

<b>AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT</b>		1. CONTRACT ID CODE	PAGE OF PAGES 1   2	
2. AMENDMENT/MODIFICATION NO. 0281	3. EFFECTIVE DATE See Block 16C	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. (If applicable)	
6. ISSUED BY EM-Carlsbad EMCBC U.S. Department of Energy Carlsbad Project Office P.O. Box 3090 Carlsbad NM 88221	CODE 893032	7. ADMINISTERED BY (If other than Item 6) EMCBC - Carlsbad U.S. Department of Energy Carlsbad Project Office P.O. Box 3090 Carlsbad NM 88221	CODE 03003	
8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code) Nuclear Waste Partnership LLC Attn: JAY HART 20501 SENECA MEADOWS PKWY SUITE 300 GERMANTOWN MD 20876		(x)	9A. AMENDMENT OF SOLICITATION NO.	
CODE 968993910			9B. DATED (SEE ITEM 11)	
FACILITY CODE		x	10A. MODIFICATION OF CONTRACT/ORDER NO. DE-EM0001971	
			10B. DATED (SEE ITEM 13) 04/20/2012	
<b>11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS</b>				
<input type="checkbox"/> The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers <input type="checkbox"/> is extended. <input type="checkbox"/> is not extended. Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods: (a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or electronic communication which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGEMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by letter or electronic communication, provided each letter or electronic communication makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.				
12. ACCOUNTING AND APPROPRIATION DATA (If required) See Schedule				
<b>13. THIS ITEM ONLY APPLIES TO MODIFICATION OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.</b>				
CHECK ONE	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.			
	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation data, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).			
X	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: 43.103(a)(3) Supp Agreement of the parties IAW H.11 & I.133			
	D. OTHER (Specify type of modification and authority)			
E. IMPORTANT: Contractor <input type="checkbox"/> is not <input checked="" type="checkbox"/> is required to sign this document and return <u>1</u> copies to the issuing office.				
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.) The purpose of this modification is as follows:  1. Revise Section J, Attachment A - List B DOE Directives to incorporate DOE O 486.1A Foreign Government Sponsored or Affiliated Activities. The List is attached to this modification. 2. Incorporate Nuclear Waste Partnership's FY2021 Small Business Subcontract Plan into Section J, Attachment B, of the contract in accordance with Contract Clause H.11 Small, Small Disadvantaged, and Women-Owned Small Business Subcontracting Plan. The Plan is attached to this modification  All other terms and conditions of this contract remain unchanged and in full force and Continued ...  Except as provided herein, all terms and conditions of the document referenced in Item 9 A or 10A, as heretofore changed, remains unchanged and in full force and effect.				
15A. NAME AND TITLE OF SIGNER (Type or print)  Sean C. Dunagan		16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)  Wendy L. Bauer		
15B. CONTRACTOR/OFFEROR /signature on file/  (Signature of person authorized to sign)	15C. DATE SIGNED  12/07/2020	16B. UNITED STATES OF AMERICA /signature on file/  (Signature of Contracting Officer)	16C. DATE SIGNED  12/07/2020	

**CONTINUATION SHEET**REFERENCE NO. OF DOCUMENT BEING CONTINUED  
DE-EM0001971/0281PAGE OF  
2 2NAME OF OFFEROR OR CONTRACTOR  
Nuclear Waste Partnership LLC

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	effect. Payment: OR for EMCBC U.S. Department of Energy Oak Ridge Financial Service Center P.O. Box 5777 Oak Ridge TN 37831 Period of Performance: 10/01/2012 to 09/30/2021				

Section J, Attachment A - List B DOE Directives

Change: Incorporate DOE O 486.1A Foreign Government Sponsored or Affiliated Activities

