

Amendment 000002

**Questions and Answers
DE-SOL-0008418**

1. Question #1:

Are you committing to a date to respond to questions? Timing maybe a problem if you want Past Performance submitted early?

Answer #1:

The Government intends to provide answers to prospective offerors questions as soon as possible.

2. Question #2:

Will Clauses H-19, H-20, H-22 and H-23 be part of the evaluation criteria and how will they be assessed?

Answer #2:

No, these clauses are not part of the evaluation criteria. They are applicable to the successful Offeror during contract administration.

3. Question #3:

Clause H-19 Does NNSS anticipate establishing specific targets for performance improvements? Is cost reduction a goal of this clause?

Answer #3:

No, this is the Contractor's document for setting goals and setting a strategy for continuous performance improvement.

4. Question #4

M&O Contracts typically include a special payment clause/banking arrangement so that contractors do not have to make capital contributions to get their operating entity up and running on award. Will NNSA provide for such an arrangement to the entity upon contract award so as to cover transition cost payments? (We believe one may exist for NSTEC today).

Answer #4:

No, the successful Offeror will establish banking arrangements during the transition period. See I-23 DEAR 970.5232-2 Payments and Advances (DEC 2000) Alternate II (DEC 2000) Alternate III (DEC 2000) (NNSA CLASS DEVIATION OCT 2011) and Appendix L Special Financial Institution Agreement for Use with the Payments-Cleared Financing Arrangement. Transition costs will be billed and paid in accordance with G-7 Invoicing for Transition Costs.

5. Question #5:

Can you please clarify today the definition of Key Personnel? The Request for Proposal (RFP) refers to "them", appears it should read "him/her".

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Answer #5:

L-15(b)(2) them should be him/her; site manager should be one person. See revised section L-15(b)(2) in Amendment 000002.

6. Question #6:

Can you clarify the criteria under which NNSA gets credit for small business contracting by the M&O contractor? Is it only for the first year of the NNS contract?

Answer #6:

As of today, NNSA will receive small business credit for first-tier small business subcontract commitments/payments for the entire period of performance.

7. Question #7:

Is the Environmental Management (EM) restoration groundwater activity performed by Navarro for Nevada Field Office (NFO) or by the incumbent M&O contractor?

Answer #7:

The EM and groundwater activities are performed by Navarro for NFO.

8. Question #8:

We are confused by the small business instructions in the PPIF. What is desired in the instruction dollar amount of the contract party contracted with contact info...etc.?

Answer #8:

See revised Section L Attachment E - Past Performance Information Form in Amendment 000002.

9. Question #9:

RFP Reference: Section L-15(a) states “The Offeror shall provide the Past Performance Cover Letter and Questionnaire at Section L, Attachment F, to each technical and contracting point of contact on the PPIF. These points of contact shall return the completed Past Performance Questionnaires directly to the government by email to SEB5@nnsa.doe.gov, Attn: Ariane S. Kaminsky, M&OCB, Contracting Officer.”

Question: Please confirm the CO should receive separate Past Performance Questionnaires from the CO and Technical POCs identified in each PPIF for those contracts with separate Contracting and Technical POC's?

Answer #9:

Yes, the past performance questionnaire is required from the technical POC and the CO for each contract reference submitted.

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10. Question #10:

RFP Reference: SF-33, Block 8, refers to Block 7 for the proposal delivery location at the Forrestal Building.

Section L-17 directs proposal delivery to the DOE NNSA (NA-APM-131) office in Germantown, MD.

Question: Please confirm address provided in L-17 is the correct delivery location.

Answer #10:

The correct delivery location is shown at L-17. Please contact the Contracting Officer and/or the Contract Specialist if proposal delivery will be done before December 22, 2015.

11. Question #11:

RFP Reference: L-16(b), Table 1 shows a value of \$3,897,712,514 but the table values add up to \$3,897,713,512.

Question: Please confirm the Total should be \$3,897,713,512?

Answer #11:

The correct total should be \$3,897,713,512 the solicitation will be corrected in amendment 000002.

12. Question #12:

RFP Reference: Section L-13 (a) The Internet NNS website Reading Room, Labor Agreements

Question: Will the government release all renegotiated union agreements to include number of employees, actual pension, health and welfare wage and benefit supplements?

Further clarification is requested for union pension trust fund obligations. How is the contractor protected from unanticipated cost obligations associated with these types of plans (i.e. requests to increase employer contributions; withdrawal liabilities)?

Answer #12:

Reasonable and allocable costs arising under collective bargaining agreements (CBAs), which are incurred in accordance with Section 5.2, Labor Relations, of Section J, Appendix A, are reimbursable under the Contract. These costs include the negotiated contributions set forth in the Wage and Benefit Supplement to the Project Labor Agreement (PLA). The relevant labor agreements are currently posted in the reading room. The latest Wage and Benefit Supplements as well as the number of employees by union reported via iBenefits as of 7/22/15 will be posted to the reading room. (See attached copies)

13. Question #13:

RFP Reference: Section I-15 DEAR 952.250-70 Nuclear Hazards Indemnity Agreement

Question: We have observed the DOE has provided the incumbent contractor both Price Anderson Act and P.L. 85-804 protections. The current DOE solicitation request only makes reference to Price

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Anderson Act. Was it the Government's intent to omit inclusion of P.L. 85-804? Should contractors include their request for P.L. 85-804 in their proposal submittal and are allowed to condition their proposal submittal upon receipt of P.L. 85-804?

Answer #13:

The successful offeror will be required to submit their 85-804 packages, this will be handled during post award.

