

2. AMENDMENT/MODIFICATION NO. 187	3. EFFECTIVE DATE See Block 16c	4. REQUISITION/PURCHASE REQ.	5. PROJECT NO. (If applicable) N/A
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6. ISSUED BY U.S. Department of Energy Carlsbad Field Office P. O. Box 3090 Carlsbad, NM 88220-3090	CODE 03003	7. ADMINISTERED BY (If other than Item 6)	CODE
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8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, state, ZIP Code) Nuclear Waste Partnership, LLC Attn: Marty Gonzales Nuclear Waste Partnership 106 Newberry Street SW Aiken, SC 29801	CODE 968993910	FACILITY CODE	9A. AMENDMENT OF SOLICITATION NO.
			9B. DATED (SEE ITEM 11)
			10A. MODIFICATION OF CONTRACT/ORDER NO. DE-EM0001971
			10B. DATED (SEE ITEM 13) April 20, 2012

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers is extended, is not extended.

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

12. ACCOUNTING AND APPROPRIATION DATA (If required)

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS; IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

	THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NUMBER IN ITEM 10A.
	B. THE ABOVE-NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
X	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: FAR 43.103(a)(3) - Supplemental agreement of the parties and FAR 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)
	D. OTHER (SPECIFY TYPE OF MODIFICATION AND AUTHORITY):

E. IMPORTANT: Contractor is not, is required to sign this document and return 2 copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

The purpose of this modification is to make mutually agreed to changes to the terms of the contract. The following changes are made:

(see Page 2)

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print) Kevin S. Donovan, Business Manager	16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) Suzanne Willes Hunt, Contracting Officer
15B. CONTRACTOR/OFFEROR 	16B. UNITED STATES OF AMERICA
15C. DATE SIGNED 9/15/17	16C. DATE SIGNED 9/15/17

**PREVIOUS EDITION UNUSABLE
FORM 30 (REV. 1)**

STANDARD

The purposes of this modification are to:

- 1) Modify Section B.2-2a Total Available Award Fee and incorporate Option Period(s) Fee Rate Table
- 2) Revise language in Contract Section F.1 for the option period of October 1, 2017 – September 30, 2022
- 3) Revise Special Contract Clause H.9 Key Personnel to incorporate new to key personnel, Chief Mining Officer. Contractor has 14 days from effective date of this modification to issue Contracting Officer the implementation plan for hiring new key personnel
- 4) Revise H.11 – Small, Small Disadvantaged, and Women-owned Small Business Subcontracting Plan;
- 5) Revise Special Contract Requirements Clause H.22 Reporting Requirements, section (e) and (f)(1)(ii)
- 6) Revise H.47 Contractor Community Commitment to increase percentage of contractor earnings that is committed to the community to 5%
- 7) Incorporate H.61 – Corporate Services - Contractor has 30 days from effective date of this modification to issue Contracting Officer the implementation plan for CBFO approval
- 8) Incorporate H.62 – Cost Savings Investment Incentive
- 9) Incorporate H.63 – Baseline Approval - requirement for an annual approved baseline in order to determine cost savings unused to fund super stretch PBI's
- 10) Incorporate H.64 – EM TRU Waste Program Master System Plan
- 11) Incorporate I.11a to Section I, FAR 52.203-17 – Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights
- 12) Exercise Option Period One (1) Clause I.32 FAR 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (Mar 2000)
- 13) Reinstate Clause I.84 FAR 52.234-4 EARNED VALUE MANAGEMENT SYSTEM
- 14) Revise I.171 DEAR 970.5244-1 CONTRACTOR PURCHASING SYSTEM (AUG 2009)
- 15) Incorporate the following DOE Orders in Section J, Attachment A, List B
 - 151.1D – Comprehensive Emergency Management System
 - 232.2A – Occurrence Reporting and Processing of Operations Information
 - 241.1B Admin Change 1 – Scientific and Technical Information Management
 - 413.3B Change 3 – Program and Project Management for the Acquisition of Capital Assets
 - 430.1C – Real Property Asset Management; and,
- 16) Incorporate a Contractor's Statement of Release that is agreed to by the contractor's signature in Block 15.

All other terms and conditions remain unchanged.

1) Modify Section B.2-2a Total Available Award Fee and incorporate Option Period(s) Fee Rate Table

From Modification 174:

- (a) The total available award fee for the base period of the contract, beginning October 1 2012, and the option period, if exercised, is shown below.

