such insurance shall provide for an Insurer's waiver of subrogation rights in favor of Contractor and Government and their members, subsidiaries and affiliates, and the officers, directors, and employees of the foregoing. In the event Subcontractor charters aircraft, the foregoing insurance and evidence of insurance may be furnished by the owner of the chartered aircraft, provided the above requirements are met.
- (4) inspection, handling, or removal of asbestos, Subcontractor shall also carry Asbestos Liability Insurance in an amount not less than \$5,000,000 per occurrence/annual aggregate. The policy shall be written on an "Occurrence Basis" with no sunset clause. To the maximum extent permitted by applicable law but no further, such insurance shall name Contractor and Government, and their members, subsidiaries, and affiliates, and the officers, directors, and employees of the foregoing each as Additional Insureds, but only with respect to liability caused by or arising out of the acts or omissions of Subcontractor or its officers, employees, or agents in the performance of ongoing operations for Contractor and Government.
- (5) transporting hazardous substances, Subcontractor shall also carry Business Automobile Insurance covering liability arising out of the transportation of hazardous materials in an amount not less than \$2,000,000 per occurrence. Such policy shall include Motor Carrier Endorsement MCS-90. NEITHER Contractor NOR GOVERNMENT IS TO BE NAMED AN ADDITIONAL INSURED FOR THIS POLICY.
- (6) treatment, storage, or disposal of hazardous wastes, Subcontractor shall furnish an insurance certificate from the designated disposal facility establishing that the facility operator maintains current Environmental Liability Insurance in the amount of not less than \$5,000,000 per occurrence/annual aggregate. Coverage shall also include non-owned disposal site (NODS) coverage for losses at the jobsite.
- (7) hauling of property worth in excess of \$300,000, Subcontractor shall, unless provided by Contractor, also carry "All Risk" Transit Insurance, or "All Risk" Motor Truck Cargo Insurance, or such similar form of insurance that will insure against physical loss or damage to the property being transported, moved or handled by Subcontractor pursuant to the terms of this contract. Such insurance shall provide a limit of not less than the replacement cost of the highest value being moved, and to the maximum extent permitted by applicable law but no further, shall insure the interest of Contractor and Government and their members, subsidiaries and affiliates, and the officers, directors, and employees of the foregoing each as their respective interests may appear, but only with respect to liability caused by or arising out of the acts or omissions of Subcontractor or its officers, employees or agents in the performance of ongoing operations for Contractor and Government, and shall include an insurer's Waiver of Subrogation in favor of each such party.

(d) Submission of Insurance Certificates and Endorsements

Subcontractor shall deliver to Contractor no later than ten (10) calendar days after subcontract award, but in any event prior to commencing the Work or entering the Jobsite, (1) certificates of insurance providing clear evidence that the coverages and at least the minimum limits of insurance are in full force and effect; and (2) copies of endorsements or analogous insurance policy documents certified by Subcontractor's insurer that meet all applicable Additional Insured and Waiver of Subrogation requirements prescribed by this clause. Subcontractor shall deliver to Contractor thirty (30) calendar days advance written notice prior to cancellation, termination, or material alteration of said policies of insurance. Certificates shall identify on their face the project name and the applicable contract number. Delivery of certificates, endorsements and any notices of policy change shall be made to the Subcontract Administrator identified in clause SC-2, Authority of Personnel.

(e) Non-Waiver and Other Conditions

(1) Contractor's acceptance of any evidence of insurance, including any certificate of insurance, shall not: (i) constitute acceptance of the adequacy of Subcontractor's insurance coverage, (ii) imply that any insurance coverage provided by Subcontractor complies with the requirements of this contract, (iii) be deemed as a modification of any of Subcontractor's requirements in the contract, or (iv) waive Contractor's or the Government's rights to enforce any of Subcontractor's requirements in this contract, including the requirements concerning insurance coverage amounts, insurance terms and conditions and qualifications of insurance companies.

(2) The requirements contained herein as to types and limits, as well as Contractor's approval of insurance coverage to be maintained by Subcontractor, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Subcontractor under this contract.

(3) Neither Contractor nor Government is maintaining any insurance on behalf of Subcontractor covering against loss or damage to the Work or to any other property of Subcontractor.

H.52 ERRORS AND OMISSIONS INSURANCE (JUN 2017)

APPLICABLE TO EACH TASK ORDER WITH A DESIGN ELEMENT

Subcontractor shall carry Errors and Omissions insurance covering Subcontractor's professional negligent acts, errors, or omissions with a limit of not less than \$1,000,000 per claim/annual aggregate. This policy shall apply to the indemnity agreement in the General Condition titled "Indemnity." Subcontractor shall deliver to Contractor no later than ten (10) calendar days after contract award, but in any event before commencing Work a certificate of insurance providing clear evidence that the coverage and at least the minimum limits of insurance are in full force and effect. Subcontractor shall deliver to Contractor thirty (30) calendar days advance written notice prior to cancellation, termination, or material alteration of said insurance. Delivery of certificates, endorsements, and any notices of policy change shall be made to the Subcontract Administrator identified in this MATOC.

H.53 SURETY INSTRUMENTS

(a) Bonds shall be written on forms satisfactory to Contractor. Subcontractor's bond sureties shall be only those approved by the Department of Treasury, as indicated in Circular 570, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as

Acceptable Reinsuring Companies.” Subcontractor shall provide, at the option of Contractor, a performance bond and a payment bond, each in an amount equal to one hundred percent (100%) of the Task Order Price.

(b) The performance bond shall be valid through the end of Subcontractor’s obligations, that is, until expiration of the period of performance or of any warranty period set forth in the Contract, whichever is later. The payment bond shall remain valid until Subcontractor has made final payments to all obliges of Subcontractor.

(c) The payment and performance bonds set forth in each Task Order, shall be adjusted, when instructed by Contractor, for authorized changes, both increases to and decreases from the Task Order Price.

Changes that vary the Contract Price, cumulatively, by less than 20% shall not require adjustment to the subject bonds except as specifically instructed by Contractor.

H.54 NUCLEAR HAZARDS INDEMNITY AND PRICE ANDERSON ACT (JAN 2010) – TASK ORDER BASIS

(a) 48 CFR 952.250-70 Nuclear Hazards Indemnity Agreement As Modified By DOE Acquisition Letter 2005-15 (Jun 2009)

(1) *Authority.* This clause is incorporated into this contract pursuant to the authority contained in subsection 170d. of the Atomic Energy Act of 1954, as amended (hereinafter called the Act).

(2) *Definitions.* The definitions set out in the Act shall apply to this clause.

(3) *Financial protection.* Except as hereafter permitted or required in writing by DOE, the Contractor will not be required to provide or maintain, and will not provide or maintain at Government expense, any form of financial protection to cover public liability, as described in paragraph (4)(ii) below. DOE may, however, at any time require in writing that the Contractor provide and maintain financial protection of such a type and in such amount as DOE shall determine to be appropriate to cover such public liability, provided that the costs of such financial protection are reimbursed to the Contractor by DOE.

(4) (i) *Indemnification.* To the extent that the Contractor and other persons indemnified are not compensated by any financial protection permitted or required by DOE, DOE will indemnify the Contractor and other persons indemnified against (i) claims for public liability as described in subparagraph (4)(ii) of this clause; and (ii) such legal costs of the Contractor and other persons indemnified as are approved by DOE, provided that DOE’s liability, including such legal costs, shall not exceed the amount set forth in section 170d. of the Act, as that amount may be increased in accordance with section 170t., in the aggregate for each nuclear incident or precautionary evacuation occurring within the United States or \$500 million in the aggregate for each nuclear incident occurring outside the United States, irrespective of the number of persons indemnified in connection with this contract.

(ii) The public liability referred to in subparagraph (4)(i) of this clause is public liability as defined in the Act which (i) arises out of or in connection with the activities under this contract, including transportation; and (ii) arises out of or results from a nuclear incident or precautionary evacuation, as those terms are defined in the Act.

- (5)
- (i) *Waiver of Defenses.* In the event of a nuclear incident, as defined in the Act, arising out of nuclear waste activities, as defined in the Act, the Contractor, on behalf of itself and other persons indemnified, agrees to waive any issue or defense as to charitable or governmental immunity.
 - (ii) In the event of an extraordinary nuclear occurrence which:
 - (A) Arises out of, results from, or occurs in the course of the construction, possession, or operation of a production or utilization facility; or
 - (B) Arises out of, results from, or occurs in the course of transportation of source material, by-product material, or special nuclear material to or from a production or utilization facility; or
 - (C) Arises out of or results from the possession, operation, or use by the Contractor or a subcontractor of a device utilizing special nuclear material or by-product material, during the course of the contract activity; or
 - (D) Arises out of, results from, or occurs in the course of nuclear waste activities, the Contractor, on behalf of itself and other persons indemnified, agrees to waive:
 - (1) Any issue or defense as to the conduct of the claimant (including the conduct of persons through whom the claimant derives its cause of action) or fault of persons indemnified, including, but not limited to:
 - i Negligence;
 - ii Contributory negligence;
 - iii Assumption of risk; or
 - iv Unforeseeable intervening causes, whether involving the conduct of a third person or an act of God;
 - (2) Any issue or defense as to charitable or governmental immunity; and
 - (3) Any issue or defense based on any statute of limitations, if suit is instituted within 3 years from the date on which the claimant first knew, or reasonably could have known, of his injury or change and the cause thereof. The waiver of any such issue or defense shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action. The waiver shall be judicially enforceable in accordance with its terms by the claimant against the person indemnified.
 - (E) The term *extraordinary nuclear occurrence* means an event which DOE has determined to be an extraordinary nuclear occurrence as defined in the Act. A determination of whether or not there has been an extraordinary nuclear occurrence will be made in accordance with the procedures in 10 CFR part 840.

- (F) For the purposes of that determination, "offsite" as that term is used in 10 CFR part 840 means away from "the contract location" which phrase means any DOE facility, installation, or site at which contractual activity under this contract is being carried on, and any Contractor-owned or -controlled facility, installation, or site at which the Contractor is engaged in the performance of contractual activity under this contract.
- (iii) The waivers set forth above:
- (A) Shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action;
 - (B) Shall be judicially enforceable in accordance with its terms by the claimant against the person indemnified;
 - (C) Shall not preclude a defense based upon a failure to take reasonable steps to mitigate damages;
 - (D) Shall not apply to injury or damage to a claimant or to a claimant's property which is intentionally sustained by the claimant or which results from a nuclear incident intentionally and wrongfully caused by the claimant;
 - (E) Shall not apply to injury to a claimant who is employed at the site of and in connection with the activity where the extraordinary nuclear occurrence takes place, if benefits therefor are either payable or required to be provided under any workmen's compensation or occupational disease law;
 - (F) Shall not apply to any claim resulting from a nuclear incident occurring outside the United States;
 - (G) Shall be effective only with respect to those obligations set forth in this clause and in insurance policies, contracts or other proof of financial protection; and
 - (H) Shall not apply to, or prejudice the prosecution or defense of, any claim or portion of claim which is not within the protection afforded under (A) the limit of liability provisions under subsection 170e. of the Act, and (B) the terms of this agreement and the terms of insurance policies, contracts, or other proof of financial protection.
- (6) *Notification and litigation of claims.* The Contractor shall give immediate written notice to DOE of any known action or claim filed or made against the Contractor or other person indemnified for public liability as defined in paragraph (4)(ii). Except as otherwise directed by DOE, the Contractor shall furnish promptly to DOE, copies of all pertinent papers received by the Contractor or filed with respect to such actions or claims. DOE shall have the right to, and may collaborate with, the Contractor and any other person indemnified in the settlement or defense of any action or claim and shall have the right to (1) require the prior approval of DOE for the payment of any claim that DOE may be required to indemnify hereunder; and (2) appear through the Attorney General on behalf of the Contractor or other person indemnified in any action brought upon any claim that DOE may be required to indemnify hereunder, take charge of such action, and settle or defend any such action. If the settlement or defense of any such action or claim is undertaken by

DOE, the Contractor or other person indemnified shall furnish all reasonable assistance in effecting a settlement or asserting a defense.

- (7) *Continuity of DOE obligations.* The obligations of DOE under this clause shall not be affected by any failure on the part of the Contractor to fulfill its obligation under this contract and shall be unaffected by the death, disability, or termination of existence of the Contractor, or by the completion, termination, or expiration of this contract.
- (8) *Effect of other clauses.* The provisions of this clause shall not be limited in any way by, and shall be interpreted without reference to, any other clause of this contract, including the clause entitled Contract Disputes, provided, however, that this clause shall be subject to the clauses entitled Covenant Against Contingent Fees, and Accounts, records, and inspection, and any provisions that are later added to this contract as required by applicable Federal law, including statutes, executive orders, and regulations, to be included in Nuclear Hazards Indemnity Agreements.
- (9) *Civil penalties.* The Contractor and its subcontractors and suppliers who are indemnified under the provisions of this clause are subject to civil penalties, pursuant to section 234A of the Act, for violations of applicable DOE nuclear-safety related rules, regulations, or orders. If the Contractor is a not-for-profit Contractor, as defined by section 234Ad.(2), the total amount of civil penalties paid shall not exceed the total amount of fees paid within any 1-year period (as determined by the Secretary) under this contract.
- (10) *Criminal penalties.* Any individual director, officer, or employee of the Contractor or of its subcontractors and suppliers who are indemnified under the provisions of this clause are subject to criminal penalties, pursuant to section 223(c) of the Act, for knowing and willful violation of the Atomic Energy Act of 1954, as amended, and applicable DOE nuclear safety-related rules, regulations or orders which violation results in, or, if undetected, would have resulted in a nuclear incident.
- (11) *Inclusion in subcontracts.* The Contractor shall insert this clause in any contract which may involve the risk of public liability, as that term is defined in the Act and further described in paragraph (4)(ii) above. However, this clause shall not be included in contracts in which the subcontractor is subject to Nuclear Regulatory Commission (NRC) financial protection requirements under section 170b. of the Act or NRC agreements of indemnification under section 170c. or k. of the Act for the activities under the contract.
- (12) *Effective Date.* This contract was awarded on or after August 8, 2005 and at contract award contained the clause at DEAR 952.250-70 (JUNE 1996) or prior version. That clause has been deleted and replaced with this clause. The Price-Anderson Amendments Act of 2005, described by this clause, control the indemnity for any nuclear incident that occurred on or after August 8, 2005. The Contractor's liability for civil penalties for violations of the Atomic Energy Act of 1954 under this contract is described by paragraph (i) of this clause.