14. Question #14:

RFP Reference: Section L-16 states "the Offeror must propose Management Team Costs (Key Personnel and their direct report managers)"; Section L-16(a) states "Management Team Costs: An Offeror's Management Team consists of the Key Personnel and managers who report directly to them consistent with the Offeror's organizational structure."

Question: Please confirm the reference to Key Personnel and Direct Report managers highlighted above means the Site Manager and only the Managers that report directly to him/her as clarified during the Pre-Proposal conference.

Answer #14:

The offeror has the flexibility of determining which position they consider Key for the requirement. It does include the Site Manager and his/her direct reports and any other staff member the offeror considers key to perform this requirement. Also see answer to question number 5.

15. Question #15:

RFP Reference: Section L-16(a) states "If the proposed positions of the Management Team, excluding Key Personnel, are not yet staffed by the Offeror, the Offeror shall provide the compensation ranges for all forms of eligible compensation associated for the proposed position. The Government will use the highest salary and other forms of compensation identified in the range for evaluation purposes."

Question: Please confirm the "Management Team" identified above is referencing the Site Manager and only his/her direct reports. Further, please confirm only the Site Manager and his/her Direct Reports (key personnel) should be included in Section L, Attachment G – Management Team Cost Sheet.

Answer #15:

See answer to question number 14.

16. Question #16:

RFP Reference: Section L-14(d), page 162

Question: Would the government consider modifying the requirement to provide the last three annual reports from parent organizations in the printed hard copies of the proposal and only require that they be submitted in the electronic copies submitted through FedConnect and on the flash drive? For a multi-member team, these annual reports are expected to be well over 1,000 pages and would substantially increase the size of the Volume I submittal. On previous recent procurements, DOE/NNSA has allowed these to be submitted in electronic form only.

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Answer #16:

Provision L-14(d) has been revised. See amendment 000002.

17. Question #17:

RFP Reference: Section L, Attachment E

Question: The Past Performance Information Form does not appear to be consistent with the Section L formatting restrictions provided in Section L(h)(1), Page 160 (i.e., it does not appear to have minimum one inch margins). We assume the Past Performance Information Form the Government provided should be modified to be consistent with the Section L Page Formatting and Restrictions instructions. Is this assumption correct?

Answer #17:

Offerors shall use the form provided; no reformatting required.

18. Question #18:

RFP Reference: L-15(a), page 163

Question: This section states “With each PPIF, the Offeror shall submit copies of any award fee determinations, performance evaluation reports, or other documentation that reflects the formal performance assessments of the Offeror by its customer on the experience cited in the PPIF.” We assume the Government only wants relevant information during the last five-years since that is the Section M evaluation timeframe (M-3(a); Page 178). Is this assumption correct?

Answer #18:

Yes.

19. Question #19:

RFP Reference: L-15(b), page 165

Question: The instructions for the Letter of Commitment indicate that the letter should include "total compensation to include reimbursable and non-reimbursable costs under the contract, benefits,"The Sample Letter of Commitment (Section L, Attachment H) refers to total compensation, to include a base salary. Both of these instruction would seem to be in contradiction to standard RFP language that no cost information should be contained in Volume II. There does not appear to be any information in these requirements that is not also included in the Management Team cost spreadsheet in Volume III. Would NNSA consider deleting this requirement for financial information in the Letter of Commitment? Alternatively, would NNSA allow the Letters of Commitment to be included with Volume I or Volume III in order to avoid including financial information in Volume II?

Answer #19:

No. The following is stated in the RFP “Listing of Key Personnel, commitment letters, and resumes shall be included as a separate Appendix to Volume II and are excluded from the Volume II page count limitation.”

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20. Question #20:

RFP Reference: L-16(a), page 167

Question: Would the government consider modifying the requirement to provide market survey data in support of internal and external equity analysis in the printed hard copies of the proposal and only require that they be submitted in the electronic copies submitted through FedConnect and flash drive? For a multi-member team, with each team member potentially using different market survey data, these backup documents are expected to be well over 1,000 pages.

Answer #20:

Offerors are not required to provide the backup documents i.e., the published salary surveys with their proposal; rather offerors shall perform the necessary analysis using the appropriate market surveys (as selected by the offeror) to complete the information requested in the External Equity Analysis section of the Management Team Cost Sheet which is found in Section L, Attachment G of the RFP.

21. Question #21:

RFP Reference: L-16(b), page 167

Question: Section L-16 (b) states that the \$90M/year estimated costs shown for CLIN 0002 Strategic Partnership Program (SPP) are estimates only and will not be incorporated into the contract at time of award. Section B-2 has incorporated these cost estimates into the SPP fee table (Table 2) in a similar manner as the M&O award fee table (Table 1). Is the government intending for the annual SPP fee to be calculated on a \$90M cost estimate or will the cost estimate be established prior to the commencement of each fiscal year and incorporated into the contract?

Answer #21:

The Estimated Cost of \$90M is used per year to establish the fixed fee pool. The actual fixed fee will be provided by modification to the contract with the establishment of actual Strategic Partnership Projects by each budget year.

22. Question #22:

RFP Reference: Section L, Attachment F

Question: The RFP shows this PPQ form as applicable to "DRAFT Request for Proposal No. DE-SOL-0008418." We assume that this is the final format for the form. Is that correct?

Answer #22:

The PPQ form attached to the solicitation is the final format. The word "Draft" was an oversight and will be removed with Amendment 000002. A revised form will be attached.