PERFORMANCE PERIOD	Fee Percent (%)	Total Available Award Fee	Total Fee Earned (Mod 49, 96, 138, 174)
Base Period			
October 1, 2012 – September 30, 2013	7.5	\$ 8,192,895	\$7,892,519.32
October 1, 2013 – September 30, 2014	7.5	\$ 8,192,895	\$561,266
October 1, 2014 – September 30, 2015	7.5	\$13,665,946	\$11,714,118.44
October 1, 2015 – September 30, 2016	7.0	\$13,485,242	\$11,294,601.37
October 1, 2016 – September 30, 2017	7.0	\$11,948,286	
Option Period			
October 1, 2017 – September 30, 2018	6.5	\$ 7,100,509	
October 1, 2018 – September 30, 2019	6.0	\$ 6,554,316	
October 1, 2019 – September 30, 2020	5.5	\$ 6,008,123	
October 1, 2020 – September 30, 2021	5.5	\$ 6,008,123	
October 1, 2021 – September 30, 2022	5.5	\$ 6,008,123	

To Modification 187:

- (a) The total available award fee for the base period of the contract, beginning October 1 2012, and the option period, if exercised, is shown below.

PERFORMANCE PERIOD	Fee Percent (%)	Total Available Award Fee	Total Fee Earned (Mod 49, 96, 138, 174, 182)
Base Period			
October 1, 2012 – September 30, 2013	7.5	\$ 8,192,895	\$7,892,519.32
October 1, 2013 – September 30, 2014	7.5	\$ 8,192,895	\$561,266
October 1, 2014 – September 30, 2015	7.5	\$13,665,946	\$11,714,118.44
October 1, 2015 – September 30, 2016	7.0	\$13,485,242	\$11,294,601.37
October 1, 2016 – September 30, 2017	7.0	\$11,948,286*	
Option Period 1			
October 1, 2017 – September 30, 2018	7.0	\$ 7,646,702	
October 1, 2018 – September 30, 2019	7.0	\$ 7,646,702	
October 1, 2019 – September 30, 2020	7.0	\$ 7,646,702	
Option Period 2			
October 1, 2020 – September 30, 2021	6.5	\$ 7,100,509	
October 1, 2021 – September 30, 2022	6.5	\$ 7,100,509	

*Super-stretch incentives are not included in Total Available Award Fee Total

2) Revise language in Contract Section F.1

From Modification 142:

F.1 PERIOD OF PERFORMANCE

The base period of performance for this contract is from the date that the Contractor assumes full responsibility for the Performance Work Statement (PWS) through September 30, 2017 with options to extend the term of this contract for a period of five (5) years. The options will be exercised unilaterally in accordance with Section I, FAR 52.217-9, "Option to Extend the Term of the Contract." The option periods are:

Option Period 1: October 1, 2017 – September 30, 2018

Option Period 2: October 1, 2018 – September 30, 2022

The total term shall not extend beyond September 30, 2022, except as authorized by FAR 52.217-8, Option to Extend Services, and FAR 52.237-3, Continuity of Services.

The Contracting Officer shall issue a written notice to proceed. Upon issuance of the notice to proceed, the Contractor is required to proceed with the Transition Activities in Section H.” The transition period is 90 days from the written notice to proceed or as extended by the Contracting Officer. If the transition period is extended, the Contracting Officer shall provide written notification of the date the Contractor assumes full responsibility for the PWS in accordance with the clause in Section H entitled “Transition Activities.”

To Modification 187:

F.1 PERIOD OF PERFORMANCE

The base period of performance for this contract is from the date that the Contractor assumes full responsibility for the Performance Work Statement (PWS) through September 30, 2017 with options to extend the term of this contract for a period of five (5) years. The options will be exercised unilaterally in accordance with Section I, FAR 52.217-9, “Option to Extend the Term of the Contract.” The option periods are:

Option Period 1: October 1, 2017 – September 30, 2020

Option Period 2: October 1, 2020 – September 30, 2022

The total term shall not extend beyond September 30, 2022, except as authorized by FAR 52.217-8, Option to Extend Services, and FAR 52.237-3, Continuity of Services.

The Contracting Officer shall issue a written notice to proceed. Upon issuance of the notice to proceed, the Contractor is required to proceed with the Transition Activities in Section H.” The transition period is 90 days from the written notice to proceed or as extended by the Contracting Officer. If the transition period is extended, the Contracting Officer shall provide written notification of the date the Contractor assumes full responsibility for the PWS in accordance with the clause in Section H entitled “Transition Activities.”

3) Revise Special Contract Clause H.9

From Modification 178:

H.9 KEY PERSONNEL

(a) Unless approved in advance, in writing, by the CO, should any Key Personnel be removed, replaced, or diverted by the Contractor for reasons under the Contractor’s control (other than to maintain satisfactory standards of employee competency, conduct, and integrity under the clause at 48 CFR 970.5203-3, Contractor’s Organization) within the first two years of performance from the effective date of the contract (SF 33, Block 2); or for a replacement Key Personnel within two years of being placed in the position, the Contractor shall forfeit \$500,000 in fee if said Key Personnel is the Project Manager, and \$250,000 in fee for each removal, replacement, or diversion of all other key personnel within two years after effective date of the contract or within two years of being placed in the position.

