

**AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT**

1. CONTRACT ID CODE

Page 1 of 36  
PAGES2. AMENDMENT/MODIFICATION NO.  
**M473**3. EFFECTIVE DATE  
**See Block 16C**4. REQUISITION/PURCHASE  
REQ. NO.

5. PROJECT NO. (If applicable)

6. ISSUED BY  
**U.S. Department of Energy  
National Nuclear Security Administration  
Sandia Site Office (MS 0184)  
P.O. Box 5400  
Albuquerque, NM 87185-5400**

CODE

7. ADMINISTERED BY (If other than Item 6) CODE

8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, state, ZIP Code)  
**Sandia Corporation  
P. O. Box 5800  
Albuquerque, NM 87185**

CODE

FACILITY CODE

9A. AMENDMENT OF SOLICITATION NO.

9B. DATED (SEE ITEM 11)

10A. MODIFICATION OF CONTRACT/ORDER NO.

**DE-AC04-94AL85000**

10B. DATED (SEE ITEM 13)

**October 1, 1993****11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS** The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers  is extended,  is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation as amended, by one of the following methods:

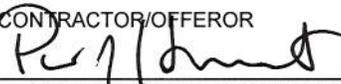
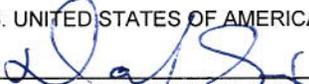
(a) By completing Items 8 and 15, and returning \_\_\_\_\_ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

**12. ACCOUNTING AND APPROPRIATION DATA (If required)****13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS.  
IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.**

CHECK ONE	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO (Specify authority): THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
	B. THE ABOVE-NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (Such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
<b>X</b>	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: <b>The Department of Energy Organization Act, 42 U.S.C. § 7101 et seq. and the National Nuclear Security Administration Act, 50 U.S.C. § 2401 et seq.</b>
	D. OTHER (Specify type of modification and authority):

E. IMPORTANT: Contractor  is not,  is required to sign this document and return 3 copies to the issuing office.**14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)**

The purpose of this modification is to update the contract to reflect the extension of the period of performance through September 30, 2013, to include Section B, F, H, and I, and Appendix E (attachment 1) and Appendix F (attachment 2) hereto.

15A. NAME AND TITLE OF SIGNER (Type or print)  
**Dr. Paul J. Hommert  
President and Laboratories Director  
Sandia Corporation**15B. CONTRACTOR/OFFEROR  
BY   
(Signature of person authorized to sign)15C. DATE  
SIGNED  
9/28/1216A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)  
**Daniel J. Saiz, Contracting Officer  
M&O Contracting Branch Manager, NA-APM-131**16B. UNITED STATES OF AMERICA  
BY   
(Signature of Contracting Officer)16C. DATE  
SIGNED  
9/28/12

1. Section B, Clause B-2, Contract Type and Value is amended as follows:

- (i) **Paragraph (b) is revised to add the total estimated cost entry under "Contract Periods" and "Estimated Cost" for FY 2013, changing the "TOTAL through" entry, and adding a place holder for the two option periods as follows:**

<b>Add:</b>	October 1, 2012 through September 30, 2013	\$ 2,462,698,305
	Option 1: October 1, 2013 through December 31, 2013	\$ TBD*
	Option 2: January 1, 2014 through March 31, 2014	\$ TBD*
<b>Change From:</b>	TOTAL through FY12	\$ 36,767,764,304
<b>Change To:</b>	TOTAL through 9/30/2013	\$ 39,230,462,609

- (ii) **Paragraph (c) is revised to add the Fixed Fee and Total Fixed Fee for FY 2013, and the two Option periods, by adding entries under "Contract Period" and "Fixed Fee", and changing the last entry as follows:**

<b>Add:</b>	October 1, 2012 through September 30, 2013	\$ 17,426,220
	Option 1: October 1, 2013 through December 31, 2013	\$ TBD*
	Option 2: January 1, 2014 through March 31, 2014	\$ TBD*
<b>Change From:</b>	TOTAL through FY12	\$ 306,987,549
<b>Change To:</b>	TOTAL through 9/30/2013	\$ 324,413,769

- (iii) **Replace paragraph (d) in its entirety with the following. This replacement deletes the duplicate table under this section, adds an entry under "Maximum Available Performance Incentive Fee Pool" for FY 2013 and the two Option periods, and changes the last entry under the "Maximum Available Performance Incentive Fee Pool" column as follows:**

- (d) The maximum available Performance Incentive Fee pool and the Performance Incentive Fee earned is set forth below:

<u>Contract Period</u>	<u>Maximum Available Performance Incentive Fee Pool</u>	<u>Performance Incentive Fee Earned</u>
Option 1: October 1, 2013 through December 31, 2013	\$ TBD*	\$ TBD

Option 2: January 1, 2014 through March 31, 2014	\$ TBD*	\$ TBD
October 1, 2012 through September 30, 2013	\$9,335,475	\$ To Be Determined Annually
October 1, 2011 through September 30, 2012	\$9,697,365	\$ To Be Determined Annually
October 1, 2010 through September 30, 2011	\$9,930,851	\$8,466,050
October 1, 2009 through September 30, 2010	\$9,664,616	\$8,268,431
October 1, 2008 through September 30, 2009	\$8,756,419	\$7,176,461
October 1, 2007 through September 30, 2008	\$8,770,748	\$6,797,330
October 1, 2006 through September 30, 2007	\$8,359,178	\$7,611,032
October 1, 2005 through September 30, 2006	\$8,891,126	\$7,710,030
October 1, 2004 through September 30, 2005	\$8,708,865	\$7,081,178
October 1, 2003 through September 30, 2004	<u>\$8,200,000</u>	<u>\$6,925,000</u>
TOTAL	\$ 90,314,643	\$60,035,512

\*The estimated Cost, Fixed Fee, and Maximum Available Performance Incentive Fee Pool for Option 1 and Option 2 will be negotiated based on Sandia Corporation's FY 2014 Fee and Scope Proposal.

- (iv) **Paragraph (e) is revised to reflect the Total Estimated Cost, Fixed Fee, and Maximum Available Performance Incentive Fee Pool under this contract through FY 2013 as follows:**

**From:** The Total Estimated Cost, Fixed Fee, and Maximum Available Performance Incentive Fee Pool under this contract for the period October 1, 1993, through September 30, 2012 is \$37,155,731,021.

**To:** The Total Estimated Cost, Fixed Fee, and Maximum Available Performance Incentive Fee Pool under this contract for the period October 1, 1993, through September 30, 2013 is \$39,645,191,021.

2. In Part I - The Schedule, Sections B through H, replace paragraph F-3 PERIOD OF PERFORMANCE to reflect the period of performance extension to September 30, 2013 as follows and add two three-month options:

**From:** The Parties recognize that the Contract's original period of performance for the management and operation of SNL commenced on October 1, 1993 and expired on September 30, 1998. Contract Modification No. M081 extended the period of performance through September 30, 2003. This Contract Modification No. M202 further extends the period of performance through September 30, 2008, unless sooner reduced, terminated or extended in accordance with the provisions of this Contract. The Contractor earned an award term of one additional year consistent with Clause H-12, Award Term, and the period of performance is hereby extended through **September 30, 2012**, unless sooner reduced, terminated or extended in accordance with the provisions of this contract. (This modification [M241] does not extend the period of performance by one year because the contractor did not earn the award term as specified in contract clause H-12, Award Term).

**To:** The Parties recognize that the Contract's original period of performance for the management and operation of SNL commenced on October 1, 1993 and expired on September 30, 1998. Contract modification M081 extended the period of performance through September 30, 2003, and modification M202 further extended the period of performance through September 30, 2008. The Contractor earned all but one award term consistent with Clause H-12, Award Term, which extended the period of performance through September 30, 2012. This Modification M473 extends the period of performance through September 30, 2013, with two three-month options, unless the contract is sooner reduced, terminated or extended in accordance with the provisions of this contract. Option 1: October 1, 2013 through December 31, 2013, and Option 2: January 1, 2014 through March 31, 2014.

3. Delete clause H-12 AWARD TERM in its entirety and replace it with "H-12 Reserved (deleted by modification M473)"

4. Revise H-16 REPRESENTATIONS AND CERTIFICATIONS as follows:

**From:** The Representations, Certifications, and Other Statements of Offeror completed by the Contractor and dated September 22, 2003, are hereby incorporated in this Contract by reference.

**To:** The Representations, Certifications, and Other Statements of Offeror completed by the Contractor and dated August 23, 2012, are hereby incorporated in this Contract by reference.

5. Section H, Clause H-24, *Home Office and Other Corporate Support*, is revised to incorporate an FY 2013 ceiling for home office and other corporate support services directly attributable to the contract. Paragraph (d) is revised to add the following as the first sentence of the paragraph: The FY 2013 estimated budget for these services is \$ 2,772,000.

6. Replace paragraph (g) of H-33 IMPLEMENTATION OF SECTION I CLAUSES as follows:

**From:** (g) For purposes of implementation of the Contract Clause entitled "Insurance-Litigation and Claims," the parties agree that the cost allowability of punitive

damages arising from the Contractor's actions or inactions in hiring, managing, disciplining or terminating its employees, shall be analyzed and determined using provisions of this Contract other than paragraph (j)(2) of said clause, which shall not apply. This Special Provision shall remain in effect for the term of this Contract, but in no event shall this Special Provision remain effective beyond December 31, 2012, when, in the event this Contract is non-competitively extended, the parties may negotiate to retain, revise, or eliminate said Special Provision.

**To:** (g) For purposes of implementation of the Contract Clause entitled "Insurance-Litigation and Claims," the parties agree that the cost allowability of punitive damages arising from the Contractor's actions or inactions in hiring, managing, disciplining or terminating its employees, shall be analyzed and determined using provisions of this Contract other than paragraph (j)(2) of said clause, which shall not apply. This Special Provision shall remain in effect for the term of this Contract, but in no event shall this Special Provision remain effective beyond December 31, 2013, or March 31, 2014, if both options are exercised and when, in the event this Contract is non-competitively extended, the parties may negotiate to retain, revise, or eliminate said Special Provision.