(b) The U.S. Department of Energy (DOE) will indemnify Subcontractor against (1) claims for public liability, and (2) legal costs arising from any nuclear incidence, in accordance with the provisions of 48 CFR 952.250-70 as modified by DOE Acquisition Letter 2005-15.

(c) The DOE has promulgated Procedural Rules for DOE Nuclear Activities (10 CFR 820), Quality Assurance Requirements (10 CFR 830 Subpart A), Occupational Radiation Protection rules (10 CFR 835), Chronic Beryllium Disease Prevention Program Rules (10 CFR 850), and Worker Safety and Health Program (10 CFR 851) in implementation of the Price Anderson Amendment Act (PAAA) of 1988, Public Law 100-408, August 20, 1988, as amended. These rules govern the conduct of persons involved in DOE nuclear activities, and in particular, are designed to achieve compliance with DOE safety issues. Subcontractor shall comply and is

responsible for the compliance of its lower-tier subcontractors with the referenced DOE safety related rules and regulations. Violation of the applicable rules and regulations will provide a basis for the assessment of civil and criminal penalties.

(d) Subcontractor shall indemnify Contractor for any civil penalties levied against Contractor, pursuant to Section 234A of the Atomic Energy Act of 1954 as amended, for any violations of applicable DOE safety-related rules, regulations, or orders committed by Subcontractor or its lower-tier subcontractors and suppliers.

H.55 PERMITS, APPLICATIONS AND LICENSES

Except as otherwise directed by the Contractor, the Subcontractor shall procure and execute all necessary permits or licenses and abide by all applicable laws, regulations, and ordinances of the United States and of the state, territory, and political subdivision in which the Work under this Contract is performed.

H.56 NONDISCLOSURE, PUBLICITY, AND ADVERTISING (JAN 2010)

Subcontractor's disclosure to a third party of any information, material, data, charts, graphs, or records obtained, developed, or maintained under this subcontract is prohibited, except as approved in writing in advance by Contractor. Furthermore, Subcontractor shall not make any announcement, release any photographs, or release any information concerning this contract, or the Laboratory, or any part thereof to any member of the public, press, business entity, or any other third party unless prior written consent is obtained from Contractor. All Subcontractor requests for review and approval shall be addressed to Contractor. Additionally, Subcontractor will ensure that its employees, subcontractors, and/or affiliates who work on this contract understand this nondisclosure requirement and provide written acknowledgement of the same if requested by Contractor's Subcontract Administrator. Subcontractor agrees to include a similar requirement in all lower-tier subcontracts. All requests for authorization to release information by lower-tier subcontractors shall be subject approval of Contractor's Subcontract Administrator.

H.57 OWNERSHIP AND USE OF DRAWINGS

Drawings, technical documents, and data prepared or developed by Subcontractor and furnished to Contractor in performance of the Work shall be the property of Owner/United States Government and may be used by Contractor or Owner/United States Government in accordance with FAR Clause 52.227-14.

H.58 ASSIGNMENT

(a) Any assignment of this contract or rights hereunder, in whole or part, without the prior written consent of CONTRACTOR shall be void, except that upon ten (10) calendar days written notice to CONTRACTOR, SUBCONTRACTOR may assign, with CONTRACTOR'S approval, claims for monies due or to become due hereunder to a bank, trust company, or other financial institution including any federal lending agency. Any such assignment may cover all amounts payable under this contract and not already paid, and shall not be made to more than one party, except that any such assignment may be made to one party, as agent or trustee of two or more parties participating in SUBCONTRACTOR'S financing. Payments to an assignee of any monies due, or to become due hereunder, shall be subject to setoff or recoupment for any present or future claim or claims which CONTRACTOR may have against SUBCONTRACTOR arising under this and other contracts. Upon such assignment, SUBCONTRACTOR shall provide CONTRACTOR with two copies of any such assignment and shall indicate on each invoice to whom payment is to be made.

- (b) This contract may be assigned by CONTRACTOR, in whole or in part, to GOVERNMENT or to others upon written notice to SUBCONTRACTOR.
- (c) No assignment will be approved which would relieve SUBCONTRACTOR or its sureties, if any, of their responsibilities under this contract.

H.59 WAIVER

Contractors failure to insist on performance of any term, condition, or instruction, or to exercise any right or privilege included in this Contract, or its waiver of any breach, shall not thereafter waive any such term, condition, instruction, and/or any right or privilege.

H.60 PRESERVATION OF ANTIQUITIES, WILDLIFE, AND LAND AREAS

- (a) Federal Law provides for the protection of antiquities located on land owned or controlled by the Government. Antiquities include Indian graves or campsites, relics, and artifacts. The Subcontractor shall control the movements of its personnel and its lower-tier subcontractor's personnel at the jobsite to ensure that any existing antiquities discovered thereon will not be disturbed or destroyed by such personnel. It shall be the duty of the Subcontractor to report to the Contract Administrator or STR the existence of any antiquities so discovered.
- (b) The Subcontractor shall also preserve all vegetation (including wetlands) except where such vegetation must be removed for survey or construction purposes. Any removal of vegetation shall be in accordance with the terms of applicable habitat mitigation plans and permits. Furthermore, all wildlife must be protected consistent with programs approved by the compliance order or DCO.
- (c) Except as required by or specifically provided for in other provisions of this Contract and/or each individual Task Order, the Subcontractor shall not perform any excavations, earth borrow, preparation of borrow areas, or otherwise disturb the surface soils within the jobsite without the prior approval of DOE or its designee. Any issues associated with this requirement will be brought to the attention of the Contractor's STR.

H.61 ALLOCATION OF LIABILITY FOR FINES AND PENALTIES TO RESPONSIBLE PARTY

- (a) Liability and responsibility for civil fines or penalties arising from or related to violations of environmental, safety, health, or quality requirements shall be borne by the party that caused the violation (Contractor, Subcontractor, etc.). This clause resolves liability for fines and penalties, though the cognizant regulatory authority may assess such fine or penalty upon either party or both parties without regard to the allocation of responsibility or liability under this contract. The allocation of liability for such fine or penalty is effective regardless of which party signs permit applications, manifests, reports or other required documents, is a permittee, or is named subject of an enforcement action or assessment of a fine or penalty.
- (b) Regardless of what party is the named subject (Subcontractor, the Contractor) of an enforcement action for noncompliance with the environmental, safety, health, or quality requirements by the cognizant regulatory authority, liability for payment of any fine or penalty as a result of Subcontractor actions or inactions is the responsibility of the Subcontractor, as appropriate, and not reimbursable under this contract. Cost of fines and penalties resulting

from violations of or failure of the Subcontractor or Subcontractor to comply with federal, state, local, or foreign laws and regulations, are unallowable.

H.62 LAWS AND REGULATIONS (NOV 2018)

- (a) Subcontractor shall comply with the requirements of applicable federal, state, and local laws and regulations (including DOE regulations), unless relief has been granted in writing by the appropriate regulatory agency. Subcontractor shall also comply with DOE Directives, NNSA Policy Letters, and Laboratory policies and procedures, or parts thereof, which are identified in the contract. Copies of any such directives, letters, policies and procedures will be provided to the Subcontractor upon request.
- (b) If Subcontractor discovers any discrepancy or inconsistency between this contract and any law, ordinance, statute, rule, regulation, order or decree, Subcontractor shall immediately notify the Contractor in writing.
- (c) Regardless of the performer of the work, Subcontractor is responsible for compliance with the requirements of this clause. Subcontractor agrees to insert the substance of this clause, including this paragraph (c), in its subcontracts at any tier.

H.63 DISPUTES

- (a) Definitions. For purposes of this clause:

“Board” means the Civilian Board of Contract Appeals or such successor Board as may be established by law.

“Arbitration decision” means a decision of the Board in an arbitration pursuant to this clause.

“Claim” means a written demand or written assertion by either contracting party seeking as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of a contract term, or other relief arising under, or relating to, this contract. A voucher, invoice, or other request for payment or equitable adjustment under the terms of the contract that is not in dispute when submitted is not a claim. The SUBCONTRACTOR may convert such submission into a claim if it is disputed either as to liability or amount, or is not acted upon in a reasonable time, by demanding a decision by the Subcontract Administrator.

“Counterclaim” means a claim asserted in a pleading filed with the Board in an arbitration proceeding pursuant to this clause which arises from the same occurrence or transaction that is the subject matter of the opposing party’s claim. Counterclaims do not need to be submitted to the Subcontract Administrator for decision.

- (b) Nature of the Subcontract. This subcontract is not a Government contract and, therefore, is not subject to the Contract Disputes Act of 1978 (41 U.S.C. §§601-613). SUBCONTRACTOR acknowledges that GOVERNMENT is not a party to the subcontract, and, for purposes of the subcontract CONTRACTOR is not an agent of GOVERNMENT. Consequently, the provision for arbitration by the Board, as provided for in this clause, does not create or imply the existence of privity of contract between SUBCONTRACTOR and GOVERNMENT.
- (c) Scope of Clause. The rights and procedures set forth in this clause are the exclusive rights and procedures for resolution of all claims and disputes arising under, or relating to, this contract, and no action based upon any claim or dispute arising under, or relating to, this contract shall be brought in any court except as provided in this clause. The parties shall be bound by any arbitration decision rendered pursuant to this clause, which shall be vacated, modified, or

corrected only as provided in the Federal Arbitration Act (9 U.S.C. §§1-16). An arbitration decision may only be enforced in any court of competent jurisdiction in the State of New Mexico.

(d) Filing a Claim/Subcontract Administrator's Decision.

- (1) Unless otherwise provided in this subcontract, SUBCONTRACTOR must file any claim against CONTRACTOR within sixty (60) Days after SUBCONTRACTOR knew or should have known the facts giving rise to the claim. Failure to file a claim within the period prescribed by this paragraph shall constitute a waiver of SUBCONTRACTOR'S right, if any, to an equitable adjustment under the subcontract.
- (2) SUBCONTRACTOR shall submit any claim in writing to the Subcontract Administrator who shall issue a decision on the matter within sixty (60) Days of receipt of the claim. If the Subcontract Administrator fails to issue a decision within sixty (60) Days, SUBCONTRACTOR may request mediation or demand for arbitration as provided in paragraphs (e) and (f) of this clause.
- (3) CONTRACTOR may, at any time prior to final payment under the subcontract or expiration of any warranty period, whichever is later, file a claim against SUBCONTRACTOR by issuing a written decision by the Subcontract Administrator asserting such a claim.
- (4) The decision of the Subcontract Administrator shall be final and conclusive unless SUBCONTRACTOR requests mediation or demands arbitration in accordance with the terms of this clause.

(e) Request for Mediation.

- (1) If the decision of the Subcontract Administrator is not satisfactory to SUBCONTRACTOR, or the Subcontract Administrator has failed to timely issue a decision in accordance with subparagraph (d) 2) of this provision, and SUBCONTRACTOR desires to pursue further action, SUBCONTRACTOR may request that the matter be scheduled for mediation. The request for mediation must be made within forty-five (45) Days after receipt of the Subcontract Administrator's decision.
- (2) If the Subcontract Administrator believes that mediation of the dispute is likely to lead to a satisfactory resolution, he or she will so inform SUBCONTRACTOR and the matter will be scheduled for mediation. The parties will agree on the format of the mediation and will jointly select the mediator. The cost of the mediator and related expenses shall be divided evenly between the parties.
- (3) If the Subcontract Administrator decides that mediation is not likely to lead to a satisfactory resolution of the claim, or that a mediation undertaken pursuant to this clause has been unsuccessful, he or she will so inform SUBCONTRACTOR in writing.

- (f) Demand for Arbitration. If the decision of the Subcontract Administrator is not satisfactory to SUBCONTRACTOR, or if SUBCONTRACTOR'S request for mediation has been denied, or a mediation undertaken pursuant to paragraph (e) of this clause has been unsuccessful, or the Subcontract Administrator has failed to timely issue a decision in accordance with subparagraph (d) (2) of this clause, and SUBCONTRACTOR desires to pursue further action, SUBCONTRACTOR must submit to the Board a written demand for arbitration of the claim within forty-five (45) Days after receipt of the Subcontract Administrator's decision, or within forty-five (45) Days after the Subcontract Administrator notifies SUBCONTRACTOR that its request for mediation has been denied or that the mediation undertaken pursuant to paragraph (e) has been unsuccessful, whichever is later.