(b) The personnel listed below are considered essential to the work being performed under this contract. Before removing, replacing, or diverting any of the listed or specified personnel, the Contractor must: (1) notify the Contracting Officer reasonably in advance; (2) submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on this contract; and (3) obtain the Contracting Officer’s written approval. Notwithstanding the foregoing, if the Contractor deems immediate removal or suspension of any member of its management team is necessary to fulfill its obligation to maintain satisfactory standards of employee competency, conduct,

and integrity under the clause at 48 CFR 970.5203-3, Contractor's Organization, the Contractor may remove or suspend such person at once, although the Contractor must notify Contracting Officer prior to or concurrently with such action.

(c) The list of personnel in paragraph (d) below may, with the consent of the contracting parties, be amended from time to time during the course of the contract to add or delete personnel.

(d) List of Key Personnel – the individuals listed below are considered Key Personnel for this contract:

<u>Name</u>	<u>Title</u>
Bruce Covert	President and Project Manager
Tammy Reynolds	Vice President and Deputy Project Manager
Michael D. Love	Operations Manager
Mark Percy	TRU Waste Program Manager

To Modification 187:

H.9 KEY PERSONNEL

(a) Unless approved in advance, in writing, by the CO, should any Key Personnel be removed, replaced, or diverted by the Contractor for reasons under the Contractor's control (other than to maintain satisfactory standards of employee competency, conduct, and integrity under the clause at 48 CFR 970.5203-3, Contractor's Organization) within the first two years of performance from the effective date of the contract (SF 33, Block 2); or for a replacement Key Personnel within two years of being placed in the position, the Contractor shall forfeit \$500,000 in fee if said Key Personnel is the Project Manager, and \$250,000 in fee for each removal, replacement, or diversion of all other key personnel within two years after effective date of the contract or within two years of being placed in the position.

(b) The personnel listed below are considered essential to the work being performed under this contract. Before removing, replacing, or diverting any of the listed or specified personnel, the Contractor must: (1) notify the Contracting Officer reasonably in advance; (2) submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on this contract; and (3) obtain the Contracting Officer's written approval. Notwithstanding the foregoing, if the Contractor deems immediate removal or suspension of any member of its management team is necessary to fulfill its obligation to maintain satisfactory standards of employee competency, conduct, and integrity under the clause at 48 CFR 970.5203-3, Contractor's Organization, the Contractor may remove or suspend such person at once, although the Contractor must notify Contracting Officer prior to or concurrently with such action.

(c) The list of personnel in paragraph (d) below may, with the consent of the contracting parties, be amended from time to time during the course of the contract to add or delete personnel.

(d) List of Key Personnel – the individuals listed below are considered Key Personnel for this contract:

<u>Name</u>	<u>Title</u>
Bruce Covert	President and Project Manager
Tammy Reynolds	Vice President and Deputy Project Manager
Michael D. Love	Operations Manager
Mark Percy	TRU Waste Program Manager
TBD	Chief Mining Officer

4) Revise H.11 SMALL, SMALL DISADVANTAGED, AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN

From Award:

H.11 SMALL, SMALL DISADVANTAGED, AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN

The Small, Small Disadvantaged, and Women-Owned Small Business Subcontracting Plan with goals, submitted by the Contractor consistent with the provisions of the Contract Clause entitled, "Small Business Subcontracting Plan" and approved by the Contracting Officer is incorporated as an Attachment to Section J. Prior to the beginning of each Fiscal Year, the Contractor shall also submit an "annual" subcontracting plan which shall establish subcontracting goals, as described in paragraph (d)(1) and (2) of Contract Clause entitled "Small Business Subcontracting Plan" (FAR 52.219-9). The annual plan shall be reviewed for approval by the Contracting Officer and shall be incorporated into this contract. The Contractor's performance in meeting the goals will be assessed as part of the award fee determination under this contract.

To Modification 187:

H.11 SMALL, SMALL DISADVANTAGED, AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN

The Small, Small Disadvantaged, and Women-Owned Small Business Subcontracting Plan with goals, submitted by the Contractor consistent with the provisions of the Contract Clause entitled, "Small Business Subcontracting Plan" and approved by the Contracting Officer is incorporated as an Attachment to Section J. Prior to the beginning of each Fiscal Year, the Contractor shall also submit an "annual" subcontracting plan which shall establish subcontracting goals, as described in paragraph (d)(1) and (2) of Contract Clause entitled "Small Business Subcontracting Plan" (FAR 52.219-9). The annual plan shall be reviewed for approval by the Contracting Officer and shall be incorporated into this contract. The Contractor's performance in meeting the goals will be assessed as part of the award fee determination under this contract.

Commencing with Fiscal Year 2018 (Option Period 1), Contractor shall evaluate all existing large business subcontracts or agreements > \$5M and ensure the subcontract structure is providing the optimal small business opportunities or performance structure. The plan for FY18 shall include a narrative of how the subcontracts will be evaluated and considered for re-competition to provide small business opportunities or, in the event small business opportunities do not exist, a new or revised structure advancing the initiatives of Small Business Subcontracting Plan.