7. Delete paragraph (h) of H-33 IMPLEMENTATION OF SECTION I CLAUSES, as H-41, Definition of Unusually Hazardous or Nuclear Risk for FAR Clause 52.250-1, Indemnification Under Public Law No. 85-804, has been added and includes the Deepwater Horizon Disaster and the response to the Japan earthquake and tsunami.
8. Add the following H clause as follows:

**H-41 DEFINITION OF UNUSUALLY HAZARDOUS OR NUCLEAR RISK AND OTHER TERMS FOR PURPOSES OF FAR CLAUSE 52.250-1, INDEMNIFICATION UNDER PUB.L. No. 85-804**

- a. The term "a risk defined in this contract as unusually hazardous or nuclear" as used in FAR Clause 52.250-1 means the risk of legal liability to third parties (including legal costs as defined in paragraph jj of Section 11 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. Section 2014 jj, notwithstanding the fact that the claim or suit may not arise under Section 170 of said Act), arising from actions or inactions in the course of the following performed by the Contractor, under this contract:
  1. Participation in activities in support of a nonproliferation effort on behalf of the United States, outside the United States, as described in (i) through (iii):
    - i. Participation in DOE/NNSA's Nuclear Emergency Search Team ("NEST");
    - ii. Participation in DOE/NNSA's Accident Response Group ("ARG");
    - iii. Participation in DOE/NNSA's Joint Technical Operations Team ("JTOT");

- to the extent participation in these foregoing activities described in subparagraphs (i.), (ii.), or (iii.) above encompass nuclear activities involving real or suspected nuclear weapons, nuclear weapons components, or nuclear materials which can be readily utilized either (A) for the production or fabrication of nuclear weapons without substantial effort; or (B) for intentional widespread contamination or dispersal of harmful nuclear materials, whether or not such real or suspected weapons, components, or harmful nuclear materials are owned by the United States; and
2. Maintenance and repair of United States-owned nuclear weapons, as requested by the Department of Defense under DOE's Stewardship role for the United States nuclear weapons stockpile; and
  3. Activities on behalf of the DOE/NNSA or other United States sponsored high risk activities as described in (i.) through (iv.) in response to imminent terrorist threats:
    - i. Chem-Bio Decontamination Foam which was developed by Sandia for rendering inert both biological and chemical agents. These have been extensively tested in normal conditions and used to decontaminate facilities in the U.S., including the Senate Hart Office Building and may be slated for possible use outside the United States.
    - ii. Synthetic Aperture Radar Systems which were developed, miniaturized, and produced for use by the military to provide all-weather, high-resolution imagery. The military is increasingly relying on the resulting images for maps of operations.
    - iii. Monitors for Detecting Traces of Explosives which were developed by Sandia in both stationary and portable formats for screening personnel, cargo, small packages, and vehicles, and are being used by domestic and foreign governments at both public and private facilities.
    - iv. Chem-Bio Detectors which were developed by Sandia to provide early warning of the presence of agents in public areas; such as mass transportation systems; some have been deployed in the Washington, D.C. Metro and elsewhere.
  4. Activities directed or authorized by the DOE/NNSA, on or after April 24, 2010 in response to the Deepwater Horizon disaster, per the Secretarial Determination Authorizing Public Law 85-804 Indemnification for Contractors Engaged in Activities Responding to the Deepwater Horizon Disaster, dated 2 July 2010; and
  5. Participation in tasks or activities by Sandia Corporation or its subcontractors on or after March 11, 2011 that is directed or authorized by the DOE/NNSA as an element of activities taken in response to the Japan earthquake and tsunami, including efforts to address and access damage to nuclear power plants and potential radioactive releases from these plants now and in the future; and

6. Other activities relating to non-proliferation, emergency response, anti-terrorism activities, or critical national security activities that involve the use, detection, identification, assessment, control, containment, dismantlement, characterization, packaging, transportation, movement, storage, or disposal of nuclear, radiological, chemical, biological, or explosive material, facilities, or devices, and nuclear weapons research, design, development, production, testing and maintenance, and development of technology as part of Government programs for nuclear weapons deployment, storage and stockpile stewardship, transportation, demilitarization, dismantlement or disposition, provided such activities are specifically requested or approved, in writing, by the President of the United States, the Secretary of Energy, the Deputy Secretary of Energy, or an Under Secretary, and further provided that the request or approval specifically identifies a particular project involving one of those activities and makes the indemnity provided by this clause applicable to that particular project under the contract.
- b. The unusually hazardous or nuclear risks described above are indemnified only to the extent that they are not covered by the Price-Anderson Act, Section 170d of the Atomic Energy Act of 1954, as amended, (42 U.S.C. Section 2210d) or where the indemnification provided by the Price-Anderson Act is limited by the restriction on public Liability imposed by Section 170e of the Atomic Energy Act of 1954, as amended (42 U.S.C. Section 2210e) to an amount which is not sufficient to provide complete indemnification for the legal liability to which the contractor is exposed.
- c. Additional Definitions of Terms
    1. As used in this H-41 clause,
      - i. the term "nuclear materials" means source, special nuclear, or byproduct materials as those terms are defined in Section 11 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. Section 2014.
    2. As used in Section I Clause I-49 entitled FAR 52.250-1 INDEMNIFICATION UNDER PUBLIC LAW 85-804 (APR 1984) (ALTERNATE I) (APR 1984),
      - i. the term "Contractor" except as used in paragraphs (a) and (e) of I-49 FAR 52.250-1 means
        - (A) Sandia Corporation,
        - (B) Sandia Corporation's parent organization, Lockheed Martin Corporation, corporate successors of Lockheed Martin Corporation, and corporate affiliates of Lockheed Martin Corporation, and
        - (C) Employees, officers and directors of (A) and/or (B) above named or threatened to be named as defendants in lawsuits or litigation threatened or initiated by third parties which seek to impose or establish, or which could result

in, a risk which is defined in this contract as unusually hazardous or nuclear, on account of actions or inactions of Sandia Corporation, or on account of actions or inactions undertaken by the corporations or individuals identified in subparagraph (A) and/or (B) above for, on behalf of, or with respect to, Sandia Corporation under this contract; and

- ii. the term "Contractor" as used in paragraphs (a) and (e) of I-49 52.250-1 means Sandia Corporation;
  - iii. the term "Contractor's business" means the management and operation of Sandia National Laboratories for DOE/NNSA under this contract;
  - iv. the terms "Contractor's operations at any one plant or separate location in which this contract is being performed" and "a separate and complete major industrial operation in connection with the performance of this contract" mean the Sandia National Laboratories facilities located at Kirtland Air Force Base in Albuquerque, New Mexico and Livermore, California, and facilities in Tonopah, Nevada, and the Pacific Missile Range Facility in Barking Sands Hawaii (Kauai Test Facility);
  - v. the term "agency head" means the Secretary of Energy; and
  - vi. the term "corporate affiliates of Lockheed Martin Corporation" means
    - (A) any company that, directly or indirectly, owns 50 percent or more of Lockheed Martin Corporation (including its corporate successors), or which otherwise controls Lockheed Martin Corporation, and
    - (B) companies, other than Sandia Corporation, that directly or indirectly, are 50 percent or more owned by Lockheed Martin Corporation or by any company referred to in paragraph (A) above, or which are otherwise controlled by Lockheed Martin Corporation, or by any such company.
9. Section I, Contract Clauses, are revised as follows:
- (i) **Replace I-1 FAR 52.202-1 DEFINITIONS (DEC 2001) with FAR 52.202-1 DEFINITIONS (JAN 2012), to include the following text:**
    - (a) When a solicitation provision or contract clause uses a word or term that is defined in the Federal Acquisition Regulation (FAR), the word or term has the same meaning as the definition in FAR 2.101 in effect at the time the solicitation was issued, unless—  
  
The solicitation, or amended solicitation, provides a different definition;  
The contracting parties agree to a different definition;  
  
The part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning; or

The word or term is defined in FAR Part 31, for use it the cost principles and procedures.

- (b) The FAR Index is a guide to words and terms the FAR defines and shows where each definition is located. The FAR Index is available via the Internet at <http://www.acquisition.gov/far> at the end of the FAR, after the FAR Appendix.  
(End of Clause)
- (ii) **Replace I-14, FAR 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (May 2004) with FAR 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (Jan 2011), to include the following text:**
- (a) It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.
- (b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.
- (c) *Definitions.* As used in this contract—
- "HUBZone small business concern" means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.
- "Service-disabled veteran-owned small business concern"—
- (1) Means a small business concern—
- (i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and
- (ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

- (2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

"Small business concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

"Small disadvantaged business concern" means a small business concern that represents, as part of its offer, that—

- (1)
- (i) It has received certification as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B;
  - (ii) No material change in disadvantaged ownership and control has occurred since its certification;
  - (iii) Where the concern is owned by one or more individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and
  - (iv) It is identified, on the date of its representation, as a certified small disadvantaged business in the CCR Dynamic Small Business Search database maintained by the Small Business Administration, or
- (2) It represents in writing that it qualifies as a small disadvantaged business (SDB) for any Federal subcontracting program, and believes in good faith that it is owned and controlled by one or more socially and economically disadvantaged individuals and meets the SDB eligibility criteria of 13 CFR 124.1002.

"Veteran-owned small business concern" means a small business concern—

- (1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and
- (2) The management and daily business operations of which are controlled by one or more veterans.

"Women-owned small business concern" means a small business concern—

- (1) That is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
- (2) Whose management and daily business operations are controlled by one or more women.
- (d)
- (1) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a veteran-owned small business concern, a service-disabled veteran-owned small business

concern, a small disadvantaged business concern, or a women-owned small business concern.

