

<b>AWARD/CONTRACT</b>		<b>1. THIS CONTRACT IS RATED ORDER UNDER DPAS (15 CFR 700)</b>		<b>RATING</b> N/A	<b>PAGE OF PAGES</b> 1 84
2. CONTRACT NO. (Proc. Inst. ident.) NRC-HQ-13-C-03-0039		3. EFFECTIVE DATE See block 19C		4. REQUISITION/PURCHASE REQUEST/PROJECT NO. NRR-13-121 Dated 02/14/2013	
5. ISSUED BY U.S. Nuclear Regulatory Commission Div. of Contracts Attn: Aracelis Perez-Ortiz Mail Stop: TWB-01-B10M Washington, DC 20555		CODE 3100		6. ADMINISTERED BY (If other than Item 5) U.S. Nuclear Regulatory Commission Div. of Contracts Mail Stop: TWB-01-B10M Washington, DC 20555	
				CODE 3100	

7. NAME AND ADDRESS OF CONTRACTOR (No. street, city, county, State and ZIP Code)  MEGA-TECH SERVICES, LLC  11116 MANOR VIEW DR  MECHANICSVILLE VA 231165857  DUNS: 604519434		8. DELIVERY  <input type="checkbox"/> FOB OR GIN <input type="checkbox"/> OTHER (See below)	
		9. DISCOUNT FOR PROMPT PAYMENT	
		10. SUBMIT INVOICES (4 copies unless otherwise specified) TO THE ADDRESS SHOWN IN	
CODE		FACILITY CODE	

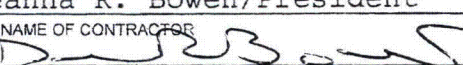
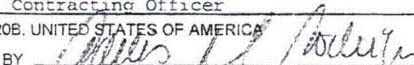
11. SHIP TO/MARK FOR U.S. Nuclear Regulatory Commission  Washington DC 20555		CODE		12. PAYMENT WILL BE MADE BY Department of Interior / NBC NRCPayments_NBCDenver@NBC.gov Attn: Fiscal Services Branch - D2770 7301 W. Mansfield Avenue Denver CO 80235-2230 PHONE: FAX:	
				CODE 3100	
13. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2304(c) <input type="checkbox"/> 41 U.S.C. 253(c)		14. ACCOUNTING AND APPROPRIATION DATA B&R: 2013-X0200-20-11-4-212 JC: J4672 BOC: 252A AppNo: 31X0200 FAIMIS: 131730 Obligation: None			

15A. ITEM NO.	15B. SUPPLIES/SERVICES	15C. QUANTITY	15D. UNIT	15E. UNIT PRICE	15F. AMOUNT
	<p>The U.S. Nuclear Regulatory Commission (NRC) hereby issues this Indefinite-Quantity Contract entitled: "Technical Assistance to Verify Compliance with Order EA-12-049 and Order EA-12-051" to Mega-Tech Services, LLC. The contractor shall provide the services requested in the attached Performance Work Statement (PWS).</p> <p>Total Ceiling: \$2,541,550.54 Total Obligations: \$0 Vendor POC: John Bowen: 804-789-1577; jbowen@mega-techservices.biz</p>				

#### 15G. TOTAL AMOUNT OF CONTRACT

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CONTRACTING OFFICER WILL COMPLETE ITEM 17 (SEALED-BID OR NEGOTIATED PROCUREMENT) OR 18 (SEALED-BID PROCUREMENT) AS APPLICABLE

17. <input type="checkbox"/> CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return 1 copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)		18. <input type="checkbox"/> SEALED-BID AWARD (Contractor is not required to sign this document.) Your bid on Solicitation Number _____ including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as to the terms listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your bid, and (b) this award/contract. No further contractual document is necessary. (Block 18 should be checked only when awarding a sealed-bid contract.)	
19A. NAME AND TITLE OF SIGNER (Type or print) Deanna R. Bowen/President		20A. NAME OF CONTRACTING OFFICER Adelis M. Rodriguez Contracting Officer	
19B. NAME OF CONTRACTOR BY 		20B. UNITED STATES OF AMERICA BY 	
19C. DATE SIGNED 04/21/13		20C. DATE SIGNED 4/19/13	

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TEMPLATE - ADM001

**SUNSI REVIEW COMPLETE**

MAY 02 2013

ADM002

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**SECTION B - SUPPLIES OR SERVICES AND PRICE/COSTS****B.1 PRICE/COST SCHEDULE**

Labor Categories	Labor Rates				
	Date of Award through December 31, 2013	January 1, 2014 through December 31, 2014	January 1, 2015 through December 31, 2015	January 1, 2016 through December 31, 2016	January 1, 2017 through December 31, 2017
Principal Systems Analyst			\$		
Principal Nuclear Safety Consultant					
Principal Engineer					
Principal Scientist		\$:			

DESCRIPTION	ESTIMATED QUANTITY	UNIT	ESTIMATED AMOUNT
Estimated Total Labor		hours	\$
Estimated Travel		lot	\$
Estimated ODC's		lot	\$
<b>Estimated Total Ceiling</b>			<b>\$ 2,541,550.64</b>

**B.2 BRIEF DESCRIPTION OF WORK (AUG 2011) ALTERNATE I (AUG 2011)**

(a) The title of this project is: Technical Assistance to Verify Compliance with Order EA-12-49 and EA-12-51

(b) Summary work description:

The objective of this contract is to obtain technical expert on a task ordering basis, to assist the staff in evaluation of overall integrated plans, develop safety evaluations and verify strategies and guidance developed pursuant to Orders EA-12-049 and EA-12-051 subject to on-site inspections for compliance verification. The NRC intends to issue SE's for licensees' overall integration plans and to verify compliance through site specific inspections.

(c) Orders will be issued for work in accordance with 52.216-18 - ORDERING.

**B.3 CONSIDERATION AND OBLIGATION-INDEFINITE-QUANTITY CONTRACT (AUG 2011)**

(a) The estimated total quantity of this contract for the products/services under this contract is **\$2,541,550.64**.

(b) The Contracting Officer will obligate funds on each task order issued.

(c) The minimum guarantee under this contract is **\$300,000.00**. The minimum guarantee will be satisfied in Task Order 1 which will be awarded concurrently with this award.

(d) No funds are obligated to this contract; all funds are obligated to the specific task orders at time of issuance.

(e) A total estimated cost and fee, if any, will be negotiated for each task order and will be incorporated as a ceiling in the resultant task order. The Contractor shall comply with the provisions of 52.232-20 - Limitation of Cost for fully-funded task orders and 52.232-22 - Limitation of Funds for incrementally-funded task orders, issued hereunder.

**SECTION C - DESCRIPTION/SPECIFICATIONS/STATEMENT OF WORK****COVER PAGE ADDENDUM TO:  
PERFORMANCE WORK STATEMENT (PWS)**

**Project Title:** Technical Assistance to Verify Compliance with Order EA-12-049, "Order Modifying Licenses with Regard to Requirements for Mitigating Strategies for Beyond-Design-Bases External Events" and Order EA-12-051, "Order Modifying Licenses with Regard to Reliable Spent Fuel Pool Instrumentation"

**Job Code:** JCN4672

**Task Area:** R - Professional, Administrative and Management Support Services; 541690- Other Scientific and Technical Consulting Services

**Contract No.:** NRC-HQ-13-C-03-0039  
**NRC Issuing Office:** NRR/DPR/PGCB

**Fee Recoverable:** Yes  
**TAC Numbers:** ME7950 (Order EA-12-049), ME7952 (Order EA-12-051)

**Contractor:** Mega-Tech Services, LLC  
**Type of Competition:** Full and Open Competition after Exclusion of Sources (i.e. Small Business Set-aside)  
**Type of Contract/Order:** Indefinite Quantity- Indefinite Delivery (IDIQ) - Task Ordering

**PERFORMANCE WORK STATEMENT (PWS)****Contents****PART 1****GENERAL INFORMATION**

- 1.1 Title of Project
- 1.2 Introduction
- 1.3 Background
- 1.4 Objective
- 1.5 Scope of Work
- 1.6 Performance Requirements
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  - 1.6.2 Performance Standards
  - 1.6.3 Acceptable Quality Level (AQL)
  - 1.6.4 Government Surveillance
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- 1.7 Performance Requirements Summary (PRS)
- 1.8 Quality Assurance Surveillance Plan (QASP)
- 1.9 Quality Control (QC)
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- 1.23 Key Personnel
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- 3.1.1 Attachment 1/Technical Exhibit 1 – Performance Requirements Summary PRS)
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- 3.1.3 Attachment 3/Technical Exhibit 3 – ELIMINATED
- 3.1.4 Attachment 4/Technical Exhibit 4 – Quality Assurance Surveillance Plan – QASP
- 3.1.5 Attachment 5/Technical Exhibit 5 – Safety Evaluation Review Schedule
- 3.1.6 Attachment 6/Technical Exhibit 6 – Site Verification/Compliance Schedule
- 3.1.7 Attachment 7/Technical Exhibit 7 – Monthly Letter Status Report Example



**PERFORMANCE WORK STATEMENT (PWS)****PART 1****GENERAL INFORMATION****1.1 Title of Project**

This is a technical non-personal services contract to provide expertise on a task-order basis which will assist the U.S. Nuclear Regulatory Commission (NRC) staff in evaluation of overall integrated plans, development of safety evaluations and verification/compliance of strategies and guidance developed pursuant to Order EA-12-049 entitled, "Order Modifying Licenses with Regard to Requirements for Mitigation Strategies for Beyond-Design-Basis External Events" and Order EA-12-051 entitled, "Order To Modify Licenses with Regard to Reliable Spent Fuel Pool Instrumentation."

**1.2 Introduction**

Following the events at Fukushima Dai-ichi Nuclear Power Station, the NRC issued an Order Modifying Licenses with Regard to Requirements for Mitigation Strategies for Beyond-Design-Basis External Events, EA-12-049. This Order requires the development, implementation and maintenance of mitigating strategies. Additionally, an Order To Modify Licenses with Regard to Reliable Spent Fuel Pool Instrumentation, EA-12-051, was issued to require installation of spent fuel pool (SFP) wide-range level indication.

The NRC intends to issue safety evaluations (SE's) for licensees' overall integrated plans based on a schedule for the first unit outage at a site to include, but not limited to, the facilities listed in Attachment 5. Safety evaluations for Order EA-12-049 and Order EA-12-051 will be written starting February 28, 2013 and end September 30, 2013.

The NRC intends to verify compliance, with support from the contractor, through site specific inspections to include, but not limited to, the facilities listed in Attachment 6. The period of performance for this contract is from the award date through December 31, 2016. (Note: Task milestone schedules are described in business days which are Monday through Friday excluding Federal Holidays.)

The Contractor shall provide all personnel, equipment, supplies, facilities, transportation, tools, materials, supervision, and other items and non-personal services necessary to perform technical services as defined in this PWS. The Contractor shall perform to the standards in this contract.

**1.3 Background**

Events at the Fukushima Dai-ichi Nuclear Power Station following the March 11, 2011, earthquake and tsunami highlighted the potential importance of mitigating strategies in responding to beyond-design-basis external events. This recognition led to the issuance of Order EA-12-049 to develop, implement and maintain such strategies. Another separate Order, EA-12-051, was issued to require reliable indication of water level in associated spent fuel pools in order to support emergency response decisions. These Orders require submittal, by February 28, 2013, of an overall integrated plan including a description of how compliance will be achieved. The deadline for full implementation is no later than two refueling cycles after submittal of the overall integration plan or December 31, 2016, whichever comes first.

On June 7, 2012, the NRC published a notice of availability for public comment for the draft guidance for Order EA-12-049 in the Federal Register, 77 FR 33779. The draft guidance, Japan Lessons-Learned Project Directorate Interim Staff Guidance (JLD-ISG-2012-01), "Compliance with Order EA-12-049, Order Modifying Licenses with Regard to Requirements for Mitigation Strategies for Beyond-Design-Basis External Events," Agencywide Documents Access and Management System (ADAMS) Accession no. ML12146A014, proposed to endorse with exceptions the industry guidance of Nuclear Energy Institute document (NEI) 12-06, "Diverse and Flexible Coping Strategies (FLEX) Implementation Guide," Revision B1, ADAMS Accession no. ML12143A232.

On June 7, 2012, the NRC also published a notice of availability for public comment for the draft guidance for Order EA-12-051 in the Federal Register, 77 FR 33780. The draft guidance, Japan Lessons-Learned Project Directorate Interim Staff Guidance (JLD-ISG-2012-03), "Compliance with Order EA-12-051, Order Modifying Licenses with Regard to Reliable Spent Fuel Pool Instrumentation," ADAMS Accession No. ML12144A323, proposed to endorse, with

exceptions, the industry guidance of NEI 12-02, "Industry Guidance for Compliance with NRC Order EA-12-051, 'To Modify Licenses with Regard to Reliable Spent Fuel Pool Instrumentation,'" Revision B, ADAMS Accession No. ML12135A414.

On August 31, 2012, after considering the comments provided by stakeholders, the NRC issued the final JLD-ISG-2012-01, ADAMS Accession No. ML12229A174, endorsing a revised version of NEI 12-06, Revision 0, ADAMS Accession No. ML12242A378. The final JLD-ISG-2012-03 for Order EA-12-051 was issued on August 31, 2012 and can be found at ADAMS Accession No. ML12221A339, endorsing, with exceptions, a revised version of NEI 12-02, Revision 1, ADAMS Accession No. ML12240A307.

A list of NRC references concerning this PWS are as follows.

1. Japan Lessons-Learned Project Directorate Interim Staff Guidance (JLD-ISG-2012-01, Revision 0), "Compliance with Order EA-12-049, Order Modifying Licenses with Regard to Requirements for Mitigation Strategies for Beyond-Design-Basis External Events" ML12229A174
2. Nuclear Energy Institute document (NEI) 12-06, Revision 0, August 2012 "Diverse and Flexible Coping Strategies (FLEX) Implementation Guide" ML12242A378
3. Licensee overall integrated plans for compliance with the Orders.
4. Licensee submittals documenting mitigating strategies developed to meet the requirements of 10 CFR 50.54(hh)(2)
5. NRC Safety Evaluations of the mitigating strategies to support the issuance of the conforming license conditions
6. Licensee submittals documenting commitment changes to the mitigating strategies
7. Inspection reports for Temporary Instruction (TI) 2515/171, "Verification of Site Specific Implementation of Section B.5.b Phases 2 & 3 Mitigating Strategies," Inspection Procedure 71111.05T, "Fire Protection (Triennial)" subsequent to January 1, 2010, and TI 2515/183, "Follow-up to Fukushima Daiichi Nuclear Station Fuel Damage Event"
8. Nuclear Energy Institute document 06-12, "B.5.b Phase 2 & 3 Submittal Guideline," Revision 2
9. Japan Lessons-Learned Project Directorate Interim Staff Guidance (JLD-ISG-2012-03), Revision 0, "Compliance with Order EA-12-051, Reliable Spent Fuel Pool Instrumentation, Publically Available, ML12221A339
10. Nuclear Energy Institute document (NEI) 12-02, Revision 1 "Industry Guidance for Compliance with NRC Order EA-12-051, 'To Modify Licenses with Regard to Reliable Spent Fuel Pool Instrumentation', Publically Available ML12240A307
11. LIC-101, Revision 4, "License Amendment Review Procedures", Publically Available ML113200053
12. Management Directive (MD) 3.57, "Correspondence Management"
13. Manual Chapter 0612, "Power Reactor Inspection Reports"

#### **1.4 Objective**

The objective of this contract is to obtain technical expertise, on a task ordering basis, to assist the staff in evaluation of overall integrated plans, develop safety evaluations and verify strategies and guidance developed pursuant to Orders EA-12-049 and EA-12-051 subject to on-site inspections for compliance verification.

The NRC intends to issue SE's for licensees' overall integrated plans and to verify compliance through site specific inspections.

### **1.5 Scope of Work**

The Contractor shall provide Professional, Administrative and Management Support Services to assist the NRC staff. The Contractor's services shall include evaluation of overall integrated plans, input for the development of safety evaluations and assistance with the verification of the strategies and guidance developed pursuant to Order EA-12-049 and EA-212-051 to determine compliance with these Orders. The Contractor shall attend kickoff meetings, evaluate licensee overall integration plans, provide input for the Safety Evaluations write ups (both draft and final), write and evaluate licensee responses to Requests for Additional Information, evaluate licensee alternative approaches to the Orders, participate in site inspections and write supportive inputs to site inspection reports, and site inspection plans.

### **1.5.1 Tasks**

#### **Task 1: Technical Coordination/Kick-off Meeting:**

The Contractor shall participate in a kickoff meeting which will prepare the Contractor for the review and analysis activities of the contract. The kickoff is anticipated to occur within two weeks after award of the contract. The meeting will be held at NRC Headquarters in Rockville, Maryland and will last a maximum of 5 days. The first day will cover information concerning both Orders. The meeting will provide training and guidance on the NRC desired review and analysis activities (contract tasks), deliverables, communication protocols, technical consultation with appropriate NRC staff, handling sensitive unclassified information, NRC badge requirements, standards for safety evaluation review and requests for additional information, inspection report writing and formatting, Microsoft requirements etc. The following four days will be detailed training and technical meetings to prepare the Contractor concerning Order EA-12-051 covering information related to this section of the PWS.

#### **Task 2: Review of Integrated Plans:**

- A. Evaluation of plans, draft requests for additional information for Order EA-12-049:** This task shall be performed during the five business days after receipt of each licensee overall integration plan to the contractor. The Contractor shall evaluate each overall integrated plan for conformance with the guidance of JLD-ISG-2012-01 to aid in the development of SE's. The Contractor shall identify any instances where additional information from the licensee is needed in order to determine that the licensee's strategies and guidance under development will conform to JLD-ISG-2012-01. The Contractor shall draft proposed requests for this additional information required from the licensee, for review and approval by NRC staff. The draft written RAIs shall be provided to the NRC staff, which will be responsible for issuance of the RAIs to each licensee.
- B. Evaluation of plans, draft requests for additional information for Order EA-12-051:** This task shall be performed during the five business days after receipt of each licensee overall integration plan to the contractor. The Contractor shall evaluate each overall integrated plan for conformance with the guidance of JLD-ISG-2012-03 to aid in the development of SE's. The Contractor shall identify any instances where additional information is necessary in order to determine that the licensee's plan for installation of enhanced spent fuel pool instrumentation will conform to JLD-ISG-2012-03. The Contractor shall draft proposed requests for this additional information required from the licensee, for review and approval by NRC staff. The draft written RAIs shall be provided to the NRC staff, which will be responsible for issuance of the RAIs to each licensee.
- C. Identification of alternative approaches for Order EA-12-049:** This task shall be performed during the five business days after receipt of each licensee overall integration plan to the contractor. The Contractor shall identify any proposed alternative approaches to Order EA-12-049 in the overall integrated plan to the NRC staff and provide a recommendation along with a technical basis for whether the proposed alternative approach should be considered for acceptance by NRC as providing reasonable assurance of compliance with Order EA-12-049.

- D. Identification of alternative approaches for Order EA-12-051:** This task shall be performed during the five business days after receipt of each licensee overall integration plan to the contractor. The Contractor shall identify any proposed alternative approaches in the overall integrated plan to the NRC staff and provide a recommendation along with a technical basis for whether the proposed alternative approach should be considered for acceptance by NRC as providing reasonable assurance of compliance with Order EA-12-051.
- E. Evaluation of RAI responses for Order EA-12-049:** The Contractor shall evaluate the responses to requests for additional information to aid in determining whether the licensee's strategies and guidance under development will conform to JLD-ISG-2012-01.
- F. Evaluation of RAI responses for Order EA-12-051:** The Contractor shall evaluate the responses to requests for additional information to aid in determining whether the licensee's strategies and guidance under development will conform to JLD-ISG-2012-03.
- G. Draft SE input preparation for Order EA-12-049:** The Contractor shall use the results of the above evaluations to draft proposed SEs on licensees' strategies and guidance responsive to the Order for consideration by NRC staff. SE's are to be developed on a site basis, covering all power reactors at a particular site. The Contractor shall identify open items (ex. pending RAI responses from applicant, or incomplete information) in the SE's for verification through site specific inspection or by licensee modification of the integrated plans for consideration and approval by NRC staff. An amended SE document is due five days after a RAI response evaluation has been completed, dependent upon the adequacy of the licensee's response.
- H. Draft SE input preparation for Order EA-12-051:** The Contractor shall collect the results of the evaluations to draft proposed SE's on licensees' strategies and guidance responsive to the Order for consideration by NRC staff. SE's are to be developed on a site basis, covering all power reactors at a particular site. The Contractor shall identify open items in the SEs for verification through site specific inspection or by licensee modification of the integrated plans for consideration and approval by NRC staff. An amended SE document is due five days after a RAI response evaluation has been completed, dependent upon the adequacy of the licensee's response.

### **Task 3: Final Safety Evaluation Input for Both Orders**

The Contractor shall document input for the final SE's based on the licensees' integrated plans, modifications submitted by licensees, and actions and information obtained during site specific inspections to close prior open items and document the methodology used by licensees to comply with the Order. The contractor shall provide their input to the NRC staff for consideration.