- (g) Arbitration Procedures/Costs. The Board shall arbitrate the claim and any counterclaims in accordance with the Rules of the Board. All claims for \$100,000 or less shall be arbitrated under the Board's Small Claims (Expedited) Procedure. All other claims, regardless of dollar amount, shall be arbitrated under the Board's Accelerated Procedure. Both parties shall be afforded an opportunity to be heard and to present evidence in accordance with the Rules of the Board. Unless the Board orders otherwise, each party shall pay its own costs of prosecuting or defending an arbitration before the Board.
- (h) Review of Arbitration Decision. An arbitration decision shall be final and conclusive unless a party files a timely action to vacate, modify, or correct the decision pursuant to the Federal Arbitration Act.
- (i) Subcontractor Performance Pending Claim Resolution. SUBCONTRACTOR shall proceed diligently with performance of the subcontract and shall comply with any decision of the Subcontract Administrator pending final resolution of any claim or dispute arising under, or relating to, the subcontract.
- (j) Choice of Law. The subcontract shall be governed by federal law as provided in this paragraph. Irrespective of the place of award, execution, or performance, the subcontract shall be construed and interpreted, and its validity determined, according to the federal common law of government contracts as enunciated and applied to prime government contracts by the federal boards of contract appeals and federal courts having appellate jurisdiction over their decisions rendered pursuant to the Contract Disputes Act of 1978. The Federal Arbitration Act, other federal statutes, and federal rules shall govern as applicable. To the extent that federal common law of government contracts is not dispositive, the laws of the State of New Mexico shall apply.
- (k) Interest. Interest on amounts adjudicated due and unpaid by a party shall be paid from the date the complaining party files a demand for arbitration with the Board. Interest on claims shall be paid at the rate established by the Secretary of the Treasury of the United States pursuant to Public Law 92-41 (85 Stat. 97).

H.64 LOBBYING RESTRICTION

The Subcontractor 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, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

H.65 SURVIVAL (JUN 2009)

All terms, conditions, and provisions of this contract, which by their nature are independent of the period of performance, shall survive the cancellation, termination, expiration, default, or abandonment of this contract. In the event any Section, or any part or portion of any Section of this Contract shall be held to be invalid, void or otherwise unenforceable, such holding shall not affect the remaining part or portions of that Section, or any other Section hereof.

H.66 AUTHORIZED REPRESENTATIVES, COMMUNICATIONS, AND NOTICES (APR 2013)

- (a) Before starting work, Subcontractor shall designate in writing an authorized representative acceptable to Contractor to represent and act for Subcontractor and shall specify any and all limitations of such representative's authority. Such representative shall be present or be

represented at the Jobsite at all times when work is in progress and shall be empowered to receive communications in accordance with this contract on behalf of Subcontractor. During periods when the Work is suspended, arrangements shall be made for an authorized representative acceptable to Contractor for any emergency work that may be required.

- (b) All communications under this contract shall comply with security requirements set forth in Attachment J-2 "Security Requirements."
- (c) All communications given to the authorized representative by Contractor in accordance with this contract shall be binding upon Subcontractor.
- (d) Contractor shall designate in writing one or more representatives to represent and act for Contractor and to receive communications from Subcontractor. Notification of changes of authorized representatives for either Contractor or Subcontractor shall be provided in advance, in writing, to the other party.
- (e) Any notices required hereunder shall be in writing and may be served either personally on the authorized representative of the receiving party at the jobsite, by facsimile, by courier or express delivery, or by certified mail to the facsimile number or address of that party as shown on the face Section A or at such facsimile number or address as may have been directed by written notice.

H.67 SUBCONTRACT INTERPRETATION (JUN 2009)

All questions concerning interpretation or clarification of this contract by Subcontractor shall be immediately submitted in writing to Contractor for resolution. Subject to the provisions of the Subcontract clause entitled "Changes," all determinations, instructions, and clarifications of Contractor shall be final and conclusive unless Subcontractor believes such determinations, instructions, or clarifications are fraudulent or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence, in which case Subcontractor shall proceed under the terms of the Disputes clause.

At all times Subcontractor shall proceed with the Work in accordance with the determinations, instructions, and clarifications of Contractor. Subcontractor shall be solely responsible for requesting instructions or interpretations and shall be solely liable for any costs and expenses arising from its failure to do so.

H.68 NOTICE TO PROCEED (JUL 2011)

Subcontractor shall not commence work on site at LANL prior to receipt of a notice to proceed issued by the Subcontract Administrator. A notice to proceed shall not be issued prior to

- (a) receipt by Contractor of a fully executed contract with the original signatures of both parties;
- (b) receipt by Contractor of certificates of insurance and endorsements evidencing that required coverage and limits of insurance are in full force and effect, when such certificates and endorsements are required herein;
- (c) approval by Contractor of Subcontractor's ES&H Plan submitted in accordance with the requirements of Exhibit F, when such ES&H Plan is required herein;
- (d) approval by Contractor of any plans submitted by Subcontractor in accordance with the requirements of Exhibit G, when such plan(s) is/are required herein;
- (e) receipt by Contractor of executed payment and performance bonds, when such payment and performance bonds are required herein; and
- (f) receipt by Contractor of written confirmation that Subcontractor has included or will include (i.e., flow down) in subcontracts with its lower-tier suppliers and subcontractors all environment, safety, health, security, and quality assurance requirements contained in

Section J Attachments necessary to fulfill this subcontract as it relates to their portion of the Work; and

- (g) compliance by Subcontractor with any other applicable requirements specified in the contract.

Contractor reserves the right to issue a limited notice to proceed (LNTP) where Contractor determines circumstances require specific pre-performance activities necessary to support the subcontract. However, this LNTP does not constitute a formal Notice to Proceed as set forth in this clause.

H.69 USE OF COMPLETED PORTIONS OF WORK (JUN 2009)

- (a) Subject to the Government Property clause, whenever, as determined by Contractor, any portion of the Work performed by Subcontractor is suitable for use, Contractor may, upon written notice, occupy and use such portion. Use shall not constitute acceptance, relieve Subcontractor of its responsibilities, or act as a waiver by Contractor of any terms of this contract.
- (b) Subcontractor shall not be liable for normal wear and tear or for repair of damage caused by any misuse during such occupancy or use by Contractor. If such use increases the cost or time of performance of remaining portions of the Work, Subcontractor shall, pursuant to the clause titled "Changes," be entitled to an equitable adjustment in the price or time of performance, or both.
- (c) If, as a result of Subcontractor's failure to comply with the provisions of this contract, such use proves to be unsatisfactory to Contractor, Contractor shall have the right to continue such use until such portion of the Work can, without impact to Contractor, be taken out of service for correction of defects, errors, omissions, or replacement of unsatisfactory materials or equipment as necessary for such portion of the Work to comply with the contract; provided that the period of such operation or use pending completion of appropriate remedial action shall not exceed twelve (12) months unless otherwise mutually agreed in writing between the parties.
- (d) Subcontractor shall not use any permanently installed equipment unless such use is approved in writing by Contractor. When such use is approved, Subcontractor shall, at Subcontractor's expense, properly use and maintain and, upon completion of such use, recondition such equipment as required to meet specifications.

H.70 CONTRACTOR'S COMPLIANCE WITH DOE DIRECTIVES (JUN 2009)

When requested by Contractor, Subcontractor shall provide such information, assistance, and support as necessary to ensure Contractor's compliance with any DOE directives that may be applicable to the scope of the work. If Subcontractor believes that such request for information, assistance, or support is not provided for elsewhere in the subcontract and constitutes a change under the General Condition titled "Changes," Subcontractor shall proceed in accordance with the "Changes" clause.

H.71 INSPECTION, QUALITY SURVEILLANCE, REJECTION OF MATERIALS, AND WORKMANSHIP AND TESTING (JUN 2009)

- (a) All material and equipment furnished and work performed shall be properly inspected by Subcontractor at its expense, and shall at all times be subject to quality surveillance and quality audit by Contractor, Government, or their authorized representatives who, upon reasonable notice, shall be afforded full and free access to the shops, factories, or other

places of business of Subcontractor and its suppliers and subcontractors of any tier for such quality surveillance or audit.

- (b) Subcontractor shall provide safe and adequate facilities, drawings, documents, and samples as requested, and shall provide assistance and cooperation including stoppage of work to perform such examination as may be necessary to determine compliance with the requirements of this contract. Any work covered prior to any quality surveillance or test by Contractor or Government shall be uncovered and replaced at the expense of Subcontractor if such covering interferes with or obstructs such inspection or test.
- (c) Failure of Contractor or Government to make such quality surveillance or to discover defective design, equipment, materials, or workmanship shall not relieve Subcontractor of its obligations under this contract nor prejudice the rights of Contractor or Government thereafter to reject or require the correction of defective work in accordance with the provisions of this contract.
- (d) Unless otherwise provided in the contract, testing of equipment, materials, or Work shall be performed by Subcontractor at its expense and in accordance with contract requirements. Should tests in addition to those required by this contract be desired by Contractor, Subcontractor will be given reasonable notice to permit such testing. Such additional tests will be requested in writing and will be at Contractor's expense.
- (e) (Subcontractor shall furnish samples as requested and shall provide reasonable assistance and cooperation necessary to permit tests to be performed on materials or work in place including reasonable stoppage of work during testing.
- (f) If any work is determined by Contractor or Government to be defective or not in conformance with this contract the provisions of the General Condition titled "Warranty" shall apply. Subcontractor shall promptly segregate and remove rejected material from the jobsite.

H.72 EXPEDITING (JUN 2009)

The equipment and materials furnished and work performed under this contract shall be subject to expediting by Contractor or its representatives who shall be afforded full and free access to the shops, factories, and other places of business of Subcontractor and its suppliers and subcontractors of any tier for expediting purposes. As required by Contractor, Subcontractor shall provide detailed schedules and progress reports for use in expediting and shall cooperate with Contractor in expediting activities.

H.73 FINAL INSPECTION AND ACCEPTANCE (JUN 2009)

(a) When Subcontractor considers the Work, or any Contractor-identified independent portion of the Work under this contract to be complete and ready for acceptance, Subcontractor shall notify Contractor in writing. Contractor, with Subcontractor's cooperation, will conduct such reviews, inspections and tests as may be reasonably required to satisfy Contractor that the Work, or identified portion of the Work, conforms to all requirements of the contract. If all or any part of the Work covered by Subcontractor's notice is defective or does not conform to contract requirements, Contractor shall notify Subcontractor of such nonconformance in writing. Contractor shall direct corrective action in accordance with the clause titled "Guarantees." The nonconforming work shall be reinspected until all contract requirements are satisfied.

(b) Contractor shall issue a Notice of Acceptance for individual portions which have been satisfactorily inspected subject only to a list of system interface inspections yet to be performed and to Contractor's Final Acceptance of the Work as a whole.

(c) If before acceptance of the entire Work, Contractor or Government decides to examine already completed work by removing it or tearing it out, Subcontractor shall promptly furnish the necessary labor and equipment to do so. If the Work is found to be defective or nonconforming, Subcontractor shall bear the cost of uncovering as well as correction. If not, an equitable adjustment shall be made for additional services.

(d) When all of the Work is complete, Subcontractor shall notify Contractor in writing requesting Final Acceptance. Contractor will conduct final inspection and, when satisfied that all requirements of the contract have been met, will issue a Certificate of Final Acceptance. Contractor's written Certificate of Final Acceptance of the Work under this contract shall be final and conclusive except with regard to latent defects, fraud, or such gross mistakes as amount to fraud, or with regard to Contractor's and Government's rights under the clause titled "Guarantees."

H.74 ON-SITE USE OF RADIOACTIVE MATERIAL (AUG 2014)

No radioactive material may be used or stored at the worksite unless approved in advance in writing by the Subcontract Administrator.

PART II – CONTRACT CLAUSES

SECTION I

I.1 FAR & DEAR CLAUSES INCORPORATED BY REFERENCE

- (a) The Federal Acquisition Regulation (FAR) and the Department of Energy Acquisition Regulation (DEAR) clauses which are incorporated by reference herein shall have the same force and effect as if printed in full text.
- (b) Full text of the referenced clauses may be accessed electronically by copying and pasting the appropriate URL address in a web browser:
- | | |
|-------------------|---|
| FAR clauses: | https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses |
| DEAR 952 clauses: | https://www.ecfr.gov/cgi-bin/text-idx?SID=838834e575ead9ec27ea415e492b42ee&mc=true&tpl=/ecfrbrowse/Title48/48cfr952_main_02.tpl |
| DEAR 970 clauses: | https://www.ecfr.gov/cgi-bin/text-idx?SID=838834e575ead9ec27ea415e492b42ee&mc=true&tpl=/ecfrbrowse/Title48/48cfr970_main_02.tpl |
- (c) The following alterations shall apply to FAR and DEAR clauses wherever necessary to make the context of the unmodified FAR and DEAR clauses applicable to this contract.
- (1) The term "Contractor" shall mean "Subcontractor";
 - (2) The term "Contract" shall mean this contract; and
 - (3) The terms "DOE," "Government," "Contracting Officer," and equivalent phrases shall mean Contractor and/or Contractor's representative, except the terms "Government" and "Contracting Officer" do not change in the following:
 - (i) Phrases "Government Property," "Government-Furnished Property," and "Government-Owned Property";
 - (ii) Any patent clauses incorporated herein;
 - (iii) When a right, act, authorization, or obligation can be granted or performed only by the Government or the prime contract Contracting Officer or his duly authorized representative;
 - (iv) When title to property is to be transferred directly to the Government;
 - (v) When access to proprietary financial information or other proprietary data is required except for authorized audit rights; and
 - (vi) Where specifically modified herein.
 - (4) For authorized audit rights, the term "Contracting Officer or an authorized representative of the Contracting Officer" shall also include "Contractor, or an authorized representative of Contractor."
 - (5) Each of the individual FAR/DEAR clauses listed below is incorporated by reference into this contract when the condition(s) for applicability is/are met.