5) Revise Section H.22(e) and H.22(f)(1)(ii)

Section (e)

From Modification 4:

DOE may conduct Earned Value Management System (EVMS) compliance reviews and external independent reviews (EIR) of the Contractor's proposed project control system per DOE Order 413.1B to determine if the description and procedures meet Order requirements as required for capital projects. The Contractor shall be prepared to successfully complete the EIR and to successfully gain Earned Value Management System certification six months after the Contractor receives notice from DOE of a pending capital project that will require EVMS implementation.

To Modification 187:

(e) DOE will conduct an Earned Value Management System (EVMS) compliance review and external independent reviews (EIRs) of the Contractor's proposed project control system per DOE Order 413.1B to determine if the description and procedures meet the requirements of this contract clause for line item capital asset projects and Contracting Officer directed General Plant Projects.

Contracting Officer directed General Plant Projects refers to the case when the Total Project Cost exceeds \$10,000,000 (or current DOE Order 413.3B implementation and reporting requirements) and the Total Estimated Cost is below the minor construction threshold (as required by current appropriations law). The Contractor shall be prepared to successfully complete the EIRs and to successfully gain Earned Value Management System certification six months after receipt of notice from the Contracting Officer of pending line item capital asset projects that require EVMS implementation and reporting.

Section (f)(1)(ii)

From Modification 4:

(1) A General Management Status Report summarizes scope, schedule, cost status and plans including but not limited to:

Earned Value Management Reports (if required for capital projects) with information regarding budgeted cost of work scheduled and work performed and actual cost, as well as cost and schedule performance indices, schedule performance against milestones and estimated costs and budgets at completion. "Stoplight" charts showing red, yellow and green indicators for performance shown by WBS, PBS and participants within well-defined ranges assist management in assessing the performance against key indicators.

To Modification 187:

(1) A monthly General Management Status Report summarizes scope, schedule, cost status and plans including but not limited to:

Earned Value Management Reports using the Integrated Program Management (IPMR) format from DOE Order 413.3B for line item capital asset projects and Contracting Officer directed General Plant Projects with information regarding budgeted cost of work scheduled, budgeted cost of work performed, and actual cost of work performed, as well as cost and schedule performance indices, schedule performance against milestones and estimated costs and budget at completion, estimate to complete, and variance at completion against the approved performance measurement baseline. The Earned Value Management Reports will include the usage of Management Reserve and DOE held contingency for the current monthly reporting period and cumulative. The Earned Value Management Reports will include Total Authorized Funding and Funding Variance at Completion. Variance analysis will be performed on the current period and cumulative. If corrective actions are required or are being undertaken to bring performance back to the baseline, the Earned Value Management Report will identify and track the corrective actions to closure. The Earned Value Management Report will identify near term execution risks that could occur within the next three monthly reporting periods and proposed path forward. The Earned Value Management Report will identify issues and concerns from the current monthly reporting period and any unresolved issues and concerns from previous reporting periods. The Earned Value Management Report will provide the current status of accomplishments and progress. In addition, data extraction for the Project Assessment and Reporting System (PARS) II e will be required for line item capital asset projects and General Plant Projects over \$10 million as per DOE Order 413.3B requirements. The contractor will provide "Stoplight" charts during the Monthly Progress Review for the line item capital asset projects and Contracting Officer directed General Plant Projects of the key performance indicators and indices as required by the IPMR format from DOE Order 413.3b showing red (>+-15%), yellow (>+-10%), and green (<10%) indicators for performance shown by WBS, PBS and participants within well-defined ranges for the current monthly reporting period and cumulative, with variance analysis, assist management in assessing the performance against key performance indicators and indices.

6) **Revise H.47 to Increase percentage of NWP fee that is committed to the community from 2% to 5%**

From Award:

H.47 CONTRACTOR COMMUNITY COMMITMENT

(C) Community Support

The Contractor may directly sponsor specific local community activities or sponsor individual employees available to work with a specific local community activity. The Contractor may provide support and assistance to community service organizations. The Contractor may support strategic partnerships with professional and scientific organizations to enhance recruitment into all levels of its Carlsbad, New Mexico based organization. The Contractor may support other community involvement activities as it deems appropriate.

The Contractor may use earned fee for any community commitment activities as it deems appropriate. All costs incurred by the Contractor for community commitment activities, as described above, are unallowable and non-reimbursable under the contract, unless otherwise allowable pursuant to the FAR and DEAR.

To Modification 187:

H.47 CONTRACTOR COMMUNITY COMMITMENT

(C) Community Support

The Contractor will directly sponsor specific local community activities and/or sponsor individual employees available to work with a specific local community activity. The Contractor will provide support and assistance to community service organizations. The Contractor may support other community involvement activities as it deems appropriate. The Contractor commits to provide a minimum of 2,000 volunteer hours per year in support of community projects at no cost to the Government.