### **Task 4: Site Specific Verification**

- A. Site inspection for Order EA-12-049:** The Contractor shall provide one representative for each inspection team for up to sixty-six (66) inspections. Inspections assigned for Contractor participation will be determined in the quarter prior to the dates for the inspection and issued by Task Order. The Contractor will provide input to the inspection report to the inspection team leader for the team leader's consideration. For each site inspection, the Contractor should collect and review information on all the preceding status reports submitted by the licensee concerning this Order. This task is to verify compliance with the Order via a site specific inspection. A site-specific inspection plan shall be submitted by the Contractor for each site visit for the team leader's consideration and approval.
- B. Site inspection for Order EA-12-051:** The Contractor shall provide one representative for each inspection team for up to sixty-six (66) inspections. Inspections assigned for Contractor participation will be determined in the quarter prior to the dates for the inspection and issued by Task Order. The Contractor will provide input to the inspection report to the inspection team leader for the team leader's consideration. For each site inspection, the Contractor should collect and review information for all the preceding status reports submitting by the licensee concerning this Order. This task is to verify compliance with the Order via a site specific inspection. A site-specific inspection plan shall be submitted by the Contractor for each site visit for the team leader's consideration and approval.

**1.6 Performance Requirements****1.6.1 Services/Deliverables**

The following are a list of services/deliverables for this contract;

- Kickoff meeting attendance
- Draft Requests for Additional Information
- Draft document of Alternative Approaches
- Draft Safety Evaluation with Open RAIs
- Draft Safety Evaluation with Closed RAIs
- Final Safety Evaluation
- Site Specific Inspection Plan
- Site Specific Inspection Report
- Monthly letter status reports

The Contractor shall provide submittal documents under this Scope of Work prepared in Microsoft ® Office Word 2007 or compatible format and submitted electronically to the CORs with a copy provided to the NRC Project Manager. The transmittal letter and cover page shall contain the contract number, the job code number (JCN), task number, NRC technical assignment control (TAC) number, the Order no. for the submittal, the facility name and the docket number. All delivery dates, in days, are business days. (Note: Business days are Monday through Friday, excluding Federal Holidays.)

These services/deliverables are listed in the Performance Requirements Summary (PRS) – Technical Exhibit 1, Part 3 of the PWS, Section 3.1.1.

**1.6.2 Performance Standards**

The Contractor shall comply with all directions issued by the NRC regarding the drafting, creation, corrections, changes, editing, maintaining, protecting, release and return of any data, information or reports created in the performance of this PWS. The reports, data and related documents will be considered draft until approved by the NRC. The NRC will provide comment within 2 weeks (10 business days) of receipt of draft materials. The contractor will then finalize the reports, data and related documents within 2 weeks (10 business days) and resubmit for review and comment. No reports, data or documents will be released or published to the licensee or other entities by the contractor, without prior approval from the NRC. Communication and document transmittal with the licensee will be processed by the NRC.

Additionally, the standards for performance shall be qualified during the kickoff training after award and consistent with the references found in Section 1.3 of this PWS. Further definition concerning performance standards can be found in the Performance Requirements Summary (PRS) – Technical Exhibit 1, Part 3 of the PWS, Section 3.1.1.

**1.6.3 Acceptable Quality Level (AQL)**

The Acceptable Quality Level (AQL) for each key service/deliverable and its related performance standard may be found in the Performance Requirements Summary (PRS) – Technical Exhibit 1, Part 3 of the PWS, Section 3.1.1.

**1.6.4 Government Surveillance**

The Government Surveillance measure for each key service/deliverable may be found in the Performance Requirements Summary (PRS) – Technical Exhibit 1, Part 3 of the PWS, Section 3.1.1.

**1.6.5 Government Incentives**

The Government Incentives measure for each key service/deliverable may be found in the Performance Requirements Summary (PRS) – Technical Exhibit 1, Part 3 of the PWS, Section 3.1.1.

**1.7 Performance Requirements Summary (PRS)**

The Performance Work Statement's Performance Requirements Summary (PRS) table which includes tasks (requirements), key deliverables, performance standards, acceptable quality levels (AQL), method(s) of Government

surveillance, and positive and/or negative performance incentives, is delineated in Technical Exhibit 1, Part 3 of the PWS, Section 3.1.1.

### **1.8 Quality Assurance Surveillance Plan (QASP)**

The Government will evaluate the contractor's performance under this contract using the method(s) of surveillance in accordance with the Quality Assurance Surveillance Plan (QASP) included in Technical Exhibit 4, Part 3 of the PWS, Section 3.1.4. All surveillance performance observations will be recorded by the Government. When an observation indicates defective performance, the COR will obtain the contractor's representative's initials on the record of the observation.

### **1.9 Quality Control (QC)**

The Contractor's Quality Control Plan (QCP) is to be delivered with the Contractor's proposal. The contractor shall develop and maintain a complete QCP to ensure that the requirements of the contract are performed in accordance with this PWS. The QCP shall describe the methods for identifying, preventing, and ensuring any defective services are corrected before the level of performance becomes unacceptable. The contractor's QCP shall address the areas identified in Technical Exhibit 1, "Performance Requirements Summary." One copy of the contractor's QCP shall be provided to the COR at the time its proposal is submitted.

After acceptance of the QCP the Contractor shall receive the COR acceptance in writing of any proposed changes to its plan. During contract execution, any revision to the Contractor's QCP shall be submitted to the NRC with 3 copies to the CO and Contracting Officer's Representative (COR) within 5 working days after a revision change has been made.

### **1.10 Remedies for Non-Performance**

Performance standards concerning performance threshold acceptable quality levels are documented in Technical Exhibit 1, Part 3 of the PWS, Section 3.1.1.

For products or services that are rejected, the contractor shall follow Federal Acquisition Requirement (FAR) 52.212-4, "Contract Terms and Conditions-Commercial Items" for a contractor's failure to perform satisfactory services or failure to correct non-conforming services.

### **1.11 Milestone Reviews**

Documents or RAIs that are generated shall be uniquely identified, if necessary, utilizing docket numbers as described below.

1. Preliminary Verbal or Written Conclusions of the Evaluation, Conclusions are due throughout the course of the evaluation to support tasks 2 and 3 using email, telephone, weekly teleconferences and monthly reports, as appropriate. All correspondence shall be addressed to the NRC COR, John Klos and the NRC TAPM, April Bucher. An initial conclusion for each licensee submittal will be submitted verbally, or in written form, five business days after task 2 begins for each overall integration plans received by the contractor for review.
2. Draft Requests for Additional Information, for applicable licensees are due eight business days after the receipt of an overall integration plan for review and shall be documented weekly as part of the weekly teleconference. Evaluation of RAIs for both Orders shall be completed 3 business days after receipt of each licensee response.

An RAI data list shall be created using an Excel spreadsheet with a separate tab for each Site Name. RAI numbered shall be "Order no-Site Name – docket no. (if required for a unit specific RAI)- RAI generation number."

Example: RAI 049-Beaver Valley-50-334-1 (RAI for Mitigating Strategies Order, Beaver Valley Power Station, Unit-Specific RAI for Unit One Docket No. 50-334- 1<sup>st</sup> represents the first RAI in the sequence of RAIs).

Note: A generic site non-unit RAI for the Mitigating Strategies Order concerning the Beaver Valley Site would be numbered as RAI 049-Beaver Valley-1.

3. Draft Technical Basis for Acceptability of Alternative Approaches (AA) for applicable licensees is due eight business days after receipt of each overall integration plan for review. These documents are listed in an Excel spreadsheet and submitted weekly as part of the weekly teleconference.

The AA document list shall be an Excel spreadsheet with a separate tab for each Site Name. AA document numbered shall be "Order no.-Site Name-docket no. (if required for a unit specific RAI)- RAI generation number."

Example: AA 049-Beaver Valley-50-334-1 (AA for Mitigating Strategies Order, Beaver Valley Power Station, for Unit One Docket No. 50-334 - 1<sup>st</sup> represents the first AA in the sequence of AA documents created).

Note: A generic site AA, non-unit specific for the Mitigating Strategies Order concerning Beaver Valley Power Station would be AA 049-Beaver Valley-1.

4. Draft Safety Evaluations, identifying open items document (cited as SED-049-Beaver Valley, Safety Evaluation Draft, Order EA-12-049, Beaver Valley Power Station,) for applicable licensees is due ten business days after receipt of each licensee overall integration plan with open RAIs embedded. An amended SE document is due five days after a RAI response evaluation has been completed, dependent upon licensee responses.
5. Task 3, Final Safety Evaluations with Closed RAI Items and Final Documented Method of Compliance, (cited as SE-049- Beaver Valley, Safety Evaluation, Order EA-12-049, Beaver Valley Power Station) for applicable licensees is due five business days after completion of task 4, 5, 6 or 7 for each site inspection completed.

Draft Input to Site-Specific Inspection Reports, (cited as IR-049-Beaver Valley, Inspection Report, Order EA-12-049, Beaver Valley Power Station) for applicable licensees is due five business days after the completion of tasks 4 through 7 for individual sites.

Site-Specific Inspection Plan, (cited as IP-049-Beaver Valley, Inspection Plan, Order EA-12-049, Beaver Valley Power Station) for applicable licensees due ten business days prior to tasks 7 through 10 for individual sites.

Information contained in this section is also documented in the PRS table.

### **1.12 Reporting Format & Requirements**

The contractor shall submit a Monthly Letter Status Report by the 15th of each month. The report shall provide the technical and financial status of the contract. This includes an itemization of hours spent by each labor category for each assigned task. The contractor shall submit the report electronically to the following: NRC Contracting Officer Representative (COR), John Klos and NRC TAPM, April Bucher. A hard copy of the report shall be mailed to the NRC Contracting Officer, TBD. The format of this report is contained in Attachment 7.

The technical status section of the report shall contain a summary of the work performed under the Task order during the reporting period; milestones reached, or if missed, an explanation why; any problems or delays encountered or anticipated with recommendations for resolution; and planned work for the next reporting period.

The financial status section of the report shall include the total award amount and funds obligated to date; total costs incurred in the reporting period, and total cumulative costs incurred to date. The status shall also contain the balance of obligations remaining at the end of the period and balance of funds required to complete the Task order.

### **1.13 Publications**

Any reports generated by the contractor under this contract/order shall not be released for publication or dissemination without NRC CO written approval.

All information and data related to this project that the contractor gathers or obtains shall be both protected from unauthorized release and considered the property of the Government. The contracting officer will be the sole authorized official to release verbally or in writing, any data, the draft deliverables, the final deliverables, or any other written or printed materials pertaining to this contract/order. Press releases, marketing material, or any other printed or electronic documentation related to this project, must not be publicized without the written approval of the contracting officer. (See NRCAR §2052.235-70, "Publication of research results")

#### **1.14 Government-Furnished Property/Information**

The Government will provide each licensee's overall integrated plans concerning each Order, and may, as applicable, provide non-public documents to the Contractor at kickoff to support contract training and orientation.

Disposition of GFP shall be in accordance with FAR 52.245-1, Government Property.

The following GFP will be provided to the contractor:

<b>GFP Item</b>	<b>Quantity</b>	<b>Date Provided to Contractor</b>	<b>Method of Delivery</b>
<i>Each licensee's overall integration plan for Order EA-12-049 and EA-212-051</i>	Up to 66	TBD	Email from NRC staff to Contractor's PM
Non-public training documents	TBD	TBD	TBD

#### **1.15 Access to Government Property and Facilities**

The contractor is permitted limited access to the Government's facilities, as required, during the kickoff meeting and Contractor training and orientation days.

#### **1.16 Place of Performance**

The work to be performed under this contract/order will be primarily performed at the Contractor's facility.

#### **1.17 Recognized Holidays**

The Contractor is not required to perform services on Federal Holidays.

#### **1.18 Hours of Operation**

The contractor is responsible for conducting business hours, in accordance with the Contractor's "work hour" policy and in a manner to meet the schedule and milestones associated with this PWS. Milestones associated with the schedule and this PWS' deliverable due dates are counted as Monday thru Friday except Federal holidays or when the Government's U.S. NRC Agency headquarters is closed/shutdown due to local or national emergencies, administrative closings, or similar Government directed facility/agency closings where agency headquarter, non-emergency personnel are *not available*. If this event should occur, the NRC COR, John Klos will record this by email to the Contractor's PM and notify him/her by phone. For other than firm fixed price contracts, the contractor will not be reimbursed when the government facility is closed for the above reasons. The contractor must at all times maintain an adequate workforce for the uninterrupted performance of all tasks defined within this PWS when the Government facility is not closed for the above reasons. When hiring personnel, the contractor shall keep in mind that the stability and continuity of the workforce are essential.

#### **1.19 Security Requirements**

Contractor personnel performing work under this contract/order have security clearance requirements.



Contractor personnel will;

- review overall integration plans labeled as "Official Use Only" and "Official Use Only – Security Related Information"
- have unescorted access to NRC headquarters building
- have access to sensitive IT systems and data (participation in licensee electronic portals for review of document submittals and supportive references)
- complete non-disclosure agreements to view proprietary material in electronic licensee portals
- require unescorted access to the licensees' plants for compliance verification site visits

but contractor personnel will not;

- have access to classified matter or information
- have access to Safeguards Information (SGI)
- store and handle classified material and
- have no local area network (LAN) access to NRC computers.

The contractor will be responsible for the actions of all individuals provided to work under this contract/order. If damages arise from work performed by contractor-provided personnel under the auspices of this contract/order, the contractor will be responsible for all resources necessary to remedy the incident.

The contractor will be responsible for the actions of all individuals provided to work under this contract/order. If damages arise from work performed by contractor-provided personnel under the auspices of this contract/order, the contractor will be responsible for all resources necessary to remedy the incident.

#### **1.20 Physical Security**

The contractor shall be responsible for safeguarding all Government property. At the close of each work period, Government materials shall be secured.

#### **1.21 Post-Award Orientation (kickoff) or Periodic Progress Meetings:**

The contractor agrees to attend any post award conference convened by the contracting activity or contract administration office in accordance with FAR Subpart 42.5.

The NRC CO, NRC COR, and other Government personnel, as appropriate, may meet periodically with the contractor to review the contractor's performance. At these meetings the CO will apprise the contractor of how the government views the contractor's performance and the contractor will apprise the Government of problems, if any, being experienced. Appropriate action shall be taken to resolve outstanding issues. These meetings shall be at no additional cost to the Government.

Kickoff meeting. The contractor is required to meet within two weeks after award of the contract with the NRC staff at the beginning of contract/task order performance. Details and descriptions of this event may be found in Section 1.5 of the PWS (task 1).

Other meetings will be schedule as needed as discussed above. The contractor may request meetings whenever a discrepancy exists and no mutual resolution is apparent. The written minutes of these meetings shall be signed by the contractor's manager, NRC CO, and NRC COR. If the contractor does not concur with the minutes, he/she shall state any areas of non-concurrence within 10 days of receipt of the signed minutes.

#### **1.22 Contracting Officer's Representative (COR):**

The COR monitors all technical aspects of the contract/order and assists in its administration. The COR is authorized to perform the following functions: assure that the contractor performs the technical requirements of the contract/order; perform inspections necessary in connection with contract/task order performance; maintain written and oral

communications with the contractor concerning technical aspects of the contract/order: issue written interpretations of technical requirements, including Government drawings, designs, specifications; monitor contractor's performance and notifies both the CO and contractor of any deficiencies; coordinate availability of Government-furnished property, and provide site entry of contractor personnel. A letter of designation issued to the COR, a copy of which is sent to the contractor, states the responsibilities and limitations of the COR, especially with regard to changes in cost or price, estimates or changes in delivery dates. The COR is not authorized to change any of the terms and conditions of the resulting contract/order.

### **1.23 Key Personnel:**

The following personnel are considered key personnel by the Government: (See NRCAR 2052.215-70, "Key Personnel")

Qualifications for all key personnel are listed below:

Contractor's Project Manager:

The Contractor shall provide a project manager who shall be responsible for the performance of the work. The name of this person and an alternate who shall act for the contractor when the manager is absent shall be designated in writing to the CO. The Project Manager or alternate shall have full authority to act for the Contractor on all contract/order matters relating to daily operation of this contract/order.

Qualifications of the contract/task order manager and alternate are listed below.

Contractor's Principal Engineers and Principal Scientists:

The Contractor shall provide an appropriate number and staff of qualified Principal Engineers and Principal Scientists who shall be responsible for the performance of the work and the tasks assignments for this contract.

Qualifications of the Principal Engineers and Principal Scientists are listed below:

### **1.24 Key Personnel Qualification Requirements:**

The Contractor's Principal engineers and Principal scientists shall have at least one year of experience in evaluating and inspecting the mitigating strategies and guidance for beyond-design-basis external events such as those developed for the loss of a large area of a plant due to explosions or fire under Section B.5.b of Order EA-02-026, made generically applicable as 10 CFR 50.54(hh)(2). The Contractor's Principal engineers or Principal scientists must also have strong backgrounds in typical nuclear industry practices for maintenance, testing, inventory control and familiarity with NRC licensing and inspection processes, as described below.

In regards to Order EA-12-049, the Contractor's key personnel must have demonstrated experience in the following (to include but not limited to Principal Engineers and Principal Scientists);

1. Documented experience with the mitigating strategies pursuant to Order EA-02-026, the subsequent license conditions, or paragraph (hh)(2) of Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.54, "Conditions of licenses."
2. Experience in the evaluation of mitigating strategies, their development and implementation at a nuclear power plant including the assessment of related plant implementation, guidance documents.
3. Background and knowledge concerning; the differences between conformance of a design to "design basis" accident performance versus what performance could be expected when functioning under the occurrence of severe accident, and how severe accident environments, conditions could differ from design basis environments, conditions.

4. Auditing and/or inspection experience, and ability to satisfy site access requirements.
5. Skills and abilities to develop and execute management and tracking tools, and to use common Microsoft Office programs.
6. Communication, interpersonal and presentation skills, to support teamwork, reporting and briefings at headquarters and in the field during inspections.
7. Developing and drafting Requests for Additional Information (RAI), audit/inspection reports, Safety Evaluation Reports, Letters, progress reports on any and all matters relevant to the industry's review and response to the Order.
8. Conducting or supporting the conduct of audits and/or inspections at sites as directed by NRC staff, to confirm the effectiveness of licensee response to Order EA-12-049 in accordance with developed and approved schedules.
9. Familiarity with the references found, as applicable, in Section 1.3 of this Performance Work Statement.

In regards to Order EA-12-051, the Contractor's key personnel must have demonstrated experience in the following (to include but not limited to Principal Engineers and Principal Scientists);

1. Instrumentation & Controls (I&C) design engineering and/or field, system engineering expertise. Specifically, this expertise should include knowledge of different types of level instruments, knowledge of Environmental Qualification parameters, impact of radiation on instrumentation and controls, and knowledge of, or the ability to quickly acquire knowledge of seismic requirements for instruments.
2. Knowledge of instrument installation, calibration, human factors, and instrumentation performance capabilities for nuclear power plants.
3. Knowledge of I&C standards and codes, including IEEE codes, and Code of Federal Regulations regulatory requirements, regulatory guidance (Regulatory Guides, NUREGS etc.) for nuclear power plants.
4. Skills and abilities to critically review and evaluate technical reports, and to read and use schematics and technical information
5. Auditing and/or inspection experience, and ability to satisfy site access requirements
6. Skills and abilities to develop and execute management and tracking tools, and to use common Microsoft Office programs
7. Communication, interpersonal and presentation skills, to support teamwork, reporting and briefings at headquarters and in the field during inspections
8. Developing and drafting Requests for Additional Information (RAI), audit/inspection reports, Safety Evaluation Reports, Letters, progress reports on any and all matters relevant to the industry's review and response to the Spent Fuel Pool Instrumentation Order.
9. Conducting or supporting the conduct of audits and/or inspections at sites as directed by NRC staff, to confirm the effectiveness of licensee response to SFP instrumentation requirements, in accordance with developed and approved schedules.

10. Background and knowledge concerning; the differences between conformance of a design to "design basis" accident performance versus what performance could be expected when functioning under the occurrence of severe accident, and how severe accident environments, conditions could differ from design basis environments, conditions.
11. Familiarity with the references found, as applicable, in Section 1.3 of this Performance Work Statement.

#### **1.25 General – Contractor Personnel**

The contractor shall not employ persons for work on this contract if such employee is considered by the contracting officer to be a potential threat to the health, safety, security, general well-being or operational mission of the installation and its population.

Contractor personnel shall present a neat appearance and be easily recognized as contractor employees. Contractor personnel attending meetings, answering phones, and working in other situations where their status is not obvious are required to identify themselves as such to avoid creating the impression that they are Government officials.

The contractor shall not employ any person who is an employee of the U.S. Government if employing that person would create a conflict of interest. Additionally, the contractor shall not employ any person who is an employee of the NRC, unless such person seeks and receives approval according to NRC regulations."

#### **1.26 Contractor Travel**

Contractor will be authorized travel expenses consistent with the substantive provisions of the Federal Travel Regulation (FTR) and the limitation of funds specified in this contract/order. All travel requires written Government approval from the CO, unless otherwise delegated to the COR.