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23. Question #23:

The incumbent contract, DE-AC52-06NA25946, includes Clause 84, FAR 52.250-1, Indemnification under Public Law 85-804 (Apr 1984) – Alternate I (Apr 1984) (DEVIATION), which covers nuclear indemnity not covered by Price Anderson Act and risks associated with extra hazardous materials at the site, such as explosives and extremely toxic materials. The clause does not appear in the Final RFP for this procurement. Will NNSA add this or an essentially similar clause?

Answer #23:

FAR 52.250-1, Indemnification under Public Law 85-804 (Apr 1984) – Alternate I (Apr 1984) (DEVIATION) will be added to the contract after award. The successful offeror will have to prepare 85-804 package to request indemnification.

24. Question #24:

RFP Reference: Section I, B. DEAR Clauses Incorporated by Reference Page 41; 25(e)(4)(F) Bonds and Insurance, Pages 125-126

Question: Section I, B, DEAR Clauses Incorporated by Reference, 970.5228-1, Insurance-Litigation & Claims, page 41; Section I-25 (e)(4)(f) – Bonds and Insurance, pages 125 and 126; and Section J, Appendix A, Sections 4.3.1, page 36, and 4.6(i), page 14, make reference to Contractor-provided insurance. However, no other specific requirements for insurance to be purchased by the Contractor are specified. Can we assume that any such specific requirements will be identified in a future amendment? If not, is there an intent by DOE/NNSA to negotiate additional insurance requirements after award?

Answer #24:

Insurance requirements can be found throughout the RFP. For example, information regarding employee health insurance and workers' compensation is addressed within the Appendix A, Statement of Work. Any additional insurance can be addressed after contract award.

25. Question #25:

RFP Reference: Section J, Appendix A, Statement of Work, Chapter I, Section 4.6, page 14

Question: Section J, Appendix A, Statement of Work, Chapter I, section 4.6, page 14 refers to the contractor's responsibility for holding permits and agreement to accept services of notices of violations, but does not state that DOE will be responsible for fines and penalties caused by pre-existing conditions or by DOE action, other than the general references to allowability being determined by "other clauses in the contract". The RFP does not specify how the responsibility for fines and penalties will be allocated between DOE and the Contractor. Will the DOE/NNSA add contract language to specify that the Contractor will not be responsible for fines and penalties that are imposed due to the acts or omissions of DOE or of other parties? Also, will the clause(s) determining allowability of the environmental fines as referenced in subsection (ii) be specified?

Answer #25:

Determination of responsibility for fines and penalties will be considered on a case by case basis during contract performance. No additional language will be added to Section J, Appendix A, Statement of Work, Chapter I, Section 4.6, page 14.

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26. Question #26:

RFP Reference: Section L, Attachment E

Question: The instructions for Block 13 of the PPIF state "In addition, include a list of all small business subcontracting plan goals that were not met for any reason (partially or completely) including dollar amount of contract, party contracted with, contact information (including telephone number), brief description of the work, and reason for the failure to meet the goals."

Oftentimes, meeting these goals requires that we subcontract with several different suppliers within each SB category and failure to achieve the goal is likely not a failure of a subcontract that was placed, but rather one that was not placed. If a general SB subcontracting plan goal was not met (e.g., achieving 1.5% SDVOSB subcontracting versus a goal of 3%), we do not understand the request specifics such as dollar amount of contract, party contracted with, contract information, and brief description of the work. While we understand the need to provide an explanation as to why the goal was not met, we're not sure how the specifics outlined above apply. Would the Government please clarify this request?

Answer #26:

See revised Section L, Attachment E in amendment 000002

27. Question #27:

RFP Reference: Section L-15(a), page 163

Question: This clause states "With each PPIF, the Offeror shall submit copies any award fee determinations, performance evaluation reports or other documentation that reflects the formal performance assessments of the Offeror by its customer on the experience cited in the PPIF."

For a multi-partner team with three projects each across the five-year past performance period, this documentation is estimated to be well over 1,000 pages. Would the government consider modifying the requirement to provide this performance information in the printed hard copies of the proposal and only require that they be submitted in the electronic copies submitted through FedConnect and on the flash drive?

Answer #27:

NNSA will not modify provision L-15(a).

28. Question #28:

RFP Reference: Section L-16(a), page 166

Question: This clause states "The external equity analysis shall include market survey data consisting of the Offeror's proposed position/level, benchmark job title/level, median base salary, and median total cash compensation."

We interpret this to mean that the Government is asking the Offerors to provide backup documentation from commercial market salary surveys in support of our proposed management team salaries. Our team members use a variety of salary surveys but, in all cases, these are subscription services protected by copyright language that prohibits the copy or use of the data for anything but internal subscriber purposes.

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Our internal legal counsel has expressed concern that the RFP request for inclusion of this data in our Offer would violate those copyright provisions. Would the Government confirm that it is its intention that we should include this data in our Offer and, if so, provide any basis that you may be aware of that would provide exemption from the copyright requirements?

Also, for a multi-member team, with each team member using multiple different market surveys, these backup documents are expected to be well over 1,000 pages. Assuming that an exemption could be granted and that the data could be provided with our Offer, would the government consider modifying the requirement to provide this market survey data in the printed hard copies of the proposal and only require that they be submitted in the electronic copies submitted through FedConnect and flash drive?

Answer #28:

See answer to question number 20.

29. Question #29:

RFP Reference: Section L-16(a), page 167

Question: Section L-16 (b) states that the \$90M/year estimated costs shown for CLIN 0002 Strategic Partnership Program (SPP) are estimates only and will not be incorporated into the contract at time of award. Section B-2 has incorporated these cost estimates into the SPP fee table (Table 2) in a similar manner as the M&O award fee table (Table 1). Table 2 has an asterisked note that states "Fixed Fee shall not exceed 5.5% of the Estimated Cost shown for each period." These various instructions seem as if they could be in conflict with each other, leading to several questions.