- (2) The Contractor shall confirm that a subcontractor representing itself as a HUBZone small business concern is certified by SBA as a HUBZone small business concern by accessing the Central Contractor Registration (CCR) database or by contacting the SBA. Options for contacting the SBA include—
  - (i) HUBZone small business database search application Web page at [http://dsbs.sba.gov/dsbs/search/dsp\\_searchhubzone.cfm](http://dsbs.sba.gov/dsbs/search/dsp_searchhubzone.cfm) ; or <http://www.sba.gov/hubzone> ;
  - (ii) In writing to the Director/HUB, U.S. Small Business Administration, 409 3<sup>rd</sup> Street, SW., Washington DC 20416; or
  - (iii) The SBA HUBZone Help Desk at [hubzone@sba.gov](mailto:hubzone@sba.gov).

(End of clause)

- (iii) **Replace I-49 FAR 52.250-1 INDEMNIFICATION UNDER PUBLIC LAW 85-804 (APR 1984) (ALTERNATE I) (APR 1984) (DEVIATION) with the following:**

**I-49 FAR 52.250-1 INDEMNIFICATION UNDER PUBLIC LAW 85-804 (APR 1984) (ALTERNATE I) (APR 1984)**

(a) "Contractor's principal officials," as used in this clause, means directors, officers, managers, superintendents, or other representatives supervising or directing--

- (1) All or substantially all of the Contractor's business;
- (2) All or substantially all of the Contractor's operations at any one plant or separate location at which this contract is being performed; or
- (3) A separate and complete major industrial operation in connection with the performance of this contract.

(b) Under Public Law 85-804 (50 U.S.C. 1431-1435) and Executive Order 10789, as amended, and regardless of any other provisions of this contract, the Government shall, subject to the limitations contained in the other paragraphs of this clause, indemnify the Contractor against--

- (1) Claims (including reasonable expenses of litigation or settlement) by third persons (including employees of the Contract) for death; personal injury; or loss of, damage to, or loss of use of property;
- (2) Loss of, damage to, or loss of use of Contractor property, excluding loss of profit; and
- (3) Loss of, damage to, or loss of use of Government property, excluding loss of profit.

(c) This indemnification applies only to the extent that the claim, loss, or damage

(1) arises out of or results from a risk defined in this contract as unusually hazardous or nuclear and

(2) is not compensated for by insurance or otherwise. Any such claim, loss, or damage, to the extent that it is within the deductible amounts of the Contractor's insurance, is not covered under this clause. If insurance coverage or other financial protection in effect on the date the approving official authorizes use of this clause is reduced, the Government's liability under this clause shall not increase as a result.

(d) When the claim, loss, or damage is caused by willful misconduct or lack of good faith on the part of any of the Contractor's principal officials, the Contractor shall not be indemnified for -

(1) Government claims against the Contractor (other than those arising through subrogation); or

(2) Loss or damage affecting the Contractor's property.

(e) With the Contracting Officer's prior written approval, the Contractor may, in any subcontract under the contract, indemnify the subcontractor against any risk defined in this contract as unusually hazardous or nuclear. This indemnification shall provide, between the Contractor and the subcontractor, the same rights and duties, and the same provisions for notice, furnishing of evidence or proof, and Government settlement or defense of claims as this clause provides. The Contracting Officer may also approve indemnification of subcontractors at any lower tier, under the same terms and conditions. The Government shall indemnify the Contractor against liability to subcontractors incurred under subcontract provisions approved by the Contracting Officer.

(f) The rights and obligations of the parties under this clause shall survive this contract's termination, expiration, or completion. The Government shall make no payment under this clause unless the agency head determines that the amount is just and reasonable. The Government may pay the Contractor or subcontractors, or may directly pay parties to whom the Contractor or subcontractors may be liable.

(g) The Contractor shall -

(1) Promptly notify the Contracting Officer of any claim or action against, or any loss by, the Contractor or any subcontractors that may reasonably be expected to involve indemnification under this clause;

(2) Immediately furnish to the Government copies of all pertinent papers the Contractor receives;

(3) Furnish evidence or proof of any claim, loss, or damage covered by this clause in the manner and form the Government requires; and

(4) Comply with the Government's directions and execute any authorizations required in connection with settlement or defense of claims or actions.

(h) The Government may direct, control, or assist in settling or defending any claim or action that may involve indemnification under this clause.

(i) The cost of insurance (including self-insurance programs) covering a risk defined in this contract as unusually hazardous or nuclear shall not be reimbursed except to the extent that the Contracting Officer has required or approved this insurance.

The Government's obligations under this clause are -

(1) Excepted from the release required under this contract's clause relating to allowable cost; and

(2) Not affected by this contract's Limitation of Cost or Limitation of Funds clause.

**(iv) Replace I-56 DEAR 952.204-71 SENSITIVE FOREIGN NATIONS CONTROLS (APR 1994) with DEAR 952.204-71 SENSITIVE FOREIGN NATIONS CONTROLS (MAR 2011), to include the following text:**

(a) In connection with any activities in the performance of this contract, the Contractor agrees to comply with the "Sensitive Foreign Nations Controls" requirements attached to this contract, relating to those countries, which may from time to time, be identified to the Contractor by written notice as sensitive foreign nations. The Contractor shall have the right to terminate its performance under this contract upon at least 60 days' prior written notice to the Contracting Officer if the Contractor determines that it is unable, without substantially interfering with its polices or without adversely impacting its performance to continue performance of the work under this contract as a result of such notification. If the Contractor elects to terminate performance, the provisions of this contract regarding termination for the convenience of the Government shall apply.

(b) The provisions of this clause shall be included in any subcontracts which may involve making unclassified information about nuclear technology available to sensitive foreign nations.

(End of clause)

**(v) Remove I-71 DEAR 970.5204-1 COUNTERINTELLIGENCE (DEC 2000) in its entirety.**

**(vi) Replace I-73 DEAR 970.5204-3 ACCESS TO AND OWNERSHIP OF RECORDS (DEC 2000) with DEAR 970.5204-3 ACCESS TO AND OWNERSHIP OF RECORDS (JUL 2005)**

(a) Government-owned records. Except as provided in paragraph (b) of this clause, all records acquired or generated by the Contractor in its performance of this contract shall

be the property of the Government and shall be delivered to the Government or otherwise disposed of by the Contractor either as the Contracting Officer may from time to time direct during the progress of the work or, in any event, as the Contracting Officer shall direct upon completion or termination of the contract.

- (b) Contractor-owned records. The following records are considered the property of the Contractor and are not within the scope of paragraph (a) of this clause.
- (1) Employment-related records (such as worker's compensation files; employee relations records, records on salary and employee benefits; drug testing records, labor negotiation records; records on ethics, employee concerns; records generated during the course of responding to allegations of research misconduct; records generated during other employee related investigations conducted under an expectation of confidentiality; employee assistance program records; and personnel and medical/health-related records and similar files), and non-employee patient medical/health-related records, except for those records described by the contract as being maintained in Privacy Act systems of records.
  - (2) Confidential contractor financial information, and correspondence between the Contractor and other segments of the Contractor located away from the DOE facility (i.e., the Contractor's corporate headquarters);
  - (3) Records relating to any procurement action by the Contractor, except for records that under 48 CFR 970.5232-3, Accounts, Records, and Inspection, are described as the property of the Government; and
  - (4) Legal records, including legal opinions, litigation files, and documents covered by the attorney-client and attorney work product privileges; and
  - (5) The following categories of records maintained pursuant to the technology transfer clause of this contract:
    - (i) Executed license agreements, including exhibits or appendices containing information on royalties, royalty rates, other financial information, or commercialization plans, and all related documents, notes and correspondence.
    - (ii) The Contractor's protected Cooperative Research and Development Agreement (CRADA) information and appendices to a CRADA that contain licensing terms and conditions, or royalty or royalty rate information.
    - (iii) Patent, copyright, mask work, and trademark application files and related contractor invention disclosures, documents and correspondence, where the Contractor has elected rights or has permission to assert rights and has not relinquished such rights or turned such rights over to the Government.
- (c) Contract completion or termination. In the event of completion or termination of this contract, copies of any of the contractor-owned records identified in paragraph (b) of this clause, upon the request of the Government, shall be delivered to DOE or its designees, including successor contractors. Upon delivery, title to such records shall vest in DOE or

its designees, and such records shall be protected in accordance with applicable federal laws (including the Privacy Act), as appropriate.

- (d) Inspection, copying, and audit of records. All records acquired or generated by the Contractor under this contract in the possession of the Contractor, including those described at paragraph (b) of this clause, shall be subject to inspection, copying, and audit by the Government or its designees at all reasonable times, and the Contractor shall afford the Government or its designees reasonable facilities for such inspection, copying, and audit; provided, however, that upon request by the Contracting Officer, the Contractor shall deliver such records to a location specified by the Contracting Officer for inspection, copying, and audit. The Government or its designees shall use such records in accordance with applicable federal laws (including the Privacy Act), as appropriate.
- (e) Applicability. Paragraphs (b), (c), and (d) of this clause apply to all records without regard to the date or origination of such records.
- (f) Records retention standards. Special records retention standards, described at DOE Order 200.1, Information Management Program (version in effect on effective date of contract), are applicable for the classes of records described therein, whether or not the records are owned by the Government or the Contractor. In addition, the Contractor shall retain individual radiation exposure records generated in the performance of work under this contract until DOE authorizes disposal. The Government may waive application of these record retention schedules, if, upon termination or completion of the contract, the Government exercises its right under paragraph (c) of this clause to obtain copies and delivery of records described in paragraphs (a) and (b) of this clause.
- (g) Subcontracts. The Contractor shall include the requirements of this clause in all subcontracts that are of a cost-reimbursement type if any of the following factors is present:
  - (1) The value of the subcontract is greater than \$2 million (unless specifically waived by the Contracting Officer);
  - (2) The Contracting Officer determines that the subcontract is, or involves, a critical task related to the contract; or
  - (3) The subcontract includes 48 CFR 970.5223-1, Integration of Environment, Safety, and Health into Work Planning and Execution, or similar clause.(End of Clause)
- (vii) **Replace I-75 DEAR 970.5215-3 CONDITIONAL PAYMENT OF FEE, PROFIT, OR INCENTIVES—FACILITY MANAGEMENT CONTRACTS (DEC 2000) - ALTERNATE I (DEC 2000) (DEVIATION) with DEAR 970.5215-3 CONDITIONAL PAYMENT OF FEE, PROFIT, OR INCENTIVES—FACILITY MANAGEMENT CONTRACTS (AUG 2009), to include the following text:**
  - (a) General.
    - (1) The payment of earned fee, fixed fee, profit, or share of cost savings under this contract is dependent upon—