The following meetings and trips are anticipated under this contract:

1. One, 5-day trip to NRC Headquarters in Rockville, MD, for a kickoff and technical coordination meeting for the proposed engineers/technical specialists (task one).
2. Up to sixty-six (66), 5-day trips to various operating reactor sites for site-specific inspections with one engineer/technical specialist participating (task 4a) for Order EA-12-049, see Attachment 6/Technical Exhibit 6 – Site Verification/Compliance Schedule Safety.
3. Up to sixty-six (66), 3-day trips to various operating reactor sites for site-specific inspections with one engineer/technical specialist participating (task 4b) for Order EA-12-051, see Attachment 6/Technical Exhibit 6 – Site Verification/Compliance Schedule Safety.

For travel purposes, concerning the kickoff and orientation meeting above, a not to exceed amount for that event's cost is \$10,000 for all personnel (approximately 6 individuals) required to attend that meeting. During the proposal phase each bidder should propose pricing for that event against the proposed limit.

Travel will be reimbursed in accordance with FAR 31.205-46, "Travel costs" and the General Services Administration's Federal Travel Regulations at: <http://www.gsa.gov/portal/content/104790>

#### **1.27 Data Rights**

The NRC shall have unlimited rights to and ownership of all deliverables provided under this contract/order, including reports, recommendations, briefings, work plans and all other deliverables. All documents and materials, to include the source codes of any software, produced under this contract/order are the property of the Government with all rights and privileges of ownership/copyright belonging exclusively to the Government. These documents and materials may not be used or sold by the contractor without written authorization from the CO. All materials supplied to the Government shall be the sole property of the Government and may not be used for any other purpose. This right does not abrogate any other Government rights. The definition of "unlimited rights" is contained in Federal Acquisition Regulation (FAR) 27.401, "Definitions." FAR clause at FAR 52.227-14, "Rights in Data-General," is hereby incorporated by reference and made a part of this contract/order.

(See FAR 27.409 - Rights in Data and Copyrights, Solicitation Provisions and Contract Clauses)

**1.28 Applicable Publications (Current Editions):**

The contractor must abide by all applicable regulations, publications, manuals, and local policies and procedures that develop the structure for the execution of the tasks associated with this contract. Publications and guidance documents that will be necessary for this contract will be identified during the project kickoff meeting.

**PART 2**

**STANDARD DEFINITIONS & ACRONYMS**

**2. DEFINITIONS AND ACRONYMS:**

**2.1 DEFINITIONS:**

Definitions should be carefully considered by the Government. Explain any special terms or phrases used in the PWS.

**ACCEPTABLE QUALITY LEVEL (AQL).** The AQL is the maximum percent defective that, for purposes of sampling inspections can be considered satisfactory.

**CONTRACT LINE ITEM NUMBER (CLIN).** CLINs are used to identify, organize and track work requirements throughout the project life cycle. They provide a unit price or lump sum price for each contract deliverable or set of deliverables.

**CONTRACT SPECIALIST.** A person who assists the contracting officer with day-to-day procurement functions. At the NRC, this person handles pre-award, post award and close-out activities.

**CONTRACTOR.** A supplier or vendor awarded a contract to provide specific supplies or service to the Government. The term used in this contract refers to the prime.

**CONTRACTING OFFICER (CO).** A person with delegated authority to enter into, administer, and terminate Government contracts. Note: This is the only individual who can legally bind the Government.

**CONTRACTING OFFICER'S REPRESENTATIVE (COR).** An employee of the Government delegated by the CO to administer the contract. Such appointment shall be in writing (i.e., Delegation and Appointment Memorandum) and shall state the scope of authority and limitations. This individual has authority to provide technical direction to the contractor as long as that direction is within the scope of the contract, does not constitute a change, and has no funding implications. This individual does NOT have authority to change the terms and conditions of the contract.

**CUSTOMER COMPLAINT.** A means of documenting certain kinds of contract service problems. A Government program that is explained to every organization that receives service under this contract, which is used to evaluate contractor's performance.

**DEFECTIVE SERVICE.** A service output that fails to meet the standard quality of performance as prescribed in the Performance Work Statement (PWS) vis-à-vis the Performance Requirements Summary (PRS).

**DELIVERABLE.** Something required by the Government under the contract to be produced or achieved by the contractor.

**GOVERNMENT PROPERTY.** All property owned or leased to the Government or acquired by the contractor under the terms of the contract where the Government retains title (i.e., contractor-acquired equipment).

**KEY PERSONNEL.** Contractor personnel expected to play a key role in the performance and success of the contract. Key personnel are generally evaluated as part of the Source Evaluation Panel (SEP) proposal review process. Key Personnel are listed in the PWS.

**LOT.** The total number of services output in a surveillance period, as defined in the PRS.

**NONPERSONAL SERVICES CONTRACT.** A contract under which the personnel rendering the services are not subject, either by the contract's terms or by the manner of its administration, to the supervision and control usually prevailing in relationships between the Government and its employees.

**PERFORMANCE ASSESSMENT (PA).** Those actions taken by the Government to assure services meet the requirements of the PWS and all other service outputs.

**PERFORMANCE ASSESSMENT PERSONNEL.** A Government person responsible for surveillance of contractor performance; typically the COR.

**PERFORMANCE REQUIREMENT.** The point that divides acceptable and unacceptable performance. When the method of surveillance is other than random sampling, the performance requirement is the number of defectives or maximum percent defective in the lot before the Government will effect the price computation system in accordance with the PRS and the applicable Inspection of Services clause.

**PERFORMANCE REQUIREMENTS SUMMARY (PRS).** Identifies the key service outputs of the contract that will be evaluated by the Government to assure contract performance standards are met by the contractor.

**PERSONAL SERVICE CONTRACT.** Is characterized by the employer-employee relationship it creates between the Government and the contractor's personnel. The Government is normally required to obtain its employees by direct hire under competitive appointment or other procedures required by the civil service laws. Obtaining personal services by contract, rather than by direct hire, circumvents those laws unless Congress has specifically authorized acquisition of the services by contract.

**PHYSICAL SECURITY.** Actions that prevent the loss or damage of Government property.

**QUALITY ASSURANCE.** The Government procedures to verify that services being performed by the contractor are performed according to acceptable standards.

**QUALITY ASSURANCE SURVEILLANCE PLAN (QASP).** An organized written document specifying the surveillance methodology to be used by the Government for surveillance of contractor performance.

**QUALITY CONTROL.** All necessary measures taken by the contractor to assure that the quality of an end product or service shall meet contract requirements.

**RANDOM SAMPLE.** A sampling method in which each service output in a lot has an equal chance of being selected.

**SAMPLE.** A sample consists of one or more service outputs drawn from a lot. The number of outputs in the sample is the sample rate.

**SAMPLE GUIDE.** The part of the surveillance plan which contains all the information needed to perform surveillance of the service outputs by the random sampling method of surveillance.

**SUBCONTRACTOR.** One that enters into a contract with a prime contractor in performance of the Government contract. However, the Government does not have privity of contract with the subcontractor and therefore does not directly interact with the subcontractor(s).

**WORK BREAKDOWN STRUCTURE (WBS).** A work breakdown structure (WBS) is a tool used to define and group a project's discrete work elements in a manner that organizes and defines the total work requirement.

A WBS is a diagram illustrating the key or essential contract deliverables and organizes the team's work into manageable sections. The WBS is also a tree structure which shows a subdivision of effort required to achieve work (i.e., objective, deliverables or tasks). The WBS is essentially a map of what is to be produced and what major steps are necessary to achieve success.

**WORK DAY.** Hours of Operation. The number of normal hours per day that the contractor will provide services in accordance with the contract, is per Section 1.8 of the PWS.

**WORK WEEK.** Monday through Friday, as specified in Section 1.8 of the PWS.

## 2.2 **ACRONYMS:**

Define any acronyms the Government uses for this initiative; give both the acronym and the words represented by the acronym.

CFR	Code of Federal Regulations
CLIN	Contract Line Item Number
COR	Contracting Officer's Representative
COTS	Commercial-Off-the-Shelf
DSS	Defense Security Service
FAR	Federal Acquisition Regulation
FTR	Federal Travel Regulation
HIPAA	Health Insurance Portability and Accountability Act of 1996
NRCAR	U.S. Nuclear Regulatory Commission Acquisition Regulation
OCI	Organizational Conflict of Interest
ODC	Other Direct Costs
PIPO	Phase In/Phase Out
POC	Point of Contact
PRS	Performance Requirements Summary
PWS	Performance Work Statement
QA	Quality Assurance
QAP	Quality Assurance Program
QASP	Quality Assurance Surveillance Plan
QC	Quality Control
QCP	Quality Control Program
TE	Technical Exhibit
WBS	Work Breakdown Structure

## PART 3

### ATTACHMENT/TECHNICAL EXHIBIT LISTING

#### 3.1 **ATTACHMENT/TECHNICAL EXHIBIT LIST:**

3.1.1 Attachment 1/Technical Exhibit 1 – Performance Requirements Summary (PRS)

3.1.2 Attachment 2/Technical Exhibit 2 – Deliverables Schedule

3.1.3 Attachment 3/Technical Exhibit 3 – ELIMINATED

3.1.4 Attachment 4/Technical Exhibit 4 – Quality Assurance Surveillance Plan - QASP

The major categories listed below are included in the attached QASP, as follows:

- Introduction
- Objective

- Roles and Responsibilities of Government Officials
- Key Deliverables for Assessment
- Performance Standards for Key Deliverables
- Surveillance Methodology
- Performance Requirements Summary
- Surveillance Documentation
- Risk Factors



## TECHINCIAL EXHIBIT 1

## PERFORMANCE REQUIREMENTS SUMMARY (PRS)

The contractor requirements are summarized into performance objectives that relate directly to contract essential items. The performance threshold briefly describes the minimum acceptable levels of service required for each requirement. These thresholds are critical to contract success.

Required Task or Service	Deliverable	Performance Standard, AQL, and Method of Surveillance	Incentives/ Deduction
Attendance at kick-off meeting, Task 1	Participation at contract kick-off meeting	NRC COR will review during the event.  Active participation in the kickoff and training activities with performance during the event in a professional manner.	Full payment for 100% compliance.
Provide draft Requests for Additional Information (RAIs), Task 2	RAI conforms to the guidance of NRR Office Instruction LIC-101, "License Amendment Review Procedures," and Management Directive (MD) 3.57, "Correspondence Management"	NRC COR will review with each document submittal.  Items shall be submitted in proper format with minimal grammar and spelling errors (5 combined per document submission). Those determined to be incorrect will be corrected by the contractor. If not incorporated after initial identification by NRC, the contractor will add/correct at its own expense until accepted by the NRC COR.  When 3 (three) document submittals remain incorrect after Contractor resubmittal this may indicate a need for retraining, or a Periodic Progress Meeting.	Full payment for 100% compliance.

Required Task or Service	Deliverable	Performance Standard, AQL, and Method of Surveillance	Incentives/ Deduction
Provide draft technical basis for acceptability of alternative approaches, Task 2	Memo conforms to the guidance of MD 3.57, "Correspondence Management"	<p>NRC COR will review with each document submittal.</p> <p>Items shall be submitted in proper format with minimal grammar and spelling errors (5 combined per document submission). Those determined to be incorrect will be corrected by the contractor. If not incorporated after initial identification by NRC, the contractor will add/correct at its own expense until accepted by the NRC COR.</p> <p>Where 3(three) document submittals are found still incorrect after Contractor resubmittal this may indicate a need for retraining, or a Periodic Progress Meeting.</p>	Full payment for 100% compliance.

Required Task or Service	Deliverable	Performance Standard, AQL, and Method of Surveillance	Incentives/ Deduction
Monthly letter status report (MLSR), Task 2	MLSR documents technical and financial status of effort, including breakdown of costs and license fee recovery cost status report as described above.	<p>NRC COR will review with each document submittal prior to approval of any invoices.</p> <p>Items shall be submitted in proper format with minimal grammar and spelling errors (5 combined per document submission). Those determined to be incorrect will be corrected by the contractor. If not incorporated after initial identification by NRC, the contractor will add/correct at its own expense until accepted by the NRC COR.</p> <p>Where 3(three) document submittals are found still incorrect after Contractor resubmittal this may indicate a need for retraining, or a Periodic Progress Meeting.</p>	Full payment for 100% compliance.

Required Task or Service	Deliverable	Performance Standard, AQL, and Method of Surveillance	Incentives/ Deduction
Provide draft and final input to safety evaluations (SE's) for sites, Task 2,3	SE conforms to the guidance of NRR Office Instruction LIC-101, "License Amendment Review Procedures," and MD 3.57, "Correspondence Management"	<p>NRC COR will review with each document submittal.</p> <p>Items shall be submitted in proper format with minimal grammar and spelling errors (5 combined per document submission). Those determined to be incorrect will be corrected by the contractor. If not incorporated after initial identification by NRC, the contractor will add/correct at its own expense until accepted by the NRC COR.</p> <p>Where 3(three) document submittals are found still incorrect after Contractor resubmittal this may indicate a need for retraining, or a Periodic Progress Meeting.</p>	<p>Full payment for 100% compliance.</p> <p>A deduction of \$5,000 will be taken for delivery later than two weeks prior to the first scheduled outage of a licensed unit for a particular operating reactor site.</p>

Required Task or Service	Deliverable	Performance Standard, AQL, and Method of Surveillance	Incentives/ Deduction
Provide input to Site-Specific Inspection Reports and Inspection Plans, Tasks 4-7	Audit report input conforms to the guidance of Inspection Manual Chapter 0612, "Power Reactor Inspection Reports"	<p>NRC COR will review with each document submittal.</p> <p>Items shall be submitted in proper format with minimal grammar and spelling errors (5 combined per document submission). Those determined to be incorrect will be corrected by the contractor. If not incorporated after initial identification by NRC, the contractor will add/correct at its own expense until accepted by the NRC COR.</p> <p>Where 3(three) document submittals are found still incorrect after Contractor resubmittal this may indicate a need for retraining, or a Periodic Progress Meeting.</p>	Full payment for 100% compliance.

**TECHNICAL EXHIBIT 2**  
**DELIVERABLES SCHEDULE**

<u>Deliverable</u>	<u>Frequency</u>	<u># of Copies</u>	<u>Medium/Format</u>	<u>Submit To</u>
Evaluation of Overall Integration Plan (OIP), PWS paragraph 1.11.1	Due 5 business days after receipt of each OIP	One for each OIP reviewed by the Contractor	Submitted verbally or in written form	Submitted to NRC COR
Draft Request for Additional Information (RAI), PWS paragraph 1.11.2	Due 8 days after receipt of OIP	One document for each RAI generated	Document submitted electronically	Submitted to NRC COR, copy to NRC Project Manager
RAI database, PWS paragraph 1.11.2	Due 8 days after receipt of OIP and with each weekly teleconference	One spreadsheet with tabs for each Site Name	Excel spreadsheet	Submitted to NRC COR, copy NRC Project Manager
Draft Acceptability for Alternative Approaches, PWS paragraph 1.11.3	Due 8 days after receipt of OIP and with each weekly teleconference	One spreadsheet with tabs for each Site Name	Excel spreadsheet	Submitted to NRC COR, copy NRC Project Manager
Draft Safety Evaluation (SE), PWS paragraph 1.11.4	Due 10 days after receipt of OIP	One document for each Site Name	Document submitted electronically	Submitted to NRC COR, copy NRC Project Manager
Amended Safety Evaluation (SE), PWS paragraph 1.11.4	Due 5 days after an acceptable RAI licensee response is completed	One document for each Site Name upon closure of an RAI item	Document submitted electronically	Submitted to NRC COR, copy NRC Project Manager
Final Safety Evaluation (SE), PWS paragraph 1.11.5	Due 5 days after completion of a site specific inspection	One document for each Site Name	Document submitted electronically	Submitted to NRC COR, copy NRC Project Manager
Draft Input to Site Specific Inspection Report, PWS paragraph 1.11.5	Due 5 days after completion of a site specific inspection	One document for each Site Name	Document submitted electronically	Submitted to NRC COR
Site-Specific Audit Plan, PWS paragraph 1.11.5	Due 10 days prior to each site specific inspection	One document for each Site Name	Document submitted electronically	Submitted to NRC COR

TECHNICAL EXHIBIT 3

ESTIMATED WORKLOAD DATA - ELIMINATED

## TECHNICAL EXHIBIT 4

## QUALITY ASSURANCE SURVEILLANCE PLAN (QASP)

Technical Assistance to Verify Compliance with Order EA-12-049, "Order Modifying Licenses with Regard to Requirements for Mitigating Strategies for Beyond-Design-Bases External Events" and Order EA-12-051, "Order Modifying Licenses with Regard to Reliable Spent Fuel Pool Instrumentation"

**I. Introduction:**

This performance-based Quality Assurance Surveillance Plan (QASP) sets forth the procedures and guidance that the U.S. Nuclear Regulatory Commission (NRC) will use in evaluating the technical performance of the contractor *TBD* in accordance with the terms and conditions of the contract [*Insert Contract Number*].

This QASP will be used as a Government document to assist in monitoring contractor activities and during inspection and acceptance of contract deliverables. The Government reserves the right to make changes to this QASP during the contract performance. This QASP describes the mechanism for documenting noteworthy accomplishments or discrepancies for work performed by the contractor. Information generated from surveillance activities will directly feed into the performance discussions with the contractor.

**II. Objective:**

The purpose of this QASP is to provide quality assurance for the NRC project above. This plan provides a framework and methodology for the Contracting Officer's Representative (COR) to evaluate the quality of the contractor's performance. The oversight provided in this QASP will help ensure that required levels of quality are consistently maintained throughout the Period of Performance of the above numbered contract. Furthermore, this QASP provides the COR with a proactive and dynamic tool to help avoid and mitigate unacceptable or deficient contractor performance.

This QASP enhances and provides structure to the Contract Specialist and COR's John Klos ability to conduct surveillance activities of contractor performance during the life of this contract. The QASP details how and when NRC will monitor, evaluate, and document contractor performance with regards to the Performance Work Statement (PWS).

The primary goals of this QASP are to:

1. Bring structure and organization to the Government's monitoring and surveillance of contractor performance under the above contract.
2. Define the role and responsibilities of participating Government officials.
3. Indicate key deliverables that will be assessed against established performance standards.
4. Describe the evaluation methods and processes (i.e., random sampling, etc.) that will be used by the Government during surveillance activities.
5. Document potential risk factors of concern during contract performance.



6. Guide the Government's surveillance efforts to ensure acceptable performance by the contractor.

### III. Roles and Responsibilities of Government Officials:

This QASP serves as a guide to be used by NRC personnel in the conduct of surveillance activities of the contractor during the performance of contract no. *[Insert contract number]*. The COR is responsible for managing the contract and may be called upon to review technical documents and products generated by the contractor. NRC contract managers (i.e., CO and CS) will also review contract specific documents such as invoices, monthly status reports, and work plans (as applicable). The COR and CO will utilize the QASP as a tool to evaluate if the contractor-provided service meets the performance standards in the contract and will be the basis for determining incentives and/or disincentives for the contractor.

The **Contracting Officer's Representative (COR)** will be responsible for monitoring, assessing, recording, and reporting on the technical performance of the contractor on a day-to-day basis. He is assisted in his efforts by the coordination with the **NRC Project Manager (NRC PM)** who executes the project through the agency and is the liaison with the licensee concerning submittals, request for information, etc. In addition the COR coordinates with **NRC Technical Staff (NRC TS)** who participate in oversight and application of the NRC's guidance, and standards concerning compliance with these Orders.

The **Contracting Officer (CO)**, or his/her representative, will have overall responsibility for overseeing the contractor's performance. The CO will also be responsible for the day-to-day monitoring of the contractor's performance in the area of contract compliance, contract administration, cost control; reviewing the COR assessment of the contractor's performance; and resolving all differences between the Government and the contractor. The CO may call upon the technical expertise of other Government officials as required. The **NRC Technical Assistant Project Manager (NRC TAPM)** works in coordination with the CO to execute the contract through the agency into the issuing office.

The **Contractor's Project Manager (CPM)** shall provide a project manager who shall be responsible for the performance of the Contractor's work. The name of this person and an alternate who shall act for the contractor when the manager is absent shall be designated in writing to the CO. The Project Manager or alternate shall have full authority to act for the Contractor on all contract/order matters relating to daily operation of this contract/order.

The **Contractor's Principal Engineers and Scientists (CPES)** shall provide an appropriate number and staff of qualified Principal Engineers and Principal Scientists who shall be responsible for the performance of the work and the tasks assignments for this contract.

### IV. Key Deliverables for Assessment:

#### 3.1.2 Attachment 2/Technical Exhibit 2 – Deliverables Schedule

### V. Performance Standards for Key Deliverables:

See Attachment 1/Technical Exhibit 1 – Performance Requirements Summary (PRS)

### VI. Surveillance Methodology:

NRC will utilize the following quality assurance surveillance concerning the overall performance of the Contractor beyond the tasks and associated deliverables shown in Attachment 1 and 2 of this PWS.

#### 1. Periodic Monitoring

This surveillance method consists of monthly, semi-annually, annual and random surveillance of

deliverables and contract specific reports generated by the contractor.

## 2. Process of Quality Assurance Assessment

A determination of the contractor's overall performance will be on an annual basis. NRC will provide annual customer feedback to the contractor by summarizing the past annual surveillance activities under the Contractor Performance Assessment Reporting System (CPARS) created by the Department of the Navy. In addition, NRC will provide immediate and annual performance customer feedback from personnel involved in the utilization or management of the contract. As soon as a discrepancy is identified with a deliverable associated with this contract, the CO or COR will notify the contractor.