DOE Order	Title	*S/RID
DOE O 130.1	Budget Formulation	
DOE O 140.1	Interface with the Defense Nuclear Facilities Safety Board	X
DOE O 142.3A, Chg 1	Unclassified Foreign Visits and Assignments Program	
DOE O 150.1A	Continuity Programs	X
DOE O 151.1D	Comprehensive Emergency Management System	X
DOE O 153.1	Departmental Radiological Emergency Response Assets	X
DOE O 200.1A	Information Technology Management	
DOE O 203.1	Limited Personal use of Government Office Equipment including Information Technology	
DOE O 205.1C	Department of Energy Cybersecurity Program	
DOE O 206.1	DOE Privacy Program	
DOE O 206.2	Identity, Credential, and Access Management (ICAM)	
DOE O 210.2A	DOE Corporate Operating Experience Program	X
DOE O 221.1B	Reporting Fraud, Waste and Abuse to the Office of Inspector General	
DOE O 221.2A	Cooperation with the Office of Inspector General	
DOE O 225.1B	Accident Investigations	X
DOE O 226.1B	Implementation of Department of Energy Oversight Policy	X
DOE O 227.1A	Independent Oversight Program	X
DOE O 231.1B, Admin. Chg 1	Environment, Safety and Health Reporting	
DOE O 232.2A	Occurrence Reporting and Processing of Operations Information	X
DOE O 241.1B Admin. Chg 1	Scientific and Technical Information Management	
DOE O 243.1B, Admin. Chg 1	Records Management Program	
DOE O 252.1A, Admin. Chg 1	Technical Standards Program	
DOE O 350.1, Chg 5	Contractor Human Resource Management Programs	
DOE O 413.1B	Internal Control Program	
DOE O 413.3B Chg 5	Program and Project Management for the Acquisition of Capital Assets	
DOE O 414.1D, Admin. Chg 1	Quality Assurance	X
DOE O 420.1C, Chg 1	Facility Safety	X
DOE O 422.1, Admin. Chg 2	Conduct of Operations	X
DOE O 425.1D, Admin. Chg 1	Verification of Readiness to Startup or Restart Nuclear Facilities	X
DOE O 426.2, Admin. Chg 1	Personnel Selection, Training, Qualification, and Certification Requirements for DOE Nuclear Facilities	X
DOE O 430.1C	Real Property Asset Management	

<b>DOE Order</b>	<b>Title</b>	<b>*S/RID</b>
DOE O 433.1B, Admin. Chg 1	Maintenance Management Program for DOE Nuclear Facilities	X
DOE O 435.1, Chg 1	Radioactive Waste Management	X
DOE O 436.1	Departmental Sustainability	X
DOE O 442.1B	Department of Energy Employee Concerns Program	
DOE O 442.2, Chg 1	Differing Professional Opinions for Technical Issues Involving Environment, Safety, and Health	
DOE O 458.1, Admin Chg 3	Radiation Protection of the Public and the Environment	X
DOE O 460.1D	Hazardous Materials Packaging and Transportation Safety	X
DOE O 460.2A	Departmental Materials Transportation and Packaging Management	X
DOE O 470.3B	Graded Security Protection (GSP) Policy	
DOE O 470.4B, Admin Chg 1	Safeguards and Security Program Operations	
DOE O 471.1B	Identification and Protection of Unclassified Controlled Nuclear Information	
DOE O 471.3, Admin Chg 1	Identifying and Protecting Official Use Only Information	
DOE O 471.6, Admin. Chg 1	Information Security	
DOE O 472.2, Chg 1	Personnel Security	
DOE O 473.3	Protection Program Operations	
DOE O 475.1	Counterintelligence Program	
DOE O 483.1B	DOE Cooperative Research and Developments Agreements	
<b>DOE O 486.1A</b>	<b>Foreign Government Sponsored or Affiliated Activities</b>	
DOE O 522.1	Pricing of Departmental Materials and Services	
DOE O 534.1B	Accounting	
DOE O 551.1D, Chg 2	Official Foreign Travel	
<b>DOE Policy</b>	<b>Title</b>	
DOE P 451.1	National Environmental Policy Act Compliance Program	
<b>DOE Manual</b>	<b>Title</b>	
DOE M 205.1-3	Telecommunications Security Manual	
DOE M 435.1-1 Chg 2	Radioactive Waste Management Manual	X
DOE M 460.2-1A	Radioactive Material Transportation Practices Manual	
DOE M 471.3-1, Admin Chg 1	Manual for Identifying and Protecting Official Use only Information	