- (i) The Contractor's or Contractor employees' compliance with the terms and conditions of this contract relating to environment, safety and health (ES&H), which includes worker safety and health (WS&H), including performance under an approved Integrated Safety Management System (ISMS); and
    - (ii) The Contractor's or Contractor employees' compliance with the terms and conditions of this contract relating to the safeguarding of Restricted Data and other classified information.
  - (2) The ES&H performance requirements of this contract are set forth in its ES&H terms and conditions, including the DOE approved contractor ISMS or similar document. Financial incentives for timely mission accomplishment or cost effectiveness shall never compromise or impede full and effective implementation of the ISMS and full ES&H compliance.
  - (3) The performance requirements of this contract relating to the safeguarding of Restricted Data and other classified information are set forth in the clauses of this contract entitled, "Security" and "Laws, Regulations, and DOE Directives," as well as in other terms and conditions.
  - (4) If the Contractor does not meet the performance requirements of this contract relating to ES&H or to the safeguarding of Restricted Data and other classified information during any performance evaluation period established under the contract pursuant to the clause of this contract entitled, "Total Available Fee: Base Fee Amount and Performance Fee Amount," otherwise earned fee, fixed fee, profit or share of cost savings may be unilaterally reduced by the contracting officer.
- (b) Reduction Amount.
- (1) The amount of earned fee, fixed fee, profit, or share of cost savings that may be unilaterally reduced will be determined by the severity of the performance failure pursuant to the degrees specified in paragraphs (c) and (d) of this clause.
  - (2) If a reduction of earned fee, fixed fee, profit, or share of cost savings is warranted, unless mitigating factors apply, such reduction shall not be less than 26% nor greater than 100% of the amount of earned fee, fixed fee, profit, or the Contractor's share of cost savings for a first degree performance failure, not less than 11% nor greater than 25% for a second degree performance failure, and up to 10% for a third degree performance failure.
  - (3) In determining the amount of the reduction and the applicability of mitigating factors, the contracting officer must consider the Contractor's overall performance in meeting the ES&H or security requirements of the contract. Such consideration must include performance against any site specific performance criteria/requirements that provide additional definition, guidance for the amount of reduction, or guidance for the applicability of mitigating factors. In all cases, the contracting officer must consider mitigating factors that may warrant a reduction below the applicable range (see 48 CFR 970.1504-1-2). The mitigating factors include, but are not limited to, the following ((v), (vi), (vii) and (viii) apply to ES&H only).

- (i) Degree of control the Contractor had over the event or incident.
  - (ii) Efforts the Contractor had made to anticipate and mitigate the possibility of the event in advance.
  - (iii) Contractor self-identification and response to the event to mitigate impacts and recurrence.
  - (iv) General status (trend and absolute performance) of: ES&H and compliance in related areas; or of safeguarding Restricted Data and other classified information and compliance in related areas.
  - (v) Contractor demonstration to the Contracting Officer's satisfaction that the principles of industrial ES&H standards are routinely practiced (e.g., Voluntary Protection Program, ISO 14000).
  - (vi) Event caused by "Good Samaritan" act by the Contractor (e.g., offsite emergency response).
  - (vii) Contractor demonstration that a performance measurement system is routinely used to improve and maintain ES&H performance (including effective resource allocation) and to support DOE corporate decision-making (e.g., policy, ES&H programs).
  - (viii) Contractor demonstration that an Operating Experience and Feedback Program is functioning that demonstrably affects continuous improvement in ES&H by use of lessons-learned and best practices inter- and intra-DOE sites.
- (4)
- (i) The amount of fee, fixed fee, profit, or share of cost savings that is otherwise earned by a contractor during an evaluation period may be reduced in accordance with this clause if it is determined that a performance failure warranting a reduction under this clause occurs within the evaluation period.
  - (ii) The amount of reduction under this clause, in combination with any reduction made under any other clause in the contract, shall not exceed the amount of fee, fixed fee, profit, or the Contractor's share of cost savings that is otherwise earned during the evaluation period.
  - (iii) For the purposes of this clause, earned fee, fixed fee, profit, or share of cost savings for the evaluation period shall mean the amount determined by the Contracting Officer or fee determination official as otherwise payable based on the Contractor's performance during the evaluation period. Where the contract provides for financial incentives that extend beyond a single evaluation period, this amount shall also include: any provisional amounts determined otherwise payable in the evaluation period; and, if provisional payments are not provided for, the allocable amount of any incentive determined otherwise payable at the conclusion of a subsequent evaluation period. The allocable amount shall be the

total amount of the earned incentive divided by the number of evaluation periods over which it was earned.

- (iv) The Government will effect the reduction as soon as practicable after the end of the evaluation period in which the performance failure occurs. If the Government is not aware of the failure, it will effect the reduction as soon as practical after becoming aware. For any portion of the reduction requiring an allocation the Government will effect the reduction at the end of the evaluation period in which it determines the total amount earned under the incentive. If at any time a reduction causes the sum of the payments the Contractor has received for fee, fixed fee, profit, or share of cost savings to exceed the sum of fee, fixed fee, profit, or share of cost savings the Contractor has earned (provisionally or otherwise), the Contractor shall immediately return the excess to the Government. (What the Contractor “has earned” reflects any reduction made under this or any other clause of the contract.)
- (v) At the end of the contract—
  - (a) The Government will pay the Contractor the amount by which the sum of fee, fixed fee, profit, or share of cost savings the Contractor has earned exceeds the sum of the payments the Contractor has received; or
  - (b) The Contractor shall return to the Government the amount by which the sum of the payments the Contractor has received exceeds the sum of fee, fixed fee, profit, or share of cost savings the Contractor has earned. (What the Contractor “has earned” reflects any reduction made under this or any other clause of the contract.)
  - (c) Environment, Safety and Health (ES&H). Performance failures occur if the Contractor does not comply with the contract’s ES&H terms and conditions, including the DOE approved Contractor ISMS. The degrees of performance failure under which reductions of earned or fixed fee, profit, or share of cost savings will be determined are:
    - (1) First Degree: Performance failures that are most adverse to ES&H. Failure to develop and obtain required DOE approval of an ISMS is considered first degree. The Government will perform necessary review of the ISMS in a timely manner and will not unreasonably withhold approval of the Contractor’s ISMS. The following performance failures or performance failures of similar import will be considered first degree.
      - (i) Type A accident (defined in DOE Order 225.1A).
      - (ii) Two Second Degree performance failures during an evaluation period.

- (2) Second Degree: Performance failures that are significantly adverse to ES&H. They include failures to comply with an approved ISMS that result in an actual injury, exposure, or exceedence that occurred or nearly occurred but had minor practical long-term health consequences. They also include breakdowns of the Safety Management System. The following performance failures or performance failures of similar import will be considered second degree:
- (i) Type B accident (defined in DOE Order 225.1A).
  - (ii) Non-compliance with an approved ISMS that results in a near miss of a Type A or B accident. A near miss is a situation in which an inappropriate action occurs, or a necessary action is omitted, but does not result in an adverse effect.
  - (iii) Failure to mitigate or notify DOE of an imminent danger situation after discovery, where such notification is a requirement of the contract.
- (3) Third Degree: Performance failures that reflect a lack of focus on improving ES&H. They include failures to comply with an approved ISMS that result in potential breakdown of the System. The following performance failures or performance failures of similar import will be considered third degree:
- (i) Failure to implement effective corrective actions to address deficiencies/non-compliances documented through: external (e.g., Federal) oversight and/or reported per DOE Order 231.1-2 requirements; or internal oversight of DOE Order 440.1A requirements.
  - (ii) Multiple similar non-compliances identified by external (e.g., Federal) oversight that in aggregate indicate a significant programmatic breakdown.
  - (iii) Non-compliances that either have, or may have, significant negative impacts to the worker, the public, or the environment or that indicate a significant programmatic breakdown.
  - (iv) Failure to notify DOE upon discovery of events or conditions where notification is required by the terms and conditions of the contract.

- (d) **Safeguarding Restricted Data and Other Classified Information.** Performance failures occur if the Contractor does not comply with the terms and conditions of this contract relating to the safeguarding of Restricted Data and other classified information. The degrees of performance failure under which reductions of fee, profit, or share of cost savings will be determined are as follows:
- (1) **First Degree:** Performance failures that have been determined, in accordance with applicable law, DOE regulation, or directive, to have resulted in, or that can reasonably be expected to result in, exceptionally grave damage to the national security. The following are examples of performance failures or performance failures of similar import that will be considered first degree:
    - (i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating a risk of, loss, compromise, or unauthorized disclosure of Top Secret Restricted Data or other information classified as Top Secret, any classification level of information in a Special Access Program (SAP), information identified as sensitive compartmented information (SCI), or high risk nuclear weapons-related data.
    - (ii) Contractor actions that result in a breakdown of the safeguards and security management system that can reasonably be expected to result in the loss, compromise, or unauthorized disclosure of Top Secret Restricted Data, or other information classified as Top Secret, any classification level of information in a SAP, information identified as SCI, or high risk nuclear weapons-related data.
    - (iii) Failure to promptly report the loss, compromise, or unauthorized disclosure of Top Secret Restricted Data, or other information classified as Top Secret, any classification level of information in a SAP, information identified as SCI, or high risk nuclear weapons-related data.
    - (iv) Failure to timely implement corrective actions stemming from the loss, compromise, or unauthorized disclosure of Top Secret Restricted Data or other information classified as Top Secret, any classification level of information in

a SAP, information identified as SCI, or high risk nuclear weapons-related data.