## **VII. Performance Requirements Summary:**

The contract Performance Requirements Summary (PRS) presents the tasks under surveillance; presents the key deliverables to be monitored; gives the surveillance methodology for each task, provides the acceptable performance rating for each task; gives the frequency of each deliverable being monitored; and describes the type of monitoring to be performed by the COR. (See attached PRS)

## **VIII. Surveillance Documentation:**

Official correspondence will be used to document findings for the past year's surveillance activities regarding the contractor's performance under the contract and will form the basis for its annual CPARS evaluation.

## **IX. Risk Factors:**

Examples may include, but are not limited to:

- Specific issues of concern that warrant greater attention to avoid or mitigate problems or bottlenecks during contract performance.
- Experience and resources of the contractor.
- Changes in laws or regulations affecting the contract.
- Potential for labor strikes or other work stoppages.
- Government approvals required before contractor can proceed.
- Logistics concerning Government-furnished property required under the contract.
- Implications of Government Continuing Resolution (CR) on contract performance.

**SECTION D - PACKAGING AND MARKING****D.1 PACKAGING AND MARKING (AUG 2011)**

(a) The Contractor shall package material for shipment to the NRC in such a manner that will ensure acceptance by common carrier and safe delivery at destination. Containers and closures shall comply with the Surface Transportation Board, Uniform Freight Classification Rules, or regulations of other carriers as applicable to the mode of transportation.

(b) On the front of the package, the Contractor shall clearly identify the contract number under which the product is being provided.

(c) Additional packaging and/or marking requirements are as follows: N/A

**D.2 BRANDING (AUG 2012)**

The Contractor is required to include the statement below in any publications, presentations, articles, products, or materials funded under this contract/order, to the extent practical, in order to provide NRC with recognition for its involvement in and contribution to the project. If the work performed is funded entirely with NRC funds, then the contractor must acknowledge that information in its documentation/presentation.

Work Supported by the U.S. Nuclear Regulatory Commission (NRC), Office of Nuclear Reactor Regulation, under Contract/order number NRC-HQ-13-C-03-0039.

**SECTION E - INSPECTION AND ACCEPTANCE****E.1 NOTICE LISTING CONTRACT CLAUSES INCORPORATED BY REFERENCE**

The following contract clauses pertinent to this section are hereby incorporated by reference (by Citation Number, Title, and Date) in accordance with the clause at FAR "52.252-2 CLAUSES INCORPORATED BY REFERENCE" in Section I of this contract. See FAR 52.252-2 for an internet address (if specified) for electronic access to the full text of a clause.

NUMBER	TITLE	DATE
52.246-6	FEDERAL ACQUISITION REGULATION (48 CFR Chapter 1) INSPECTION--TIME-AND-MATERIALS AND LABOR-HOUR	MAY 2001

**SECTION F - DELIVERIES OR PERFORMANCE****F.1 PLACE OF DELIVERY--REPORTS (AUG 2011)**

The items to be furnished hereunder shall be delivered electronically to:

- a. Contracting Officer's Representative – Refer to section G.1.
- b. Contract Specialist: Aracelis Pérez-Ortiz ([aracelis.perez-ortiz@nrc.gov](mailto:aracelis.perez-ortiz@nrc.gov))

**F.2 PERIOD OF PERFORMANCE (AUG 2011) ALTERNATE I (AUG 2011)**

The ordering period for this contract shall commence on the date of award and will expire on 60 months after contract award. Any orders issued during this period shall be completed within the time specified in the order, unless otherwise specified herein. (See FAR 52.216-18 - Ordering).

**SECTION G - CONTRACT ADMINISTRATION DATA****G.1 2052.215-71 CONTRACTING OFFICER REPRESENTATIVE (NOVEMBER 2006)**

(a) The contracting officer's authorized representative (COR) for this contract is:

<b>Name:</b>	<b>John Klos</b>
<b>Address:</b>	<b>U.S. Nuclear Regulatory Commission Mail Stop: OWFN12D20 Washington, DC 20555-0001</b>
<b>Telephone Number:</b>	<b>301-415-5136</b>
<b>E-mail:</b>	<b><u><a href="mailto:john.klos@nrc.gov">john.klos@nrc.gov</a></u></b>

(b) Performance of the work under this contract is subject to the technical direction of the NRC contracting officer representative. The term "technical direction" is defined to include the following:

(1) Technical direction to the contractor which shifts work emphasis between areas of work or tasks, authorizes travel which was unanticipated in the Schedule (i.e., travel not contemplated in the Statement of Work (SOW) or changes to specific travel identified in the SOW), fills in details, or otherwise serves to accomplish the contractual SOW.

(2) Provide advice and guidance to the contractor in the preparation of drawings, specifications, or technical portions of the work description.

(3) Review and, where required by the contract, approval of technical reports, drawings, specifications, and technical information to be delivered by the contractor to the Government under the contract.

(c) Technical direction must be within the general statement of work stated in the contract. The contracting officer representative does not have the authority to and may not issue any technical direction which:

(1) Constitutes an assignment of work outside the general scope of the contract.

(2) Constitutes a change as defined in the "Changes" clause of this contract.

(3) In any way causes an increase or decrease in the total estimated contract cost, the fixed fee, if any, or the time required for contract performance.

(4) Changes any of the expressed terms, conditions, or specifications of the contract.

(5) Terminates the contract, settles any claim or dispute arising under the contract, or issues any unilateral directive whatever.

(d) All technical directions must be issued in writing by the contracting officer representative or must be confirmed by the contracting officer representative in writing within ten (10) working days after verbal issuance. A copy of the written direction must be furnished to the contracting officer. A copy of NRC Form 445, Request for Approval of Official Foreign Travel, which has received final approval from the NRC must be furnished to the contracting officer.

(e) The contractor shall proceed promptly with the performance of technical directions duly issued by the contracting officer representative in the manner prescribed by this clause and within the contracting officer representative's authority under the provisions of this clause.

(f) If, in the opinion of the contractor, any instruction or direction issued by the contracting officer representative is within one of the categories as defined in paragraph (c) of this section, the contractor may not proceed but shall notify the contracting officer in writing within five (5) working days after the receipt of any instruction or direction and shall request the contracting officer to modify the contract accordingly. Upon receiving the notification from the contractor, the contracting officer shall issue an appropriate contract modification or advise the contractor in writing that, in the contracting officer's opinion, the technical direction is within the scope of this article and does not constitute a change under the "Changes" clause.

(g) Any unauthorized commitment or direction issued by the contracting officer representative may result in an unnecessary delay in the contractor's performance and may even result in the contractor expending funds for unallowable costs under the contract.

(h) A failure of the parties to agree upon the nature of the instruction or direction or upon the contract action to be taken with respect thereto is subject to 52.233-1 -Disputes.

(i) In addition to providing technical direction as defined in paragraph (b) of the section, the contracting officer representative shall:

(1) Monitor the contractor's technical progress, including surveillance and assessment of performance, and recommend to the contracting officer changes in requirements.

(2) Assist the contractor in the resolution of technical problems encountered during performance.

(3) Review all costs requested for reimbursement by the contractor and submit to the contracting officer recommendations for approval, disapproval, or suspension of payment for supplies and services required under this contract.

(4) Assist the contractor in obtaining the badges for the contractor personnel.

(5) Immediately notify the Security Branch, Division of Facilities and Security (SB/DFS) (via e-mail) when a contractor employee no longer requires access authorization and return of any NRC issued badge to SB/DFS within three days after their termination.

(6) Ensure that all contractor employees that require access to classified Restricted Data or National Security Information or matter, access to sensitive unclassified information (Safeguards, Official Use Only, and Proprietary information) access to sensitive IT systems or data, unescorted access to NRC controlled buildings/space, or unescorted access to protected and vital areas of nuclear power plants receive approval of SB/DFS prior to access in accordance with Management Directive and Handbook 12.3.

(7) For contracts for the design, development, maintenance or operation of Privacy Act Systems of Records, obtain from the contractor as part of closeout procedures, written certification that the contractor has returned to NRC, transferred to the successor contractor, or destroyed at the end of the contract in accordance with instructions provided by the NRC Systems Manager for Privacy Act Systems of Records, all records (electronic or paper) which were created, compiled, obtained or maintained under the contract.

## **G.2 2052.215-77 TRAVEL APPROVALS AND REIMBURSEMENT (OCT 1999)**

(a) All foreign travel must be approved in advance by the NRC on NRC Form 445, Request for Approval of Official Foreign Travel, and must be in compliance with FAR 52.247-63 Preference for U.S. Flag Air Carriers. The contractor shall submit NRC Form 445 to the NRC no later than 30 days before beginning travel.

(b) The contractor must receive written approval from the NRC Contracting officer representative before taking travel that was unanticipated in the Schedule (i.e., travel not contemplated in the Statement of Work, or changes to specific travel identified in the Statement of Work).

(c) The contractor will be reimbursed only for those travel costs incurred that are directly related to this contract and are allowable subject to the limitations prescribed in FAR 31.205-46.

(d) It is the responsibility of the contractor to notify the contracting officer in accordance with the Limitations of Cost clause of this contract when, at any time, the contractor learns that travel expenses will cause the contractor to exceed the estimated costs specified in the Schedule.

(e) Reasonable travel costs for research and related activities performed at State and nonprofit institutions, in accordance with Section 12 of Pub. L. 100-679, shall be charged in accordance with the contractor's institutional policy to the degree that the limitations of Office of Management and Budget (OMB) guidance are not exceeded. Applicable guidance documents include OMB Circular A-87, Cost Principles for State and Local Governments; OMB Circular A-122, Cost Principles for Nonprofit Organizations; and OMB Circular A-21, Cost Principles for Educational Institutions.

### **G.3 2052.216-72 TASK ORDER PROCEDURES (OCT 1999)**

(a) Task order request for proposal. When a requirement within the scope of work for this contract is identified, the contracting officer shall transmit to the contractor a Task Order Request for Proposal (TORFP) which may include the following, as appropriate:

- (1) Scope of work/meetings/travel and deliverables;
- (2) Reporting requirements;
- (3) Period of performance - place of performance;
- (4) Applicable special provisions;
- (5) Technical skills required; and
- (6) Estimated level of effort.

(b) Task order technical proposal. By the date specified in the TORFP, the contractor shall deliver to the contracting officer a written or verbal (as specified in the TORFP technical proposal submittal instructions) technical proposal that provides the technical information required by the TORFP.

(c) Cost proposal. The contractor's cost proposal for each task order must be fully supported by cost and pricing data adequate to establish the reasonableness of the proposed amounts. When the contractor's estimated cost for the proposed task order exceeds \$100,000 and the period of performance exceeds six months, the contractor may be required to submit a Contractor Spending Plan (CSP) as part of its cost proposal. The TORP indicates if a CSP is required.



(d) Task order award. The contractor shall perform all work described in definitized task orders issued by the contracting officer. Definitized task orders include the following:

- (1) Statement of work/meetings/travel and deliverables;
- (2) Reporting requirements;
- (3) Period of performance;
- (4) Key personnel;
- (5) Applicable special provisions; and
- (6) Total task order amount including any fixed fee.

#### **G.4 2052.216-73 ACCELERATED TASK ORDER PROCEDURES (JAN 1993)**

(a) The NRC may require the contractor to begin work before receiving a definitized task order from the contracting officer. Accordingly, when the contracting officer verbally authorizes the work, the contractor shall proceed with performance of the task order subject to the monetary limitation established for the task order by the contracting officer.

(b) When this accelerated procedure is employed by the NRC, the contractor agrees to begin promptly negotiating with the contracting officer the terms of the definitive task order and agrees to submit a cost proposal with supporting cost or pricing data. If agreement on a definitized task order is not reached by the target date mutually agreed upon by the contractor and contracting officer, the contracting officer may determine a reasonable price and/or fee in accordance with Subpart 15.8 and Part 31 of the FAR, subject to contractor appeal as provided in 52.233-1, Disputes. In any event, the contractor shall proceed with completion of the task order, subject only to the monetary limitation established by the contracting officer and the terms and conditions of the basic contract.

#### **G.5 ELECTRONIC PAYMENT (AUG 2011)**

The Debt Collection Improvement Act of 1996 requires that all payments except IRS tax refunds be made by Electronic Funds Transfer. Payment shall be made in accordance with FAR 52.232-33, entitled "Payment by Electronic Funds- Central Contractor Registration".

To receive payment, the contractor shall prepare invoices in accordance with NRC's Billing Instructions. Claims shall be submitted on the payee's letterhead, invoice, or on the Government's Standard Form 1034, "Public Voucher for Purchases and Services Other than Personal," and Standard Form 1035, "Public Voucher for Purchases Other than Personal - Continuation Sheet." The preferred method of submitting invoices is electronically to the Department of the Interior at [NRCPayments\\_NBCDenver@nbc.gov](mailto:NRCPayments_NBCDenver@nbc.gov). If the contractor submits a hard copy of the invoice, it shall be submitted to the following address:

Department of the Interior  
National Business Center  
Attn: Fiscal Services Branch - D2770  
7301 West Mansfield Avenue  
Denver, CO 80235-2230

**SECTION H - SPECIAL CONTRACT REQUIREMENTS****H.1 2052.215-70 KEY PERSONNEL (JAN 1993)**

(a) The following individuals are considered to be essential to the successful performance of the work hereunder:

**Project Manager (Principal Engineer): John W. Bowen**

**Assistant Project Manager (Principal Engineer): David Johnson**

**Principal Engineer: Jon Greene**

**Principal Engineer: Charles Petrone**

**Principal Engineer: John (Tom) Shedlosky**

**Principal Scientist: Barry Smith**

The contractor agrees that personnel may not be removed from the contract work or replaced without compliance with paragraphs (b) and (c) of this section.

(b) If one or more of the key personnel, for whatever reason, becomes, or is expected to become, unavailable for work under this contract for a continuous period exceeding 30 work days, or is expected to devote substantially less effort to the work than indicated in the proposal or initially anticipated, the contractor shall immediately notify the contracting officer and shall, subject to the concurrence of the contracting officer, promptly replace the personnel with personnel of at least substantially equal ability and qualifications.

(c) Each request for approval of substitutions must be in writing and contain a detailed explanation of the circumstances necessitating the proposed substitutions. The request must also contain a complete resume for the proposed substitute and other information requested or needed by the contracting officer to evaluate the proposed substitution. The contracting officer and the contracting officer representative shall evaluate the contractor's request and the contracting officer shall promptly notify the contractor of his or her decision in writing.

(d) If the contracting officer determines that suitable and timely replacement of key personnel who have been reassigned, terminated, or have otherwise become unavailable for the contract work is not reasonably forthcoming, or that the resultant reduction of productive effort would be so substantial as to impair the successful completion of the contract or the service order, the contract may be terminated by the contracting officer for default or for the convenience of the Government, as appropriate. If the contracting officer finds the contractor at fault for the condition, the contract price or fixed fee may be equitably adjusted downward to compensate the Government for any resultant delay, loss, or damage.

**H.2 ANNUAL AND FINAL CONTRACTOR PERFORMANCE EVALUATIONS (AUG 2011)**

Annual and final evaluations of contractor performance under this contract will be prepared in accordance with FAR Subpart 42.15, "Contractor Performance Information," normally at or near the time the contractor is notified of the NRC's intent to exercise the contract option. If the multi-year contract does not have option years, then an annual evaluation will be prepared at the completion of each calendar year. The evaluated period will be from January 1<sup>st</sup> through

December 31<sup>st</sup> of each calendar year. Final evaluations of contractor performance will be prepared at the expiration of the contract during the contract closeout process.

The Contracting Officer will transmit the NRC Contracting Officer's Representative's (COR) annual and final contractor performance evaluations to the contractor's Project Manager, unless otherwise instructed by the contractor. The contractor will be permitted thirty days to review the document and submit comments, rebutting statements, or additional information.

Where a contractor concurs with, or takes no exception to an annual performance evaluation, the Contracting Officer will consider such evaluation final and releasable for source selection purposes. Disagreements between the parties regarding a performance evaluation will be referred to an individual one level above the Contracting Officer, whose decision will be final.

The Contracting Officer will send a copy of the completed evaluation report, marked "Source Selection Information", to the contractor's Project Manager for their records as soon as practicable after it has been finalized. The completed evaluation report also will be used as a tool to improve communications between the NRC and the contractor and to improve contract performance.

The completed annual performance evaluation will be used to support future award decisions in accordance with FAR 42.1502 and 42.1503. During the period the information is being used to provide source selection information, the completed annual performance evaluation will be released to only two parties - the Federal government personnel performing the source selection evaluation and the contractor under evaluation if the contractor does not have a copy of the report already.

### **H.3 COMPLIANCE WITH U.S. IMMIGRATION LAWS AND REGULATIONS (AUG 2011)**

NRC contractors are responsible to ensure that their alien personnel are not in violation of United States immigration laws and regulations, including employment authorization documents and visa requirements. Each alien employee of the Contractor must be lawfully admitted for permanent residence as evidenced by Permanent Resident Form I-551 (Green Card), or must present other evidence from the U.S. Department of Homeland Security/U.S. Citizenship and Immigration Services that employment will not affect his/her immigration status. The U.S. Citizenship and Immigration Services provides information to contractors to help them understand the employment eligibility verification process for non-US citizens. This information can be found on their website, <http://www.uscis.gov/portal/site/uscis>.

The NRC reserves the right to deny or withdraw Contractor use or access to NRC facilities or its equipment/services, and/or take any number of contract administrative actions (e.g., disallow costs, terminate for cause) should the Contractor violate the Contractor's responsibility under this clause.

### **H.4 SECURITY REQUIREMENTS RELATING TO THE PRODUCTION OF REPORT(S) OR THE PUBLICATION OF RESULTS UNDER CONTRACTS, AGREEMENTS, AND GRANTS (AUG 2011)**

#### **Review and Approval of Reports**

(a) Reporting Requirements. The contractor/grantee shall comply with the terms and conditions of the contract/grant regarding the contents of the draft and final report, summaries, data, and related documents, to include correcting, deleting, editing, revising, modifying, formatting, and supplementing any of the information contained therein, at no additional cost to the NRC. Performance under the contract/grant will not be deemed accepted or completed until it complies with the NRC's directions. The reports, summaries, data, and related documents will be considered draft until approved by the NRC. The contractor/ grantee agrees that the direction, determinations, and decisions on approval or

disapproval of reports, summaries, data, and related documents created under this contract/grant remain solely within the discretion of the NRC.

(b) Publication of Results. Prior to any dissemination, display, publication, or release of articles, reports, summaries, data, or related documents developed under the contract/grant, the contractor/grantee shall submit them to the NRC for review and approval. The contractor/grantee shall not release, disseminate, display or publish articles, reports, summaries, data, and related documents, or the contents therein, that have not been reviewed and approved by the NRC for release, display, dissemination or publication. The contractor/grantee agrees to conspicuously place any disclaimers, markings or notices, directed by the NRC, on any articles, reports, summaries, data, and related documents that the contractor/grantee intends to release, display, disseminate or publish to other persons, the public, or any other entities. The contractor/grantee agrees, and grants, a royalty-free, nonexclusive, irrevocable worldwide license to the government, to use, reproduce, modify, distribute, prepare derivative works, release, display or disclose the articles, reports, summaries, data, and related documents developed under the contract/grant, for any governmental purpose and to have or authorize others to do so.

(c) Identification/Marking of Sensitive Unclassified Non-Safeguards Information (SUNSI) and Safeguards Information (SGI). The decision, determination, or direction by the NRC that information possessed, formulated or produced by the contractor/grantee constitutes SUNSI or SGI is solely within the authority and discretion of the NRC. In performing the contract/grant, the contractor/grantee shall clearly mark SUNSI and SGI, to include for example, OUO-Allegation Information or OUO-Security Related Information on any reports, documents, designs, data, materials, and written information, as directed by the NRC. In addition to marking the information as directed by the NRC, the contractor shall use the applicable NRC cover sheet (e.g., NRC Form 461 Safeguards Information) in maintaining these records and documents. The contractor/grantee shall ensure that SUNSI and SGI is handled, maintained and protected from unauthorized disclosure, consistent with NRC policies and directions. The contractor/grantee shall comply with the requirements to mark, maintain, and protect all information, including documents, summaries, reports, data, designs, and materials in accordance with the provisions of Section 147 of the Atomic Energy Act of 1954 as amended, its implementing regulations (10 CFR 73.21), Sensitive Unclassified Non-Safeguards and Safeguards Information policies, and NRC Management Directives and Handbooks 12.5, 12.6 and 12.7.

(d) Remedies. In addition to any civil, criminal, and contractual remedies available under the applicable laws and regulations, failure to comply with the above provisions, and/or NRC directions, may result in suspension, withholding, or offsetting of any payments invoiced or claimed by the contractor/grantee.

(e) Flowdown. If the contractor/grantee intends to enter into any subcontracts or other agreements to perform this contract/grant, the contractor/grantee shall include all of the above provisions in any subcontracts or agreements.

## **H.5 WHISTLEBLOWER PROTECTION FOR NRC CONTRACTOR AND SUBCONTRACTOR EMPLOYEES (AUG 2011)**

(a) The U.S. Nuclear Regulatory Commission (NRC) contractor and its subcontractor are subject to the Whistleblower Employee Protection public law provisions as codified at 42 U.S.C. 5851. NRC contractor(s) and subcontractor(s) shall comply with the requirements of this Whistleblower Employee Protection law, and the implementing regulations of the NRC and the Department of Labor (DOL). See, for example, DOL Procedures on Handling Complaints at 29 C.F.R. Part 24 concerning the employer obligations, prohibited acts, DOL procedures and the requirement for prominent posting of notice of Employee Rights at Appendix A to Part 24 entitled: "Your Rights Under the Energy Reorganization Act".