THE FOLLOWING CLAUSES APPLY TO THIS SUBCONTRACT REGARDLESS OF THE AMOUNT OF THE SUBCONTRACT PRICE, UNLESS OTHERWISE NOTED:

Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.203-18	Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements - Representation - (Jan 2017)	Solicitation Provision that applies in all solicitations, except in solicitations for a personal services subcontract with an individual if the services are to be performed entirely by the individual.
FAR 52.203-19	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017)	Applies in all solicitations and resultant subcontracts, other than personal services subcontracts with individuals.
FAR 52.204-23	Prohibition On Contracting For Hardware, Software, And Services Developed Or Provided By Kaspersky Lab An Other Covered Entities (Jul 2018)	Applies in all subcontracts, including subcontracts for the acquisition of commercial items.
FAR 52.222-4	Contract Work Hours and Safety Standards Act - Overtime Compensation (May 2018)	Applies to subcontracts that may require or involve the employment of laborers and mechanics. If applicable, only paragraphs (a) through (d) apply. Furthermore, if applicable, SUBCONTRACTOR shall flow down paragraphs (a) through (d) to all its lower-tier subcontracts that may require or involve the employment of laborers and mechanics.
FAR 52.222-50	Combating Trafficking In Persons (Mar 2015)	Applies in all subcontracts and in all contracts with agents (as defined in FAR 52.222-50). The requirements in paragraph (h) of this clause apply only to any portion of a subcontract that— (A) Is for supplies, other than commercially available off-the-shelf items, acquired outside the United States, or services to be performed outside the United States; and (B) Has an estimated value that exceeds \$500,000.
FAR 52.222-62	Paid Sick Leave Under Executive Order 13706 (Jan 2017)	Applies in subcontracts for commercial items, as that term is defined in FAR subpart 2.101.
FAR 52.223-3	Hazardous Material Identification and Material Safety Data (Jan 1997) Alternate I (Jul 1995)	Applies only if subcontract involves delivery of hazardous materials as defined in FAR subpart 23.301. If applicable, the term "Government" as used in this clause means "CONTRACTOR and the Government.
FAR 52.223-5	Pollution Prevention And Right-To-Know Information (May 2011) Alternate I (May 2011)	Applies in solicitations and subcontracts that provide for performance, in whole or in part, at LANL.
FAR 52.223-10	Waste Reduction Program (May 2011)	Applies only when work will be performed on site at LANL.
FAR 52.225-9	Buy American Act - Construction Materials (May 2014)	
FAR 52.225-10	Notice of Buy American Act Requirement - Construction Materials (May 2014) Alternate I (May 2014)	Solicitation Provision that applies in solicitations containing the clause at 52.225-9.
FAR 52.225-13	Restrictions on Certain Foreign Purchases (Jun 2008)	
FAR 52.227-3	Patent Indemnity (Apr 1984)	Applies in subcontracts that may result in the delivery of commercial items, as that term is defined in 48 CFR subpart 2.1.

THE FOLLOWING CLAUSES APPLY TO THIS SUBCONTRACT REGARDLESS OF THE AMOUNT OF THE SUBCONTRACT PRICE, UNLESS OTHERWISE NOTED:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.227-4	Patent Indemnity - Construction Contracts (Dec 2007)	Applies in solicitations and subcontracts for construction or that are fixed-price for dismantling, demolition, or removal of improvements.
FAR 52.227-23	Rights to Proposal Data (Technical) (Jun 1987)	Applies if subcontract is based on consideration of a technical proposal.
FAR 52.228-5	Insurance—Work on a Government Installation (Jan 1997)	Applies in subcontracts that require work on a Government installation.
FAR 52.232-39	Unenforceability of Unauthorized Obligations (Jun 2013)	
FAR 52.236-9	Protection of Existing Vegetation, Structures, Equipment, Utilities and Improvements (Apr 1984)	
FAR 52.244-6	Subcontracts for Commercial Items (Aug 2018)	
FAR 52.245-1	Government Property (Jan 2017)	Applies to (1) all cost reimbursement and time-and-material solicitations and subcontracts, and labor-hour solicitations when property is expected to be furnished for the labor-hour subcontract; (2) fixed-price solicitations and subcontracts when CONTRACTOR will provide Government property; and (3) subcontracts for the acquisition of commercial items where Government property that exceeds \$150,000 is furnished or where SUBCONTRACTOR is directed to acquire property for use under the subcontract that is titled in the Government.
FAR 52.245-1	Government Property (Jan 2017) Alternate I (Apr 2012)	Applies if subcontract is <u>not</u> a: (1) cost reimbursement, (2) time-and-material, (3) labor-hour, or (4) fixed-price awarded on the basis of submission of certified cost or pricing data.
FAR 52.245-2	Government Property Installation Operation Services (Apr 2012)	Applies in fixed price service subcontracts, to be performed at LANL, when CONTRACTOR-furnished property will be provided for initial provisioning only and CONTRACTOR is not responsible for repair or replacement.
FAR 52.245-9	Use and Charges (Apr 2012)	Applies when FAR 52.245-1 is applicable.
FAR 52.247-63	Preference for U.S.-Flag Air Carriers (Jun 2003)	Applies if performance of subcontract may involve international air transportation.
FAR 52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006)	Applies in all subcontracts, except those described in paragraph (e)(4) of FAR 52.247-64.
FAR 52.249-2	Termination for Convenience of the Government (Fixed-Price) (Apr 2012) Alternate I (Sep 1996)	Paragraph (d) is deleted; the period for submitting the subcontractor's termination settlement proposal in paragraph (e) is reduced to 6 months; and the period for submitting the subcontractor's request for equitable price adjustment in paragraph (l) is reduced to 45 days.
FAR 52.249-10	Default (Fixed-Price Construction) (Apr 1984)	

THE FOLLOWING CLAUSES APPLY TO THIS SUBCONTRACT REGARDLESS OF THE AMOUNT OF THE SUBCONTRACT PRICE, UNLESS OTHERWISE NOTED:		
Clause Number	Title and Date	Additional Conditions of Applicability
DEAR 952.203-70	Whistleblower Protection For Contractor Employees (Dec 2000)	Applies to subcontracts involving work performed on behalf of DOE directly related to activities at DOE-owned or leased sites.
DEAR 952.204-71	Sensitive Foreign Nations Controls (Mar 2011)	Applies in any subcontract which may involve making unclassified information about nuclear technology available to sensitive foreign nations. When applicable, contact CONTRACTOR to get a list of Sensitive Foreign Nations.
DEAR 952.208-70	Printing (Apr 1984)	
DEAR 952.250-70	Nuclear Hazards Indemnity Agreement (Aug 2016)	Applies only if performance of subcontract may involve the risk of public liability, as that term is defined in the Atomic Energy Act of 1954, as amended, with the additional conditions described in DEAR 952.250-70(d)(2).
DEAR 970.5223-1	Integration of Environment, Safety, and Health Into Work Planning and Execution (Dec 2000)	Applies to subcontracts involving complex or hazardous work at LANL.
DEAR 970.5225-1	Compliance with Export Control Laws and Regulations (Nov 2015)	
DEAR 970.5229-1	State and Local Taxes (Dec 2000)	Paragraph (b) is deleted.
DEAR 970.5232-3	Accounts, Records, and Inspection (Dec 2010)	

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$2,000 AND IS FOR CONSTRUCTION WITHIN THE UNITED STATES:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.222-3	Convict Labor (Jun 2003)	Applies if subcontract will be performed in the United States, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands.
FAR 52.222-5	Construction Wage Rate Requirements - Secondary Site of The Work. (May 2014)	
FAR 52.222-6	Construction Wage Rate Requirements (Aug 2018)	
FAR 52.222-7	Withholding of Funds (May 2014)	
FAR 52.222-8	Payrolls and Basic Records (Aug 2018)	
FAR 52.222-9	Apprentices and Trainees (Jul 2005)	
FAR 52.222-10	Compliance with Copeland Act Requirements (Feb 1988)	
FAR 52.222-11	Subcontracts (Labor Standards) (May 2014)	

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$2,000 AND IS FOR CONSTRUCTION WITHIN THE UNITED STATES:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.222-12	Contract Termination—Debarment (May 2014)	
FAR 52.222-13	Compliance with Construction Wage Rate Requirements and Related Act Regulations (May 2014)	
FAR 52.222-14	Disputes Concerning Labor Standards (Feb 1988)	
FAR 52.222-15	Certification of Eligibility (May 2014)	
FAR 52.222-30	Construction Wage Rate Requirements—Price Adjustment (None or Separately Specified Method). (May 2014)	
FAR 52.222-31	Construction Wage Rate Requirements—Price Adjustment (Percentage Method). (May 2014)	
FAR 52.222-32	Construction Wage Rate Requirements—Price Adjustment (Actual Method). (Jan 2017)	
FAR 52.222-55	Minimum Wages Under Executive Order 13658 (Dec 2015)	Applies in all subcontracts, regardless of dollar value, that are subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, and are to be performed in whole or in part in the United States.
FAR 52.232-23	Assignment of Claims (May 2014) Alternate I (Apr 1984)	

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$2,500 AND IS SUBJECT TO THE SERVICE CONTRACT LABOR STANDARDS STATUE:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.222-41	Service Contract Labor Standards (May 2014)	Unless exempted, applies if the principal purpose of the subcontract is to furnish services in the United States through the use of service employees. See FAR subparts 22.1003-3 and 22.1003-4 for exemptions to SCA.
FAR 52.222-42	Statement of Equivalent Rates for Federal Hires (May 2014)	Applies if FAR 52.222-41 is applicable.
FAR 52.222-43	Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (Multiple Year and Option Contracts) (Aug 2018)	Applies in solicitations and subcontracts if the subcontract is expected to be a fixed-price, time-and-materials, or labor-hour service contract containing the clause at 52.222-41, Service Contract Labor Standards, and is a multiple year subcontract or is a subcontract with options to renew.
FAR 52.222-44	Fair Labor Standards Act and Service Contract Labor	Applies in solicitations and subcontracts if the subcontract is expected to be a fixed-price service contract containing the clause at 52.222-41, Service

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$2,500 AND IS SUBJECT TO THE SERVICE CONTRACT LABOR STANDARDS STATUE:		
Clause Number	Title and Date	Additional Conditions of Applicability
	Standards—Price Adjustment (May 2014)	Contract Labor Standards, and is not a multiple year subcontract or is not a subcontract with options to renew.
FAR 52.222-51	Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (May 2014)	Applies if SUBCONTRACTOR has made the certification specified in FAR 52.222-48(a).
FAR 52.222-53	Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (May 2014)	Applies if SUBCONTRACTOR has made the certification specified in FAR 52.222-52(a).
FAR 52.222-55	Minimum Wages Under Executive Order 13658 (Dec 2015)	Applies if FAR 52.222-41 is applicable.

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$3,500:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.222-54	Employment Eligibility Verification (Oct 2015)	Applies in each subcontract that— (1) Is for— (i) Commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item); or (ii) Construction; (2) Has a value of more than \$3,500; and (3) Includes work performed in the United States.

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$10,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.222-21	Prohibition of Segregated Facilities (Apr 2015)	Applies when FAR 52.222-26, Equal Opportunity, is applicable.
FAR 52.222-26	Equal Opportunity (Sep 2016)	Applies if none of the exemptions listed in FAR Subpart 22.807 are applicable.
FAR 52.222-27	Affirmative Action Compliance Requirements for Construction. (Apr 2015)	Applies to construction subcontracts in excess of \$10,000 and to lower-tier subcontracts expected to exceed \$10,000.
FAR 52.222-40	Notification of Employee Rights Under the National Labor Relations Act (Dec 2010)	Applies in subcontracts that will be performed wholly or partially in the United States, unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 3 of Executive Order 13496 of January 30, 2009.
FAR 52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving.(Aug 2011)	
FAR 52.225-1	Buy American Act – Supplies (May 2014)	Applies if the acquisition is for supplies for use within the United States; and none of the exceptions

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$10,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
		to the Buy American Act apply (e.g., nonavailability, public interest, or information technology that is a commercial item).

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$15,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.222-36	Equal Opportunity for Workers with Disabilities (Jul 2014)	Applies unless exempted by the rules, regulations, or orders of the Secretary of Labor.

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE IS \$25,000 OR MORE:		
Clause Number	Title and Date	Additional Conditions of Applicability
DEAR 970.5223-3	Agreement Regarding Workplace Substance Abuse Programs At DOE Sites (Dec 2000)	Solicitation provision that applies if performance of subcontract involves: (i) access to or handling of classified information or special nuclear materials; (ii) high risk of danger to life, the environment, public health and safety, or national security; or (iii) transportation of hazardous materials to or from a DOE site.
DEAR 970.5223-4	Workplace Substance Abuse Programs at DOE Sites (Dec 2010)	Applies if performance of subcontract involves: (i) access to or handling of classified information or special nuclear materials; (ii) high risk of danger to life, the environment, public health and safety, or national security; or (iii) transportation of hazardous materials to or from a DOE site.

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$100,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.227-1	Authorization and Consent.(Dec 2007) Alternate I (Apr 1984)	
DEAR 970.5227-5	Notice and Assistance Regarding Patent and Copyright Infringement (Dec 2000)	

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE IS \$150,000 OR MORE:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.222-35	Equal Opportunity for Veterans (Oct 2015)	Applies unless exempted by the rules, regulations, or orders of the Secretary of Labor.
FAR 52.222-37	Employment Reports on Veterans (Feb 2016)	Applies unless exempted by the rules, regulations, or orders of the Secretary of Labor.