The Contractor shall use 5% of net contract earnings for community commitment activities including, but not limited to, activities described in the preceding paragraph of this clause. The Contractor may make individual employees available to participate in community service activities (e.g., blood bank drives, charity drives, savings bond drives, disaster assistance, site tours, etc.), as defined by FAR 31.205-1(e)(3) and (4). The salaries, wages and fringe benefits of employees while engaged in such approved activities, under FAR 31.205-1(e)(3) and (4), may be allowable costs to the extent that such costs exceed the 2,000 volunteer hours to be provided at no cost as described in the preceding paragraph of this clause. Any commitment of labor will have the prior approval of the Contractor's Project Manager. If the Contractor authorizes its employees to participate in community service activities that are allowable in accordance with other provisions of this Contract and FAR 31.205-1(e)(3) or (4), the Contractor shall obtain prior approval of the Contracting Officer of any activity that involves more than 40 hours for company employees in a fiscal year. Failure to obtain prior Contracting Officer approval may result in the costs being determined unallowable in accordance with Section H.21. FAR 31.205-8 makes unallowable any contributions or donations, including cash, property, and services.

7) H.61 CORPORATE SERVICES (JUL 2017)

The Contractor shall provide the following corporate services over the 5 year option periods in the amount of \$1.3M at no additional cost to DOE. Upon CBFO approval these services can carry-over from option period one if needed. The \$1.3 million shall be divided out by \$780k for Option Period One (1) and \$520k for Option Period Two (2). These services will be mutually agreed upon and may include but are not limited to:

- Shaft and Filter Building Design
- Engineering and Design Oversight
- A&E Oversight for the Capital Asset Project Construction and Commissioning

- Host International symposium on repository development (3-day Conference to be held in 2020 in Carlsbad. Include one day devoted to mining safety.)
- Annual Corporate team review of critical programs (tied to AIB JONs) – e.g. Fire Protection, Emergency Management, Radcon

The services shall also include similar services for the General Plant Projects.

8) H.62 COST SAVINGS INVESTMENT INCENTIVE (JUL 2017)

The Contractor shall conduct a program to reduce the cost of planned activities (cost savings) as described below. The objective of this program is to enhance investment in critical improvements through improved efficiency in the conduct of planned activities. The contractor agrees to share net earnings with its employees as described below.

- a. Cost savings incentive (super-stretch) shall be above normal PEMP (Award Fee / PBIs) and exclude capital projects.
- b. Savings should be measured against an approved baseline
 - Incentivize cost savings in EY90 throughout year (i.e. approved baseline at beginning of FY)
 - Measure savings against total operational budget (exclude capital projects)
 - Completion of discrete scopes of work can be recognized throughout the year, with under run being collected in Management Reserve through a Programmatic Change Request (PCR) upon completion of the discrete scope of work. Level of effort scope cost savings shall be recognized at the end of the fiscal year.
 - Baseline reconciliation should occur during the year if, for example, the site budget is derived from a CR and there is a mismatch between funding and budget
- c. Cost savings used to supplement funding for critical infrastructure projects from the Consolidated Master Project List (CMPL)
- d. A savings incentive shall be earned through the establishment of Super Stretch PBIs. These incentives will apply cost savings as described herein to funding both the cost and fee for infrastructure projects from the CMPL, and shall include the cost, scope, and schedule for completion of said projects. A separate incentive fee (fee that is both outside of the fee pool established in Section B.2-2a, Total Available Award Fee, and is funded by savings as described in this clause) will be assigned to each scope of work covered by the Super Stretch PBI. Mutually agreed discrete milestones or progress achievements may be recognized and earned by the Contractor in a fiscal year.
- e. NWP will share half of its net earnings under this clause with employees through establishment of a formal program. This program will be formalized and communicated to the Contractor's employees no later than 90 days from the date of this contract modification.
- f. All fee earned under this clause is conditioned on the following criteria being met:
 - 1. Industrial Safety - Lost Workday Rates during the option period are maintained at a level that is less than the average for the DOE Complex.
 - 2. Radiological Safety – Zero recordable intakes and less than 500 mrem maximum dose to any worker during fiscal years 2018 and 2019.
 - 3. Nuclear Safety – The maximum number of TSR violations issued will be five (5) per year.
 - 4. Regulatory Compliance – 95% of deliverables required by permits and licenses will be submitted on or ahead of the required due date.

Failure to maintain compliance with any of the above listed criteria shall result in forfeiture of all PBI fee earned under this clause during the fee period. However, the Fee Determining Official retains the discretion to consider mitigation circumstances in enforcement of the forfeiture of fee described in this paragraph f.

9) H.63 BASELINE APPROVAL (JUL 2017)

By October 1 of each year of the performance period, the contractor shall submit a baseline for site work. The baseline will include detailed cost, schedule, and scope information for the execution year to accurately assess contractor performance. DOE will submit comments to the baseline within 30 calendar days and approve/disapprove the baseline within 60 days of submittal by Contractor. The baseline will include detailed cost, schedule, and scope information for the execution year to accurately assess contractor performance. Once approved, the baseline shall be utilized to measure and realize annual cost savings. For discretely measured scopes of work, cost savings shall be accumulated in Management Reserve (MR) upon completion of the scope of work. For level-of-effort scopes of work, cost savings are calculated at the end of the Fiscal Year and underruns added to MR. MR may carry over from month to month or year to year, until a sufficient amount is accumulated to fund, in total, specific infrastructure projects from the Consolidated Master Projects List (CMPL). Once a project is identified, a Programmatic Change Request (PCR) shall be utilized to authorize the project utilizing some or all of the funds in MR. It is recognized that a specific project may be authorized from the current year operational baseline, the accumulated cost savings, or a combination of both.