(b) Under this Whistleblower Employee Protection law, as implemented by regulations, NRC contractor and subcontractor employees are protected from discharge, reprisal, threats, intimidation, coercion, blacklisting or other employment discrimination practices with respect to compensation, terms, conditions or privileges of their employment because the contractor or subcontractor employee(s) has provided notice to the employer, refused to engage in unlawful

practices, assisted in proceedings or testified on activities concerning alleged violations of the Atomic Energy Act of 1954 (as amended) and the Energy Reorganization Act of 1974 (as amended).

(c) The contractor shall insert this or the substance of this clause in any subcontracts involving work performed under this contract.

## **H.6 GREEN PURCHASING (JUN 2011)**

(a) In furtherance of the sustainable acquisition goals of Executive Order 13514, "Federal Leadership in Environmental, Energy, and Economic Performance" products and services provided under this contract/order shall be energy- efficient (Energy Star or Federal Energy Management Program (FEMP) designated), water-efficient, biobased, environmentally preferable (e.g., Electronic Product Environmental Assessment Tool (EPEAT) certified), non-ozone depleting, contain recycled content, or are non-toxic or less toxic alternatives, where such products and services meet agency performance requirements. <http://www.fedcenter.gov/programs/eo13514/>

(b) The contractor shall flow down this clause into all subcontracts and other agreements that relate to performance of this contract/order.

## **H.7 USE OF AUTOMATED CLEARING HOUSE (ACH) ELECTRONIC PAYMENT/REMITTANCE ADDRESS (AUG 2011)**

The Debt Collection Improvement Act of 1996 requires that all Federal payments except IRS tax refunds be made by Electronic Funds Transfer. It is the policy of the Nuclear Regulatory Commission to pay government vendors by the Automated Clearing House (ACH) electronic funds transfer payment system. Item 15C of the Standard Form 33 may be disregarded.

## **H.8 AWARD NOTIFICATION AND COMMITMENT OF PUBLIC FUNDS (AUG 2011)**

(a) All offerors will receive pre-award and post award notices in accordance with FAR 15.503.

(b) It is also brought to your attention that the contracting officer is the only individual who can legally obligate funds or commit the NRC to the expenditure of public funds in connection with this procurement. This means that unless provided in a contract document or specifically authorized by the contracting officer, NRC technical personnel may not issue contract modifications, give formal contractual commitments, or otherwise bind, commit, or obligate the NRC contractually. Informal unauthorized commitments, which do not obligate the NRC and do not entitle the contractor to payment, may include:

(1) Encouraging a potential contractor to incur costs prior to receiving a contract;

(2) Requesting or requiring a contractor to make changes under a contract without formal contract modifications;

(3) Encouraging a contractor to incur costs under a cost-reimbursable contract in excess of those costs contractually allowable; and

(4) Committing the Government to a course of action with regard to a potential contract, contract change, claim, or dispute.

**H.9 2052.204.70 SECURITY (MAR 2004)**

(a) Contract Security and/or Classification Requirements (NRC Form 187). The policies, procedures, and criteria of the NRC Security Program, NRC Management Directive (MD) 12 (including MD 12.1, "NRC Facility Security Program;" MD 12.2, "NRC Classified Information Security Program;" MD 12.3, "NRC Personnel Security Program;" MD 12.4, "NRC Telecommunications Systems Security Program;" MD 12.5, "NRC Automated Information Systems Security Program;" and MD 12.6, "NRC Sensitive Unclassified Information Security Program"), apply to performance of this contract, subcontract or other activity. This MD is incorporated into this contract by reference as though fully set forth herein. The attached NRC Form 187 (See List of Attachments) furnishes the basis for providing security and classification requirements to prime contractors, subcontractors, or others (e.g., bidders) who have or may have an NRC contractual relationship that requires access to classified Restricted Data or National Security Information or matter, access to sensitive unclassified information (e.g., Safeguards), access to sensitive Information Technology (IT) systems or data, unescorted access to NRC controlled buildings/space, or unescorted access to protected and vital areas of nuclear power plants.

(b) It is the contractor's duty to protect National Security Information, Restricted Data, and Formerly Restricted Data. The contractor shall, in accordance with the Commission's security regulations and requirements, be responsible for protecting National Security Information, Restricted Data, and Formerly Restricted Data, and for protecting against sabotage, espionage, loss, and theft, the classified documents and material in the contractor's possession in connection with the performance of work under this contract. Except as otherwise expressly provided in this contract, the contractor shall, upon completion or termination of this contract, transmit to the Commission any classified matter in the possession of the contractor or any person under the contractor's control in connection with performance of this contract. If retention by the contractor of any classified matter is required after the completion or termination of the contract and the retention is approved by the contracting officer, the contractor shall complete a certificate of possession to be furnished to the Commission specifying the classified matter to be retained. The certification must identify the items and types or categories of matter retained, the conditions governing the retention of the matter and their period of retention, if known. If the retention is approved by the contracting officer, the security provisions of the contract continue to be applicable to the matter retained.

(c) In connection with the performance of the work under this contract, the contractor may be furnished, or may develop or acquire, safeguards information, or confidential or privileged technical, business, or financial information, including Commission plans, policies, reports, financial plans, internal data protected by the Privacy Act of 1974 (Pub. L. 93.579), or other information which has not been released to the public or has been determined by the Commission to be otherwise exempt from disclosure to the public. The contractor shall ensure that information protected from public disclosure is maintained as required by NRC regulations and policies, as cited in this contract or as otherwise provided by the NRC. The contractor will not directly or indirectly duplicate, disseminate, or disclose the information in whole or in part to any other person or organization except as may be necessary to perform the work under this contract. The contractor agrees to return the information to the Commission or otherwise dispose of it at the direction of the contracting officer. Failure to comply with this clause is grounds for termination of this contract.

(d) Regulations. The contractor agrees to conform to all security regulations and requirements of the Commission which are subject to change as directed by the NRC Division of Facilities and Security (DFS) and the Contracting Officer. These changes will be under the authority of the FAR Changes clause referenced in this document.

The contractor agrees to comply with the security requirements set forth in NRC Management Directive 12.1, NRC Facility Security Program which is incorporated into this contract by reference as though fully set forth herein. Attention is directed specifically to the section titled "Infractions and Violations," including "Administrative Actions" and "Reporting Infractions."

(e) Definition of National Security Information. The term National Security Information, as used in this clause, means information that has been determined pursuant to Executive Order 12958 or any predecessor order to require protection against unauthorized disclosure and that is so designated.

(f) **Definition of Restricted Data.** The term Restricted Data, as used in this clause, means all data concerning design, manufacture, or utilization of atomic weapons; the production of special nuclear material; or the use of special nuclear material in the production of energy, but does not include data declassified or removed from the Restricted Data category pursuant to Section 142 of the Atomic Energy Act of 1954, as amended.

(g) **Definition of Formerly Restricted Data.** The term Formerly Restricted Data, as used in this clause, means all data removed from the Restricted Data category under Section 142-d of the Atomic Energy Act of 1954, as amended.

(h) **Definition of Safeguards Information.** Sensitive unclassified information that specifically identifies the detailed security measures of a licensee or an applicant for the physical protection of special nuclear material; or security measures for the physical protection and location of certain plant equipment vital to the safety of production or utilization facilities. Protection of this information is required pursuant to Section 147 of the Atomic Energy Act of 1954, as amended.

(i) **Security Clearance.** The contractor may not permit any individual to have access to Restricted Data, Formerly Restricted Data, or other classified information, except in accordance with the Atomic Energy Act of 1954, as amended, and the Commission's regulations or requirements applicable to the particular type or category of classified information to which access is required. The contractor shall also execute a Standard Form 312, Classified Information Nondisclosure Agreement, when access to classified information is required.

(j) **Criminal Liabilities.** It is understood that disclosure of National Security Information, Restricted Data, and Formerly Restricted Data relating to the work or services ordered hereunder to any person not entitled to receive it, or failure to safeguard any Restricted Data, Formerly Restricted Data, or any other classified matter that may come to the contractor or any person under the contractor's control in connection with work under this contract, may subject the contractor, its agents, employees, or subcontractors to criminal liability under the laws of the United States. (See the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.; 18 U.S.C. 793 and 794; and Executive Order 12958.)

(k) **Subcontracts and Purchase Orders.** Except as otherwise authorized in writing by the contracting officer, the contractor shall insert provisions similar to the foregoing in all subcontracts and purchase orders under this contract.

(l) In performing the contract work, the contractor shall classify all documents, material, and equipment originated or generated by the contractor in accordance with guidance issued by the Commission. Every subcontract and purchase order issued hereunder involving the origination or generation of classified documents, material, and equipment must provide that the subcontractor or supplier assign classification to all documents, material, and equipment in accordance with guidance furnished by the contractor.

#### **H.10 DRUG FREE WORKPLACE TESTING: UNESCORTED ACCESS TO NUCLEAR FACILITIES, ACCESS TO CLASSIFIED INFORMATION OR SAFEGUARDS INFORMATION, OR PERFORMING IN SPECIALLY SENSITIVE POSITIONS (AUG 2011)**

All contractor employees, subcontractor employees, and consultants proposed for performance or performing under this contract shall be subject to pre- assignment, random, reasonable suspicion, and post-accident drug testing applicable to: (1) individuals who require unescorted access to nuclear power plants, (2) individuals who have access to classified or safeguards information, (3) individuals who are required to carry firearms in performing security services for the NRC, (4) individuals who are required to operate government vehicles or transport passengers for the NRC, (5) individuals who are required to operate hazardous equipment at NRC facilities, or (6) individuals who admit to recent illegal drug use or those who are found through other means to be using drugs illegally. The Plan includes a

contractor's employees and their subcontractors are subject to the procedures and terms of their employment agreements with their employer.

The NRC Drug Program Manager will schedule the drug testing for all contractor employees, subcontractor employees, and consultants who are subject to testing under this clause. Any NRC contractor found to be using, selling, or possessing illegal drugs, or any contractor with a verified positive drug test result under this program while in a duty status will immediately be removed from working under the NRC contract. The contractor's employer will be notified of the denial or revocation of the individual's authorization to have access to information and ability to perform under the contract. The individual may not work on any NRC contract for a period of not less than one year from the date of the failed drug test and will not be considered for reinstatement unless evidence of rehabilitation, as determined by the NRC "drug testing contractor's" Medical Review Officer, is provided.

Contractor drug testing records are protected under the NRC Privacy Act Systems of Records, System 35, "Drug Testing Program Records - NRC" found at: <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>

#### **H.11 2052.209-72 CONTRACTOR ORGANIZATIONAL CONFLICTS OF INTEREST (JAN 1993)**

(a) Purpose. The primary purpose of this clause is to aid in ensuring that the contractor:

(1) Is not placed in a conflicting role because of current or planned interests (financial, contractual, organizational, or otherwise) which relate to the work under this contract; and

(2) Does not obtain an unfair competitive advantage over other parties by virtue of its performance of this contract.

(b) Scope. The restrictions described apply to performance or participation by the contractor, as defined in 48 CFR 2009.570-2 in the activities covered by this clause.

(c) Work for others.

(1) Notwithstanding any other provision of this contract, during the term of this contract, the contractor agrees to forego entering into consulting or other contractual arrangements with any firm or organization the result of which may give rise to a conflict of interest with respect to the work being performed under this contract. The contractor shall ensure that all employees under this contract abide by the provision of this clause. If the contractor has reason to believe, with respect to itself or any employee, that any proposed consultant or other contractual arrangement with any firm or organization may involve a potential conflict of interest, the contractor shall obtain the written approval of the contracting officer before the execution of such contractual arrangement.

(2) The contractor may not represent, assist, or otherwise support an NRC licensee or applicant undergoing an NRC audit, inspection, or review where the activities that are the subject of the audit, inspection, or review are the same as or substantially similar to the services within the scope of this contract (or task order as appropriate) except where the NRC licensee or applicant requires the contractor's support to explain or defend the contractor's prior work for the utility or other entity which NRC questions.

(3) When the contractor performs work for the NRC under this contract at any NRC licensee or applicant site, the contractor shall neither solicit nor perform work in the same or similar technical area for that licensee or applicant organization for a period commencing with the award of the task order or beginning of work on the site (if not a task order contract) and ending one year after completion of all work under the associated task order, or last time at the site (if not a task order contract).

(4) When the contractor performs work for the NRC under this contract at any NRC licensee or applicant site,



(i) The contractor may not solicit work at that site for that licensee or applicant during the period of performance of the task order or the contract, as appropriate.

(ii) The contractor may not perform work at that site for that licensee or applicant during the period of performance of the task order or the contract, as appropriate, and for one year thereafter.

(iii) Notwithstanding the foregoing, the contracting officer may authorize the contractor to solicit or perform this type of work (except work in the same or similar technical area) if the contracting officer determines that the situation will not pose a potential for technical bias or unfair competitive advantage.

(d) Disclosure after award.

(1) The contractor warrants that to the best of its knowledge and belief, and except as otherwise set forth in this contract, that it does not have any organizational conflicts of interest as defined in 48 CFR 2009.570-2.

(2) The contractor agrees that if, after award, it discovers organizational conflicts of interest with respect to this contract, it shall make an immediate and full disclosure in writing to the contracting officer. This statement must include a description of the action which the contractor has taken or proposes to take to avoid or mitigate such conflicts. The NRC may, however, terminate the contract if termination is in the best interest of the Government.

(3) It is recognized that the scope of work of a task-order-type contract necessarily encompasses a broad spectrum of activities. Consequently, if this is a task-order-type contract, the contractor agrees that it will disclose all proposed new work involving NRC licensees or applicants which comes within the scope of work of the underlying contract. Further, if this contract involves work at a licensee or applicant site, the contractor agrees to exercise diligence to discover and disclose any new work at that licensee or applicant site. This disclosure must be made before the submission of a bid or proposal to the utility or other regulated entity and must be received by the NRC at least 15 days before the proposed award date in any event, unless a written justification demonstrating urgency and due diligence to discover and disclose is provided by the contractor and approved by the contracting officer. The disclosure must include the statement of work, the dollar value of the proposed contract, and any other documents that are needed to fully describe the proposed work for the regulated utility or other regulated entity. NRC may deny approval of the disclosed work only when the NRC has issued a task order which includes the technical area and, if site-specific, the site, or has plans to issue a task order which includes the technical area and, if site-specific, the site, or when the work violates paragraphs (c)(2), (c)(3) or (c)(4) of this section.

(e) Access to and use of information.

(1) If in the performance of this contract, the contractor obtains access to information, such as NRC plans, policies, reports, studies, financial plans, internal data protected by the Privacy Act of 1974 (5 U.S.C. Section 552a (1988)), or the Freedom of Information Act (5 U.S.C. Section 552 (1986)), the contractor agrees not to:

(i) Use this information for any private purpose until the information has been released to the public;

(ii) Compete for work for the Commission based on the information for a period of six months after either the completion of this contract or the release of the information to the public, whichever is first;

(iii) Submit an unsolicited proposal to the Government based on the information until one year after the release of the information to the public; or

(iv) Release the information without prior written approval by the contracting officer unless the information has previously been released to the public by the NRC.

(2) In addition, the contractor agrees that, to the extent it receives or is given access to proprietary data, data protected by the Privacy Act of 1974 (5 U.S.C. Section 552a (1988)), or the Freedom of Information Act (5 U.S.C.

Section 552 (1986)), or other confidential or privileged technical, business, or financial information under this contract, the contractor shall treat the information in accordance with restrictions placed on use of the information.

(3) Subject to patent and security provisions of this contract, the contractor shall have the right to use technical data it produces under this contract for private purposes provided that all requirements of this contract have been met.

(f) Subcontracts. Except as provided in 48 CFR 2009.570-2, the contractor shall include this clause, including this paragraph, in subcontracts of any tier. The terms contract, contractor, and contracting officer, must be appropriately modified to preserve the Government's rights.

(g) Remedies. For breach of any of the above restrictions, or for intentional nondisclosure or misrepresentation of any relevant interest required to be disclosed concerning this contract or for such erroneous representations that necessarily imply bad faith, the Government may terminate the contract for default, disqualify the contractor from subsequent contractual efforts, and pursue other remedies permitted by law or this contract.

(h) Waiver. A request for waiver under this clause must be directed in writing to the contracting officer in accordance with the procedures outlined in 48 CFR 2009.570-9.

(i) Follow-on effort. The contractor shall be ineligible to participate in NRC contracts, subcontracts, or proposals therefore (solicited or unsolicited), which stem directly from the contractor's performance of work under this contract. Furthermore, unless so directed in writing by the contracting officer, the contractor may not perform any technical consulting or management support services work or evaluation activities under this contract on any of its products or services or the products or services of another firm if the contractor has been substantially involved in the development or marketing of the products or services.

(1) If the contractor, under this contract, prepares a complete or essentially complete statement of work or specifications, the contractor is not eligible to perform or participate in the initial contractual effort which is based on the statement of work or specifications. The contractor may not incorporate its products or services in the statement of work or specifications unless so directed in writing by the contracting officer, in which case the restrictions in this paragraph do not apply.

(2) Nothing in this paragraph precludes the contractor from offering or selling its standard commercial items to the Government.

## **H.12 2052.204-71 BADGE REQUIREMENTS FOR UNESCORTED BUILDING ACCESS TO NRC FACILITIES (MAR 2006)**

During the life of this contract, the rights of ingress and egress for contractor personnel must be made available, as required, provided that the individual has been approved for unescorted access after a favorable adjudication from the Security Branch, Division of Facilities and Security (SB/DFS).

In this regard, all contractor personnel whose duties under this contract require their presence on site shall be clearly identifiable by a distinctive badge furnished by the NRC. The Contracting officer representative shall assist the contractor in obtaining badges for the contractor personnel. All contractor personnel must present two forms of Identity Source Documents (I-9). One of the documents must be a valid picture ID issued by a state or by the Federal Government. Original I-9 documents must be presented in person for certification. A list of acceptable documents can be found at [http://www.usdoj.gov/crt/recruit\\_employ/i9form.pdf](http://www.usdoj.gov/crt/recruit_employ/i9form.pdf). It is the sole responsibility of the contractor to ensure that each employee has a proper NRC-issued identification/badge at all times. All photo-identification badges must be immediately (no later than three days) delivered to SB/DFS for cancellation or disposition upon the termination of employment of any contractor personnel. Contractor personnel must display any NRC issued badge in clear view at all times during on site performance under this contract. It is the contractor's duty to assure that contractor personnel enter

only those work areas necessary for performance of contract work, and to assure the protection of any Government records or data that contractor personnel may come into contact with.

### **H.13 SECURITY REQUIREMENTS FOR BUILDING ACCESS APPROVAL (AUG 2011)**

The Contractor shall ensure that all its employees, subcontractor employees or consultants who are assigned to perform the work herein for contract performance for periods of more than 30 calendar days at NRC facilities, are approved by the NRC for unescorted NRC building access.

The Contractor shall conduct a preliminary federal facilities security screening interview or review for each of its employees, subcontractor employees, and consultants and submit to the NRC only the names of candidates for contract performance that have a reasonable probability of obtaining approval necessary for access to NRC's federal facilities. The Contractor shall pre-screen its applicants for the following:

(a) felony arrest in the last seven (7) years; (b) alcohol related arrest within the last five (5) years; (c) record of any military courts-martial convictions in the past ten (10) years; (d) illegal use of narcotics or other controlled substances possession in the past year, or illegal purchase, production, transfer, or distribution of narcotics or other controlled substances in the last seven (7) years; and (e) delinquency on any federal debts or bankruptcy in the last seven (7) years.

The Contractor shall make a written record of its pre-screening interview or review (including any information to mitigate the responses to items listed in (a) - (e)), and have the applicant verify the pre-screening record or review, sign and date it. Two (2) copies of the pre-screening signed record or review shall be supplied to the Division of Facilities and Security, Personnel Security Branch (DFS/PSB) with the Contractor employee's completed building access application package.

The Contractor shall further ensure that its employees, any subcontractor employees and consultants complete all building access security applications required by this clause within fourteen (14) calendar days of notification by DFS/PSB of initiation of the application process. Timely receipt of properly completed records of the Contractor's signed pre-screening record or review and building access security applications (submitted for candidates that have a reasonable probability of obtaining the level of access authorization necessary for access to NRC's facilities) is a contract requirement. Failure of the Contractor to comply with this contract administration requirement may be a basis to cancel the award, or terminate the contract for default, or offset from the contract's invoiced cost or price the NRC's incurred costs or delays as a result of inadequate pre-screening by the Contractor. In the event of cancellation or termination, the NRC may select another firm for contract award.

A Contractor, subcontractor employee or consultant shall not have access to NRC facilities until he/she is approved by DFS/PSB. Temporary access may be approved based on a favorable NRC review and discretionary determination of their building access security forms. Final building access will be approved based on favorably adjudicated checks by the Government. However, temporary access approval will be revoked and the Contractor's employee may subsequently be denied access in the event the employee's investigation cannot be favorably determined by the NRC. Such employee will not be authorized to work under any NRC contract requiring building access without the approval of DFS/PSB. When an individual receives final access, the individual will be subject to a review or reinvestigation every five (5) or ten (10) years, depending on their job responsibilities at the NRC.