**PART III – LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS**

**SECTION J - LIST OF ATTACHMENTS  
ATTACHMENT B**

**Annual Small Business Subcontracting Plan – FY 2021**

**Contractor:** Nuclear Waste Partnership LLC

**Address:** 4021 National Parks Highway  
Carlsbad, NM 88220

**Contract Number:** DE-EM-0001971

**Item/Service:** Various

**Amount of Contract Each Year:** Estimated Cost — \$325,000,000

**Total Amount of Contract:** \$2,437,972,652.70

**Period of Contract Performance:** Basic — 10/1/12 through 9/30/17

**Options (If Any):** Option Period 1: 10/1/17 through 9/30/20  
Option Period 2: 10/1/2020 through 9/30/22

**Type of Plan (Check One)**

- Individual Plan (All elements developed specifically for this contract and applicable for the full term of this contract.)
- Master Plan (Goals are developed for this contract; all other elements are standard and updated as necessary.) (See FAR 52.219-9(f) (1)-(3)).
- Commercial Plan (Contractor sells large quantities of off-the-shelf commercial items to many Government agencies. Plans/goals are negotiated by a lead agency on a company-wide basis rather than for individual contracts. Plan effective only during the year for which it is approved. The contractor must provide a copy of the lead agency approval). (FAR 19.704 and 52.219-9(g)).

Nuclear Waste Partnership LLC (NWP) has developed this Small Business Subcontracting Plan (SB Plan) following the criteria prescribed in FAR 52.219-9, including other applicable requirements as stated in the clause. For purposes of this SB Plan, NWP uses the term “subcontract” to mean any agreement (other than one involving an employer-employee relationship) entered into by a government prime contractor or subcontractor which calls for supplies or services required in the performance of the subject prime contract, a contract modification thereto, or a subcontract there under. The SB Plan and the subcontracting goals cited will, unless modified and approved by the Contracting Officer, cover the prime contract period specified.

NWP anticipates its operational funding during FY2021 will be similar to funding levels in FY2020. Contract awards for capital projects and general plant project improvements will continue throughout FY2021, including projects such as the phase III of the fire protection project, fan design and installation for the Utility Shaft, lightning protection for the new fire protection pump house, and building 411 sprinkler system. In addition, significant funding will be allocated during FY2021 for previously awarded capital projects at the Waste Isolation Pilot Plant (WIPP) including the Utility Shaft and the Safety Significant Confinement Ventilation System (SSCVS).

Over the past two fiscal years, NWP has actively sought small business vendors for its capital project dollar bids. Despite aggressive efforts, the nature of the work and associated requirements have proven too challenging for small business to perform. This is especially true with the larger projects such as the utility shaft and the SSCVS. In most instances, despite actively engaging small business vendors, they have chosen to not bid. As a result, the majority of the capital funded award dollars go to “other than small” businesses.

Not only does most of the capital funded dollars go to “other than small” businesses, but the total dollar value of the capital funded projects is also substantially greater than NWP’s standard operational base. Additionally, much of the prior year’s funding for the large capital projects is carried over and applied in later fiscal years. This imbalance in the inability to award capital funded projects to small business coupled with the large dollar value of those projects, prohibits NWP the opportunity to meet its small business goals.

To remedy this imbalance, as agreed upon in FY2020, NWP is requesting that capital project dollars be excluded from the total subcontracting base for FY2021. NWP will continue following the same previously agreed upon conditions for this exclusion as listed below:

- Condition 1 – The FY2021 goal percentages remain the same as the FY2020 percentages for each level.
- Condition 2 – All NWP large business subcontractors receiving capital project awards where the value exceeds the FAR requirements of \$700,000 or \$1.5 million for construction and which has subcontracting possibilities, shall provide a subcontracting plan with goals equal to or greater than NWP’s goals.
- Condition 3 – Any capital project with a value less than \$3 million, must be offered to a small business in any of the small business categories or a justification must be submitted to the contracting officer prior to starting the acquisition.

## **I. Goals**

In alignment with the first condition stated above, NWP has set small business subcontracting

goals for each of the specified categories consistent with the levels in FY2020. Additionally, NWP will continue to maximize small business participation to the fullest extent possible. The following goals are expressed in terms of both dollars and percentages for large business (LB), small business (SB), small disadvantaged business (SDB), and woman owned small business (WOSB), HUBZone, veteran-owned small business (VOSB), and service-disabled veteran owned small business (SDVOSB).