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$150,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.203-7	Anti-Kickback Procedures (May 2014)	Paragraph (c) (1) is deleted.
FAR 52.203-12	Limitation On Payments To Influence Certain Federal Transactions (Oct 2010)	

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$250,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.203-3	Gratuities (Apr 1984)	
FAR 52.203-5	Covenant Against Contingent Fees (May 2014)	Applies only if subcontract is for non-commercial items.
FAR 52.203-6	Restrictions on Subcontractor Sales to the Government (Sep 2006)	Alternate I (Oct 1995) is also applicable if subcontract is for commercial items.
FAR 52.203-8	Cancellation, Rescission, And Recovery Of Funds For Illegal Or Improper Activity (May 2014)	Applies only if subcontract is for non-commercial items.
FAR 52.203-10	Price Or Fee Adjustment For Illegal Or Improper Activity (May 2014)	Applies only if subcontract is for non-commercial items. If applicable, in paragraph (d) the term "Government" means "Government or CONTRACTOR."
FAR 52.203-17	Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Apr 2014)	
FAR 52.215-2	Audit and Records – Negotiation (Oct 2010)	Applies in solicitations and subcontracts that exceed the simplified acquisition threshold, and— (1) That are cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these; (2) For which certified cost or pricing data are required; or (3) That require subcontractor to furnish reports as discussed in paragraph (e) of this clause.
FAR 52.219-8	Utilization of Small Business Concerns (Nov 2016)	Applies if subcontract offers further subcontracting opportunities and is to be performed within the United States and its outlying areas. If applicable and the subcontract exceeds \$1,500,000, SUBCONTRACTOR shall include FAR 52.219-8 in lower tier subcontracts (except subcontracts to small business concerns) that offer further subcontracting possibilities.
FAR 52.232-17	Interest (May 2014)	Applies unless one of the exemptions listed in FAR Subpart 32.611(a) is applicable.
FAR 52.236-13	Accident Prevention. (Nov 1991)	

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$500,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
DEAR 952.226-74	Displaced Employee Hiring Preference (Jun 1997)	Applies if subcontract is not for commercial items, as that term is defined in 48 CFR Subpart 2.1.
DEAR 970.5226-2	Workforce Restructuring Under Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Dec 2000)	Applies if subcontract is not for commercial items, as that term is defined in 48 CFR Subpart 2.1.

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$1,500,000, THE SUBCONTRACTOR IS A LARGE BUSINESS, AND FAR 52.219-8 IS APPLICABLE:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.219-9	Small Business Subcontracting Plan (Aug 2018), Alternate II (Nov 2016)	Applies in subcontracts to other than small business concerns that offer subcontracting possibilities, and are expected to exceed \$1,500,000. Subcontracting plans are not required when the subcontractor provides a commercial item subject to the clause at 52.244-6, Subcontracts for Commercial Items.

THE FOLLOWING CLAUSES APPLY ONLY TO A NEGOTIATED SUBCONTRACT IF THE SUBCONTRACT PRICE EXCEEDS \$2,000,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.230-2	Cost Accounting Standards (Oct 2015), excluding paragraph (b)	Applies in all negotiated subcontracts, unless otherwise exempt from the requirement to include a CAS clause as specified in 48 CFR 9903.201-1. When applicable, paragraph (b) is deleted and SUBCONTRACTOR shall include the substance of this clause, without paragraph (b), in all other subcontracts of any tier.
FAR 52.230-3	Disclosure And Consistency Of Cost Accounting Practices (Oct 2015), excluding paragraph (b)	Applies in negotiated subcontracts when the subcontract amount is over \$2,000,000, but less than \$50 million, and the offeror certifies it is eligible for and elects to use modified CAS coverage (see 48 CFR 9903.201-2 (FAR Appendix)), unless FAR 52.230-4, Disclosure and Consistency of Cost Accounting Practices - Foreign Concerns, is applicable.
FAR 52.230-4	Disclosure and Consistency of Cost Accounting Practices - Foreign Concerns (Oct 2015)	Applies only to a negotiated subcontract with a foreign concern, unless the subcontract is otherwise exempt from CAS (see 48 CFR 9903.201-1 (FAR Appendix)). Foreign concerns do not include foreign governments or their agents or instrumentalities.
FAR 52.230-6	Administration of Cost Accounting Standards (Jun 2010)	Applies if FAR 52.230-2, 52.230-3, 52.230-4 or 52.230-5 is applicable.
DEAR 970.5232-5	Liability With Respect To Cost Accounting Standards (Dec 2000)	Applies if any Cost Accounting Standards clauses are included (i.e., FAR 52.230-2, 52.230-3 and 52.230-6).

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$2,000,000 AND THE SUBCONTRACTOR IS REQUIRED TO SUBMIT COST OR PRICING DATA, OR WHERE PREAWARD OR POSTAWARD COST DETERMINATIONS WILL BE SUBJECT TO FAR PART 31, CONTRACT COST PRINCIPLES AND PROCEDURES:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.215-10	Price Reduction for Defective Certified Cost or Pricing Data (Aug 2011)	Applies in solicitations and subcontracts when it is contemplated that certified cost or pricing data will be required from the subcontractor or any lower-tier subcontractor (i.e., when none of the exceptions to certified cost or pricing data requirements contained in FAR 15.403-1(b) are applicable).
FAR 52.215-11	Price Reduction for Defective Certified Cost or Pricing Data – Modifications (Aug 2011)	Applies in solicitations and subcontracts when it is contemplated that certified cost or pricing data will be required from the subcontractor or any lower-tier subcontractor for the pricing of subcontract modifications, and FAR 52.215-10, Price Reduction for Defective Certified Cost or Pricing Data, has not been included.
FAR 52.215-12	Subcontractor Certified Cost or Pricing Data (Oct 2010)	Applies in solicitations and subcontracts when it is contemplated that certified cost or pricing data will be required from the subcontractor or any lower-tier subcontractor (i.e., when none of the exceptions to certified cost or pricing data requirements contained in FAR 15.403-1(b) are applicable).
FAR 52.215-13	Subcontractor Certified Cost or Pricing Data – Modifications (Oct 2010)	Applies in each subcontract that exceeds the threshold for submission of certified cost or pricing data at FAR 15.403-4 on the date of agreement on price or the date of award, whichever is later.
FAR 52.215-15	Pension Adjustments and Asset Reversions (Oct 2010)	
FAR 52.215-18	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions (July 2005)	Applies in solicitations and subcontracts for which it is anticipated that certified cost or pricing data will be required <u>or</u> for which any preaward or postaward cost determinations will be subject to FAR part 31.
FAR 52.215-19	Notification of Ownership Changes (Oct 1997)	Applies in solicitations and subcontracts for which it is contemplated that certified cost or pricing data will be required <u>or</u> for which any preaward or postaward cost determinations will be subject to FAR part 31.

THE FOLLOWING CLAUSES APPLY ONLY IF THE SCOPE OF WORK REQUIRES THE DESIGN / REDESIGN, DEVELOPMENT, OR OPERATION OF A SYSTEM OF RECORDS ON INDIVIDUALS THAT IS SUBJECT TO THE PRIVACY ACT OF 1974:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.224-1	Privacy Act Notification (Apr 1984)	Applies if subcontract scope of work requires redesign, development or operation of a system of records on individuals that is subject to the Privacy Act of 1974.
FAR 52.224-2	Privacy Act (Apr 1984)	

THE FOLLOWING CLAUSES APPLY AS STATED IN THE CONDITIONS OF APPLICABILITY:		
Clause Number	Title and Date	Conditions of Applicability
FAR 52.203-13	Contractor Code of Business Ethics and Conduct (Oct 2015)	Applies only in subcontracts that have a value in excess of \$5.5 million and a performance period of more than 120 days.

THE FOLLOWING CLAUSES APPLY AS STATED IN THE CONDITIONS OF APPLICABILITY:		
Clause Number	Title and Date	Conditions of Applicability
FAR 52.203-14	Display of Hotline Poster(s) (Oct 2015)	Applies in all subcontracts that exceed \$5.5 million, except when subcontract (1) is for the acquisition of a commercial item; or (2) is performed entirely outside the United States.
FAR 52.203-15	Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Jun 2010)	Applies only in subcontracts for commercial items as defined in FAR subpart 2.101 that are funded under the Act.
FAR 52.203-16	Preventing Personal Conflicts of Interest (Dec 2011)	Applies in all subcontracts that exceed \$150,000 and in which subcontractor employees will perform acquisition functions closely associated with inherently governmental functions (i.e., instead of performance only by a self-employed individual).
FAR 52.204-14	Service Contract Reporting Requirements (Oct 2016)	Applies in solicitations and subcontracts for services (including construction) that meet or exceed the following thresholds: (i) All cost-reimbursement, time-and-materials, and labor-hour service contracts and orders with an estimated total value above \$250,000. (ii) All fixed-price service contracts awarded and orders with an estimated total value of \$500,000 or greater.
FAR 52.204-21	Basic Safeguarding of Covered Contractor Information Systems (Jun 2016)	Applies in subcontracts (including subcontracts for the acquisition of commercial items other than commercially available off-the-shelf items) in which the subcontractor may have Federal contract information residing in or transiting through its information system.
FAR 52.208-8	Required Sources For Helium And Helium Usage Data (Apr 2014)	Applies where performance of subcontract involves a major helium requirement. See FAR 52.208-8 for definition of major helium requirement.
FAR 52.209-6	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Oct 2015)	Applies in solicitations and subcontracts, other than a subcontract for commercially available off-the-shelf (COTS) items, where the subcontract value exceeds \$35,000.
FAR 52.211-15	Defense Priority And Allocation Requirements (Apr 2008)	Applies in subcontracts in support of an approved program issued in accordance with the provisions of the Defense Priorities and Allocations System (DPAS) regulation (15 CFR part 700).
FAR 52.222-1	Notice To The Government Of Labor Disputes (Feb 1997)	Applies if a potential labor dispute may delay the timely performance of the CONTRACTOR'S Prime Contract with DOE/NNSA.
FAR 52.223-11	Ozone-Depleting Substances (May 2001)	Applies in solicitations and subcontracts for ozone-depleting substances or for supplies that may contain or be manufactured with ozone-depleting substances that will be performed within the United States and its outlying areas.
FAR 52.225-8	Duty-Free Entry.(Oct 2010)	Applies if foreign supplies in excess of \$15,000 may be imported into the customs territory of the United States.
FAR 52.227-14	Rights in Data - General (May 2014) as modified by DEAR 927.409(a), including Alternate V (Dec 2007)	Applies in subcontracts in which technical data or computer software is expected to be produced and in subcontracts for supplies that contain a requirement for production or delivery of data.
FAR 52.232-40	Providing Accelerated Payments to Small Business Subcontractors. (DEC 2013)	Applies only to subcontracts with Small Business Concerns.

THE FOLLOWING CLAUSES APPLY AS STATED IN THE CONDITIONS OF APPLICABILITY:		
Clause Number	Title and Date	Conditions of Applicability
FAR 52.248-3	Value Engineering— Construction (Oct 2015)	Applies in any subcontract of \$70,000 or more.
DEAR 952.211- 71	Priorities and Allocations (Atomic Energy) (Apr 2008)	Applies in subcontracts issued in accordance with the provisions of the Defense Priorities and Allocations System (DPAS) regulation (15 CFR part 700) that are placed in support of authorized DOE atomic energy programs.
DEAR 970.5204 -3	Access To And Ownership Of Records (Oct 2014)	Applies in all subcontracts that contain DEAR 970.5223-1, Integration of Environment, Safety, and Health Into Work Planning and Execution.
DEAR 970.5227 -7	Royalty Information (Dec 2000)	Solicitation provision that applies if the amount of royalties reported during negotiation is >\$250.
DEAR 970.5227 -8	Refund Of Royalties (Aug 2002)	Applies if the amount of royalties reported during negotiation of the subcontract exceeds \$250. If applicable, SUBCONTRACTOR shall insert the substance of this clause in all lower tier subcontracts under this subcontract in which the amount of royalties reported during negotiation of the subcontract exceeds \$250.

PART IV – REPRESENTATIONS AND INSTRUCTIONS

SECTION K – REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS

K.1 AGREEMENT TO CONTRACT TERMS AND CONDITIONS

TRIAD NATIONAL SECURITY – AGREEMENT TO CONTRACT TERMS AND CONDITIONS

This proposal in response to RFP No. _____ is based on full acceptance of the Section I Contract Clauses. **(This block must be checked.** The Contractor will not entertain any exceptions to the Section I, Contract clauses)

Section I, Contract clauses, are accepted without exception.

All exceptions to provisions other than Section I Contract clauses of this RFP are delineated and **attached to this form.**

Provisions accepted without exception.

Provisions accepted with the following exception(s):

(Signature)(Date)

(Contractor)

K.2 REPRESENTATION AND CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS

Form 3500.00.2002.Representations and Certifications

If an offering entity is a joint venture, association, consortium, or partnership, each member entity must submit individual Representations and Certifications. The successful Offeror's submittal will be incorporated in the resultant subcontract. This form may be found at <http://www.lanl.gov/business/vendors/supplier-forms.php>.

K.3 OFFEROR'S PROPOSAL LETTER

Offeror's Proposal Letter

Proposals by joint ventures, consortia, associations, or partnerships shall designate one single participant to represent all those forming the offering entity, and shall list the full names and addresses of all participants in the offering entity. The name of the signatory shall be typed or otherwise clearly imprinted below each signature, and a corporate offeror shall state its place of incorporation. Evidence of the signatory's authority shall be included, if the offering entity is a joint venture, association, consortia, or partnership; if not, satisfactory evidence of the authority of any signatory shall be furnished when requested. This form may be found at <http://www.lanl.gov/business/vendors/supplier-forms.php>.