- (2) **Second Degree:** Performance failures that have been determined, in accordance with applicable law, DOE regulation, or directive, to have actually resulted in, or that can reasonably be expected to result in, serious damage to the national security. The following are examples of performance failures or performance failures of similar import that will be considered second degree:
- (i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating risk of, loss, compromise, or unauthorized disclosure of Secret Restricted Data or other information classified as Secret.
  - (ii) Contractor actions that result in a breakdown of the safeguards and security management system that can reasonably be expected to result in the loss, compromise, or unauthorized disclosure of Secret Restricted Data, or other information classified as Secret.
  - (iii) Failure to promptly report the loss, compromise, or unauthorized disclosure of Restricted Data or other classified information regardless of classification (except for information covered by paragraph (d)(1)(iii) of this clause).
  - (iv) Failure to timely implement corrective actions stemming from the loss, compromise, or unauthorized disclosure of Secret Restricted Data or other classified information classified as Secret.
- (3) **Third Degree:** Performance failures that have been determined, in accordance with applicable law, regulation, or DOE directive, to have actually resulted in, or that can reasonably be expected to result in, undue risk to the common defense and security. In addition, this category includes performance failures that result from a lack of Contractor management and/or employee attention to the proper safeguarding of Restricted Data and other classified information. These performance failures may be indicators of future, more severe performance failures and/or conditions, and if identified and corrected early would prevent serious incidents. The following are examples of performance failures or performance failures of similar import that will be considered third degree:

- (i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating risk of, loss, compromise, or unauthorized disclosure of Restricted Data or other information classified as Confidential.
- (ii) Failure to promptly report alleged or suspected violations of laws, regulations, or directives pertaining to the safeguarding of Restricted Data or other classified information.
- (iii) Failure to identify or timely execute corrective actions to mitigate or eliminate identified vulnerabilities and reduce residual risk relating to the protection of Restricted Data or other classified information in accordance with the Contractor's Safeguards and Security Plan or other security plan, as applicable.
- (iv) Contractor actions that result in performance failures which unto themselves pose minor risk, but when viewed in the aggregate indicate degradation in the integrity of the Contractor's safeguards and security management system relating to the protection of Restricted Data and other classified information.

(End of Clause)

- (viii) **Replace I-119 FAR 52.204-7 CENTRAL CONTRACTOR REGISTRATION (APRIL 2008) with FAR 52.204-7 CENTRAL CONTRACTOR REGISTRATION (FEB 2012), to include the following text:**

- (a) Definitions. As used in this clause—

*“Central Contractor Registration (CCR) database”* means the primary Government repository for Contractor information required for the conduct of business with the Government.

*“Data Universal Numbering System (DUNS) number”* means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

*“Data Universal Numbering System+4 (DUNS+4) number”* means the DUNS number means the number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see the FAR at Subpart 32.11) for the same concern.

*“Registered in the CCR database”* means that—

- (1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and
  - (2) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS), and has marked the record “Active”. The Contractor will be required to provide consent for TIN validation to the Government as a part of the CCR registration process.
- (b)
- (1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.
  - (2) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation “DUNS” or “DUNS+4” followed by the DUNS or DUNS+4 number that identifies the offeror’s name and address exactly as stated in the offer. The DUNS number will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.
- (c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.
- (1) An offeror may obtain a DUNS number—
    - (i) Via the internet at <http://fedgov.dnb.com/webform> or if the offeror does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or
    - (ii) If located outside the United States, by contacting the local Dun and Bradstreet office. The offeror should indicate that it is an offeror for a U.S. Government contract when contacting the local Dun and Bradstreet office.
  - (2) The offeror should be prepared to provide the following information:
    - (i) Company legal business name.
    - (ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.
    - (iii) Company physical street address, city, state and Zip Code.
    - (iv) Company mailing address, city, state and Zip Code (if separate from physical).
    - (v) Company telephone number.
    - (vi) Date the company was started.

- (vii) Number of employees at your location.
  - (viii) Chief executive officer/key manager.
  - (ix) Line of business (industry).
  - (x) Company Headquarters name and address (reporting relationship within your entity).
- (d) If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.
- (e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.
- (f) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.
- (g)
- (1)
    - (i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to:
      - (A) Change the name in the CCR database;
      - (B) Comply with the requirements of Subpart 42.12 of the FAR;
      - (C) Agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.
    - (ii) If the Contractor fails to comply with the requirements of paragraph (g)(1)(i) of this clause, or fails to perform the agreement at paragraph (g)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the

“Suspension of Payment” paragraph of the electronic funds transfer (EFT) clause of this contract.

- (2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor’s CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the “Suspension of payment” paragraph of the EFT clause of this contract.
- (h) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the CCR accessed through <https://www.acquisition.gov> or by calling 1-888-227-2423, or 269-961-5757.
- (ix) **Remove I-124 FAR 52.251-1 GOVERNMENT SUPPLY SOURCES (AUG 2010) and designate I-124 as reserved.**
- (x) **Add I-128 FAR 52.203-16 PREVENTING PERSONAL CONFLICTS OF INTEREST (DEC 2011)**

(End of Clause)

- (a) *Definitions.* As used in this clause—

“Acquisition function closely associated with inherently governmental functions” means supporting or providing advice or recommendations with regard to the following activities of a Federal agency:

- (1) Planning acquisitions.
- (2) Determining what supplies or services are to be acquired by the Government, including developing statements of work.
- (3) Developing or approving any contractual documents, to include documents defining requirements, incentive plans, and evaluation criteria.
- (4) Evaluating contract proposals.
- (5) Awarding Government contracts.
- (6) Administering contracts (including ordering changes or giving technical direction in contract performance or contract quantities, evaluating contractor performance, and accepting or rejecting contractor products or services).
- (7) Terminating contracts.
- (8) Determining whether contract costs are reasonable, allocable, and allowable.

“Covered employee” means an individual who performs an acquisition function closely associated with inherently governmental functions and is—

- (1) An employee of the contractor; or
- (2) A subcontractor that is a self-employed individual treated as a covered employee of the contractor because there is no employer to whom such an individual could submit the required disclosures.

“Non-public information” means any Government or third-party information that—

- (1) Is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552) or otherwise protected from disclosure by statute, Executive order, or regulation; or
- (2) Has not been disseminated to the general public and the Government has not yet determined whether the information can or will be made available to the public.

“Personal conflict of interest” means a situation in which a covered employee has a financial interest, personal activity, or relationship that could impair the employee’s ability to act impartially and in the best interest of the Government when performing under the contract. (A de minimis interest that would not “impair the employee’s ability to act impartially and in the best interest of the Government” is not covered under this definition.)

- (1) Among the sources of personal conflicts of interest are—
  - (i) Financial interests of the covered employee, of close family members, or of other members of the covered employee’s household;
  - (ii) Other employment or financial relationships (including seeking or negotiating for prospective employment or business); and
  - (iii) Gifts, including travel.
- (2) For example, financial interests referred to in paragraph (1) of this definition may arise from—
  - (i) Compensation, including wages, salaries, commissions, professional fees, or fees for business referrals;
  - (ii) Consulting relationships (including commercial and professional consulting and service arrangements, scientific and technical advisory board memberships, or serving as an expert witness in litigation);
  - (iii) Services provided in exchange for honorariums or travel expense reimbursements;
  - (iv) Research funding or other forms of research support;
  - (v) Investment in the form of stock or bond ownership or partnership interest (excluding diversified mutual fund investments);
  - (vi) Real estate investments;

- (vii) Patents, copyrights, and other intellectual property interests; or
  - (viii) Business ownership and investment interests.
- (b) *Requirements.* The Contractor shall—
- (1) Have procedures in place to screen covered employees for potential personal conflicts of interest, by—
    - (i) Obtaining and maintaining from each covered employee, when the employee is initially assigned to the task under the contract, a disclosure of interests that might be affected by the task to which the employee has been assigned, as follows:
      - (A) Financial interests of the covered employee, of close family members, or of other members of the covered employee's household.
      - (B) Other employment or financial relationships of the covered employee (including seeking or negotiating for prospective employment or business).
      - (C) Gifts, including travel; and
    - (ii) Requiring each covered employee to update the disclosure statement whenever the employee's personal or financial circumstances change in such a way that a new personal conflict of interest might occur because of the task the covered employee is performing.
  - (2) For each covered employee—
    - (i) Prevent personal conflicts of interest, including not assigning or allowing a covered employee to perform any task under the contract for which the Contractor has identified a personal conflict of interest for the employee that the Contractor or employee cannot satisfactorily prevent or mitigate in consultation with the contracting agency;
    - (ii) Prohibit use of non-public information accessed through performance of a Government contract for personal gain; and
    - (iii) Obtain a signed non-disclosure agreement to prohibit disclosure of non-public information accessed through performance of a Government contract.
  - (3) Inform covered employees of their obligation—
    - (i) To disclose and prevent personal conflicts of interest;
    - (ii) Not to use non-public information accessed through performance of a Government contract for personal gain; and

- (iii) To avoid even the appearance of personal conflicts of interest;
  - (4) Maintain effective oversight to verify compliance with personal conflict-of-interest safeguards;
  - (5) Take appropriate disciplinary action in the case of covered employees who fail to comply with policies established pursuant to this clause; and
  - (6) Report to the Contracting Officer any personal conflict-of-interest violation by a covered employee as soon as it is identified. This report shall include a description of the violation and the proposed actions to be taken by the Contractor in response to the violation. Provide follow-up reports of corrective actions taken, as necessary. Personal conflict-of-interest violations include—
    - (i) Failure by a covered employee to disclose a personal conflict of interest;
    - (ii) Use by a covered employee of non-public information accessed through performance of a Government contract for personal gain; and
    - (iii) Failure of a covered employee to comply with the terms of a non-disclosure agreement.
- (c) *Mitigation or waiver.*
- (1) In exceptional circumstances, if the Contractor cannot satisfactorily prevent a personal conflict of interest as required by paragraph (b)(2)(i) of this clause, the Contractor may submit a request through the Contracting Officer to the Head of the Contracting Activity for—
    - (i) Agreement to a plan to mitigate the personal conflict of interest; or
    - (ii) A waiver of the requirement.
  - (2) The Contractor shall include in the request any proposed mitigation of the personal conflict of interest.
  - (3) The Contractor shall—
    - (i) Comply, and require compliance by the covered employee, with any conditions imposed by the Government as necessary to mitigate the personal conflict of interest; or
    - (ii) Remove the Contractor employee or subcontractor employee from performance of the contract or terminate the applicable subcontract.
- (d) *Subcontract flowdown.* The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts—
- (1) That exceed \$150,000; and