- A. The following percentage goals (expressed in terms of a percentage of total planned subcontracting dollars) are applicable to the contract period for FY2021.
1. The total estimated dollar value of all non-capital project related subcontracting (to all types of business concerns) under this contract for FY2021 is \$100M less \$8M for estimated affiliate transactions and \$3M in credit card purchases, resulting in a revised estimated total of \$89M to be used for small business determination.
    - a. LB Concerns. Total estimated dollar value and percent of planned subcontracting with large business (all business concerns classified as “other than small”), less affiliate transactions; (% of 1. Above): \$44.5M and 50%.
    - b. SB Concerns. Total estimated dollar value and percent of planned subcontracting with small businesses (include SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB concerns) (% of 1. Above): \$44.5M and 50%.
    - c. SDB Concerns. Total estimated dollar value and percent of planned subcontracting with small disadvantaged businesses (% of 1. Above): \$4.45M and 5%. This amount is included in the amount shown under A.1.b above as a subset.
    - d. WOSB Concerns. Total estimated dollar value and percent of planned subcontracting with small women-owned businesses (% of 1. Above): \$4.45M and 5%. This amount is included in the amount shown under A.1.b above as a subset.
    - e. HUBZone Concerns. Total estimated dollar value and percent of planned subcontracting with HUBZone small business (% of 1. Above): \$2.67M and 3%. This amount is included in the amount shown under A.1.b above as a subset.
    - f. VOSB Concerns. Total estimated dollar value and percent of planned subcontracting with veteran-owned small business (% of 1. Above): \$2.67M and 3%. This amount is included in the amount shown under A.1.b above as a subset.
    - g. SDVOSB Concerns. Total estimated dollar value and percent of planned subcontracting with service-disabled veteran-owned small business (% of 1. Above): \$2.67M and 3%. This amount is included in the amount shown under A.1.b above as a subset.

## **II Description of Products/Services to Be Subcontracted**

### ***II.A Principal Categories of Subcontracting***

The products and/or services NWP intends to subcontract will be reviewed during the planning

phases of applicable procurement actions to maximize opportunities for small businesses to participate. The principal categories of subcontracting opportunities are for CCP, Operations, Site Support, Engineering, Transportation, and Site Infrastructure. Infrastructure will support refurbishment of the WIPP Site through general plant project improvements.

**II.B Method Used to Develop the Subcontracting Goals**

To establish subcontracting goals and commitments, NWP considered the work to be performed and historical WIPP SB performance. Products and services to be subcontracted to small business entities were developed by reviewing and evaluating the WIPP Contract Performance Work Statement, considering local, state, and federal regulations and guidelines and using current and past experience in subcontracting to SBs at WIPP and at other DOE locations. The method and basis (in dollars) used to establish the percentage of goals and the areas to be subcontracted to SBs, including SDB, WOSB, HUBZone, VOSB, and SDVOSB involved analysis of the following:

- The contract performance work statement and expected project funding
- Data from NWP parent companies including past experience with the development and implementation of SB subcontracting programs
- Information on SBs that NWP affiliates have successfully used at other locations
- Available data on current and past NWP parent company subcontracting
- Anticipated acquisition requirements based on project objectives
- Published SB databases with accurate company size, capability and experience information in order to expand upon our list of qualified small business entities to be considered for future subcontracting opportunities

NWP will follow preference programs and implement new programs to meet our specified goals. We will make additional efforts to expand the small business supplier base to include a wider geographic area to encompass other regions of the United States, when appropriate.

NWP will evaluate all existing large business subcontracts or agreements greater than \$5M for optimal opportunities and/or performance by small business. NWP will review subcontract performance, option periods, and total cost. Where applicable, NWP may consider these subcontracts or agreements for re-competition and issue a new or revised subcontract or agreement to maximize small business opportunities.

**II.C Indirect Costs**

Indirect costs are not included in the dollar and percentage subcontracting goals.