PART IV – REPRESENTATIONS AND INSTRUCTIONS

SECTION L – INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS

- L.1 – Proposal Preparation Instructions
- L.2 – Formal Communications
- L.3 – Submission of Proposals
- L.4 – Explanation to Prospective Offerors
- L.5 – NAICS Code and Small Business Size Standard
- L.6 – Preparation of Offers
- L.7 – Small Business Subcontract Plan
- L.8 – Failure to Submit an Offer
- L.9 – Late Submissions, Modifications, and Withdrawals of Proposals
- L.10 – Opening of Proposals
- L.11 – Protests
- L.12 – Disclaimer
- L.13 – Special Notes
- L.14 – Final Revised Proposals
- L.15 – Teaming Contractor of Triad National Security
- L.16 – Oral Presentations
- L.17 – Facilities Capital Cost of Money
- L.18 – Technical/Performance Evaluation
- L.19 – Proprietary Rights
- L.20 – Restriction on Disclosure and Use of Data
- L.21 – DEAR 952.204-73 Facility Clearance
- L.22 – Reporting Executive Compensation and First-Tier Subcontract Awards

SECTION M – EVALUATION FACTORS FOR AWARD

- M.1 – Introduction
- M.2 – Basis for Award

PART IV – REPRESENTATIONS AND INSTRUCTIONS

SECTION L – INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS

L.1 PROPOSAL PREPARATION INSTRUCTIONS

1. Category of MATOCs

It is Contractor’s intent to award MATOC’s in each of the categories listed in Table A. The Offerors may select up to two capability categories of MATOC they are interested in receiving. Offerors must identify the categories and provide evidence to support the categories selected. Subcontractors who are awarded a MATOC may be required to provide additional capability information depending on the complexity and specific technical requirements of any Task Order. The MATOC Subcontractor will only be provided a request for Task Order based on their awarded capability from Table A.

TABLE A	
Select 1 or 2	<u>Key Capability Categories</u>
	General Construction (Design-Build, Design-Bid-Build, Build construction, maintenance and alteration of various facilities)
	Electrical Systems (Construction, maintenance, and alterations)
	Modular office / laboratory facilities (Design, fabrication, supply, install)
	Mechanical (Construction, maintenance and alterations)
	Fire Suppression, Fire Protection
	Demolition, decontamination, and renovations of various facilities
	Asphalt paving

2. Task Orders Values Under The MATOCs

The Offeror must identify in Table B the dollar value of Task Order they are interested in receiving under an awarded MATOC. Volume 3 Contract Documentation must identify the selected Task Order value and provide proof of bonding capacity to support the maximum value. If awarded a MATOC, Subcontractor may be required to provide additional information prior to award of a Task Order to include current work load and resulting current bonding and financial capability. The Subcontractor will only be provided a request for Task Order based on their awarded value from Table B.

TABLE B – Individual Task Order Award value				
Task Order value of interest	<\$2,000,000	<\$5,000,000	<\$10,000,000	>\$10,000,000
Check all that apply				

L.2 PROPOSAL VOLUMES

Offeror shall provide proposals in three separate volumes.

- Volume 1 – Safety Performance Eligibility Requirements
- Volume 2 – Technical Approach and Project Management
- Volume 3 – Contract Documentation

1. VOLUME 1 – SAFETY PERFORMANCE ELIGIBILITY REQUIREMENTS

1.1. **General:** The safety performance eligibility requirements should be thorough and complete. Adequate detail should be provided to demonstrate clearly that the Offeror has a thorough understanding of the requirements. The technical proposal must enable the Contractor technical personnel to make a thorough evaluation and arrive at a sound determination as to whether or

not the proposal meets the requirements of the Solicitation. Offerors shall provide the following in Volume 1:

- 1.1.1. Offeror must provide documentation that the Offeror's experience modification rate (EMR), total recordable injury/illness case rate (TRC), and days away from work, restriction, or job transfer (DART) case rate are at levels acceptable to Company. The Company three-year average performance criteria is not to exceed EMR = 1.0, TRC = 3.2, and DART = 1.4. If any three-year average rate exceeds the performance criteria then Offeror must provide corrective action plan for the deficiencies determined to be acceptable by Company.
- 1.1.2. Offeror will document EMR, TRC, DART, and additional environment, safety, and health information on Form F3-2, Environment, Safety and Health History Worksheet. This form may be found at <http://www.lanl.gov/business/vendors/supplier-forms.php>.

2. VOLUME 2 – TECHNICAL APPROACH AND PROJECT MANAGEMENT

2.1. General

The technical proposal should be specific, detailed, and complete to demonstrate clearly and fully that the Offeror has a thorough understanding of the requirements. The technical proposal must enable the Contractor technical personnel to make a thorough evaluation and arrive at a sound determination as to whether or not the proposal meets the requirements of the Solicitation.

The **Technical Approach and Project Management** proposal shall contain, at a minimum, the following information:

1. Past Performance Information
2. Project Management and General Project Execution Strategy
3. Key Personnel
4. Qualifications Questionnaire (See Attachment L-1)

2.2. Past Performance

Offeror must demonstrate a past proven ability to perform a project within budget and requested schedule of completion without sacrifice of safety or quality. The Offerors past performance should demonstrate a corporate culture with an overall emphasis on safety and quality.

Offeror shall provide a list of seven (7) Recent and Relevant projects completed for Government (Federal, State, and Local) and private industry contracts which are similar to the capability and dollar value of Offeror's selected capability categories and preferred Task Order award values. Contractor will select three (3) projects to evaluate.

If Offeror has completed less than 7 Recent and Relevant projects then Offeror should provide that explanation.

Recent is defined as projects completed within the last five (5) years from issuance of the solicitation.

Relevant is defined as construction projects corresponding to the categories identified in Table A as selected by the Offeror, and at the values selected by the Offeror in Table B. As the range of possible task orders under any one of the Table A categories will vary widely, past performance that demonstrates varied experience of a high quality will be valued greater than that which focuses exclusively on a specific specialty. Multiple projects of a similar nature that encompass a variety of subspecialties are acceptable.

All of the items identified below shall be addressed for each project sited. Elaborate listings or extensive comments are not required or requested.

1. Contract type, Contract Number (if applicable);
2. Whether the Offeror performed as the prime or a subcontractor;
3. Name of owner/client contract manager, and technical point of contact (POC) with name, address, phone/email of POCs;
4. Project title and/or brief description of construction project;
5. Initial price and final or current price, Contract start date, scheduled completion date, and current or final completion date; and
6. Number of recordable and lost time incidents which occurred on the project
7. Brief comments, if desired.

The Offeror agrees that Contractor may contact the listed points of contact to request information regarding subcontracts past performance.

2.3. Project Management and General Project Execution Strategy:

The Offeror shall provide a comprehensive Project Management Plan (PMP) developed for implementation of a task similar to one to be awarded under this IDIQ. The PMP may utilize an actual Recent and Relevant past project, or a develop a plan for a project representative of the tasks expected to be issued under this IDIQ, and relevant to the Offerors selected capabilities from Table A and project size from Table B.

The information in the plan shall make it clear that the Offeror has the ability to deliver a quality product and effectively manage any Subcontractors on the team, and coordinate work throughout the construction phases.

The plan shall identify the project team management approach for design (if applicable) and Construction including the hiring of qualified key project and/or support staff, approach to managing the project and accounting for fluctuations in the workload.

The Offeror shall include any relevant information to determine its ability to oversee projects under the MATOC. At a minimum the Plan should include the following:

1. Org. Chart
 - Corporate organization chart with titles of management personnel and numbers and categories of home office and field personnel
 - Sample project organization chart with titles of key personnel.
 - Written description of both the corporate and project organization, defining lines of authority, responsibility, communication, and the overall working of the organization, with particular emphasis on Home Office/Site interfaces and the procedures for monitoring and controlling the Work.
2. A narrative, not to exceed three pages, describing Offerors plan for executing a Task Order under the MATOC. This plan should be developed in conjunction and be consistent with an accompanying the schedule, organization chart, resumes, personnel tabulation, equipment list and proposed suppliers and/or subcontractors to knit this information together, explain the management of, and flow of work to Subcontract conclusion.
3. Worker Safety and Health Management Program
 - A summary of the Offeror's corporate approach to safety and overall safety program. The summary could include the following:
 - i) The roles and responsibilities of manager, supervisors, and employees in their safety and health program.
 - ii) A description of how the Primary ESH Representative (may be the Corporate Safety Officer) interacts with other employees from the Offeror's organization responsible for fulfilling OSHA-mandated competent person roles (e.g., scaffold competent person, fall prevention/protection competent person, etc.)

- iii) The hazard identification, evaluation, and control process along with templates or tools used in the process.
 - iv) Safety involvement/safety communication processes such as: safety inspection procedures, mechanism(s) to address worker safety and health deficiencies, attendance logs and agendas for tool box meetings or pre-job briefings, or other examples illustrating the corporate approach to worker involvement and communication of safety and health issues to Offerer's workers, lower-tier subcontractors, and customers.
 - v) Summary of the process for communicating changes to a corporate or project specific health and safety plan.
 - vi) Inclusion of all current corporate-level OSHA-mandated programs (e.g., respiratory protection, confined space, hazard communication, hearing conservation program, etc.).
 - vii) the Table of Contents of Offerors corporate Safety Program.
- Provide example(s) of a project-specific safety and health plans including:
 - a) Example industrial hygiene worker exposure assessment for chemical, biological, and/or physical hazards (e.g., noise).
 - b) Example job hazard assessment
4. Environmental Compliance Program
- Provide a summary description of the Environmental Compliance Program to be implemented in performance of the Work; which demonstrates recognition of the potential environmental regulatory requirements applicable to the Work. This summary shall:
 - a) Include information on the organization of the program, including the authority and responsibility of all involved personnel; and
 - b) Explain administrative policies and procedures to be used in carrying out the program, to demonstrate how all work activities performed by Offeror will conform to the applicable MATOC requirements. See Exhibit F.
 - Provide a sample Environmental Plan or plan from a similar project.
5. Quality Assurance Program and qualifications
- Provide a summary description of the Quality Assurance/Quality Control (QA/QC) Program to be implemented in performance of the Work. This summary shall:
 - Include information on the organization of the program, including the authority and responsibility of all involved personnel; and
 - Explain administrative policies and procedures to be used in carrying out the program, to demonstrate how all work activities performed by Offeror will conform to the applicable Subcontract requirements.
 - Describe how your QA/QC program has driven success on a recent project.
 - Describe how the QA/QC plan is communicated among the project team.
 - Provide Table of Contents for Offeror's current QA/QC Manual or a manual from a similar project.
 - Provide details of any QA/QC audit and approval by any other major client, contractor, or independent body in the last four years if applicable.
6. Work sequences – typical work execution plan including a sample detailed resource loaded schedule
- i) Plan should address if Offeror currently uses the CII Best Practice of Advanced Work Packing (AWP)
 - ii) A description of the work breakdown philosophy and content of a typical work package

- iii) A description of how the Offeror ensures that timing of engineering deliverables support the path of construction
- iv) A description of how the Offeror ensures that vendor documentation and material / equipment deliverables support the path of construction
- 7. Resources/Staffing Plan
- 8. Lower tier subcontract management: Provide a narrative summary describing how the offeror manages lower-tier subcontractors.
- 9. Change Order Management: Provide a narrative summary describing how the offeror manages change and change orders under projects.

2.4. Key Personnel and Qualifications:

Key Personnel proposed by Offeror must demonstrate performance in completing projects for work of similar size, scope, and complexity within the past five (5) years. Experience must be relevant to the capability and dollar range selected in Tables A and B in Section L.1.

1. Subcontractor personnel experience, qualifications, and level of responsibility/authority within the Subcontractor organization shall meet or exceed the following:
 - a) Project Manager – The designated Subcontractor individual responsible for all Subcontractor activities shall have a minimum five (5) years experience as a Project Manager providing work of similar size, scope and complexity. Experience related to DOE projects will be considered a strength. The Subcontractor Project Manager shall have the authority to be responsible for the overall management and coordination of this contract, receive instructions from the Contractor, resolve problems and with the authority to act for the Subcontractor.
 - b) Primary ESH Representative (may be Corporate Safety Officer) – The designated subcontractor resource to will be responsible to provide active oversight of ESH responsibilities and interact with those individuals from the Offeror’s organization qualified in OSHA-, EPA-, DOE-, and Company-competent person roles. This person shall have a minimum of 5 years’ experience providing ESH oversight for projects of similar size, scope, and complexity. Experience related to DOE or DOD projects will be considered a strength. The list below shows the preferred qualifications with the minimum acceptable qualifications at the bottom of the list.
 - Provision of a Certified Safety Professional (CSP) or a Certified Industrial Hygienist (CIH) will be considered a strength
 - Safety Management Specialist (SMS) or OSHA 500 certification
 - Demonstrated education/experience in environmental compliance
 - Construction Safety and Health Technician (CHST) with 5 years’ experience in construction safety management
 - Bachelor of Science degree from an accredited university in safety and health or closely related field
 - Associate Safety Professional with 5 years’ experience in construction safety management
 - c) Construction Manager – The designated site manager shall have a minimum 5 years’ experience in construction project supervisory responsibilities in performance of work of similar size, scope, and complexity to the selected capability from Table A and B.

Proposed key personnel above are for evaluation purposes only. Personnel proposed on task orders should be equivalent to personnel assigned to projects of similar size and scope. Key personnel will be required under each RTP.

2.2 Qualifications Questionnaire (See Attachment L-1) Offeror shall complete all sections of the questionnaire which are relevant to their capabilities.

3. **VOLUME 3 – CONTRACT DOCUMENTATION**

3.1. Offeror shall provide the following in Volume 3:

- 3.1.1. Completed Solicitation, Offer and Award Form.
 - Sec. A, Boxes 11–18
 - Section B.6, Subsections 3.5, 3.6 and 3.10 related to Overhead and Profit Rates
 - Sec B, Commercial Schedules C – Direct Field Labor Rates
 - Sec B, Commercial Schedules D – Equipment Rates
- 3.1.2. Completed Representations, Certifications, and other Statements of Bidders/Offerors (Section K).
- 3.1.3. Completed Offerors Proposal Letter (Section K).
- 3.1.4. Completed Agreement to Contract Terms and Conditions (Section K), with any exceptions detailed and attached.
- 3.1.5. A Certificate of Insurance or Insurance letter of intent showing ability to meet requirements in accordance with Section H clause entitled “Required Insurance.”
- 3.1.6. Bonding Capability letter in accordance with B.5 including bonding rate.
- 3.1.7. Offerors electing to be certified for the project dollar values of \$5 million and greater as defined in Section B.5, must furnish the Contractor with a current certified statement of the Offeror’s financial condition, and such data detailed on attachment. The Contractor will use this information to determine the Offeror’s financial responsibility and ability to perform under the Contract.