- (2) 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).  
(End of clause)

**(xi) Add I-129 FAR 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)**

- (a) The Government may extend the term of this contract by written notice to the Contractor within 15 to 30 days; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the Government to an extension.
- (b) If the Government exercises this option, the extended contract shall be considered to include this option clause.
- (c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 20 years 6 months.  
(End of Clause)

**(xii) Add I-130 FAR 52.219-25 SMALL DISADVANTAGED BUSINESS PARTICIPATION PROGRAM—DISADVANTAGED STATUS AND REPORTING (DEC 2010)**

- (a) *Disadvantaged status for joint venture partners, team members, and subcontractors.* This clause addresses disadvantaged status for joint venture partners, teaming arrangement members, and subcontractors and is applicable if this contract contains small disadvantaged business (SDB) participation targets. The Contractor shall obtain representations of small disadvantaged status from joint venture partners, teaming arrangement members, and subcontractors (see exception in paragraph (b) of this section) through use of a provision substantially the same as paragraph (b)(1)(i) of the provision at FAR 52.219-22, Small Disadvantaged Business Status. The Contractor shall confirm that a joint venture partner, team member, or subcontractor representing itself as a small disadvantaged business concern is a small disadvantaged business concern certified by the Small Business Administration by using the Central Contractor Registration database or by contacting the SBA's Office of Small Disadvantaged Business Certification and Eligibility.
- (b) For subcontractors that are not certified as a small disadvantaged business by the Small Business Administration, the Contractor shall accept the subcontractor's written self-representation as a small disadvantaged business, unless the Contractor has reason to question the self-representation.
- (c) Reporting requirement. If this contract contains SDB participation targets, the Contractor shall report on the participation of SDB concerns at contract completion, or as otherwise provided in this contract. Reporting may be on Optional Form 312, Small Disadvantaged Business Participation Report, in the Contractor's own format providing the same information, or accomplished through using the Electronic Subcontracting Reporting System's Small Disadvantaged Business Participation Report. This report is required for each contract containing SDB participation targets. If this contract contains an individual Small Business Subcontracting Plan, reports shall be submitted with the final Individual Subcontract Report at the completion of the contract.  
(End of clause)

**(xiii) Add I-131 FAR 52.222-40 – NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DEC 2010)**

- (a) During the term of this contract, the Contractor shall post an employee notice, of such size and in such form, and containing such content as prescribed by the Secretary of Labor, in conspicuous places in and about its plants and offices where employees covered by the national Labor Relations Act engage in activities relating to the performance of the contract, including all places where notices to employees are customarily posted both physically and electronically, in the languages employees speak, in accordance with 29 CFR 471.2(d) and (f).
- (1) Physical posting of the employee notice shall be in conspicuous places in and about the Contractor's plants and offices so that the notice is prominent and readily seen by employees who are covered by the National Labor Relations Act and engage in activities related to the performance of the contract.
  - (2) If the Contractor customarily posts notices to employees electronically, then the Contractor shall also post the required notice electronically by displaying prominently, on any Web site that is maintained by the Contractor and is customarily used for notices to employees about terms and conditions of employment, a link to the Department of Labor's Web site that contains the full text of the poster. The link to the Department's Web site, as referenced in (b)(3) of this section, must read, "Important Notice about Employee Rights to Organize and Bargain Collectively with Their Employers."
- (b) This required employee notice, printed by the Department of Labor, may be—
- (1) Obtained from the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-5609, Washington, DC 20210, (202) 693-0123, or from any field office of the Office of Labor-Management Standards or Office of Federal Contract Compliance Programs;
  - (2) Provided by the Federal contracting agency if requested;
  - (3) Downloaded from the Office of Labor-management Standards Web site at <http://www.dol.gov/olms/regs/compliance/EO13496.htm> ; or
  - (4) Reproduced and used as exact duplicate copies of the Department of Labor's official poster.
- (c) The required text of the employee notice referred to in this clause is located at Appendix A, Subpart A, 29 CFR Part 471.
- (d) The Contractor shall comply with all provisions of the employee notice and related rules, regulations, and orders of the Secretary of Labor.
- (e) In the event that the Contractor does not comply with the requirements set forth in paragraphs (a) through (d) of this clause, this contract may be terminated or suspended in whole or in part, and the Contractor may be suspended or debarred in accordance with 29 CFR 471.14 and subpart 9.4 Such other sanctions or remedies may be imposed as are

provided by 29 CFR part 471, which implements Executive Order 13496 or as otherwise provided by law.

(f) Subcontracts.

- (1) The Contractor shall include the substance of this clause, including this paragraph (f), in every subcontract that exceeds \$10,000 and 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, so that such provisions will be binding upon each subcontractor.
- (2) The Contractor shall not procure supplies or services in a way designed to avoid the applicability of Executive Order 13496 or this clause.
- (3) The Contractor shall take such action with respect to any such subcontract as may be directed by the Secretary of Labor as a means of enforcing such provisions, including the imposition of sanctions for noncompliance.
- (4) However, if the Contractor becomes involved in litigation with a subcontractor, or is threatened with such involvement, as a result of such direction, the Contractor may request the United States, through the Secretary of Labor, to enter into such litigation to protect the interests of the United States.

(End of clause)

(xiv) **Add I-132 FAR 52.223-15 ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS (DEC 2007)**

(a) *Definition.* As used in this clause--

“Energy-efficient product”—

- (1) Means a product that—
    - (i) Meets Department of Energy and Environmental Protection Agency criteria for use of the Energy Star trademark label; or
    - (ii) Is in the upper 25 percent of efficiency for all similar products as designated by the Department of Energy’s Federal Energy Management Program.
  - (2) The term “product” does not include any energy-consuming product or system designed or procured for combat or combat-related missions (42 U.S.C. 8259b).
- (b) The Contractor shall ensure that energy-consuming products are energy efficient products (*i.e.*, ENERGY STAR® products or FEMP-designated products) at the time of contract award, for products that are—
- (1) Delivered;
  - (2) Acquired by the Contractor for use in performing services at a Federally-controlled facility;

- (3) Furnished by the Contractor for use by the Government; or
  - (4) Specified in the design of a building or work, or incorporated during its construction, renovation, or maintenance.
- (c) The requirements of paragraph (b) apply to the Contractor (including any subcontractor) unless—
- (1) The energy-consuming product is not listed in the ENERGY STAR® Program or FEMP; or
  - (2) Otherwise approved in writing by the Contracting Officer.
- (d) Information about these products is available for—
- (1) ENERGY STAR® at <http://www.energystar.gov/products>; and
  - (2) FEMP at [http://www1.eere.energy.gov/femp/procurement/cep\\_requirements.html](http://www1.eere.energy.gov/femp/procurement/cep_requirements.html).
- (End of clause)

**(xv) Add I-133 FAR 52.251-1 GOVERNMENT SUPPLY SOURCES (APR 2012)**

The Contracting Officer may issue the Contractor an authorization to use Government supply sources in the performance of this contract. Title to all property acquired by the Contractor under such an authorization shall vest in the Government unless otherwise specified in the contract. The provisions of the clause at FAR 52.245-1, Government Property, apply to all property acquired under such authorization.

(End of Clause)

**(xvi) Add I-134 DEAR 952.235-71 RESEARCH MISCONDUCT (JUL 2005)**

- (a) The Contractor is responsible for maintaining the integrity of research performed pursuant to this contract award including the prevention, detection, and remediation of research misconduct as defined by this clause, and the conduct of inquiries, investigations, and adjudication of allegations of research misconduct in accordance with the requirements of this clause.
- (b) Unless otherwise instructed by the Contracting Officer, the Contractor must conduct an initial inquiry into any allegation of research misconduct. If the Contractor determines that there is sufficient evidence to proceed to an investigation, it must notify the Contracting Officer and, unless otherwise instructed, the Contractor must:
  - (1) Conduct an investigation to develop a complete factual record and an examination of such record leading to either a finding of research misconduct and an identification of appropriate remedies or a determination that no further action is warranted.
  - (2) If the investigation leads to a finding of research misconduct, conduct an adjudication by a responsible official who was not involved in the inquiry or investigation and is separated organizationally from the element which conducted

the investigation. The adjudication must include a review of the investigative record and, as warranted, a determination of appropriate corrective actions and sanctions.

- (3) Inform the Contracting Officer if an initial inquiry supports a formal investigation and, if requested by the Contracting Officer thereafter, keep the Contracting Officer informed of the results of the investigation and any subsequent adjudication. When an investigation is complete, the Contractor will forward to the Contracting Officer a copy of the evidentiary record, the investigative report, any recommendations made to the Contractor's adjudicating official, and the adjudicating official's decision and notification of any corrective action taken or planned, and the subject's written response (if any).
- (c) The Department of Energy (DOE) may elect to act in lieu of the Contractor in conducting an inquiry or investigation into an allegation of research misconduct if the Contracting Officer finds that—
- (1) The research organization is not prepared to handle the allegation in a manner consistent with this clause;
  - (2) The allegation involves an entity of sufficiently small size that it cannot reasonably conduct the inquiry;
  - (3) DOE involvement is necessary to ensure the public health, safety, and security, or to prevent harm to the public interest; or
  - (4) The allegation involves possible criminal misconduct.
- (d) In conducting the activities under paragraphs (b) and (c) of this clause, the Contractor and the Department, if it elects to conduct the inquiry or investigation, shall adhere to the following guidelines:
- (1) **Safeguards for information and subjects of allegations.** The Contractor shall provide safeguards to ensure that individuals may bring allegations of research misconduct made in good faith to the attention of the Contractor without suffering retribution. Safeguards include: protection against retaliation; fair and objective procedures for examining and resolving allegations; and diligence in protecting positions and reputations. The Contractor shall also provide the subjects of allegations confidence that their rights are protected and that the mere filing of an allegation of research misconduct will not result in an adverse action. Safeguards include timely written notice regarding substantive allegations against them, a description of the allegation and reasonable access to any evidence submitted to support the allegation or developed in response to an allegation and notice of any findings of research misconduct.
  - (2) **Objectivity and Expertise.** The Contractor shall select individual(s) to inquire, investigate, and adjudicate allegations of research misconduct who have appropriate expertise and have no unresolved conflict of interest. The individual(s) who conducts an adjudication must not be the same individual(s) who conducted the inquiry or investigation, and must be separate organizationally from the element that conducted the inquiry or investigation.