Is the government intending for the annual SPP fee to be calculated on a \$90M cost estimate, or will the cost estimate be established prior to the commencement of each fiscal year and incorporated into the contract?

Or will the fixed fee percentage that we bid be applied as that percentage regardless of whether the actual SPP cost is lower or higher than the \$90M/year?

Or will our bid fixed fee percentage be applied to the \$90M/year estimated cost to establish a fixed fee pool, regardless of SPP funding level?

If we bid a fixed fee lower than 5.5%, does the asterisked note imply that we could earn a greater total fee pool in any given year by applying our bid fee rate to the actual SPP funding level (greater than \$90M), so long as the total fee paid did not exceed 5.5% of \$90M?

In evaluation of the various references to the SPP fee, we assume that our fixed fee percentage will apply to whatever the SPP funding level is in any given year (less than or greater than \$90M). Is this assumption correct?

Answer #29:

The establishment of the Fixed Fee pool for the SPP is the overall goal. SPP are determined on a yearly basis and the actual fixed fee will be determined at the beginning of each budget year through the issuance of a modification to the contract.

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30. Question #30:

RFP Reference: Section H-11 (page 25)

Question: Will NNSA modify section H-11 to read as follows?

The Contractor agrees to negotiate in good faith the revision, addition, or deletion of Section I FAR and DEAR clauses that the Contracting Officer may identify as the result of statutory or regulatory changes that are applicable to the contract. Should there be an impact to the Contractor as a result of any such modification to the Contract, the Contracting Officer will provide appropriate consideration.

Answer #30:

NNSA will not modify language in Clause H-11.

31. Question #31:

RFP Reference: Section H-18 (page 29)

Question: Will NNSA modify section H-18 to read as follows?

For construction projects, the Contractor agrees to negotiate in good faith with NNSA to incorporate appropriate construction terms and conditions into the M&O Contract or work authorization for the completion of that project that are not otherwise contained in the M&O Contract and that are not inconsistent with the existing terms and conditions of the M&O Contract. The work authorization will also include specific work requirements in accordance with applicable DOE Orders and the Contract's Section I Clause entitled "DEAR 970.5211-1, Work Authorization."

Answer #31:

NNSA will not modify language in Clause H-18.

32. Question #32:

RFP Reference: L-15 (b)(2) Criterion 2: Site Organization and Key Personnel (page 164)

Question: Will NNSA modify the definition of key personnel in L-15 (b)(2) to read as follows? "Key personnel consist of the site manager and his/her direct reports with direct responsibility for performance of the Statement of Work, Chapter II."

Answer #32:

See revised Section L-15(b)(2) in amendment 000002.

33. Question #33:

RFP Reference: Section L Attachment E, Past Performance Information Form, Line Item 13 (page 1)

Question: The last sentence of Line Item 13 requires clarification. The first part of the sentence states "...include a list of all small business subcontracting plan goals that were not met for any reason (partially or completely)". Please confirm that you require this for the past 5 years of the referenced project, by

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small business category (i.e., total SB and categories for: SDB, WOSB, HUBZone, VOSB, and SDVOSB).

The second part of this sentence states, "...including dollar amount of contract, party contracted with, contact information (including telephone number), brief description of work, and the reason for the failure to meet the goals." The number of small business subcontracts issued to meet the goals established in a Small Business Subcontracting Plan can be significant. For example, in one project of relevant size, scope and complexity to NNSS there were 9,801 purchase orders and subcontracts with small businesses. If we failed to meet a goal in any one area, providing this level of detail in and of itself will significantly exceed the 8-page limit required by the RFP. In addition, we fail to see how providing this list provides insight to the government for the reason for not meeting the goal, such as unavailability of qualified contractors. Therefore, we request deleting the requirement to provide information at the individual contract level, and require that Offerors clearly explain the reason(s) for failing to meet goals at the SB category level (i.e., total SB and categories: SDB, WOSB, HUBZone, VOSB, and SDVOSB) only.

Answer #33:

See answer to question number 26.

34. Question #34:

RFP Reference: Sections H and I (General)

In reading the RFP, we noted that there is no firm/definitive requirement for offerors to establish and propose an entity created solely for the purpose of performing the NNSS Management & Operating (M&O) contract, although in reading the performance guarantee requirements as found in the RFP, this does appear to be the desire of the Government. Furthermore, we noted that the provision at 970.5209-1, Requirement for Guarantee of Performance, is not contained in the current solicitation DE-SOL-0008418.

Question: Is this an oversight on the Government's part, that is, does the Government desire offerors to have such an entity created solely for the purpose of performing the resultant NNSS M&O contract, and, if so, will the Government amend the solicitation to make this a requirement for all offerors and also add 970.5209-1, Requirement for Guarantee of Performance?

Answer #34:

The Government has no requirement for offerors to create a separate corporate entity solely for this M&O contract. An offeror is free to develop how it intends to perform Appendix A, Statement of Work.

35. Question #35:

RFP Reference: Section L-14(d) and Section L, Attachment A (pages 162 and Attachment A)

Question: Section L-14(d) requires Offerors which are organized as a separate entity to submit a fully completed and executed Performance Guarantee Agreement(s) -- included at Section L, Attachment A -- for each teaming member or parent organization. Will NNSA consider allowing individual offerors to make modifications to Attachment A to alter the scope and provisions of the Performance Guarantee Agreement as noted below:

- a) Will NNSA allow for modification of the Performance Guarantee to state that the Government is required to pursue any rights it may have first against the Contractor?