L.3 **COMMUNICATIONS**

During the Request for Proposal (RFP) period, all communications during the proposal period such as Requests for Clarification and/or information concerning this solicitation should be submitted in writing electronically to the address below:

Attn: Chad Riebsomer
Telephone: (505) 667-6428
Email: chadr@lanl.gov

L.4 **SUBMISSION OF PROPOSALS**

1. **Proposal Due Date:** Proposals must be received on or before **TBD(Estimated at Dec 6 2019), 10:00AM MST**. While electronic submission is preferred, offers and modifications thereof may be submitted in sealed envelopes or packages, with the technical and commercial volumes clearly separated within the package. A representative of the Offeror authorized to legally bind the Contractor must sign the original proposal. Envelopes or packages containing proposals shall be marked with the solicitation number, date and hour specified for receipt of offers, and the name and address of the Offeror on the outer cover in the lower right-hand corner.

2. Proposals shall be addressed as follows:

2.1. Email version to: **TBD** (files must be less than 10Mbs each). Call to confirm receipt.

When the Offeror chooses to transmit an email proposal, the Contractor will not be responsible for any failure attributable to the transmission or receipt of the proposal including, but not limited to, the following:

- Receipt of garbled or incomplete proposal.
- Incompatibility between the sending and receiving equipment.
- Delay in transmission or receipt of proposal.
- Failure of the Offeror to properly identify the proposal.

- Illegibility of proposal.
- Security of proposal data.

2.2. Hard copy versions in sealed envelopes to:

Triad National Security
Attn: Chad Riebsomer, MSJ590
Bldg. SM-30 Bikini Atoll Road
Los Alamos, New Mexico 87545

2.3. Email and hard copy versions are expected to be identical in substance and format.

L.5 EXPLANATION TO PROSPECTIVE OFFERORS

1. Any explanation desired by prospective Offerors regarding the meaning or interpretation of the solicitation, specifications, etc. shall be transmitted in writing. The format of the questions shall follow the sequential numbering of this solicitation's sections and paragraphs and shall state the major paragraph heading.
2. All questions must be submitted in writing by **Nov 25, 2019, 10:00 AM MST**
3. All technical and cost proposals are due by **TBD(Estimated at Dec 6 2019), , 10:00 AM MST**

L.6 PROPOSAL COSTS

1. All costs and expenses incurred by prospective Offeror in preparing a proposal will be borne solely by the prospective Offerors. Offeror will be informed whether or not its proposal has been successful. Contractor reserves the right to reject any or all proposals. Actual award of the Contract(s) is contingent upon execution of formal documents satisfactory to both parties and funding availability.
2. Contractor reserves the right to:
 - 1.1. determine that any proposal not submitted in accordance with this RFP is non-responsive and reject the proposal;
 - 1.2. award a contract on the basis of proposals received without discussions with Offerors (therefore, initial proposals should be submitted with the most favorable technical and price terms);
 - 1.3. select one or more Offerors to negotiate with;
 - 1.4. reject any or all proposals received;
 - 1.5. issue a request for revised proposals; or
 - 1.6. cancel the RFP without awarding a contract.

L.7 NAICS CODE AND SMALL BUSINESS SIZE STANDARD

1. Contractor contemplates award of multiple MATOCs for the various disciplines identified in Table A of Section L.1. The following are the NAICS codes likely to be awarded for each discipline:

Construction Type	NAICS	Size Standard
General Construction	236220	\$36.5 Million
Electrical Systems	238210	\$15 Million
Modular office / laboratory facilities	236210	\$36.5 Million
Mechanical	238220	\$15 Million
Fire Suppression, Fire Protection	238220	\$15 Million
Demolition, decontamination, and renovations of various facilities	562910	\$20.5 Million
Asphalt paving	237310	\$36.5 Million

2. Additional NAICS codes may be applicable to specific Task Orders and will be determined by the Contract Administrator.

L.8 PREPARATION OF OFFERS

1. Offerors are expected to examine all documents that compose the RFP for this MATOC. Failure to do so will be at the Offeror's risk.
2. Each Offeror shall furnish the information required by the solicitation. The Offeror shall sign the offer and print or type its name on the Schedule and each continuation sheet on which it makes an entry. The person signing the offer must initial erasures or other changes. Offers signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished.
3. Time, if stated as a number of days, will include Saturdays, Sundays, and holidays.

L.9 FAILURE TO SUBMIT AN OFFER

Those firms not responding should advise the Contract Administrator why no offer is being submitted and whether the firm wishes to receive future solicitations for similar requirements. If a recipient does not submit an offer and does not notify the Contract Administrator that future solicitations are desired, the recipient's name may be removed from the applicable mailing list.

L.10 LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF PROPOSALS

1. Offers or modifications of offers received at the address specified for the receipt of offers after the exact time specified for receipt of offers may not be considered.

2. Notwithstanding Paragraph (a) above, a late modification of an otherwise successful proposal that makes its terms more favorable to the Contractor may be considered at any time it is received before award, and may be accepted.
3. Proposals may be withdrawn by written notice received at any time before award. Proposals may also be withdrawn via facsimile or email if the request is received by the proper Contractor Contract Administrator at any time before award. Proposals may be withdrawn in person by an Offeror or an authorized representative, if the representative's identity is made known and the representative signs a receipt for the proposal before award.

L.11 OPENING OF PROPOSALS

There will be no public opening of the proposals. Offerors may be advised of award as soon as possible after source selection has been made and the consent of the Department of Energy (DOE) has been obtained, if required.

L.12 TRIAD PROCUREMENT PROTEST PROCESS (NOV 2018)

This Protest process provides Offerors with an opportunity to resolve concerns with a Triad procurement prior to submitting a demand to arbitrate, pursuant to the Agreement to Arbitrate. Completion of this process is a prerequisite to filing a demand for arbitration pursuant to the Agreement to Arbitrate.

Definitions

Agreement to Arbitrate means binding arbitration in accordance with the Agreement to Arbitrate executed by Offeror and submitted with its Proposal.

Offeror is a legal entity submitting a proposal in response to a Triad solicitation.

Protest is a written objection, submitted by an unsuccessful Offeror after receiving a notice of non-award. A Protest may be filed only by an Offeror that has submitted a proposal in response to the Triad solicitation that is the subject of the Protest.

Protest Official is the official designated by LANL Laboratory Director to review and decide the Protest.

Note: A size challenge by an Offeror alleging that another Offeror does not meet the Small Business Administration (SBA) size standards for the given NAICS code is NOT a Protest. Triad's Subcontract Administrator shall refer the parties to the SBA, who shall make the determination, which shall be final and binding upon all parties.

Pre-Protest Resolution Efforts: Offerors who desire an explanation or interpretation of one or more Solicitation documents, must submit questions in writing in accordance with the *Examination Of Solicitation Documents* provision above. If an Offeror knew or through reasonable efforts should have known of an issue concerning the Solicitation documents and fails to raise that issue, that Offeror will be barred from raising that issue in a subsequent Protest.

Prior to submission of a Protest, Offerors shall raise any concerns about the solicitation process to Triad's Subcontract Administrator, who will use his/her best efforts to address concerns through frank and informal communications.

Time for Filing a Protest: Upon notice of non-award, an Offeror, who believes that Triad's conduct was inconsistent with the Solicitation and prejudiced the Protester, may file a Protest. The Protest must be received by Triad's Subcontract Administrator, who issued the notice of non-award, no later than ten (10) business days after the date the email is sent providing notice of non-award or no later than ten (10) business days after a debriefing. Protests that are filed prior to Triad issuing a notice of non-award, or more than ten (10) business days after the notice of

non-award is transmitted, or more than ten (10) business days after a debriefing, will be dismissed as untimely. Regardless of the filing of a Protest, Triad may award the subcontract.

Submittal of Protest: A Protest must be submitted to Triad's Subcontract Administrator in writing, preferably via email. Triad's Subcontract Administrator will then forward the Protest to the Protest Official, along with the Protest Record.

Awardee Intervention: Upon the request of the Awardee, at the Protest Official's sole discretion, the Protest Official may allow the Awardee to intervene as a party to the Protest proceeding (Intervenor).

Confidentiality Agreement/Protective Order: Parties to the Protest are required to cooperate and comply with the terms of a Confidentiality Agreement/Protective Order issued by the Protest Official to allow the parties and their outside counsel appropriate access to solicitation-related documentation that contain proprietary information.

Protest Content: A Protest must be signed and must contain the following:

- The name, mailing and email address and telephone number(s) of the Protester and his/her attorney, if any;
- The Solicitation number sufficient for identification;
- A detailed statement of the legal and factual grounds for the Protest, including a description of Triad's conduct that was inconsistent with the Solicitation and prejudiced the Protester;
- Copies of relevant documents; and
- A request for a ruling and statement as to the relief requested, subject to limits specified herein.

No Discovery: Neither the Protester nor Triad will have the right to conduct discovery in this process.

Protest Record: The Protest Record shall be prepared by Triad's Subcontract Administrator and submitted to the Protest Official within ten (10) business days of receipt of the Protest. The Protest Record will not be made available to the Protester in order to protect the confidential, competitive information related to other Offerors. The Protest Record prepared by the Subcontract Administrator shall contain the following documents:

- A complete copy of the Protest;
- A complete copy of the protested Solicitation and subcontract;
- A complete copy of the Source Selection Plan, when applicable;
- All documentation of the evaluation and selection process used, including any memoranda or evaluation documentation generated by Triad;
- A complete copy of the Procurement Summary, if it has been prepared;
- A complete copy of the Protester's Proposal;
- Any correspondence between Offeror(s) and Triad with respect to the challenged solicitation/subcontract;
- A memorandum from Triad's Subcontract Administrator which responds in detail to the Protester's allegations;
- A recommendation for corrective action, if any; and
- Additional information and documentation considered relevant to the protested solicitation and/or subcontract.

Determination of Solicitation or Subcontract Suspension: Within ten (10) business days of receiving the Protest Record, the Protest Official will determine in his/her sole discretion whether to direct that the solicitation or subcontract be suspended. A decision to suspend the solicitation or subcontract may only be made if doing so is in Triad's best interest. Further, any decision to suspend the solicitation or subcontract may be reconsidered at any time while the Protest is pending. If the solicitation or subcontract is suspended, Triad's Subcontract Administrator will inform Offerors who might become eligible for award of the subcontract and request that they keep their Proposals open pending resolution of the Protest, to avoid the possible need for re-solicitation in the event the protest is sustained.

Protest Resolution:

A protest may be summarily dismissed by Triad's Subcontract Administrator if it has not been filed by an Offeror or its counsel.

A protest may be summarily dismissed by the Protest Official if it:

- Has not been filed in a timely manner;
- Did not contain the required information;
- Fails to state grounds sufficient to justify relief; or
- Is frivolous.

If a Protest is summarily dismissed, the Protest Official will issue a written decision to that effect outlining his/her basis for the dismissal.

If a Protest is not summarily dismissed, the Protest Official, upon review of the Protest Record, will determine whether any additional evidence should be gathered.

If the Protest Official deems oral or written arguments necessary to disposition the protest, he/she will establish deadlines for oral or written arguments.

Standard of Review: The Protest Official is not required to limit his/her inquiry to the specific issues raised in the Protest. The Protest Official may uphold the Protest if he/she finds by a preponderance of the evidence that the conduct of those individuals acting on behalf of Triad was inconsistent with the Solicitation provisions and prejudiced the Protester. To find prejudice, the Protest Official must conclude that Triad did not follow the solicitation provisions and that the failure to do so had a significant adverse impact on the evaluation of the Protester's Proposal. The Protest Official has broad discretion to take actions necessary to determine if Triad was inconsistent with the solicitation provisions and whether any inconsistencies resulted in prejudice requiring that the Protest be upheld.

Protest Decision: The Protest Official or designee will notify the Protester in writing of his/her decision and will specify the relief to be granted, if any. Triad and the Parties will not publicly release the Protest Decision unless required by law. The Protest Official may at his/her discretion allow Protester's or Intervenor's outside counsel to review the decision for proprietary information. Notwithstanding the foregoing, the Protest Official, at his or her sole discretion, will determine whether the Protest Decision contains proprietary information and whether it can be released by outside counsel to the parties.

Relief: If the Protest Official concludes that the conduct of those individuals acting on behalf of Triad was inconsistent with the Solicitation provisions and prejudiced the Protester, as defined above, the Protest Official may direct that:

- the solicitation be amended to correct the deficiency(ies) and revised proposals requested from all Offerors;
- the solicitation be cancelled and written notification sent to all Offerors of such cancellation;
- the deficiency be corrected and the evaluation process be conducted again, if necessary;
- the subcontract be terminated and written termination notice sent to the subcontractor.

No other types of relief may be granted.

L.13 AGREEMENT TO ARBITRATE (NOV 2018)

Note: *An offeror must sign and return the OFFEROR'S PROPOSAL LETTER, which contains the Agreement to Arbitrate shown below, in order to be considered for award of a subcontract.*

Definitions

Offeror is a legal entity submitting a proposal in response to a Triad solicitation.