- (3) **Timeliness.** The Contractor shall coordinate, inquire, investigate and adjudicate allegations of research misconduct promptly, but thoroughly. Generally, an investigation should be completed within 120 days of initiation, and adjudication should be complete within 60 days of receipt of the record of investigation.
  - (4) **Confidentiality.** To the extent possible, consistent with fair and thorough processing of allegations of research misconduct and applicable law and regulation, knowledge about the identity of the subjects of allegations and informants should be limited to those with a need to know.
  - (5) **Remediation and Sanction.** If the Contractor finds that research misconduct has occurred, it shall assess the seriousness of the misconduct and its impact on the research completed or in process. The Contractor must take all necessary corrective actions. Such action may include but are not limited to, correcting the research record and as appropriate imposing restrictions, controls, or other parameters on research in process or to be conducted in the future. The Contractor must coordinate remedial actions with the Contracting Officer. The Contractor must also consider whether personnel sanctions are appropriate. Any such sanction must be considered and effected consistent with any applicable personnel laws, policies, and procedures, and shall take into account the seriousness of the misconduct and its impact, whether it was done knowingly or intentionally, and whether it was an isolated event or pattern of conduct.
- (e) DOE reserves the right to pursue such remedies and other actions as it deems appropriate, consistent with the terms and conditions of the award instrument and applicable laws and regulations. However, the Contractor's good faith administration of this clause and the effectiveness of its remedial actions and sanctions shall be positive considerations and shall be taken into account as mitigating factors in assessing the need for such actions. If DOE pursues any such action, it will inform the subject of the action of the outcome and any applicable appeal procedures.
- (f) **Definitions.**

*Adjudication* means a formal review of a record of investigation of alleged research misconduct to determine whether and what corrective actions and sanctions should be taken.

*Fabrication* means making up data or results and recording or reporting them.

*Falsification* means manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.

*Finding of Research Misconduct* means a determination, based on a preponderance of the evidence, that research misconduct has occurred. Such a finding requires a conclusion that there has been a significant departure from accepted practices of the relevant research community and that it be knowingly, intentionally, or recklessly committed.

*Inquiry* means information gathering and initial fact-finding to determine whether an allegation or apparent instance of misconduct warrants an investigation.

*Investigation* means the formal examination and evaluation of the relevant facts.

*Plagiarism* means the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

*Research* means all basic, applied, and demonstration research in all fields of science, medicine, engineering, and mathematics, including, but not limited to, research in economics, education, linguistics, medicine, psychology, social sciences statistics, and research involving human subjects or animals.

*Research Misconduct* means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results, but does not include honest error or differences of opinion.

*Research record* means the record of all data or results that embody the facts resulting from scientists' inquiries, including, but not limited to, research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, internal reports, and journal articles.

- (g) By executing this contract, the Contractor provides its assurance that it has established an administrative process for performing an inquiry, mediating if possible, or investigating, and reporting allegations of research misconduct; and that it will comply with its own administrative process and the requirements of 10 CFR part 733 for performing an inquiry, possible mediation, investigation and reporting of research misconduct.
- (h) The Contractor must insert or have inserted the substance of this clause, including paragraph (g), in subcontracts at all tiers that involve research.  
(End of Clause)

**(xvii) Add I-135 DEAR 952.247-70 FOREIGN TRAVEL (JUN 2010)**

Contractor foreign travel shall be conducted pursuant to the requirements contained in Department of Energy (DOE) Order 551.1C, or its successor, Official Foreign Travel, or its successor in effect at the time of award.

(End of Clause)

**(xviii) Add I-136 DEAR 970.5223-6 EXECUTIVE ORDER 13423, STRENGTHENING FEDERAL ENVIRONMENTAL, ENERGY, AND TRANSPORTATION MANAGEMENT (OCT 2010)**

Since this contract involves Contractor operation of Government-owned facilities and/or motor vehicles, the provisions of Executive Order 13423 are applicable to the Contractor to the same extent they would be applicable if the Government were operating the facilities or motor vehicles. Information on the requirements of the Executive Order may be found at:

<http://www.archives.gov/federal-register/executive-orders/> .

(End of Clause)

**(xix) Remove I-38 FAR 52.232-23-ASSIGNMENT OF CLAIMS (JAN 1986) and replace with I-38 FAR 52.232-24-PROHIBITION OF ASSIGNMENT OF CLAIMS (JAN 1986)**

The assignment of claims under the Assignment of Claims Act of 1940, as amended, 31 U.S.C. 3727, 41 U.S.C. 15, is prohibited for this contract.

(End of Clause)

10. Appendix E, *Small Business Subcontracting Plan for Sandia Corporation*, is hereby revised and superseded in its entirety by Attachment 1 to this modification.
11. Appendix F, *Performance Guarantee*, is hereby revised and superseded in its entirety by Attachment 2 to this modification.
12. All other terms and conditions remain unchanged.

----- End of Modification -----

## **Part III - Section J Appendix E**

### **Small Business Subcontracting Plan for Sandia Corporation**

Period of October 1, 2003 through September 30, 2013

This Small Business Subcontracting Plan is submitted by Sandia Corporation (Sandia) in accordance with Section 8(d) of Public Law 95-507. It is established between Sandia and the Department of Energy (DOE) National Nuclear Security Administration (NNSA) under Prime Contract Number DE-AC04-94AL85000.

#### **Table of Contents**

- I. GOALS
- II. PROGRAM ADMINISTRATOR
- III. OUTREACH EFFORTS
- IV. SUBCONTRACTING PLAN FLOWDOWN
- V. REPORTS AND SURVEYS
- VI. RECORDS AND PROCEDURES

#### **I. GOALS**

##### **A. BREAKDOWN AND PERCENTAGES**

Sandia's proposed Goals for Small Business concerns (SB), Small Disadvantaged Business concerns (SDB), Women-Owned Small Business concerns (WOSB), HUBZone Small Business concerns (HUBZone SB), Veteran-Owned Small Business concerns (VOSB), and Service-Disabled Veteran-Owned Small Business concerns (SDVOSB), shall be submitted in writing to the Contracting Officer. The established Goals will be incorporated into this Plan annually by letter and will not require contract modification.

Subcontracts awarded to an Alaska Native Corporation (ANC) or Indian Tribe (IT) concerns shall be counted towards the subcontracting goals for small business and small disadvantaged business (SDB) concerns, regardless of the size or Small Business Administration certification status of the ANC or IT.

Where one or more subcontractors are in the subcontract tier between Sandia and the ANC or IT, the ANC or IT shall designate the appropriate contractor(s) to count the subcontract towards its small business and small disadvantaged business subcontracting goals.

- (1) Subcontracts involving performance outside the U.S. or its outlying area.
- (2) Purchases from a corporation, company, or subdivision that is an affiliate of Sandia.

### C. PRODUCTS AND METHODOLOGY

#### (1) Principal Products and Services

The principal products and services to be obtained in support of this Plan are those generally associated with a multi-program science and engineering laboratory. SB, SDB, WOSB, HUBZone SB, VOSB and SDVOSB will generally supply a significant portion of the goods and services purchased. Examples of commodities are as indicated below.

Laboratory Equipment	Media Services & Supplies
Specialty/Promotional items	Tools
Construction/Renovation	Electronics
Safety Equipment	Electrical Components &
Office Supplies & Furniture	Assemblies
Mechanical Subassemblies	Services
Engineering Services & Supplies	Clothing
Chemicals & Adhesives	Computer & Office Supplies
Computer Supplies & Equipment	

#### (2) Methodology for Determining Subcontracting Goals

Annual goals are developed based upon the previous years' records and experience as well as our acquisition forecasts for the next year. The anticipated needs and programs for the current year are also taken into consideration.

#### (3) Methodology for Identification of Suppliers

Sandia National Laboratories Business Opportunities Website: The Business Opportunities Website (BOW) lists current contract opportunities for products and services at Sandia National Laboratories (SNL) exceeding \$100,000. Opportunities are listed in accordance with the North American Industry Classification System (NAICS). The website is intended to help firms identify Sandia contract opportunities as early as possible in the procurement process.

Trade Fairs: Sandia will actively participate in Minority Business Opportunity Trade Fairs across the Southwest and the United States. Sandia shall participate in those trade fairs that will be most beneficial to

- Search for SB, SDB, WOSB, HUBZone SB, VOSB, SDVOSB, ANC and IT sources for use by Sandia in proposed competitive procurements expected to exceed \$100,000.
- Review Large Business Subcontracting Plans for utilization of SB, SDB, WOSB, HUBZone SB, VOSB and SDVOSB subcontracting plans submitted to Sandia in connection with supply and/or service subcontract awards of \$650,000 or greater (or \$1,500,000 or greater for construction), and assure that such plans are consistent with PL 95-507 requirements.
- Ensure flow down of appropriate clauses in subcontracts.
- Collect and prepare necessary data to submit reports to the Contracting Officer as required.
- Provide statistics to Sandia's management on progress toward established goals and recognition of significant Buyer/Subcontract Specialist success toward achievement of established small business goals.
- Assure inclusion of SB, SDB, WOSB, HUBZone SB, VOSB, SDVOSB, ANC and IT firms in solicitations where appropriate.
- Participate as Sandia's representative in SB, SDB, WOSB, HUBZone SB, VOSB, SDVOSB, ANC and IT trade fairs, conferences, SBA and Minority Enterprise Development events specifically directed toward offering opportunities for participants to do business with Sandia.
- Serve as Sandia's representative to Business Development and Trade Associations and other appropriate organizations.
- Hold periodic training and other meetings with Sandia Procurement staff on Small Business Utilization Department Socioeconomic Programs.
- Conduct periodic meetings and otherwise communicate with all Laboratories' organizational components regarding the Plan's goals and status.
- Support Small Business Administration (SBA) activities.