10) H.64 EM TRU WASTE MASTER SYSTEM PLAN (JUL 2017)

By March 31, 2018, the contractor is to develop a Master System Plan for WIPP operations for the succeeding 5 years. The plan is to be updated every six months after the initial issuance and describe the next five years on a rolling basis.

The plan is to discuss the following:

Creation of a comprehensive TRU Waste Disposition Map (similar to a flowsheet used at other sites) for TRU waste disposition across the DOE complex, to include, but not limited to, identification of available and forecast TRU waste at generator sites, constraints to the efficient and effective disposition of the disposition of this waste (including legacy and newly generated TRU waste), identification of strategies to mitigate identified constraints and ultimately improve the safe and efficient throughput of wastes to be dispositioned at WIPP. The Disposition Map will consider all aspects of TRU waste in the complex from generation, characterization, transportation, receipt, storage, to final placement. The Disposition Map will also include the required safety activities (ground control, decontamination, infrastructure changes, etc.) needed to mitigate personnel and mission risk and to enhance WIPP site safety and operations to support receipt and emplacement of waste. The Disposition Map will address the following activities: anticipated shipping and emplacement rates for both contact and remote handled waste; needed changes to the underground including new emplacement drifts and work areas; operational or design changes needed to support higher shipping rates while maintaining worker safety including prioritizing ground control work in the underground; and any other pertinent information for WIPP operations.

11) Incorporate I.11a, FAR 52.203-17 – Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights

52.203-17 – Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights.

Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights (Apr 2014)

- (a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908.

- (b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.
- (c) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.

12) Exercise Option Period One (1) Clause I.32 FAR 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (Mar 2000)

Exercise Option for Option Period One (1) for the performance period of October 1, 2017 through September 30, 2020.

13) Revise Section I.84

From Modification 4:

I.84 RESERVED. (FAR 52.234-4 Removed in M004)

I.84 FAR 52.234-4 EARNED VALUE MANAGEMENT SYSTEM (JUL 2006)

- (a) The Contractor shall use an earned value management system (EVMS) that has been determined by the Cognizant Federal Agency (CFA) to be compliant with the guidelines in ANSI/EIA Standard - 748 (current version at the time of award) to manage this contract. If the Contractor's current EVMS has not been determined compliant at the time of award, see paragraph (b) of this clause. The Contractor shall submit reports in accordance with the requirements of this contract.
- (b) If, at the time of award, the Contractor's EVM System has not been determined by the CFA as complying with EVMS guidelines or the Contractor does not have an existing cost/schedule control system that is compliant with the guidelines in ANSI/EIA Standard - 748 (current version at time of award), the Contractor shall—
 - (1) Apply the current system to the contract; and
 - (2) Take necessary actions to meet the milestones in the Contractor's EVMS plan approved by the Contracting Officer.
- (c) The Government will conduct an Integrated Baseline Review (IBR). If a pre-award IBR has not been conducted, a post award IBR shall be conducted as early as practicable after contract award.
- (d) The Contracting Officer may require an IBR at—
 - (1) Exercise of significant options; or
 - (2) Incorporation of major modifications.
- (e) Unless a waiver is granted by the CFA, Contractor proposed EVMS changes require approval of the CFA prior to implementation. The CFA will advise the Contractor of the acceptability of such changes within 30 calendar days after receipt of the notice of proposed changes from the Contractor. If the advance approval requirements are waived by the CFA, the Contractor shall disclose EVMS changes to the CFA at least 14 calendar days prior to the effective date of implementation.
- (f) The Contractor shall provide access to all pertinent records and data requested by the Contracting Officer or a duly authorized representative as necessary to permit Government surveillance to ensure that the EVMS conforms, and continues to conform, with the performance criteria referenced in paragraph (a) of this clause.

- (g) The Contractor shall require the subcontractors specified below to comply with the requirements of this clause: [Insert list of applicable subcontractors.]