Protest is a written objection, submitted by an unsuccessful Offeror after receiving a notice of non-award. A Protest may be filed only by an Offeror that has submitted a proposal in response to the Triad solicitation that is the subject of the Protest.

This Agreement to Arbitrate (Agreement) constitutes an express contract between Offeror and Triad, regardless of who is awarded the subcontract. As consideration for this agreement, Triad agrees to consider the Offeror's proposal for an award in exchange for the Offeror's agreement to arbitrate as stated herein. **No arbitration may be initiated under this Agreement until an offeror has complied with and completed Triad's Procurement Protest Process, which is set forth in this Solicitation.** Any arbitration initiated prior to Offeror's completion of the Protest process will be dismissed for failure to exhaust administrative remedies. The scope of any arbitration initiated pursuant to this Agreement will be the issues raised in an Offeror's Protest and any new issues that were not and could not have been discovered prior to or during the Protest process.

The Solicitation is not a promise to contract, either express or implied. Any procurement conducted by Triad in connection with this Solicitation will be conducted solely at Triad's discretion. Triad reserves the right to make any award, or no award, in connection with this Solicitation, in its sole discretion and in the best interests of Triad and the Government.

By responding to this Solicitation, Offeror agrees that any controversy or claim arising out of or relating to this Solicitation, any evaluation or selection process in connection with this Solicitation, or any award decision based on this Solicitation shall be settled by an arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules and the provisions of this Agreement. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

(a) Arbitrator

An arbitration initiated under this Agreement shall be decided by one arbitrator. The Offeror initiating arbitration shall be provided with a list of at least five (5) potential arbitrators identified by Triad from the National Roster of commercial arbitrators certified by the American Arbitration Association. The Offeror shall select the arbitrator of its choice from that list, subject to the availability of the arbitrator and absent any conflicts of interest between the selected arbitrator and the Offeror.

(b) Choice of Law

An arbitration initiated under this Agreement shall be decided under and governed by the laws of the State of New Mexico. The enforceability of this Arbitration Agreement will be determined under the laws of the State of New Mexico.

(c) Limitation of Remedies

- (i) In no event shall an award in an arbitration initiated under this Agreement exceed the actual, reasonable cost of the preparation of Offeror's proposal, plus actual and reasonable attorneys' fees and costs incurred in the arbitration.
- (ii) The arbitrator shall not under any circumstances award expectancy damages, consequential damages, "lost profits" damages, special damages, punitive damages, or any remedy or relief other than the remedy identified in subparagraph (i) above.
- (iii) Any award in an arbitration initiated under this Agreement shall be limited to the relief identified in subparagraph (i), and shall not include any injunction, other equitable relief or direction to any party other than the direction to pay a monetary amount.

(d) Arbitration Deadline

Any demand for arbitration initiated under this Agreement shall be brought no later than thirty (30) business days from the Protest Official's final decision on an Offeror's Protest.

(e) Limitations on Discovery in Arbitration

- (i) Within ten (10) business days from the appointment of an arbitrator, Triad shall file with the arbitrator and produce to the Offeror a file consisting of all documents

and other tangible things relevant to the Offeror's claim and to the procurement action(s) which is/are the subject of the arbitration (the Arbitration File). The Arbitration File will include a complete copy of the Solicitation and proposed subcontract, documentation of the procurement and selection process, correspondence between the parties that is relevant to the arbitration, and all documents on which Triad relied in making the procurement decision(s) that are the subject of the arbitration. The Arbitration File may be supplemented by either party upon approval by the arbitrator.

- (ii) Discovery in the arbitration will generally be governed by the New Mexico Rules of Civil Procedure for the District Courts, with the following limitations:
 - (A) Each party will be limited to taking no more than three (3) depositions, unless the arbitrator finds good cause to permit additional depositions.
 - (B) Written discovery shall be limited to no more than twenty-five (25) requests for production of documents, and shall not include interrogatories or requests for admission, unless the arbitrator finds good cause to allow discovery beyond the limitations of this paragraph.
- (iii) The arbitrator may further limit discovery and/or issue any necessary protective orders as provided in the New Mexico Rules of Civil Procedure for the District Courts.
- (f) **Standard of Review**

The following standard of review shall apply to the arbitration. The Arbitrator may only grant relief if he or she finds substantial evidence that Triad's conduct was inconsistent with the Solicitation and prejudiced the Offeror. To demonstrate prejudice, the Offeror must show that there was a substantial likelihood that it would have received the subcontract but for Triad's conduct.
- (g) **Costs of Arbitration**

The cost of the arbitrator's fees, any American Arbitration Association administrative fees, and costs of the arbitration shall be borne by the losing party.
- (h) **Locale**

The location of the arbitration shall be Los Alamos, New Mexico, or any other location mutually agreed upon by the parties.

L.14 DISCLAIMER

This solicitation does not commit the United States Government and/or Triad National Security to pay for any costs incurred in the preparation and submission of a proposal or for any other costs incurred before the execution of the Contract. This solicitation shall not be construed in any manner to be an obligation on the part of the United States Government and/or Triad National Security to enter into a contract or any other arrangement with the Offeror.

L.15 SPECIAL NOTES

Sections L and M will be physically removed from any resultant award.

L.16 FINAL REVISED PROPOSALS

1. Offerors are cautioned to review carefully all terms and conditions and specifications of this solicitation before the submission of proposals. The Contractor may award this solicitation without discussion of proposals received.
2. Discussions may be held at the sole discretion of the Contractor. A complete understanding of technical requirements and all other terms and conditions of the proposed contract should exist

between the Offeror and the Contractor at the conclusion of any such discussions. Final revised proposals may be requested upon the completion of discussions if held.

3. Offerors may not submit any new or revised terms or conditions in their final revised proposals that have not been fully disclosed, discussed, and understood during discussions. Any such revisions must be substantiated and must be able to be traced back to the original proposal. Any revisions or nonconcurrence to negotiated agreement terms and conditions submitted in the revised proposal may be a basis for the rejection of the Offeror's final revised proposal.

L.17 TEAMING SUBCONTRACTOR OF TRIAD NATIONAL SECURITY

Offerors are cautioned that if their company is a Parent, Division, Affiliate, or teaming partner of Triad National Security, Inc. the members of Triad National Security that are performing prime contract DE-EM0001131, Task Order DE-DT0007774 with the Department of Energy, you must identify this on the OCI certification in Section K.

L.18 ORAL PRESENTATIONS

Oral presentations may be required from the Offerors determined to be in the competitive range. The content, format, time, and location of any oral presentation will be specified in writing by the Contractor. The presentations may be held at the Contractor or the Offeror's facility. The purpose of any oral presentation will be to facilitate understanding of the Offeror's Technical Proposal.

L.19 FACILITIES CAPITAL COST OF MONEY

1. Facilities capital cost of money will not be an allowable cost under the contemplated contract.
2. The resulting contract will include the clause Waiver of Facilities Capital Cost of Money (FAR 52.215-17).

L.20 TECHNICAL/PERFORMANCE EVALUATION

Representatives from, but not limited to, the Contractor's Quality Assurance and Procurement representatives may conduct a Technical/Performance Evaluation to verify the Offeror's compliance with this solicitation's requirements. Such an evaluation may include, but will not necessarily be limited to, an inspection of capacity, capability, procedures, management control systems (financial, quality assurance, and schedule), and material storage and handling procedures. This evaluation could be conducted at the Offeror's manufacturing facility or conducted as a review of appropriate documents, past performance, previous Company surveys, surveys performed by other Department of Energy (DOE) sites, etc. The method of evaluating is at the discretion of the Contractor. The conduct of such an evaluation does not constitute a commitment by the Contractor to award any contract to the Offeror. Failure by the Offeror to successfully demonstrate its ability to comply with the requirements of this solicitation may result in the Offeror being considered nonresponsive and removed from further consideration.

L.21 PROPRIETARY RIGHTS

The Contractor's proprietary rights are involved in the information disclosed and requested herein. The Offeror shall not disclose either this document or the information disclosed herein, or any part thereof, nor shall this document or the information disclosed herein be reproduced or transferred to other documents, or used or disclosed to others for any purpose other than for this proposal, except as specifically authorized in writing by the Contractor.

L.22 RESTRICTION ON DISCLOSURE AND USE OF DATA

1. Offerors who include in their proposals or quotations data that they do not want disclosed to the public for any purpose or used by the Contractor except for evaluation purposes, shall--

- 1.1. Mark the title page with the following legend:

"This proposal or quotation includes data that shall not be disclosed outside Triad National Security and the Government and shall not be duplicated, used, or disclosed--in whole or in part--for any purpose other than to evaluate this proposal or quotation. If, however, a contract is awarded to this Offeror as a result of--or in connection with--the submission of this data, Triad National Security and the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit Triad National Security's or the Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets TBD"; and

- 1.2. Mark each sheet of data it wishes to restrict with the following legend:

"Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal or quotation."

L.23 REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS

1. Any contract or order resulting from this solicitation will include the clause at FAR 52.204-10 (JUL 2013), which is mandatory and implements a statutory requirement in U.S. Government contracts and subcontracts.
2. In accordance with FAR 52.204-10 (JUL 2013), the Contractor is required to report to the U.S. Government the names and total compensation of the five most highly compensated executives of the Subcontractor receiving this Contract or order. This information will be made available to the public through the Government's website at www.fsrs.gov.
3. No award will be made unless the Subcontractor Executive Compensation Information required by FAR 52.204-10 (JUL 2013) has been submitted to the Contractor, unless one of the exemptions noted in the above clause is applicable.
4. The Subcontractor Executive Compensation Information is not required with proposals, but if it is applicable and no exception has been certified to in the Representations and Certifications attached to this RFP/RFQ, it will then be required to be submitted and certified by the Offeror prior to award.
5. Offerors who fail to respond with the required information when award is pending will be determined to be nonresponsive. Offerors failing to provide the compensation information may be precluded from future bidding opportunities.

PART IV – REPRESENTATIONS AND INSTRUCTIONS

SECTION M – EVALUATION FACTORS FOR AWARD

M.1 INTRODUCTION

1. The Contractor acting under its contract with the Department of Energy, intends to issue several Multiple Award Task Order Contracts (MATOCs).
2. The Contractor intends to evaluate proposals and award MATOCs without discussions with the Offerors. Therefore, the Offeror's initial proposal should contain the Offeror's best terms from a price/cost and technical standpoint. The Contractor reserves the right to conduct discussions if it determined that they are necessary.
3. The Contractor will evaluate proposals and select Offerors for award of an MATOC in accordance with the evaluation factors set forth below.

M.2 BASIS FOR AWARD

The Contractor will use a modified "Best Value" source selection process. Proposals will be evaluated and award made to the responsive, responsible Offeror whose proposal is evaluated as offering the "best value" to Triad National Security (Triad) and the Government. Subcontractor's Capability is a significant factor in the evaluation and award determination process; as Triad is concerned with obtaining superior technical and management features. Triad will perform an evaluation of proposed technical, management, past performance, safety and quality criteria described in offerors' proposals in determining which proposal offers the best value.

1. Volume 1: Safety Volume Evaluation Criteria

The minimum requirements identified in Section L.2 must be met. Failure to meet these requirements shall eliminate an offeror from further consideration for award:

2. Volume 2: Technical/Management Volume Evaluation Criteria. The following technical evaluation criteria shall be used to evaluate the technical proposals submitted to Triad for this solicitation. Criterion 1 Past Performance, Criterion 2 Project Management Plan and General Project Execution Strategy and Criterion 3 Key Personnel. The three (3) technical criteria are listed in descending order of importance. Key Personnel and Project Management and General Project Execution Strategy, when combined, are of equal importance to Past Performance.
 - Past Performance
 - Project Management and General Project Execution Strategy
 - Key Personnel

2.1 CRITERION 1 – PAST PERFORMANCE

Triad will evaluate relevant (similar in size, scope and complexity) past performance information for the Offeror from the contracts identified for corporate experience. The Offeror's past performance will be evaluated on the basis of information furnished by the references identified and any other available sources. Triad will evaluate the quality, timeliness and cost of performance relative to the scope, size, and complexity of the work described in the solicitation.

2.2 CRITERION 2 – PROJECT MANAGEMENT AND GENERAL PROJECT EXECUTION STRATEGY

Triad will evaluate the Subcontractors Project Management Plan based on their approach to plan and execute, from a technical and managerial perspective, project(s) specific to the Offeror's selected capability(ies). The Project Management Plan must provide the detail identifies in Section L.1.

2.3 CRITERION 3 – KEY PERSONNEL

The Offeror will be evaluated on the Key Personnel it proposes and considers to be essential to the successful accomplishment of the work being performed under the Contract. The Key Personnel will be evaluated for demonstrated leadership; demonstrated experience in performing work similar in size and complexity to the Statement of Work; and qualifications (e.g., education, certifications, licenses) as presented in the resumes.

3. Volume 3: Contract Documentation Volume Criteria:

The contract documentation volume will be evaluated for completeness and to determine an offeror's eligibility for award of a MATOC.

An offeror's proposed rates as provided in the contract documentation volume will be evaluated for reasonableness and realism.

The proposed rates will be evaluated in the following manner:

- Proposed rates are subject to evaluation for reasonableness and realism
- Proposed rates are subject to negotiation prior to award based on reasonableness
- Triad reserves the right not to award a MATOC to an offeror whose proposed rates and not fair and reasonable.

4. Award of MATOCs:

Award will be made to the offerors whose proposals contains the combination of factors offering the best overall value to Triad. Assessment of best value will be determined by comparing each offeror's proposal value in terms of the various proposed technical features.

Triad is more concerned with obtaining superior technical or management features than with making an award to the offeror with the lowest rates. Although the reasonableness and realism of proposed rates are a factor, an offeror's proposed rates will not outweigh the technical factors.