The Government shall have and exercise full and complete control and discretion over granting, denying, withholding, or terminating building access approvals for individuals performing work under this contract. Individuals performing work under this contract at NRC facilities for a period of more than 30 calendar days shall be required to complete and submit to the Contractor representative an acceptable OPM Standard Form 85 (Questionnaire for Non-Sensitive Positions), and two (2) FD 258 (Fingerprint Charts). Non-U.S. citizens must provide official documentation to the DFS/PSB, as proof of their legal residency. This documentation can be a Permanent Resident Card, Temporary Work

Visa, Employment Authorization Card, or other official documentation issued by the U.S. Citizenship and Immigration Services. Any applicant with less than five (5) years residency in the U.S. will not be approved for building access. The Contractor shall submit the documents to the NRC Contracting Officer's Representative (COR) who will give them to DFS/PSB.

DFS/PSB may, among other things, grant or deny temporary unescorted building access approval to an individual based upon its review of the information contained in the OPM Standard Form 85 and the Contractor's pre-screening record. Also, in the exercise of its authority, the Government may, among other things, grant or deny permanent building access approval based on the results of its review or investigation. This submittal requirement also applies to the officers of the firm who, for any reason, may visit the NRC work sites for an extended period of time during the term of the contract. In the event that DFS/PSB are unable to grant a temporary or permanent building access approval, to any individual performing work under this contract, the Contractor is responsible for assigning another individual to perform the necessary function without any delay in the contract's performance schedule, or without adverse impact to any other terms or conditions of the contract. The Contractor is responsible for informing those affected by this procedure of the required building access approval process (i.e., temporary and permanent determinations), and the possibility that individuals may be required to wait until permanent building access approvals are granted before beginning work in NRC's buildings.

#### CANCELLATION OR TERMINATION OF BUILDING ACCESS/ REQUEST

The Contractor shall immediately notify the PO when a Contractor or subcontractor employee or consultant's need for NRC building access approval is withdrawn or the need by the Contractor employee's for building access terminates. The PO will immediately notify DFS/PSB (via e-mail) when a Contractor employee no longer requires building access. The Contractor shall be required to return any NRC issued badges to the Contracting Officer's Representative (COR) for return to DFS/PSB (Facilities Security Branch) within three (3) days after their termination.

#### **H.14 SECURITY REQUIREMENTS FOR INFORMATION TECHNOLOGY LEVEL I OR LEVEL II ACCESS APPROVAL (AUG 2011)**

The contractor must identify all individuals selected to work under this contract. The NRC Contracting Officer's Representative (COR) shall make the final determination of the level, if any, of IT access approval required for all individuals working under this contract/order using the following guidance. The Government shall have full and complete control and discretion over granting, denying, withholding, or terminating IT access approvals for contractor personnel performing work under this contract/order.

The contractor shall conduct a preliminary security interview or review for each employee requiring IT level I or II access and submit to the Government only the names of candidates that have a reasonable probability of obtaining the level of IT access approval for which the employee has been proposed. The contractor shall pre-screen its applicants for the following:

(a) felony arrest in the last seven (7) years; (b) alcohol related arrest within the last five (5) years; (c) record of any military courts-martial convictions in the past ten (10) years; (d) illegal use of narcotics or other controlled substances possession in the past year, or illegal purchase, production, transfer, or distribution of narcotics or other controlled substances in the last seven (7) years; and (e) delinquency on any federal debts or bankruptcy in the last seven (7) years.

The contractor shall make a written record of its pre-screening interview or review (including any information to mitigate the responses to items listed in (a) - (e)), and have the employee verify the pre-screening record or review, sign and date it. The contractor shall supply two (2) copies of the signed contractor's pre-screening record or review to the NRC Contracting Officer's Representative (COR), who will then provide them to the NRC Office of Administration,

Division of Facilities and Security; Personnel Security Branch with the employee's completed IT access application package.

The contractor shall further ensure that its personnel complete all IT access approval security applications required by this clause within fourteen (14) calendar days of notification by the NRC Contracting Officer's Representative (COR) of initiation of the application process. Timely receipt of properly completed records of the pre-screening record and IT access approval applications (submitted for candidates that have a reasonable probability of obtaining the level of security assurance necessary for access to NRC's IT systems/data) is a requirement of this contract/order. Failure of the contractor to comply with this requirement may be a basis to terminate the contract/order for cause, or offset from the contract's invoiced cost or price the NRC's incurred costs or delays as a result of inadequate pre-screening by the contractor.

#### SECURITY REQUIREMENTS FOR IT LEVEL I

Performance under this contract/order will involve contractor personnel who perform services requiring direct access to or operate agency sensitive information technology systems or data (IT Level I). The IT Level I involves responsibility for the planning, direction, and implementation of a computer security program; major responsibility for the direction, planning, and design of a computer system, including hardware and software; or the capability to access a computer system during its operation or maintenance in such a way that could cause or that has a relatively high risk of causing grave damage; or the capability to realize a significant personal gain from computer access.

Contractor personnel shall not have access to sensitive information technology systems or data until they are approved by DFS/PSB and they have been so informed in writing by the NRC Contracting Officer's Representative (COR). Temporary IT access may be approved by DFS/PSB based on a favorable review or adjudication of their security forms and checks. Final IT access may be approved by DFS/PSB based on a favorable review or adjudication of a completed background investigation. However, temporary access authorization approval will be revoked and the employee may subsequently be denied IT access in the event the employee's investigation cannot be favorably adjudicated. Such an employee will not be authorized to work under any NRC contract/order requiring IT access without the approval of DFS/PSB, as communicated in writing to the contractor by the NRC Contracting Officer's Representative (COR). Where temporary access authorization has been revoked or denied by DFS/PSB, the contractor shall assign another contractor employee to perform the necessary work under this contract/ order without delay to the contract/order performance schedule, or without adverse impact to any other terms or conditions of the contract/order. When an individual receives final IT access approval from DFS/PSB, the individual will be subject to a reinvestigation every ten (10) years thereafter (assuming continuous performance under contract/order at NRC) or more frequently in the event of noncontinuous performance under contract/order at NRC.

The contractor shall submit a completed security forms packet, including the OPM Standard Form (SF) 86 (Questionnaire for National Security Positions), two (2) copies of the Contractor's signed pre-screening record and two (2) FD 258 fingerprint charts, to the NRC PO who will then provide them to DFS/PSB for review and adjudication, prior to the individual being authorized to perform work under this contract/order requiring access to sensitive information technology systems or data. Non-U.S. citizens must provide official documentation to the DFS/PSB, as proof of their legal residency. This documentation can be a Permanent Resident Card, Temporary Work Visa, Employment Authorization Card, or other official documentation issued by the U.S. Citizenship and Immigration Services. Any applicant with less than seven (7) years residency in the U.S. will not be approved for IT Level I access. The Contractor shall submit the documents to the NRC Contracting Officer's Representative (COR) who will give them to DFS/PSB. The contractor shall ensure that all forms are accurate, complete, and legible. Based on DFS/PSB review of the contractor employee's security forms and/or the receipt of adverse information by NRC, the contractor individual may be denied access to NRC facilities and sensitive information technology systems or data until a final determination is made by DFS/PSB and thereafter communicated to the contractor by the NRC Contracting Officer's Representative (COR) regarding the contractor person's eligibility.

In accordance with NRCAR 2052.204-70 "Security," IT Level I contractors shall be subject to the attached NRC Form 187 and SF-86 which furnishes the basis for providing security requirements to contractors that have or may have an NRC contractual relationship which requires access to or operation of agency sensitive information technology systems

or remote development and/or analysis of sensitive information technology systems or data or other access to such systems and data; access on a continuing basis (in excess more than 30 calendar days) to NRC buildings; or otherwise requires issuance of an unescorted NRC badge.

## SECURITY REQUIREMENTS FOR IT LEVEL II

Performance under this contract/order will involve contractor personnel that develop and/or analyze sensitive information technology systems or data or otherwise have access to such systems or data (IT Level II).

The IT Level II involves responsibility for the planning, design, operation, or maintenance of a computer system and all other computer or IT positions.

Contractor personnel shall not have access to sensitive information technology systems or data until they are approved by DFS/PSB and they have been so informed in writing by the NRC Contracting Officer's Representative (COR). Temporary access may be approved by DFS/PSB based on a favorable review of their security forms and checks. Final IT access may be approved by DFS/PSB based on a favorable adjudication. However, temporary access authorization approval will be revoked and the contractor employee may subsequently be denied IT access in the event the employee's investigation cannot be favorably adjudicated. Such an employee will not be authorized to work under any NRC contract/order requiring IT access without the approval of DFS/PSB, as communicated in writing to the contractor by the NRC Contracting Officer's Representative (COR). Where temporary access authorization has been revoked or denied by DFS/PSB, the contractor is responsible for assigning another contractor employee to perform the necessary work under this contract/order without delay to the contract/order performance schedule, or without adverse impact to any other terms or conditions of the contract/order. When a contractor employee receives final IT access approval from DFS/PSB, the individual will be subject to a review or reinvestigation every ten (10) years (assuming continuous performance under contract/order at NRC) or more frequently in the event of noncontinuous performance under contract/order at NRC.

The contractor shall submit a completed security forms packet, including the OPM Standard Form (SF) 86 (Questionnaire for National Security Positions), two (2) copies of the Contractor's signed pre-screening record and two (2) FD 258 fingerprint charts, through the NRC Contracting Officer's Representative (COR) to DFS/PSB for review and adjudication, prior to the contractor employee being authorized to perform work under this contract/order. Non-U.S. citizens must provide official documentation to the DFS/PSB, as proof of their legal residency. This documentation can be a Permanent Resident Card, Temporary Work Visa, Employment Authorization Card, or other official documentation issued by the U.S. Citizenship and Immigration Services. Any applicant with less than seven (7) years residency in the U.S. will not be approved for IT Level II access. The Contractor shall submit the documents to the NRC Contracting Officer's Representative (COR) who will give them to DFS/PSB. The contractor shall ensure that all forms are accurate, complete, and legible. Based on DFS/PSB review of the contractor employee's security forms and/or the receipt of adverse information by NRC, the contractor employee may be denied access to NRC facilities, sensitive information technology systems or data until a final determination is made by DFS/PSB regarding the contractor person's eligibility.

In accordance with NRCAR 2052.204-70 "Security," IT Level II contractors shall be subject to the attached NRC Form 187, SF-86, and contractor's record of the pre-screening which furnishes the basis for providing security requirements to contractors that have or may have an NRC contractual relationship which requires access to or operation of agency sensitive information technology systems or remote development and/or analysis of sensitive information technology systems or data or other access to such systems or data; access on a continuing basis (in excess of more than 30 calendar days) to NRC buildings; or otherwise requires issuance of an unescorted NRC badge.

## CANCELLATION OR TERMINATION OF IT ACCESS/REQUEST

When a request for IT access is to be withdrawn or canceled, the contractor shall immediately notify the NRC Contracting Officer's Representative (COR) by telephone so that the access review may be promptly discontinued. The notification shall contain the full name of the contractor employee and the date of the request. Telephone notifications must be promptly confirmed by the contractor in writing to the NRC Contracting Officer's Representative (COR), who will forward the confirmation to DFS/PSB. Additionally, the contractor shall immediately notify the NRC Contracting

Officer's Representative (COR) in writing, who will in turn notify DFS/PSB, when a contractor employee no longer requires access to NRC sensitive automated information technology systems or data, including the voluntary or involuntary separation of employment of a contractor employee who has been approved for or is being processed for IT access.

The contractor shall flow the requirements of this clause down into all subcontracts and agreements with consultants for work that requires them to access NRC IT resources.

**PART II - CONTRACT CLAUSES****SECTION I - CONTRACT CLAUSES****I.1 NOTICE LISTING CONTRACT CLAUSES INCORPORATED BY REFERENCE**

The following contract clauses pertinent to this section are hereby incorporated by reference (by Citation Number, Title, and Date) in accordance with the clause at FAR "52.252-2 CLAUSES INCORPORATED BY REFERENCE" in Section I of this contract. See FAR 52.252-2 for an internet address (if specified) for electronic access to the full text of a clause.

NUMBER	TITLE	DATE
	FEDERAL ACQUISITION REGULATION (48 CFR Chapter 1)	
52.202-1	DEFINITIONS	JAN 2012
52.203-3	GRATUITIES	APR 1984
52.203-5	COVENANT AGAINST CONTINGENT FEES	APR 1984
52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT	SEP 2006
52.203-7	ANTI-KICKBACK PROCEDURES	OCT 2010
52.203-8	CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY	JAN 1997
52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY	JAN 1997
52.203-12	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS	OCT 2010
52.204-4	PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER	MAY 2011
52.204-10	REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS	AUG 2012
52.204-13	CENTRAL CONTRACTOR REGISTRATION MAINTENANCE	DEC 2012
52.209-6	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT	DEC 2010
52.215-2	AUDIT AND RECORDS--NEGOTIATION	OCT 2010
52.215-8	ORDER OF PRECEDENCE--UNIFORM CONTRACT FORMAT	OCT 1997
52.219-6	NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE	NOV 2011
52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS	JAN 2011
52.219-14	LIMITATIONS ON SUBCONTRACTING	NOV 2011
52.222-3	CONVICT LABOR	JUN 2003
52.222-21	PROHIBITION OF SEGREGATED FACILITIES	FEB 1999
52.222-26	EQUAL OPPORTUNITY	MAR 2007
52.222-35	EQUAL OPPORTUNITY FOR VETERANS	SEP 2010
52.222-36	AFFIRMATIVE ACTION FOR WORKERS WITH	OCT 2010



	DISABILITIES	
52.222-37	EMPLOYMENT REPORTS ON VETERANS	SEP 2010
52.222-50	COMBATING TRAFFICKING IN PERSONS	FEB 2009
52.222-54	EMPLOYMENT ELIGIBILITY VERIFICATION	JUL 2012
52.223-6	DRUG-FREE WORKPLACE	MAY 2001
52.223-18	ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING	AUG 2011
52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES	JUN 2008
52.227-1	AUTHORIZATION AND CONSENT	DEC 2007
52.227-2	NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT	DEC 2007
52.227-14	RIGHTS IN DATA--GENERAL	DEC 2007
52.232-17	INTEREST	OCT 2010
52.232-20	LIMITATION OF COST	APR 1984
52.232-22	LIMITATION OF FUNDS	APR 1984
52.232-23	ASSIGNMENT OF CLAIMS	JAN 1986
52.232-25	PROMPT PAYMENT	OCT 2008
52.232-33	PAYMENT BY ELECTRONIC FUNDS--CENTRAL CONTRACTOR REGISTRATION	OCT 2003
52.233-1	DISPUTES	JUL 2002
52.233-3	PROTEST AFTER AWARD	AUG 1996
52.233-4	APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM	OCT 2004
52.237-3	CONTINUITY OF SERVICES	JAN 1991
52.237-11	ACCEPTING AND DISPENSING OF \$1 COIN	SEP 2008
52.242-1	NOTICE OF INTENT TO DISALLOW COSTS	APR 1984
52.242-3	PENALTIES FOR UNALLOWABLE COSTS	MAY 2001
52.242-13	BANKRUPTCY	JUL 1995
52.243-3	CHANGES--TIME-AND-MATERIALS OR LABOR-HOURS	SEP 2000
52.244-2	SUBCONTRACTS	OCT 2010
52.244-6	SUBCONTRACTS FOR COMMERCIAL ITEMS	DEC 2010
52.245-1	GOVERNMENT PROPERTY	APR 2012
52.246-25	LIMITATION OF LIABILITY--SERVICES	FEB 1997
52.248-1	VALUE ENGINEERING	OCT 2010
52.249-6	TERMINATION (COST-REIMBURSEMENT) ALTERNATE IV (SEP 1996)	SEP 1996
52.253-1	COMPUTER GENERATED FORMS	JAN 1991

## **I.2 52.209-9 UPDATES OF PUBLICLY AVAILABLE INFORMATION REGARDING RESPONSIBILITY MATTERS (FEB 2012)**

(a) The Contractor shall update the information in the Federal Awardee Performance and Integrity Information System (FAPIS) on a semi-annual basis, throughout the life of the contract, by posting the required information in the Central Contractor Registration database via <https://www.acquisition.gov>.

(b) As required by section 3010 of the Supplemental Appropriations Act, 2010 (Pub. L. 111-212), all information posted in FAPIS on or after April 15, 2011, except past performance reviews, will be publicly available. FAPIS consists of two segments--

(1) The non-public segment, into which Government officials and the Contractor post information, which can only be viewed by--

- (i) Government personnel and authorized users performing business on behalf of the Government; or
- (ii) The Contractor, when viewing data on itself; and

(2) The publicly-available segment, to which all data in the non-public segment of FAPIS is automatically transferred after a waiting period of 14 calendar days, except for--

- (i) Past performance reviews required by subpart 42.15;
- (ii) Information that was entered prior to April 15, 2011; or

(iii) Information that is withdrawn during the 14-calendar-day waiting period by the Government official who posted it in accordance with paragraph (c)(1) of this clause.

(c) The Contractor will receive notification when the Government posts new information to the Contractor's record.

(1) If the Contractor asserts in writing within 7 calendar days, to the Government official who posted the information, that some of the information posted to the nonpublic segment of FAPIIS is covered by a disclosure exemption under the Freedom of Information Act, the Government official who posted the information must within 7 calendar days remove the posting from FAPIIS and resolve the issue in accordance with agency Freedom of Information procedures, prior to reposting the releasable information. The contractor must cite 52.209-9 and request removal within 7 calendar days of the posting to FAPIIS.

(2) The Contractor will also have an opportunity to post comments regarding information that has been posted by the Government. The comments will be retained as long as the associated information is retained, i.e., for a total period of 6 years. Contractor comments will remain a part of the record unless the Contractor revises them.

(3) As required by section 3010 of Pub. L. 111-212, all information posted in FAPIIS on or after April 15, 2011, except past performance reviews, will be publicly available.

(d) Public requests for system information posted prior to April 15, 2011, will be handled under Freedom of Information Act procedures, including, where appropriate, procedures promulgated under E.O. 12600.

### **I.3 52.216-18 ORDERING (OCT 1995)**

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from the date of award through 60 months after contract award.

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

### **I.4 52.216-19 ORDER LIMITATIONS (OCT 1995)**

(a) The minimum guarantee under this contract is **\$300,000.00**.

(b) Maximum order. The Contractor is not obligated to honor--

(1) Any order for a combination of items in excess of the contract ceiling; or

(2) A series of orders from the same ordering office within 10 days that together call for quantities exceeding the limitation in paragraph (b)(1) or (2) of this section.

(c) If this is a requirements contract (i.e., includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR)), the Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) of this section.

(d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 10 days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

#### **I.5 52.216-22 INDEFINITE QUANTITY (OCT 1995)**

(a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum." The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum."

(c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after 60 months from award date.

#### **I.6 52.219-28 POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (APR 2012)**

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

Long-term contract means a contract of more than five years in duration, including options. However, the term does not include contracts that exceed five years in duration because the period of performance has been extended for a cumulative period not to exceed six months under the clause at 52.217-8, Option to Extend Services, or other appropriate authority.

Small business concern means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (c) of this clause. Such a concern is "not dominant in its field of operation" when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

(b) If the Contractor represented that it was a small business concern prior to award of this contract, the Contractor shall represent its size status according to paragraph (e) of this clause or, if applicable, paragraph (g) of this clause, upon the occurrence of any of the following:

(1) Within 30 days after execution of a novation agreement or within 30 days after modification of the contract to include this clause, if the novation agreement was executed prior to inclusion of this clause in the contract.

(2) Within 30 days after a merger or acquisition that does not require a novation or within 30 days after modification of the contract to include this clause, if the merger or acquisition occurred prior to inclusion of this clause in the contract.

(3) For long-term contracts-

(i) Within 60 to 120 days prior to the end of the fifth year of the contract; and

(ii) Within 60 to 120 days prior to the date specified in the contract for exercising any option thereafter.

(c) The Contractor shall rerepresent its size status in accordance with the size standard in effect at the time of this rerepresentation that corresponds to the North American Industry Classification System (NAICS) code assigned to this contract. The small business size standard corresponding to this NAICS code can be found at <http://www.sba.gov/content/table-small-business-size-standards>.

(d) The small business size standard for a Contractor providing a product which it does not manufacture itself, for a contract other than a construction or service contract, is 500 employees.

(e) Except as provided in paragraph (g) of this clause, the Contractor shall make the representation required by paragraph (b) of this clause by validating or updating all its representations in the Online Representations and Certifications Application and its data in the Central Contractor Registration, as necessary, to ensure that they reflect the Contractor's current status. The Contractor shall notify the contracting office in writing within the timeframes specified in paragraph (b) of this clause that the data have been validated or updated, and provide the date of the validation or update.

(f) If the Contractor represented that it was other than a small business concern prior to award of this contract, the Contractor may, but is not required to, take the actions required by paragraphs (e) or (g) of this clause.

(g) If the Contractor does not have representations and certifications in ORCA, or does not have a representation in ORCA for the NAICS code applicable to this contract, the Contractor is required to complete the following representation and submit it to the contracting office, along with the contract number and the date on which the representation was completed:

The Contractor represents that it [ ] is, [ ] is not a small business concern under NAICS Code 541690 assigned to contract number NRC-HQ-13-C-03-0039.