**III. Program Administrator**

NWP designates a representative to administer the Small Business Subcontracting Plan:

Name:	(b) (6)
Title:	Small Business Program Manager
Address:	Nuclear Waste Partnership LLC PO Box 2078 Carlsbad, NM 88221

(b) (6)

The Small Business Program Manager will have general overall responsibility for NWP's subcontracting program, (i.e., developing, preparing, and executing individual subcontracting plans and monitoring performance relative to the requirements of the SB Plan). These duties may include, but are not limited to, the following activities:

- Developing and maintaining source lists of SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB concerns.
- Ensuring that procurement packages are structured to permit participation of SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB.
- Ensuring inclusion of SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB concerns whose capabilities coincide with solicitations requiring their products or services.
- Reviewing solicitations to identify and remove language or requirements which may restrict or prohibit participation of SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB.
- Ensuring that proper documentation is provided by the buyer if selection not made to a SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB concern that provided low bid.
- Ensuring establishment and maintenance of records of solicitations and subcontract award activity.
- Attending or arranging for attendance of company representatives at Business Opportunity Workshops, Minority Business Enterprise Seminars or Trade Fairs.
- Monitoring achievement of proposed goals.
- Preparing and submitting semi-annual and annual subcontract reports.
- Coordinating NWP's activities prior to and during conduct of Federal agency compliance reviews.
- Developing a small business policy for the WIPP Contract which is endorsed annually by NWP.
- Monitoring and, as necessary, modifying procurement procedures to ensure they encourage the maximum possible participation from all SB categories.

Other duties include:

- Maintaining Mentor-Protégé Program to ensure development of future technical capabilities and resources.
- Seeking SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB WOSB business sources from all applicable agencies such as the SBA.
- Seeking out small business concerns by searching small business databases, trade association listings and other business/agency listings.
- Conducting or arranging training for procurement department personnel pursuant to the intent of the socioeconomic program.
- Maintaining records of SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB programs and documenting performance against goals.
- Submitting electronically in the Electronic Subcontracting Reporting System (eSRS) the Individual Subcontracting Report (ISR) for subcontracting activity from October through March and an ISR for subcontracting activities from April through September of each fiscal year. Submitting electronically in the eSRS a Summary Subcontract Report (SSR) for the entire fiscal year in accordance with the prime contract and instruction provided by the Contracting Officer.
- Verifying that subcontracts contain the flow down clauses pertaining to SB concerns when required and maintaining the policies and procedures required by the prime contract

- Advising and training project management personnel on the purposes of this plan and fostering adequate support.
- Maintaining a working relationship with local minority trade associations and other disadvantage and women-owned business organizations.
- Requiring lower-tier subcontractors to submit subcontracting plans when required and assisting in the development of sub-tier small business subcontracting plans to meet overall program objectives.
- Mentoring existing small business concerns currently under subcontract and enhancing their ability to provide timely, cost-effective, and quality services.
- Maintaining a close working relationship with DOE to ensure that NWP project objectives and activities are consistent with the DOE program.

#### **IV. Equitable Opportunities and Outreach Efforts**

NWP will ensure that SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB concerns have an equitable opportunity to compete for subcontracts.

##### ***IV.A Outreach Efforts***

NWP will pursue the following outreach efforts to obtain sources:

- Attending DOE-sponsored Small Business Program Manager meetings and participate in the DOE Small Business Forum and Expo.
- Attending other small and minority business procurement conferences and trade fairs.
- Partnering with national, regional, and local trade associations, business development organizations, and conferences to target and identify small business.
- Researching sources from the Government's System for Award Management (SAM), including the Dynamic Small Business Search which includes SBA's certifications for SDB, SDVOSB, and HubZone, and GSA Advantage/GSA supply schedules.
- Utilizing the WIPP web page to encourage new sources.
- Using book references, catalogs, source lists, or other reference material to identify SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB sources
- Providing resources to guide and train small businesses to enhance their technical execution capabilities and achieve self-sufficiency (e.g. Mentor Protégé Program).

##### ***IV.B Internal Efforts***

NWP will perform the following internal efforts to guide and encourage purchasing personnel:

- Presenting training programs on requirements of this plan.
- Establishing, maintaining, and using SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB source lists, guides, and other data for soliciting subcontracts.
- Monitoring activities to evaluate compliance with the subcontracting plan.

#### **V. Subcontracting Plan Flowdown**

NWP will include the provisions under FAR 52.219-8, "Utilization of Small Business Concerns," in all subcontracts that offer further subcontracting opportunities. All subcontractors, except small business concerns, that receive subcontracts in excess of FAR thresholds (\$700,000 or