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- b) Will NNSA allow for modification of the Performance Guarantee to state that the Guarantor does not waive defenses that the Contractor may have that may constitute a legal or equitable discharge of a surety or guarantor?
- c) Will NNSA allow for modification of the Performance Guarantee to limit the Guarantor's obligation and liability under the Contract to its proportionate interest in the Contractor?
- d) Will NNSA allow for modification of the Performance Guarantee to state that any Government assertion that payment or performance is due shall first be brought under the Contract Disputes Act and the Disputes Clause (FAR 52.233-1)?
- e) Will NNSA allow for modification of the Performance Guarantee to state that, if the Contractor is finally determined pursuant to the Disputes clause to have an obligation to make payment or perform, and thereafter fails to pay such amount or perform as required, the Government shall give Guarantor prompt written notice of that failure and the Government may thereafter seek payment or performance of that obligation under this Performance Guarantee Agreement?
- f) Will NNSA allow for modification of the Performance Guarantee to state that Performance Guaranty is binding solely upon successors resulting from internal re-organization or merger but not binding in case of an external reorganization or upon a buyer of the Guarantor or its assets?
- g) Will NNSA allow for modification of the Performance Guarantee to state that modifications or amendments of the Performance Guaranty agreed to by the Contractor are not binding upon the Guarantor, unless the Guarantor agrees?
- h) Will NNSA allow for modification of the Performance Guarantee to state that, notwithstanding the terms of the Performance Guarantee, in no event shall the scope of Guarantor's obligations under the Performance Agreement exceed the scope of the Contractor's proportionate obligations under this Contract?
- i) Will NNSA allow for modification of the Performance Guarantee to state that the Performance Guarantee is not binding on any third party or person who is a successor to the Guarantor unless such third party or person agrees to assume Guarantor's obligations?

Answer #35:

No.

36. Question #36:

RFP Reference: Section L-35 and Section L, Attachment F (pages 1 - 6); Statement: The header on the form states "Draft" and the value in the cover letter to the PPQ states \$550M.

Question: Should the contractor make the corrections to the cover letter and the past performance questionnaire or will the Government revise this form in the next amendment?

Answer #36:

See answer to question number 22.

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37. Question #37:

RFP Reference: Section G-5(a) and Section G, Recognition of Performing Entity (page 18);
Statement: This clause contains two TBD blanks that are required to complete the contract.

Question: (or Request for Clarification): Is this information required to be submitted with the proposal or will NNSA populate it after award?

Answer #37:

See RFP provision L-14(a). The Offeror shall provide the administrative information, as required by the solicitation's Section L provision FAR 52.215-1, Instructions to Offerors – Competitive Acquisition, paragraph (c) (2), along with the information requested in Section G, G-3, Contractor Contact, and Section G, G-6, Responsible Corporate Official, as the first page of Volume I.

38. Question #38:

RFP Reference: Section L-14(d) and Section L, Proposal Preparation Instructions – Volume I, The Offer (page 162); Statement: This clause requires hard copies of the last three annual reports for the parent organization(s) providing Performance Guarantee Agreement(s).

Question: Would NNSA consider amending the RFP to allow submitting the last three annual reports electronically only via FedConnect and on a flash drive?

Answer #38:

See answer to question 16.

39. Question #39:

RFP Reference: Section L-13 (e) of Solicitation Number DE-SOL-0008418

Section K-6 DEAR 952.204-73 FACILITY CLEARANCE (MAR 2011) states the following.

“Offerors who have either a Department of Defense or a Department of Energy Facility Clearance generally need not resubmit the following foreign ownership information unless specifically requested to do so. Instead, provide your DOE Facility Clearance code or your DOD assigned commercial and government entity (CAGE) code. If uncertain, consult the office which issued this solicitation.”

Section K-11 CERTIFICATE PERTAINING TO FOREIGN INTERESTS states the following.

“With regard to the Contract's Section K Provision DEAR 952.204-73, Facility Clearance, the offeror is required to complete all applicable FOCI disclosure forms provided in Attachment A, Foreign Ownership, Control or Influence (FOCI) Package, which includes a Standard Form 328, Certificate Pertaining to Foreign Interests. If the offeror has an approved facility clearance, the offeror should identify: (1) its DOE Facility Code (or DOE CAGE Code, if applicable); (2) the date the Offeror's completed Standard Form 328 was submitted; and (3) the date of the Contracting Officer's affirmative FOCI determination.”

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Questions:

1. Given Section K-6 DEAR 952.204-73 FACILITY CLEARANCE (MAR 2011) allows for use of a DOD CAGE Code when a Facility Clearance is held, will Section K-11 provide the same allowance for use of a DoD Cage Code in place of a DOE Cage Code?
2. For individual member companies of a Joint Venture already holding a Facility Clearance issued by the DOD, will submission of copies of the most current Standard Form 328 and DSS Approval Letter for the individual member companies along with the company's CAGE Code be sufficient to meet the requirements/criteria of Section K-11? Or, do individual member companies need to supplement their Current Standard Form 328 and DSS Approval Letter with the *Representative of Foreign Interest Statement/Certificate* and *Summary FOCI Data Sheet* which is found in Section K, Attachment A?
3. In instances where individual member companies of a newly created/formed joint venture all possess Facility Security Clearances (FSCs) issued through the DOD at the requisite level required by the RFP:
 - a. Is it correct to assume that the Government wants each member company to submit a copy of its SF328, its DSS Approval Letter, and its CAGE Code (see question #2 above), along with similar information of any parent company if the member company is owned by a parent company?
 - b. Is it correct to assume that the Government wants all applicable information/documents and FOCI disclosure forms provided in Attachment A, *Foreign Ownership, Control and Influence (FOCI) Package*, specific to that newly created/formed joint venture?