[Contractor to sign and date and insert authorized signer's name and title].

**I.7 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.

## **I.8 52.232-7 PAYMENTS UNDER TIME-AND-MATERIALS AND LABOR-HOUR CONTRACTS (AUG 2012)**

The Government will pay the Contractor as follows upon the submission of vouchers approved by the Contracting Officer or the authorized representative:

### **(a) Hourly rate.**

(1) Hourly rate means the rate(s) prescribed in the contract for payment for labor that meets the labor category qualifications of a labor category specified in the contract that are--

(i) Performed by the Contractor;

(ii) Performed by the subcontractors; or

(iii) Transferred between divisions, subsidiaries, or affiliates of the Contractor under a common control.

(2) The amounts shall be computed by multiplying the appropriate hourly rates prescribed in the Schedule by the number of direct labor hours performed.

(3) The hourly rates shall be paid for all labor performed on the contract that meets the labor qualifications specified in the contract. Labor hours incurred to perform tasks for which labor qualifications were specified in the contract will not be paid to the extent the work is performed by employees that do not meet the qualifications specified in the contract, unless specifically authorized by the Contracting Officer.

(4) The hourly rates shall include wages, indirect costs, general and administrative expense, and profit. Fractional parts of an hour shall be payable on a prorated basis.

(5) Vouchers may be submitted not more than once every two weeks, to the Contracting Officer or authorized representative. A small business concern may receive more frequent payments than every two weeks. The Contractor shall substantiate vouchers (including any subcontractor hours reimbursed at the hourly rate in the schedule) by evidence of actual payment and by--

(i) Individual daily job timekeeping records;

(ii) Records that verify the employees meet the qualifications for the labor categories specified in the contract; or

(iii) Other substantiation approved by the Contracting Officer.

(6) Promptly after receipt of each substantiated voucher, the Government shall, except as otherwise provided in this contract, and subject to the terms of paragraph (e) of this clause, pay the voucher as approved by the Contracting Officer or authorized representative.

(7) Unless otherwise prescribed in the Schedule, the Contracting Officer may unilaterally issue a contract modification requiring the Contractor to withhold amounts from its billings until a reserve is set aside in an amount that the Contracting Officer considers necessary to protect the Government's interests. The Contracting Officer may require a withhold of 5 percent of the amounts due under paragraph (a) of this clause, but the total amount withheld for the contract shall not exceed \$50,000. The amounts withheld shall be retained until the Contractor executes and delivers the release required by paragraph (g) of this clause.

(8) Unless the Schedule prescribes otherwise, the hourly rates in the Schedule shall not be varied by virtue of the Contractor having performed work on an overtime basis. If no overtime rates are provided in the Schedule and overtime work is approved in advance by the Contracting Officer, overtime rates shall be negotiated. Failure to agree upon these overtime rates shall be treated as a dispute under the Disputes clause of this contract. If the Schedule provides rates for overtime, the premium portion of those rates will be reimbursable only to the extent the overtime is approved by the Contracting Officer.

(b) Materials.

(1) For the purposes of this clause--

(i) Direct materials means those materials that enter directly into the end product, or that are used or consumed directly in connection with the furnishing of the end product or service.

(ii) Materials means--

(A) Direct materials, including supplies transferred between divisions, subsidiaries, or affiliates of the Contractor under a common control;

(B) Subcontracts for supplies and incidental services for which there is not a labor category specified in the contract;

(C) Other direct costs (e.g., incidental services for which there is not a labor category specified in the contract, travel, computer usage charges, etc.); and

(D) Applicable indirect costs.

(2) If the Contractor furnishes its own materials that meet the definition of a commercial item at 2.101, the price to be paid for such materials shall not exceed the Contractor's established catalog or market price, adjusted to reflect the--

(i) Quantities being acquired; and

(ii) Actual cost of any modifications necessary because of contract requirements.

(3) Except as provided for in paragraph (b)(2) of this clause, the Government will reimburse the Contractor for allowable cost of materials provided the Contractor--

(i) Has made payments for materials in accordance with the terms and conditions of the agreement or invoice; or

(ii) Ordinarily makes these payments within 30 days of the submission of the Contractor's payment request to the Government and such payment is in accordance with the terms and conditions of the agreement or invoice.

(4) Payment for materials is subject to the Allowable Cost and Payment clause of this contract. The Contracting Officer will determine allowable costs of materials in accordance with Subpart 31.2 of the Federal Acquisition Regulation (FAR) in effect on the date of this contract.

(5) The Contractor may include allocable indirect costs and other direct costs to the extent they are--

- (i) Comprised only of costs that are clearly excluded from the hourly rate;
- (ii) Allocated in accordance with the Contractor's written or established accounting practices; and
- (iii) Indirect costs are not applied to subcontracts that are paid at the hourly rates.

(6) To the extent able, the Contractor shall--

(i) Obtain materials at the most advantageous prices available with due regard to securing prompt delivery of satisfactory materials; and

(ii) Take all cash and trade discounts, rebates, allowances, credits, salvage, commissions, and other benefits. When unable to take advantage of the benefits, the Contractor shall promptly notify the Contracting Officer and give the reasons. The Contractor shall give credit to the Government for cash and trade discounts, rebates, scrap, commissions, and other amounts that have accrued to the benefit of the Contractor, or would have accrued except for the fault or neglect of the Contractor. The Contractor shall not deduct from gross costs the benefits lost without fault or neglect on the part of the Contractor, or lost through fault of the Government.

(7) Except as provided for in 31.205-26(e) and (f), the Government will not pay profit or fee to the prime Contractor on materials.

(c) If the Contractor enters into any subcontract that requires consent under the clause at 52.244-2, Subcontracts, without obtaining such consent, the Government is not required to reimburse the Contractor for any costs incurred under the subcontract prior to the date the Contractor obtains the required consent. Any reimbursement of subcontract costs incurred prior to the date the consent was obtained shall be at the sole discretion of the Government.

(d) Total cost. It is estimated that the total cost to the Government for the performance of this contract shall not exceed the ceiling price set forth in the Schedule, and the Contractor agrees to use its best efforts to perform the work specified in the Schedule and all obligations under this contract within such ceiling price. If at any time the Contractor has reason to believe that the hourly rate payments and material costs that will accrue in performing this contract in the next succeeding 30 days, if added to all other payments and costs previously accrued, will exceed 85 percent of the ceiling price in the Schedule, the Contractor shall notify the Contracting Officer giving a revised estimate of the total price to the Government for performing this contract with supporting reasons and documentation. If at any time during performing this contract, the Contractor has reason to believe that the total price to the Government for performing this contract will be substantially greater or less than the then stated ceiling price, the Contractor shall so notify the Contracting Officer, giving a revised estimate of the total price for performing this contract, with supporting reasons and documentation. If at any time during performing this contract, the Government has reason to believe that the work to be required in performing this contract will be substantially greater or less than the stated ceiling price, the Contracting Officer will so advise the Contractor, giving the then revised estimate of the total amount of effort to be required under the contract.

(e) Ceiling price. The Government will not be obligated to pay the Contractor any amount in excess of the ceiling price in the Schedule, and the Contractor shall not be obligated to continue performance if to do so would exceed the ceiling price set forth in the Schedule, unless and until the Contracting Officer notifies the Contractor in writing that the ceiling price has been increased and specifies in the notice a revised ceiling that shall constitute the ceiling price for performance under this contract. When and to the extent that the ceiling price set forth in the Schedule has been increased, any hours expended and material costs incurred by the Contractor in excess of the ceiling price before the increase shall be allowable to the same extent as if the hours expended and material costs had been incurred after the increase in the ceiling price.



(f) Audit. At any time before final payment under this contract, the Contracting Officer may request audit of the vouchers and supporting documentation. Each payment previously made shall be subject to reduction to the extent of amounts, on preceding vouchers, that are found by the Contracting Officer or authorized representative not to have been properly payable and shall also be subject to reduction for overpayments or to increase for underpayments. Upon receipt and approval of the voucher designated by the Contractor as the "completion voucher" and supporting documentation, and upon compliance by the Contractor with all terms of this contract (including, without limitation, terms relating to patents and the terms of paragraph (g) of this clause), the Government shall promptly pay any balance due the Contractor. The completion voucher, and supporting documentation, shall be submitted by the Contractor as promptly as practicable following completion of the work under this contract, but in no event later than 120 days (or such longer period as the Contracting Officer may approve in writing) from the date of completion.

(g) Assignment and Release of Claims. The Contractor, and each assignee under an assignment entered into under this contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this contract, a release discharging the Government, its officers, agents, and employees of and from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

(1) Specified claims in stated amounts, or in estimated amounts if the amounts are not susceptible of exact statement by the Contractor.

(2) Claims, together with reasonable incidental expenses, based upon the liabilities of the Contractor to third parties arising out of performing this contract, that are not known to the Contractor on the date of the execution of the release, and of which the Contractor gives notice in writing to the Contracting Officer not more than 6 years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier.

(3) Claims for reimbursement of costs (other than expenses of the Contractor by reason of its indemnification of the Government against patent liability), including reasonable incidental expenses, incurred by the Contractor under the terms of this contract relating to patents.

(h) Interim payments on contracts for other than services.

(1) Interim payments made prior to the final payment under the contract are contract financing payments. Contract financing payments are not subject to the interest penalty provisions of the Prompt Payment Act.

(2) The designated payment office will make interim payments for contract financing on the **N/A** day after the designated billing office receives a proper payment request. In the event that the Government requires an audit or other review of a specific payment request to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the specified due date.

(i) Interim payments on contracts for services. For interim payments made prior to the final payment under this contract, the Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR part 1315.

## **I.9 52.232-19 AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR (APR 1984)**

Funds are not presently available for performance under this contract beyond 06/20/2013. The Government's obligation for performance of this contract beyond that date is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise for performance under this contract beyond 06/20/2013, until funds are made available to the Contracting Officer for performance and until the Contractor receives notice of availability, to be confirmed in writing by the Contracting Officer.

**I.10 52.232-99 PROVIDING ACCELERATED PAYMENT TO SMALL BUSINESS SUBCONTRACTORS (DEVIATION) (AUG 2012)**

This clause implements the temporary policy provided by OMB Policy Memorandum M-12-16, Providing Prompt Payment to Small Business Subcontractors, dated July 11, 2012.

(a) Upon receipt of accelerated payments from the Government, the contractor is required to make accelerated payments to small business subcontractors to the maximum extent practicable after receipt of a proper invoice and all proper documentation from the small business subcontractor.

(b) Include the substance of this clause, including this paragraph (b), in all subcontracts with small business concerns.

(c) The acceleration of payments under this clause does not provide any new rights under the Prompt Payment Act.

**I.11 52.249-14 EXCUSABLE DELAYS (APR 1984)**

(a) Except for defaults of subcontractors at any tier, the Contractor shall not be in default because of any failure to perform this contract under its terms if the failure arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of these causes are (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. "Default" includes failure to make progress in the work so as to endanger performance.

(b) If the failure to perform is caused by the failure of a subcontractor at any tier to perform or make progress, and if the cause of the failure was beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be deemed to be in default, unless--

(1) The subcontracted supplies or services were obtainable from other sources;

(2) The Contracting Officer ordered the Contractor in writing to purchase these supplies or services from the other source; and

(3) The Contractor failed to comply reasonably with this order.

(c) Upon request of the Contractor, the Contracting Officer shall ascertain the facts and extent of the failure. If the Contracting Officer determines that any failure to perform results from one or more of the causes above, the delivery schedule shall be revised, subject to the rights of the Government under the termination clause of this contract.

**I.12 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

<https://www.acquisition.gov/far/>

**I.13 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)**

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within 30 days.

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

<b>ATTACHMENT NUMBER.</b>	<b>TITLE</b>	<b>NO. OF PAGES</b>
1	Billing Instructions for Labor Hour/Time and Materials Type Contracts	7
2	Subpart 2009.5 Organizational Conflicts of Interest	8

**BILLING INSTRUCTIONS FOR  
LABOR HOUR/TIME AND MATERIALS TYPE CONTRACTS (JULY 2011)**

**General:** During performance and through final payment of this contract, the contractor is responsible for the accuracy and completeness of data within the Central Contractor Registration (CCR) database and for any liability resulting from the Government's reliance on inaccurate or incomplete CCR data.

The contractor shall prepare invoices/vouchers for reimbursement of costs in the manner and format described herein. FAILURE TO SUBMIT INVOICES/VOUCHERS IN ACCORDANCE WITH THESE INSTRUCTIONS WILL RESULT IN REJECTION OF THE INVOICE/VOUCHER AS IMPROPER.

**Standard Forms:** Claims shall be submitted on the payee's letterhead, invoice/voucher, or on the Government's Standard Form 1034, "Public Voucher for Purchases and Services Other than Personal," and Standard Form 1035, "Public Voucher for Purchases Other than Personal--Continuation Sheet."

**Electronic Invoice/Voucher Submissions:** The preferred method of submitting vouchers/invoices is electronically to the U.S. Department of the Interior's National Business Center, via email to: [NRCPayments.NBCDenver@NBC.gov](mailto:NRCPayments.NBCDenver@NBC.gov).

**Hard-Copy Invoice/Voucher Submissions:** If you submit a hard-copy of the invoice/voucher, a signed original and supporting documentation shall be submitted to the following address:

Department of the Interior  
National Business Center  
Attn: Fiscal Services Branch - D2770  
7301 West Mansfield Avenue  
Denver, CO 80235-2230

**Purchase of Capital Property:** *(\$50,000 or more with life of one year or longer)*

Contractors must report to the Contracting Officer, electronically, any capital property acquired with contract funds having an initial cost of \$50,000 or more, in accordance with procedures set forth in NRC Management Directive (MD) 13.1, IV, C – "Reporting Requirements" (revised 2/16/2011).

**Agency Payment Office:** Payment will continue to be made by the office designated in the contract in Block 12 of the Standard Form 26, or Block 25 of the Standard Form 33, whichever is applicable.

**Frequency:** The contractor shall submit claims for reimbursement once each month, unless otherwise authorized by the Contracting Officer.

**Format:** Invoices/Vouchers shall be submitted in the format depicted on the attached sample form entitled "Invoice/Voucher for Purchases and Services Other Than Personal". Alternate formats are permissible only if they address all requirements of the Billing Instructions. The instructions for preparation and itemization of the invoice/voucher are included with the sample form.

**BILLING INSTRUCTIONS FOR  
LABOR HOUR/TIME AND MATERIALS TYPE CONTRACTS (JULY 2011)**

**Task Order Contracts:** The contractor must submit a separate invoice/voucher for each individual task order with detailed cost information. This includes all applicable cost elements and other items discussed in paragraphs (a) through (q) of the attached instructions. In addition, the invoice/voucher must specify the contract number, and the NRC-assigned task/delivery order number.

**Billing of Costs after Expiration of Contract:** If costs are incurred during the contract period and claimed after the contract has expired, you must cite the period during which these costs were incurred. To be considered a proper expiration invoice/voucher, the contractor shall clearly mark it "EXPIRATION INVOICE" or "EXPIRATION VOUCHER".

Final invoices/vouchers shall be marked "FINAL INVOICE" or "FINAL VOUCHER".

**Currency:** Invoices/Vouchers must be expressed in U.S. Dollars.

**Supersession:** These instructions supersede previous Billing Instructions for Labor Hour/Time and Materials Type Contracts (June 2008).

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**BILLING INSTRUCTIONS FOR  
LABOR HOUR/TIME AND MATERIALS TYPE CONTRACTS (JULY 2011)**

**INVOICE/VOUCHER FOR PURCHASES AND SERVICES OTHER THAN PERSONAL  
(SAMPLE FORMAT - COVER SHEET)**

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**1. Official Agency Billing Office**

Department of the Interior  
National Business Center  
Attn: Fiscal Services Branch - D2770  
7301 West Mansfield Avenue  
Denver, CO 80235-2230

**2. Invoice/Voucher Information**

- a. Payee's DUNS Number or DUNS+4. The Payee shall include the Payee's Data Universal Number (DUNS) or DUNS+4 number that identifies the Payee's name and address. The DUNS+4 number is the DUNS number plus a 4-character suffix that may be assigned at the discretion of the Payee to identify alternative Electronic Funds Transfer (EFT) accounts for the same parent concern.
- b. Payee's Name and Address. Show the name of the Payee as it appears in the contract and its correct address. If the Payee assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Payee shall require as a condition of any such assignment, that the assignee shall register separately in the Central Contractor Registration (CCR) database at <http://www.ccr.gov> and shall be paid by EFT in accordance with the terms of this contract. See Federal Acquisition Regulation 52.232-33(g) Payment by Electronic Funds Transfer - Central Contractor Registration (October 2003).
- c. Contract Number. Insert the NRC contract number (including Enterprise-wide Contract (EWC)), GSA Federal Supply Schedule (FSS), Governmentwide Agency Contract (GWAC) number, or Multiple Agency Contract (MAC) number, as applicable.
- d. Task Order Number. Insert the task/delivery order number (If Applicable). **Do not include more than one task order per invoice or the invoice may be rejected as improper.**
- e. Invoice/Voucher. The appropriate sequential number of the invoice/voucher, beginning with 001 should be designated. Contractors may also include an individual internal accounting number, if desired, in addition to the 3-digit sequential number.
- f. Date of Invoice/Voucher. Insert the date the invoice/voucher is prepared.
- g. Billing period. Insert the beginning and ending dates (day, month, year) of the period during which costs were incurred and for which reimbursement is requested.

**BILLING INSTRUCTIONS FOR  
LABOR HOUR/TIME AND MATERIALS TYPE CONTRACTS (JULY 2011)**

- h. Labor Hours Expended. Provide a general summary description of the services performed and associated labor hours utilized during the invoice period. Specify the Contract Line Item Number (CLIN) or SubCLIN, as applicable, and information pertaining to the contract's labor categories/positions, and corresponding authorized hours.
- i. Property. For contractor acquired property, list each item with an initial acquisition cost of \$50,000 or more and provide: (1) an item description, (2) manufacturer, (3) model number, (4) serial number, (5) acquisition cost, (6) date of purchase, and (7) a copy of the purchasing document.
- j. Shipping. Insert weight and zone of shipment, if shipped by parcel post.
- k. Charges for freight or express shipments. Attach prepaid bill if shipped by freight or express.
- l. Instructions. Include instructions to consignee to notify the Contracting Officer of receipt of shipment.
- m. For Indefinite Delivery contracts, the final invoice/voucher shall be marked "FINAL INVOICE" or "FINAL VOUCHER".
- n. Direct Costs. Insert the amount billed for the following cost elements, adjustments, suspensions, and total amounts, for both the current billing period and for the cumulative period (from contract inception to end date of this billing period).

- (1) Direct (Burdened) Labor. This consists of salaries and wages paid (or accrued) for direct performance of the contract itemized, including a burden (or load) for indirect costs (i.e., fringe, overhead, General and Administrative, as applicable), and profit component, as follows:

<u>Labor</u>	<u>Hours</u>	<u>Burdened</u>		<u>Cumulative</u>
<u>Category</u>	<u>Billed</u>	<u>Hourly Rate</u>	<u>Total</u>	<u>Hours Billed</u>

- (2) Contractor-acquired property (\$50,000 or more). List each item costing \$50,000 or more and having a life expectancy of more than one year. List only those items of equipment for which reimbursement is requested. For each such item, list the following (as applicable): (a) an item description, (b) manufacturer, (c) model number, (d) serial number, (e) acquisition cost, (f) date of purchase, and (g) a copy of the purchasing document.

- (3) Contractor-acquired property (under \$50,000), Materials, and Supplies. These are equipment other than that described in (2) above, plus consumable materials and supplies. List by category. List items valued at \$1,000 or more separately. Provide the item number for each piece of equipment valued at \$1,000 or more.

- (4) Materials Handling Fee. Indirect costs allocated to direct materials in accordance the contractor's usual accounting procedures.



**BILLING INSTRUCTIONS FOR  
LABOR HOUR/TIME AND MATERIALS TYPE CONTRACTS (JULY 2011)**

(5) Consultant Fee. The supporting information must include the name, hourly or daily rate of the consultant, and reference the NRC approval (if not specifically approved in the original contract).

(6) Travel. Total costs associated with each trip must be shown in the following format:

<u>Start Date</u>	<u>Destination</u>	<u>Costs</u>
From      To	From      To	\$

(Must include separate detailed costs for airfare, per diem, and other transportation expenses. All costs must be adequately supported by copies of receipts or other documentation.)

(7) Subcontracts. Include separate detailed breakdown of all costs paid to approved subcontractors during the billing period.

o. Total Amount Billed. Insert columns for total amounts for the current and cumulative periods.

p. Adjustments. Insert columns for any adjustments, including outstanding suspensions for unsupported or unauthorized hours or costs, for the current and cumulative periods.

q. Grand Totals.