### III. OUTREACH EFFORTS

The following efforts shall be taken to assure that SB, SDB, WOSB, HUBZone SB, VOSB, SDVOSB, ANC and IT will have an equitable opportunity to compete for subcontracts:

#### A. External Efforts

Attendance at national and local SB, SDB, WOSB, HUBZone SB, VOSB, SDVOSB, ANC and IT procurement conferences and trade fairs, including but not limited to:

- Small Minority Expos,
- Small Business Trade Fairs/Conferences,
- Minority Business Enterprise (MBE) Trade Fairs,

#### IV. SUBCONTRACTING PLAN FLOWDOWN

Sandia agrees that the Contract's Clause entitled "Utilization of Small Business Concerns" (FAR 52.219-8) will be included in all subcontracts that offer further subcontracting opportunities. All subcontractors except small business, affiliations, and foreign concerns who receive subcontracts in excess of \$650,000 or "\$1,500,000 for construction of a public facility" will be required to adopt and comply with a Subcontracting Plan similar to this one. Such Plans will be reviewed by comparing them with the provisions of the clause, "Small Business Subcontracting Plan" (FAR 52.219-9), thus assuring that all minimum requirements of an acceptable subcontracting plan have been satisfied. The acceptability of percentage and dollar goals shall be determined on a case-by-case basis depending on the supplies/services involved, the availability of potential SB, SDB, WOSB, HUBZone SB, VOSB, SDVOSB, ANC and IT subcontractors, and prior experience. Once approved and implemented, Plans will be monitored through the submission of periodic reports, and/or, as time and availability of funds permit, periodic visits to subcontractors' facilities to review applicable records and subcontracting program progress.

#### V. REPORTS AND SURVEYS

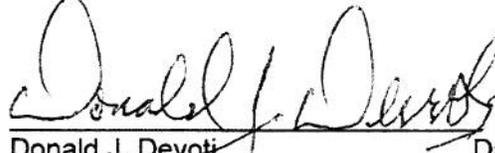
Sandia shall submit reports to the NNSA, as requested, in a format agreed upon. Sandia shall submit electronically into the Electronic Subcontracting Reporting System (eSRS) the semi-annual Individual Subcontracting Reports (ISR) and annual Summary Subcontracting Reports (SSR) and cooperate in any studies or surveys as may be required by the Contracting Officer or the SBA in order to determine the extent of compliance by Sandia with the Subcontracting Plan and with the FAR 52.219-8 *Utilization of Small Business Concerns*, contained in the prime contract, DE-AC04-94AL85000. Sandia shall also ensure that its subcontractors agree to electronically submit Individual Subcontracting Reports (ISRs) and Summary Subcontracting Reports (SSRs).

#### VI. RECORDS AND PROCEDURES

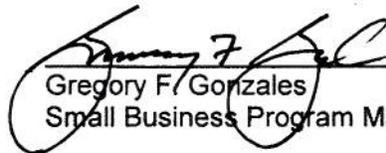
Sandia shall maintain the following types of records to document compliance with this Subcontracting Plan:

- Procurement data, which is tracked by an automated system that provides historical data, related to each subcontract.
- Records to support other outreach efforts such as attendance at small and minority business procurement conferences and trade fairs.

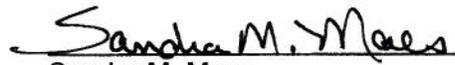
Submitted By Sandia: Sandia Corporation

  
Donald J. Devoti Date 08/15/12  
Manager of the Small Business Utilization Department

Plan Concurred By: NNSA Acquisition Management Division

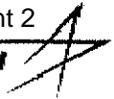
  
Gregory F. Gonzales Date 8-15-12  
Small Business Program Manager

Accepted by: NNSA Sandia Site Office

  
Sandra M. Maes Date 8-16-12  
Contracting Officer

Marcus B. Ide  
Assistant Treasurer  
Corporate Finance and Banking

**LOCKHEED MARTIN**



Part III – Section J

Appendix F

Performance Guarantee Agreement No. 123

For value received, and in consideration of, and in order to induce the United States (the Government) to enter into Modification No. M473 to Contract DE-AC04-94AL85000 for the management and operation of Sandia National Laboratories ("the Contract") which Contract was originally dated as of October 1, 1993, for the initial five-year term commencing October 1, 1993, as extended by virtue of Modification Nos. M081, M202, M222, M266, M293, M319 and by virtue of Modification No. M473 by and between the Government and Sandia Corporation (Contractor), the undersigned, Lockheed Martin Corporation (Guarantor), a corporation incorporated in the State of Maryland with its principal place of business at 6801 Rockledge Drive, Bethesda, MD hereby unconditionally guarantees to the Government (a) the full and prompt payment and performance of all obligations, accrued and executory, which Contractor presently or hereafter may have to the Government under the Contract, and (b) the full and prompt payment and performance by Contractor of all other obligations and liabilities of Contractor to the Government, fixed or contingent, due or to become due, direct or indirect, now existing or hereafter and howsoever arising or incurred under the Contract, and Guarantor further agrees to indemnify the Government against any losses the Government may sustain and expenses it may incur as a result of the enforcement or attempted enforcement by the Government of any of its rights and remedies under the Contract, in the event of a default by Contractor thereunder, and/or as a result of the enforcement or attempted enforcement by the Government of any of its rights against Guarantor hereunder.

Guarantor has read and consents to the signing of the Contract, including Modification No. M473. Guarantor further agrees that Contractor shall have the full right, without any notice to or consent from Guarantor to make any and all modifications or amendments to the Contract without affecting, impairing, or discharging, in whole or in part, the liability of Guarantor hereunder.

Guarantor hereby expressly waives all defenses which might constitute a legal or equitable discharge of a surety or guarantor, and agrees that this Performance Guarantee Agreement shall be valid and unconditionally binding upon Guarantor regardless of (i) the reorganization, merger, or consolidation of Contractor into or with another entity, corporate or otherwise, or the liquidation or dissolution of Contractor, or the sale or other disposition of all or substantially all of the capital stock, business or assets of Contractor to any other person or party, or (ii) the institution of any bankruptcy, reorganization,

insolvency, debt arrangement, or receivership proceedings by or against Contractor, or adjudication of Contractor as a bankrupt, or (iii) the assertion by the Government against Contractor of any of the Government's rights and remedies provided for under the Contract, including any modifications or amendments thereto, or under any other document(s) or instrument(s) executed by Contractor, or existing in the Government's favor in law, equity, or bankruptcy.

Guarantor further agrees that its liability under this Performance Guarantee Agreement shall be continuing, absolute, primary, and direct, and that the Government shall not be required to pursue any right or remedy it may have against Contractor or other Guarantors under the Contract, or any modifications or amendments thereto, or any other document(s) or instrument(s) executed by Contractor, or otherwise. Guarantor affirms that the Government shall not be required to first commence any action or obtain any judgment against Contractor before enforcing this Performance Guarantee Agreement against Guarantor, and that Guarantor will, upon demand, pay the Government any amount, the payment of which is guaranteed hereunder and the payment of which by Contractor is in default under the Contract or under any other document(s) or instrument(s) executed by Contractor as aforesaid that Guarantor will, upon demand, perform all other obligations of Contractor, the performance of which by Contractor is guaranteed hereunder.

Guarantor agrees to assure that it shall cause this Performance Guarantee Agreement to be unconditionally binding upon any successor(s) to its interests regardless of (i) the reorganization, merger, or consolidation of Guarantor into or with another entity, corporate or otherwise, or the liquidation or dissolution of Guarantor, or the sale or other disposition of all or substantially all of the capital stock, business, or assets of Guarantor to any other person or party, or (ii) the institution of any bankruptcy, reorganization, insolvency, debt arrangement, or receivership proceedings by or against Guarantor, or adjudication of Guarantor as a bankrupt.

Guarantor further warrants and represents to the Government that the execution and delivery of this Performance Guarantee Agreement is not in contravention of Guarantor's Articles of Organization, Charter, by-laws, and applicable law; that the execution and delivery of this Performance Guarantee Agreement, and the performance thereof, has been duly authorized by the Guarantor's Board of Directors, Trustees, or any other management board which is required to participate in such decisions; and that the execution, delivery, and performance of this Performance Guarantee Agreement will not result in a breach of, or constitute a default under, any loan agreement, indenture, or contract to which Guarantor is a party or by or under which it is bound.

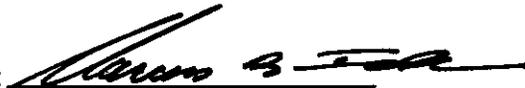
No express or implied provision, warranty, representation or term of this Performance Guarantee Agreement is intended, or is to be construed, to confer upon any third person(s) any rights or remedies whatsoever, except as expressly provided in this Performance Guarantee Agreement. Notwithstanding anything to the contrary contained herein, the liability of Guarantor hereunder shall be subject to and limited by the applicable provisions of the Contract.

This Performance Guarantee Agreement is for the contractual period of performance starting October 1, 2012, as described in Modification No. M473, and is not intended to

impair or affect previous Performance Guarantees executed by Martin Marietta Corporation and Lockheed Martin Corporation, dated May 25, 1993, September 24, 1998, and September 29, 2003 respectively. Those guarantees have no application to the period of performance after September 30, 2012, as described in Modification M473.

In witness thereof, Guarantor has caused this Performance Guarantee Agreement to be executed by its duly authorized officer, and its corporate seal to be affixed hereto on August 29, 2012.

LOCKHEED MARTIN CORPORATION

BY:   


NAME: Marcus B. Ide

TITLE: Assistant Treasurer

ATTEST:

BY: 

NAME: Mary Beth Adamchik

TITLE: Treasury Manager