Answer #39:

1. Yes, a DOD Cage code is used to verify offeror(s) FOCI/FCL, should they have an active FCL (facility clearance) with the DOD. A DOE Facility Code is what DOE issues for a FCL; not a DOE Cage Code. Offerors should know if they have a DOE FCL.
2. Yes, Joint Venture participants/members with an active FCL with DOD, may provide copies of their DSS Approval Letter. This will allow NNSA to verify their current FOCI/FCL, as well the level of the FCL they currently have.
- 3a. This may be provided with their proposal as a whole; **however** a newly created Joint Venture or LLC, made up of multiple companies, **must** submit a NEW Initial eFOCI package with the new name/new company. This should be completed and submitted via eFOCI by the date proposals are due. The entire initial eFOCI package must be completed under the new company being formed. The benefit in this, is that the identified KMPs will most likely already be cleared with the DOD and will not have to be processed for a new DOE KMP security clearance. If the newly formed company is selected, the KMP clearances will be requested via "reciprocity."
- 3b. Yes.

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NOTE: Offeror's that currently have an active Facility Clearance with either DOD or DOE, and are not creating a new entity for proposal submission, are NOT required to request access into the eFOCI system and submit a new FOCI Package.

40. Question #40:

RFP Reference: Section L-15 (a) states "*The Offeror should submit all PPIFs and performance assessments 15 calendar days prior to the date for receipt of proposals.*"

Under the current timeline of the Solicitation, this due date is December 7, 2015, or next Monday. As we finalize our submission for production on Wednesday 12/2 and shipment on Friday 12/4, we assume there are no forthcoming actions which would impact the requirements of this submission. Can the Government confirm that there are no known changes which would impact the PPIF submission requirements?

Answer #40:

See revised provision L-15(a) in amendment 000002.

41. Question #41:

RFP Reference: B-H, page 27, H-15 NNSA Prime Contracts

Question: Confusing language. Does the first sentence allow the Government to unilaterally remove scope at any time from the Contractor's SOW and give it to other Contractors?

Answer #41:

Yes.

42. Question #42:

RFP Reference: B-H, page 28, H-18, Construction Projects

Question: Similar to H-11, this purports to allow NNSA to incorporate construction terms and conditions into the RFP. We request that NNSA delete H-18, Construction Projects, and add the terms and conditions NNSA deems necessary for this effort in the RFP. We note that the range of "construction terms and conditions" could be very broad and be inappropriate with respect to the other terms of the contract. Will the Government please consider removing this reference and add the terms and conditions necessary for this effort in the RFP?

Answer 42:

No, at this time, NNSA does not know what types of constructions projects that may arise under this contract and therefore cannot add the applicable constructions clauses that may be required.

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43. Question #43:

RFP Reference: B-H, page 29, H-20 M&O Subcontract Reporting

Question: Appears redundant with FAR 52.204-10. The proposed clause appears redundant with the requirement for prime contractors to report information in the System for Award Management under FAR 52.204-10. Will the Government clarify if this clause is required, as it appears redundant with FAR 52.204-10?

Answer #43:

Both clauses will remain in the solicitation as each clause has a different objective.

FAR 52.204-10 System for Award Management

As prescribed in FAR 4.1403, the contracting officer shall insert the clause at 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards, in all solicitations and contracts of \$30,000 or more. The public may view first-tier subcontract award data at <http://usaspending.gov>.

Clause H-20 Management and Operating Contractor (M&O) Subcontract Reporting

Historically based on SBA rules, DOE has not achieved the goals established with the SBA for the participation of small businesses in DOE contracts. This performance has adversely (and erroneously) reflected on DOE's actual commitment to small businesses. The principal factor in DOE's failure was the methodology used by SBA to apply awards to small businesses against DOE's annual goals. SBA only considered awards to small businesses at the prime contract level. As the vast majority of DOE prime contract obligations are to large M&O contractors (74% in FY14), this methodology failed to account for the significant obligations made by DOE M&O contractors to their first-tier small business subcontractors.

Congress recognized this disparity in accounting between other agencies' and DOE's contracting environments and addressed it in the Consolidated Appropriations Act of 2014, Title III, Section 318 (the Act) (Pub. L. 113-76 § 318, 15 U.S.C. § 644). The Act required that first-tier subcontract awards by DOE's M&O contractors be considered toward the annually established agency and Government-wide goals for procurement contract awards. DOE may now use this new authority if its M&Os provide data to support the SBA's small business analysis, prime goal setting and reporting needs. This data is a subset of that which is required by the existing Federal Procurement Data System - Next Generation (FPDS-NG) to report prime contracts. The data is not currently being collected for first-tier subcontract awards made by DOE M&Os. To facilitate M&O reporting of this data, DOE is developing MOSRC. MOSRC will accept monthly submissions from the M&O contractors and provide the consolidated reports to the SBA. DOE anticipates the inclusion of these awards will have a significant positive impact on meeting DOE's small business contracting goals.

Department of Energy Acquisition Letter No. AL 2015-05, dated August 24, 2015 requires the clause located at H-20 (Management and Operating Contractor (M&O) Subcontract Reporting) to be included in all M&O contracts no later than October 30, 2015.