**BILLING INSTRUCTIONS FOR  
LABOR HOUR/TIME AND MATERIALS TYPE CONTRACTS (JULY 2011)**

**3. Sample Invoice/Voucher Information**

Sample Invoice/Voucher Information (Supporting Documentation must be attached)

This invoice/voucher represents reimbursable costs for the billing period from \_\_\_\_\_ through \_\_\_\_\_

		<u>Amount Billed</u>	
		<u>Current Period</u>	<u>Cumulative</u>
<b>(a)</b>	<b><u>Direct Costs</u></b>		
(1)	Direct burdened labor	\$ _____	\$ _____
(2)	Government property (\$50,000 or more)	\$ _____	\$ _____
(3)	Government property, Materials, and Supplies (under \$50,000 per item)	\$ _____	\$ _____
(4)	Materials Handling Fee	\$ _____	\$ _____
(5)	Consultants Fee	\$ _____	\$ _____
(6)	Travel	\$ _____	\$ _____
(7)	Subcontracts	\$ _____	\$ _____
	Total Direct Costs:	\$ _____	\$ _____
<b>(b)</b>	<b>Total Amount Billed</b>	\$ _____	\$ _____
<b>(c)</b>	<b>Adjustments (+/-)</b>	\$ _____	\$ _____
<b>(d)</b>	<b>Grand Total</b>	\$ _____	\$ _____

(The invoice/voucher format provided above must include information similar to that included below in the following to ensure accuracy and completeness.)

**SAMPLE SUPPORTING INFORMATION**

The budget information provided below is for format purposes only and is illustrative.

Cost Elements:

1) Direct Burdened Labor - \$4,800

<u>Labor Category</u>	<u>Hours Billed</u>	<u>Burdened Rate</u>	<u>Total</u>	<u>Cumulative Hours Billed</u>
Senior Engineer I	100	\$28.00	\$2,800	975
Engineer	50	\$20.00	\$1,000	465
Computer Analyst	100	\$10.00	<u>\$1,000</u>	<u>320</u>
			\$4,800	1,760 hrs.

*Burdened labor rates must come directly from the contract.*

2) Government-furnished and contractor-acquired property (\$50,000 or more) - \$60,000

**BILLING INSTRUCTIONS FOR  
LABOR HOUR/TIME AND MATERIALS TYPE CONTRACTS (JULY 2011)**

Prototype Spectrometer - item number 1000-01 = \$60,000

- 3) Government-furnished and contractor-acquired property (under \$50,000), Materials, and Supplies - \$2,000

10 Radon tubes @ \$110.00	=	\$1,100
6 Pairs Electrostatic gloves @ \$150.00	=	\$ 900
		\$2,000

- 4) Materials Handling Fee - \$40

(2% of \$2,000 in item #3)

- 5) Consultants' Fee - \$100

Dr. Carney - 1 hour fully-burdened @ \$100 = \$100

- 6) Travel - \$2,640

- (i) Airfare: (2 Roundtrip trips for 1 person @ \$300 per r/t ticket)

<u>Start Date</u>	<u>End Date</u>	<u>Days</u>	<u>From</u>	<u>To</u>	<u>Cost</u>
4/1/2011	4/7/2011	7	Philadelphia, PA	Wash, D.C.	\$300
7/1/2011	7/8/2011	8	Philadelphia, PA	Wash, D.C.	\$300

- (ii) Per Diem: \$136/day x 15 days = \$2,040

- 7) Subcontracting - \$30,000

Company A	=	\$10,000
Company B	=	\$20,000
		\$30,000

(EX: Subcontracts for Companies A & B were consented to by the Contracting Officer by letter dated 6/15/2011.)

Total Amount Billed	\$99,580	
Adjustments (+/-)	-	0
Grand Total	\$99,580	

#### **4. Definitions**

Material handling costs. When included as part of material costs, material handling costs shall include only costs clearly excluded from the labor-hour rate. Material handling costs may include all appropriate indirect costs allocated to direct materials in accordance with the contractor's usual accounting procedures.

## Subpart 2009.5 Organizational Conflicts of Interest

### **§2009.500 Scope of subpart.**

In accordance with 42 U.S.C. 2210a., NRC acquisitions are processed in accordance with §2009.570, which takes precedence over FAR 9.5 with respect to organizational conflicts of interest. Where non-conflicting guidance appears in FAR 9.5, that guidance must be followed.

### **§2009.570 NRC organizational conflicts of interest.**

#### **§2009.570-1 Scope of policy.**

(a) It is the policy of NRC to avoid, eliminate, or neutralize contractor organizational conflicts of interest. The NRC achieves this objective by requiring all prospective contractors to submit information describing relationships, if any, with organizations or persons (including those regulated by the NRC) which may give rise to actual or potential conflicts of interest in the event of contract award.

(b) Contractor conflict of interest determinations cannot be made automatically or routinely. The application of sound judgment on virtually a case-by-case basis is necessary if the policy is to be applied to satisfy the overall public interest. It is not possible to prescribe in advance a specific method or set of criteria which would serve to identify and resolve all of the contractor conflict of interest situations that might arise. However, examples are provided in these regulations to guide application of this policy guidance. The ultimate test is as follows: Might the contractor, if awarded the contract, be placed in a position where its judgment may be biased, or where it may have an unfair competitive advantage?

(c) The conflict of interest rule contained in this subpart applies to contractors and offerors only. Individuals or firms who have other relationships with the NRC (e.g., parties to a licensing proceeding) are not covered by this regulation. This rule does not apply to the acquisition of consulting services through the personnel appointment process, NRC agreements with other Government agencies, international organizations, or state, local, or foreign Governments. Separate procedures for avoiding conflicts of interest will be employed in these agreements, as appropriate.

#### **§2009.570-2 Definitions.**

Affiliates means business concerns which are affiliates of each other when either directly or indirectly one concern or individual controls or has the power to control another, or when a third party controls or has the power to control both.

Contract means any contractual agreement or other arrangement with the NRC except as provided in §2009.570-1(c).

Contractor means any person, firm, unincorporated association, joint venture, co-sponsor, partnership, corporation, affiliates thereof, or their successors in interest, including their

chief executives, directors, key personnel (identified in the contract), proposed consultants or subcontractors, which are a party to a contract with the NRC.

Evaluation activities means any effort involving the appraisal of a technology, process, product, or policy.

Offeror or prospective contractor means any person, firm, unincorporated association, joint venture, co-sponsor, partnership, corporation, or their affiliates or successors in interest, including their chief executives, directors, key personnel, proposed consultants, or subcontractors, submitting a bid or proposal, solicited or unsolicited, to the NRC to obtain a contract.

Organizational conflicts of interest means that a relationship exists whereby a contractor or prospective contractor has present or planned interests related to the work to be performed under an NRC contract which:

- (1) May diminish its capacity to give impartial, technically sound, objective assistance and advice, or may otherwise result in a biased work product; or
- (2) May result in its being given an unfair competitive advantage.

Potential conflict of interest means that a factual situation exists that suggests that an actual conflict of interest may arise from award of a proposed contract. The term potential conflict of interest is used to signify those situations that

- (1) Merit investigation before contract award to ascertain whether award would give rise to an actual conflict; or
- (2) Must be reported to the contracting officer for investigation if they arise during contract performance.

Research means any scientific or technical work involving theoretical analysis, exploration, or experimentation.

Subcontractor means any subcontractor of any tier who performs work under a contract with the NRC except subcontracts for supplies and subcontracts in amounts not exceeding \$10,000.

Technical consulting and management support services means internal assistance to a component of the NRC in the formulation or administration of its programs, projects, or policies which normally require that the contractor be given access to proprietary information or to information that has not been made available to the public. These services typically include assistance in the preparation of program plans, preliminary designs, specifications, or statements of work.

**§2009.570-3 Criteria for recognizing contractor organizational conflicts of interest.**

- (a) General.

(1) Two questions will be asked in determining whether actual or potential organizational conflicts of interest exist:

(i) Are there conflicting roles which might bias an offeror's or contractor's judgment in relation to its work for the NRC?

(ii) May the offeror or contractor be given an unfair competitive advantage based on the performance of the contract?

(2) NRC's ultimate determination that organizational conflicts of interest exist will be made in light of common sense and good business judgment based upon the relevant facts. While it is difficult to identify and to prescribe in advance a specific method for avoiding all of the various situations or relationships that might involve potential organizational conflicts of interest, NRC personnel will pay particular attention to proposed contractual requirements that call for the rendering of advice, consultation or evaluation activities, or similar activities that directly lay the groundwork for the NRC's decisions on regulatory activities, future procurements, and research programs. Any work performed at an applicant or licensee site will also be closely scrutinized by the NRC staff.

(b) Situations or relationships. The following situations or relationships may give rise to organizational conflicts of interest:

(1) The offeror or contractor shall disclose information that may give rise to organizational conflicts of interest under the following circumstances. The information may include the scope of work or specification for the requirement being performed, the period of performance, and the name and telephone number for a point of contact at the organization knowledgeable about the commercial contract.

(i) Where the offeror or contractor provides advice and recommendations to the NRC in the same technical area where it is also providing consulting assistance to any organization regulated by the NRC.

(ii) Where the offeror or contractor provides advice to the NRC on the same or similar matter on which it is also providing assistance to any organization regulated by the NRC.

(iii) Where the offeror or contractor evaluates its own products or services, or has been substantially involved in the development or marketing of the products or services of another entity.

(iv) Where the award of a contract would result in placing the offeror or contractor in a conflicting role in which its judgment may be biased in relation to its work for the NRC, or would result in an unfair competitive advantage for the offeror or contractor.

(v) Where the offeror or contractor solicits or performs work at an applicant or licensee site while performing work in the same technical area for the NRC at the same site.

(2) The contracting officer may request specific information from an offeror or contractor or may require special contract clauses such as provided in §2009.570-5(b) in the following circumstances:

- (i) Where the offeror or contractor prepares specifications that are to be used in competitive procurements of products or services covered by the specifications.
  - (ii) Where the offeror or contractor prepares plans for specific approaches or methodologies that are to be incorporated into competitive procurements using the approaches or methodologies.
  - (iii) Where the offeror or contractor is granted access to information not available to the public concerning NRC plans, policies, or programs that could form the basis for a later procurement action.
  - (iv) Where the offeror or contractor is granted access to proprietary information of its competitors.
  - (v) Where the award of a contract might result in placing the offeror or contractor in a conflicting role in which its judgment may be biased in relation to its work for the NRC or might result in an unfair competitive advantage for the offeror or contractor.
- (c) Policy application guidance. The following examples are illustrative only and are not intended to identify and resolve all contractor organizational conflict of interest situations.
- (1)(i) Example. The ABC Corp., in response to a Request For Proposal (RFP), proposes to undertake certain analyses of a reactor component as called for in the RFP. The ABC Corp. is one of several companies considered to be technically well qualified. In response to the inquiry in the RFP, the ABC Corp. advises that it is currently performing similar analyses for the reactor manufacturer.
- (ii) Guidance. An NRC contract for that particular work normally would not be awarded to the ABC Corp. because the company would be placed in a position in which its judgment could be biased in relationship to its work for the NRC. Because there are other well-qualified companies available, there would be no reason for considering a waiver of the policy.
- (2)(i) Example. The ABC Corp., in response to an RFP, proposes to perform certain analyses of a reactor component that is unique to one type of advanced reactor. As is the case with other technically qualified companies responding to the RFP, the ABC Corp. is performing various projects for several different utility clients. None of the ABC Corp. projects have any relationship to the work called for in the RFP. Based on the NRC evaluation, the ABC Corp. is considered to be the best qualified company to perform the work outlined in the RFP.
- (ii) Guidance. An NRC contract normally could be awarded to the ABC Corp. because no conflict of interest exists which could motivate bias with respect to the work. An appropriate clause would be included in the contract to preclude the ABC Corp. from subsequently contracting for work with the private sector that could create a conflict during the performance of the NRC contract. For example, ABC Corp. would be precluded from the performance of similar work for the company developing the advanced reactor mentioned in the example.

(3)(i) Example. The ABC Corp., in response to a competitive RFP, submits a proposal to assist the NRC in revising NRC's guidance documents on the respiratory protection requirements of 10 CFR Part 20. ABC Corp. is the only firm determined to be technically acceptable. ABC Corp. has performed substantial work for regulated utilities in the past and is expected to continue similar efforts in the future. The work has and will cover the writing, implementation, and administration of compliance respiratory protection programs for nuclear power plants.

(ii) Guidance. This situation would place the firm in a role where its judgment could be biased in relationship to its work for the NRC. Because the nature of the required work is vitally important in terms of the NRC's responsibilities and no reasonable alternative exists, a waiver of the policy, in accordance with §2009.570-9 may be warranted. Any waiver must be fully documented in accordance with the waiver provisions of this policy with particular attention to the establishment of protective mechanisms to guard against bias.

(4)(i) Example. The ABC Corp. submits a proposal for a new system to evaluate a specific reactor component's performance for the purpose of developing standards that are important to the NRC program. The ABC Corp. has advised the NRC that it intends to sell the new system to industry once its practicability has been demonstrated. Other companies in this business are using older systems for evaluation of the specific reactor component.

(ii) Guidance. A contract could be awarded to the ABC Corp. if the contract stipulates that no information produced under the contract will be used in the contractor's private activities unless this information has been reported to the NRC. Data on how the reactor component performs, which is reported to the NRC by contractors, will normally be disseminated by the NRC to others to preclude an unfair competitive advantage. When the NRC furnishes information about the reactor component to the contractor for the performance of contracted work, the information may not be used in the contractor's private activities unless the information is generally available to others. Further, the contract will stipulate that the contractor will inform the NRC contracting officer of all situations in which the information, developed about the performance of the reactor component under the contract, is proposed to be used.

(5)(i) Example. The ABC Corp., in response to a RFP, proposes to assemble a map showing certain seismological features of the Appalachian fold belt. In accordance with the representation in the RFP and §2009.570-3(b)(1)(i), ABC Corp. informs the NRC that it is presently doing seismological studies for several utilities in the eastern United States, but none of the sites are within the geographic area contemplated by the NRC study.

(ii) Guidance. The contracting officer would normally conclude that award of a contract would not place ABC Corp. in a conflicting role where its judgment might be biased. Section 2052.209-72(c) Work for Others, would preclude ABC Corp. from accepting work which could create a conflict of interest during the term of the NRC contract.

(6)(i) Example. AD Division of ABC Corp., in response to a RFP, submits a proposal to assist the NRC in the safety and environmental review of applications for licenses for the construction, operation, and decommissioning of fuel cycle facilities. ABC Corp. is divided into two separate and distinct divisions, AD and BC. The BC Division performs the same or



similar services for industry. The BC Division is currently providing the same or similar services required under the NRC's contract for an applicant or licensee.

(ii) Guidance. An NRC contract for that particular work would not be awarded to the ABC Corp. The AD Division could be placed in a position to pass judgment on work performed by the BC Division, which could bias its work for NRC. Further, the Conflict of Interest provisions apply to ABC Corp. and not to separate or distinct divisions within the company. If no reasonable alternative exists, a waiver of the policy could be sought in accordance with §2009.570-9.

(7)(i) Example. The ABC Corp. completes an analysis for NRC of steam generator tube leaks at one of a utility's six sites. Three months later, ABC Corp. is asked by this utility to perform the same analysis at another of its sites.

(ii) Guidance. Section 2052.290-72(c)(3) would prohibit the contractor from beginning this work for the utility until one year after completion of the NRC work at the first site.

(8)(i) Example. ABC Corp. is assisting NRC in a major on-site analysis of a utility's redesign of the common areas between its twin reactors. The contract is for two years with an estimated value of \$5 million. Near the completion of the NRC work, ABC Corp. requests authority to solicit for a \$100K contract with the same utility to transport spent fuel to a disposal site. ABC Corp. is performing no other work for the utility.

(ii) Guidance. The Contracting Officer would allow the contractor to proceed with the solicitation because it is not in the same technical area as the NRC work; and the potential for technical bias by the contractor because of financial ties to the utility is slight due to the relative value of the two contracts.

(9)(i) Example. The ABC Corp. is constructing a turbine building and installing new turbines at a reactor site. The contract with the utility is for five years and has a total value of \$100 million. ABC Corp. has responded to an NRC Request For Proposal requiring the contractor to participate in a major team inspection unrelated to the turbine work at the same site. The estimated value of the contract is \$75K.

(ii) Guidance. An NRC contract would not normally be awarded to ABC Corp. because these factors create the potential for financial loyalty to the utility that may bias the technical judgment of the contractor.

(d) Other considerations.

(1) The fact that the NRC can identify and later avoid, eliminate, or neutralize any potential organizational conflicts arising from the performance of a contract is not relevant to a determination of the existence of conflicts prior to the award of a contract.

(2) It is not relevant that the contractor has the professional reputation of being able to resist temptations which arise from organizational conflicts of interest, or that a follow-on procurement is not involved, or that a contract is awarded on a competitive or a sole source basis.

#### **§2009.570-4 Representation.**

(a) The following procedures are designed to assist the NRC contracting officer in determining whether situations or relationships exist which may constitute organizational conflicts of interest with respect to a particular offeror or contractor. The procedures apply to small purchases meeting the criteria stated in the following paragraph (b) of this section.

(b) The organizational conflicts of interest representation provision at §2052.209-71 must be included in solicitations and contracts resulting from unsolicited proposals. The contracting officer must also include this provision for task orders and contract modifications for new work for:

(1) Evaluation services or activities;

(2) Technical consulting and management support services;

(3) Research; and

(4) Other contractual situations where special organizational conflicts of interest provisions are noted in the solicitation and would be included in the resulting contract. This representation requirement also applies to all modifications for additional effort under the contract except those issued under the "Changes" clause. Where, however, a statement of the type required by the organizational conflicts of interest representation provisions has previously been submitted with regard to the contract being modified, only an updating of the statement is required.

(c) The offeror may, because of actual or potential organizational conflicts of interest, propose to exclude specific kinds of work contained in a RFP unless the RFP specifically prohibits the exclusion. Any such proposed exclusion by an offeror will be considered by the NRC in the evaluation of proposals. If the NRC considers the proposed excluded work to be an essential or integral part of the required work and its exclusion would be to the detriment of the competitive posture of the other offerors, the NRC shall reject the proposal as unacceptable.

(d) The offeror's failure to execute the representation required by paragraph (b) of this section with respect to an invitation for bids is considered to be a minor informality. The offeror will be permitted to correct the omission.

#### **§2009.570-5 Contract clauses.**

(a) General contract clause. All contracts and simplified acquisitions of the types set forth in §2009.570-4(b) must include the clause entitled, "Contractor Organizational Conflicts of Interest," set forth in §2052.209-72.

(b) Other special contract clauses. If it is determined from the nature of the proposed contract that an organizational conflict of interest exists, the contracting officer may determine that the conflict can be avoided, or, after obtaining a waiver in accordance with §2009.570-9, neutralized through the use of an appropriate special contract clause. If appropriate, the offeror may negotiate the terms and conditions of these clauses, including the extent and time period of any restriction. These clauses include but are not limited to:

- (1) Hardware exclusion clauses which prohibit the acceptance of production contracts following a related non-production contract previously performed by the contractor;
- (2) Software exclusion clauses;
- (3) Clauses which require the contractor (and certain of its key personnel) to avoid certain organizational conflicts of interest; and
- (4) Clauses which provide for protection of confidential data and guard against its unauthorized use.

**§2009.570-6 Evaluation, findings, and contract award.**

The contracting officer shall evaluate all relevant facts submitted by an offeror and other relevant information. After evaluating this information against the criteria of §2009.570-3, the contracting officer shall make a finding of whether organizational conflicts of interest exist with respect to a particular offeror. If it has been determined that real or potential conflicts of interest exist, the contracting officer shall:

- (a) Disqualify the offeror from award;
- (b) Avoid or eliminate such conflicts by appropriate measures; or
- (c) Award the contract under the waiver provision of §2009.570-9.

**§2009.570-7 Conflicts identified after award.**

If potential organizational conflicts of interest are identified after award with respect to a particular contractor and the contracting officer determines that conflicts do exist and that it would not be in the best interest of the Government to terminate the contract, as provided in the clauses required by §2009.570-5, the contracting officer shall take every reasonable action to avoid, eliminate, or, after obtaining a waiver in accordance with §2009.570-9, neutralize the effects of the identified conflict.

**§2009.570-8 Subcontracts.**

The contracting officer shall require offerors and contractors to submit a representation statement from all subcontractors (other than a supply subcontractor) and consultants performing services in excess of \$10,000 in accordance with §2009.570-4(b). The contracting officer shall require the contractor to include contract clauses in accordance with §2009.570-5 in consultant agreements or subcontracts involving performance of work under a prime contract.

**§2009.570-9 Waiver.**

- (a) The contracting officer determines the need to seek a waiver for specific contract awards with the advice and concurrence of the program office director and legal counsel. Upon the recommendation of the Senior Procurement Executive, and after consultation

with legal counsel, the Executive Director for Operations may waive the policy in specific cases if he determines that it is in the best interest of the United States to do so.

(b) Waiver action is strictly limited to those situations in which:

(1) The work to be performed under contract is vital to the NRC program;

(2) The work cannot be satisfactorily performed except by a contractor whose interests give rise to a question of conflict of interest.

(3) Contractual and/or technical review and surveillance methods can be employed by the NRC to neutralize the conflict.

(c) The justification and approval documents for any waivers must be placed in the NRC Public Document Room.

**§2009.570-10 Remedies.**

In addition to other remedies permitted by law or contract for a breach of the restrictions in this subpart or for any intentional misrepresentation or intentional nondisclosure of any relevant interest required to be provided for this section, the NRC may debar the contractor from subsequent NRC contracts.