AREVA Federal Services, LLC

To Modification 187:

1.84 FAR 52.234-4 EARNED VALUE MANAGEMENT SYSTEM (NOV 2016)

- (a) The Contractor shall use an earned value management system (EVMS) that has been determined by the Cognizant Federal Agency (CFA) to be compliant with the guidelines in Electronic Industries Alliance Standard 748 (EIA-748) (current version at the time of award) to manage this contract. If the Contractor's current EVMS has not been determined compliant at the time of award, see paragraph (b) of this clause. The Contractor shall submit reports in accordance with the requirements of this contract.
- (b) If, at the time of award, the Contractor's EVM System has not been determined by the CFA as complying with EVMS guidelines or the Contractor does not have an existing cost/schedule control system that is compliant with the guidelines in EIA-748 (current version at time of award), the Contractor shall--
- (1) Apply the current system to the contract; and
 - (2) Take necessary actions to meet the milestones in the Contractor's EVMS plan approved by the Contracting Officer.
- (c) The Government will conduct an Integrated Baseline Review (IBR). If a pre-award IBR has not been conducted, a post award IBR shall be conducted as early as practicable after contract award.
- (d) The Contracting Officer may require an IBR at--
- (1) Exercise of significant options; or
 - (2) Incorporation of major modifications.
- (e) Unless a waiver is granted by the CFA, Contractor proposed EVMS changes require approval of the CFA prior to implementation. The CFA will advise the Contractor of the acceptability of such changes within 30 calendar days after receipt of the notice of proposed changes from the Contractor. If the advance approval requirements are waived by the CFA, the Contractor shall disclose EVMS changes to the CFA at least 14 calendar days prior to the effective date of implementation.
- (f) The Contractor shall provide access to all pertinent records and data requested by the Contracting Officer or an authorized representative as necessary to permit Government surveillance to ensure that the EVMS conforms, and continues to conform, with the performance criteria referenced in paragraph (a) of this clause.
- (g) The Contractor shall require the subcontractors specified below to comply with the requirements of this clause: AREVA Federal Services, LLC

14) Revised I.171 DEAR 970.5244-1

From Award:

I.171 DEAR 970.5244-1 CONTRACTOR PURCHASING SYSTEM (AUG 2009)

- (a) General. The contractor shall develop, implement, and maintain formal policies, practices, and procedures to be used in the award of subcontracts consistent with this clause and 48 CFR 970.44. The contractor's purchasing system and methods shall be fully documented, consistently applied, and acceptable to DOE in accordance with 48 CFR 970.4401-1. The contractor shall maintain file documentation which is appropriate to the value of the purchase and is adequate to establish the propriety of the transaction and the price paid. The contractor's purchasing performance will be evaluated against such performance criteria and measures as may be set forth elsewhere in this contract. DOE reserves the right at any time to require that the contractor submit for approval any or all purchases under this contract. The contractor shall not purchase any item or service the purchase of which is expressly prohibited by the written direction of DOE and shall use such special and directed sources as may be expressly required by the DOE contracting officer. DOE will conduct periodic appraisals of the contractor's management of all facets of the purchasing function, including the contractor's compliance with its approved system and methods. Such appraisals will be performed through the conduct of Contractor Purchasing System Reviews in accordance with 48 CFR subpart 44.3, or, when approved by the contracting officer, through the contractor's participation in the conduct of the Balanced Scorecard performance measurement and performance management system. The contractor's approved purchasing system and methods shall include the requirements set forth in paragraphs (b) through (y) of this clause.
- (b) Acquisition of utility services. Utility services shall be acquired in accordance with the requirements of 48 CFR 970.41.
- (c) Acquisition of Real Property. Real property shall be acquired in accordance with 48 CFR Subpart 917.74.
- (d) Advance Notice of Proposed Subcontract Awards. Advance notice shall be provided in accordance with 48 CFR 970.4401-3.
- (e) Audit of Subcontractors.
- (1) The contractor shall provide for:
 - (i) periodic post-award audit of cost-reimbursement subcontractors at all tiers, and
 - (ii) audits, where necessary, to provide a valid basis for pre-award or cost or price analysis.
 - (2) Responsibility for determining the costs allowable under each cost-reimbursement subcontract remains with the contractor or next higher-tier subcontractor. The contractor shall provide, in appropriate cases, for the timely involvement of the contractor and the DOE contracting officer in resolution of subcontract cost allowability.
 - (3) Where audits of subcontractors at any tier are required, arrangements may be made to have the cognizant Federal agency perform the audit of the subcontract. These arrangements shall be made administratively between DOE and the other agency involved and shall provide for the cognizant agency to audit in an appropriate manner in light of the magnitude and nature of the subcontract. In no case, however, shall these arrangements preclude determination by the DOE contracting officer of the allowability or unallowability of subcontractor costs claimed for reimbursement by the contractor.
 - (4) Allowable costs for cost reimbursable subcontracts are to be determined in accordance with the cost principles of 48 CFR Part 31, appropriate for the type of organization to which the subcontract is to be awarded, as supplemented by 48 CFR Part 931. Allowable costs in the purchase or transfer from contractor-affiliated sources shall be determined in accordance with 48 CFR 970.4402-3 and 48 CFR 970.3102-3-21(b).

(f) Bonds and Insurance.