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44. Question #44:

RFP Reference: B-H, page 32, H.22 Indirect Rate Management

Question: This appears to be a new provision that would be more appropriately addressed as guidance from the DOE/NNSA CFO. Importantly, we understand that most if not all of the M&O Contractor currently address these issues for clearing variances. As such it does not appear that this issue arises to the level of a special provision in the contract. Further, the current deadlines for submitting these reports in the end of January. While it might be feasible for the NNSC contractor to prepare the indirect cost analysis by mid-November (half the time currently available), doing so risks impacting all of the other effort that the M&O contractor's financial organization needs to accomplish to close out the old FY and assign funds for the new one. We understand the Government's desire for transparency in reporting of indirect rate management, however, the suggested timing and resources required to meet the intent of this clause will create a significant burden on the contractor during other end of calendar financial reporting requirements. Will the Government consider amending the timing requested in the clause to 45 days following the end of the first quarter in the fiscal year?

Answer #44:

NNSA will not modify Clause H-22.

45. Question #45:

RFP Reference: Section I

Question: The Contract did not include FAR 52.250-1. We understand the NNSC contractor will be involved in supporting many of the same programs that will expose the contractor to unusual liability also supported by Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and the Y-12 National Nuclear Security Complex. We, however, note that the RFP did not include indemnification under Public Law 85-804 that is provided to each of those contractors. Consistent with the RFP for the combined M&O of Pantex and Y-12 (RFP No. DE-SOL-0001458), we recommend the Government add the following language to Section I:

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

Note**: This clause becomes applicable when the Offeror/Contractor submits an acceptable request for indemnification and receives approval from the Secretary of Energy.

Answer #45:

See answer to question number 23.

46. Question #46:

RFP Reference: Section I, page 43, I-3 FAR 52.217-7 Allocable Cost and Payment

Question: I-3 makes costs allowable in accordance with "Federal Acquisition Regulation (FAR) Subpart 31.2 as supplemented by subpart 931.2 of the Department of Energy Acquisition Regulations (DEAR)", but does not incorporate DEAR section 970.31. Whereas the Payment and advance clause I-23 provides for determining allowability "in accordance with the Federal Acquisition Regulation subpart 31.2 and the

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Department of Energy Acquisition Regulation subpart 48 CFR 970.31.” This creates an ambiguity as to whether home office overheads are generally allowable or unallowable under this contract (DEAR 970.3102-3-70 Home office expenses). Please clarify whether NNSA intends that DEAR 970.3102-3-70 be applicable to determining allowable costs under the contract.

Answer #46:

The correct reference is I-3 FAR 52.216-7 Allowable Cost and Payment. FAR 52.216-7 will apply to transition costs only. DEAR clause 970.5232-2 Payments and Advances (DEC 2000) will apply during contract administration.

47. Question #47:

RFP Reference: Section I, page 43, I-3 FAR 52.216-7 Allocable Cost and Payment

Question: This clause is inconsistent with I-23, Payment and Advances. Please clarify whether NNSA intends that DEAR 970.3102-3-70 be applicable to determining allowable costs under the contract. Alternatively, we assume that this is intended to apply to the transition period only. Please let us know if our assumption is incorrect.

Answer #47:

See answer to question 46.

48. Question #48:

RFP Reference: Section I, page 55, Clause I-9 FAR 52.227-3

Question: The FAR prescription for this clause (FAR 27.201(c) provides that it is to be used “in solicitations and contracts that may result in the delivery of commercial items.” Although the NNSS contractor may purchase commercial items for use in the performance of the contract, this is not a contract for delivery of commercial items to the Government such that the clause is inapplicable to this M&O contract. We recommend that clause I-9 (FAR 52.227-3) be deleted.

Answer #48:

FAR Clause 52.227-3 Patent Indemnity has been removed from Section I of the RFP. See amendment 000002.

49. Question #49:

RFP Reference: Section I, page 120, DEAR 970.5232-2, Payment and Advances

Question: Verify that the limitation on allowable costs for 52.216-7 applies

FAR 52.216-7(b)(4) provides: Any statements in specifications or other documents incorporated in this contract by reference designating performance of services or furnishing of materials at the Contractor’s expense or at no cost to the Government shall be disregarded for purposes of cost-reimbursement under this clause. We assume this principal also applies to payments made pursuant to 970.5232-2, “Payment and Advances.” Please let us know if our assumption is incorrect.

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Answer #49:

See answer to question 46.

50. Question #50:

RFP Reference: Section L, page 158, L-13(f) Submission of proposals shall be electronically via FedConnect (<https://www.fedconnect.net/Fedconnect/>) and by hard copy as specified below.

Question: Electronic submission requirements. Are there any restrictions regarding file size or other restrictions concerning uploading to FedConnect?

Answer #50:

NNSA is not aware of any file size restrictions when uploading documents to FedConnect, however, please note that NNSA does not own or operate FedConnect. Offerors shall direct all questions concerning FedConnect to the FedConnect Help Desk.

FedConnect technical support website:

<https://www.fedconnect.net/FedConnect/TechSupport.aspx>

For other technical issues or questions, either email support@fedconnect.net or call FedConnect at 1-800-899-6665. The FedConnect Support Center is staffed Monday - Friday 8 a.m. to 8 p.m., EDT, except Federal holidays.

51. Question #51:

RFP Reference: Section L, page 158-161, L-13(f) and L-13(b) Proposals shall be structured in three separate volumes as follows: (1) Volume I – The Offer - One (1) signed original and two (2) copies. Section A of this solicitation contains an SF 33 for the Contract to be awarded under this solicitation. Offerors must submit three (3) original signed copies of the SF 33 document, which are fully compliant with the requirements of this solicitation provision.

Question: Clarification requested regarding signed original submissions. Will the Government please verify how many signed original documents must be submitted?

Answer #51:

Section L-14(b) has been revised. See amendment 000002.

52. Question #52:

RFP Reference: Section L, page 160, L-13(H)(1). For the Volume II Table of Contents and list of Figures/Glossary of Acronyms, the page(s) shall use the following number style: Volume II - i, Volume II - ii, Volume II - iii, etc. Volumes I, II, and III text shall be submitted in searchable portable document format (PDF) format using a minimum 12 font size and Times New Roman font style. Print type used in graphs, figures, charts, and tables may be smaller than size 12, but must be legible.

Question: Font requirements for graphics and tables. Is it permissible for offerors to use a font other than Times New Roman for graphs, figures, charts, and tables at a size that is clearly legible?

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Answer #52:

Yes.

53. Question #53:

RFP Reference: Section L, page 164, Section L-15(b)(2)

Question: Clarification requested about the definition of key personnel. Please clarify the intent of the following sentence: ‘Key Personnel consist of the Site Manager and the managers who report directly to them with direct responsibility for performance of the Statement of Work, Chapter II.’ We interpret this to mean: “Key Personnel consist of the Site Manager and the managers who report directly to him or her;” that is, only managers who report directly to the Site Manager with direct responsibility for performance of the Statement of Work, Chapter II need to be identified as key.

Answer #53:

See answer to question number 5.

54. Question #54:

RFP Reference: Section L, pages 160-170, L-17(c)

It may not be possible to hand carry the package(s) outside of the hours 8:30 am to 2:00 pm ET on federal workdays. Delivery to any other location than that specified herein is unacceptable. Offerors are therefore encouraged to submit their writer Offer via the U.S. Mail

Question: Hand delivery requirements not specified. Should the Offeror decide to hand carry its submission, are there specific requirements / instructions to be able to get on the DOE Germantown campus? If so, will the Government please provide these requirements?

Answer #54:

Provision L-17 has been revised. See amendment 000002.

55. Question #55:

RFP Reference: Section L, page 173, L-31 Non-Federal Personnel Support.

Question: This clause appears to require each Contractor to enter into a Non-Disclosure Agreement with each consultant hired by the Government to support evaluation of the proposal(s). Will the Government provide the names of the non-Federal consultants so that the Contractor can enter into Nondisclosure Agreements before proposals are submitted?

Answer #55:

At this time, NNSA has not identified non-federal personnel support that will assist with the NNS competition. However, if NNSA later determines that non-federal personnel support will be required, NNSA will notify offerors and obtain non-disclosure agreements.

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56. Question #56:

RFP Reference: Section J, Appendix A SOW, page 12, Paragraph 4.4.2 Standards and Directives Reform

Question: International Organization for Standardization (ISO) 9001. Is the customer's expectation/contract requirement that the contractor's Quality Management System (QMS) and the subordinate site Quality Assurance Plan be ISO9001 compliant, self-certified or independently audited, validated and certified through an approved 3rd party registrar?

Answer #56:

SOW Section 4.4.2 states, "The **Contractor** shall submit a plan within 180 days after start of Base Term that identifies standards (e.g., International Organization for Standardization (ISO) 9001, 14001, 18001, or other international or industry standards) to be used to replace other DOE requirements and provide the ability for the Contractor to operate with industry best practices." This is a Contractor decision.

57. Question #57

RFP Reference: Section J, Appendix A SOW, page 12, Section 4.2(ii)

Question: According to the US EPA EnviroFacts database, the RCRA program has been in non-compliance for the most recent three quarters. A stringent environmental assessment should be scheduled during transition to assess the potential environmental risks with current operational activities. Particularly the flow-down of legal requirements (permit and regulations) to ensure they are accurately captured in procedures and properly implemented in the field. What is the nature of the RCRA non-compliance with Nevada DEP? Have they been resolved?

Answer #57:

The issue referred to in the EPA EnviroFacts database concerns one potential enforcement action that is indicated as open over three calendar quarters. As a result of a fire at the NNSS on June 24, 2015, the Nevada Division of Environmental Protection (NDEP) issued a Finding of Alleged Violation (FOAV) to the NNSA/NFO for alleged non-compliance with four hazardous waste regulatory requirements on August 27, 2015. The NDEP conducted a show cause meeting on October 7, 2015, at which the NNSA/NFO and contractor support provided relevant responses to the alleged violation. The issue remains open while awaiting NDEP final action.

58. Question #58

RFP Reference: Section J, Appendix A SOW Sections 9.0 and 9.1; and Section L 15(b)(2)

Question: Clarification requested about the definition of key personnel. "While Chapter II of the Statement of Work consists of the majority of the operations scope of the NNSS contract, there are numerous support elements listed under 9.0 Functional Support Requirements, Paragraph 9.1 General Support. These elements, including legal services and centralized administrative services, are important to the overall performance of the NNSS contract; however, Section L-15(b)(2) states any manager who reports directly to the Site Manager and is responsible for the performance of the Statement of Work, Chapter II requirements is to be designated as Key Personnel. As such, will the Government please clarify the following:

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1) Do all direct reports to the Site Manager have to be identified as key personnel? For example, an administrative assistant to the Site Manager is a direct report support to the Site Manager but would not be considered Key Personnel.”

2) Do all managers who report directly to the Site Manager have to be identified as key? For example, General Counsel typically reports to the Site Manager, but is not normally considered Key Personnel; however, this position might be considered a manager if he or she oversees other staff.

Answer #58:

See answers to questions number 5 and 14.