- (1) The contractor shall require performance bonds in penal amounts as set forth in 48 CFR 28.102-2(a) for all fixed priced and unit-priced construction subcontracts in excess of \$100,000. The contractor shall consider the use of performance bonds in fixed price nonconstruction subcontracts, where appropriate.
- (2) For fixed-price, unit-priced and cost reimbursement construction subcontracts in excess of \$100,000 a payment bond shall be obtained on Standard Form 25A modified to name the contractor as well as the United States of America as obligees. The penal amounts shall be determined in accordance with 48 CFR 28.102-2(b).
- (3) For fixed-price, unit-priced and cost-reimbursement construction subcontracts, greater than \$25,000, but not greater than \$100,000, the contractor shall select two or more of the payment protections at 48 CFR 28.102-1(b), giving particular consideration to the inclusion of an irrevocable letter of credit as one of the selected alternatives.
- (4) A subcontractor may have more than one acceptable surety in both construction and other subcontracts, provided that in no case will the liability of any one surety exceed the maximum penal sum for which it is qualified for any one obligation. For subcontracts other than construction, a co-surety (two or more sureties together) may reinsure amounts in excess of their individual capacity, with each surety having the required underwriting capacity that appears on the list of acceptable corporate sureties.

(g) Buy American. The contractor shall comply with the provisions of the Buy American Act as reflected in 48 CFR 52.225-3 and 48 CFR 52.225-5. The contractor shall forward determinations of nonavailability of individual items to the DOE contracting officer for approval. Items in excess of \$100,000 require the prior concurrence of the Head of Contracting Activity. If, however, the contractor has an approved purchasing system, the Head of the Contracting Activity may authorize the contractor to make determinations of nonavailability for individual items valued at \$100,000 or less.

(h) Construction and Architect-Engineer Subcontracts.

- (1) Independent Estimates. A detailed, independent estimate of costs shall be prepared for all construction work to be subcontracted.
- (2) Specifications. Specifications for construction shall be prepared in accordance with the DOE publication entitled "General Design Criteria Manual."
- (3) Prevention of Conflict of Interest.
 - (i) The contractor shall not award a subcontract for construction to the architect-engineer firm or an affiliate that prepared the design. This prohibition does not preclude the award of a "turnkey" subcontract so long as the subcontractor assumes all liability for defects in design and construction and consequential damages.
 - (ii) The contractor shall not award both a cost-reimbursement subcontract and a fixed-price subcontract for construction or architect-engineer services or any combination thereof to the same firm where those subcontracts will be performed at the same site.
 - (iii) The contractor shall not employ the construction subcontractor or an affiliate to inspect the firm's work. The contractor shall assure that the working relationships of the construction subcontractor and the subcontractor inspecting its work and the authority of the inspector are clearly defined.

- (i) **Contractor-Affiliated Sources.** Equipment, materials, supplies, or services from a contractor-affiliated source shall be purchased or transferred in accordance with 48 CFR 970.4402-3.
- (j) **Contractor-Subcontractor Relationship.** The obligations of the contractor under paragraph (a) of this clause, including the development of the purchasing system and methods, and purchases made pursuant thereto, shall not relieve the contractor of any obligation under this contract (including, among other things, the obligation to properly supervise, administer, and coordinate the work of subcontractors). Subcontracts shall be in the name of the contractor, and shall not bind or purport to bind the Government.
- (k) **Government Property.** Identification, inspection, maintenance, protection, and disposition of Government property shall conform with the policies and principles of 48 CFR Part 45, 48 CFR 945, the Federal Property Management Regulations 41 CFR Chapter 101, the DOE Property Management Regulations 41 CFR Chapter 109, and their contracts.
- (l) **Indemnification.** Except for Price-Anderson Nuclear Hazards Indemnity, no subcontractor may be indemnified except with the prior approval of the Senior Procurement Executive.
- (m) **Leasing of Motor Vehicles.** Contractors shall comply with 48 CFR 8.11 and 48 CFR 908.11.
- (n) [Removed and Reserved.]

[71 FR 16242, Mar. 31, 2006]
- (o) **Management, Acquisition and Use of Information Resources.** Requirements for automatic data processing resources and telecommunications facilities, services, and equipment, shall be reviewed and approved in accordance with applicable DOE Orders and regulations regarding information resources.
- (p) **Priorities, Allocations and Allotments.** Priorities, allocations and allotments shall be extended to appropriate subcontracts in accordance with the clause or clauses of this contract dealing with priorities and allocations.
- (q) **Purchase of Special Items.** Purchase of the following items shall be in accordance with the following provisions of 48 CFR 908.71 and the Federal Property Management Regulations, 41 CFR Chapter 101:
 - (1) Motor vehicles-48 CFR 908.7101
 - (2) Aircraft-48 CFR 908.7102
 - (3) Security Cabinets-48 CFR 908.7106
 - (4) Alcohol-48 CFR 908.7107
 - (5) Helium-48 CFR 908.7108
 - (6) Fuels and packaged petroleum products-48 CFR 908.7109
 - (7) Coal-48 CFR 908.7110
 - (8) Arms and Ammunition-48 CFR 908.7111
 - (9) Heavy Water-48 CFR 908.7121(a)
 - (10) Precious Metals-48 CFR 908.7121(b)

- (11) Lithium-48 CFR 908.7121(c)
- (12) Products and services of the blind and severely handicapped-41 CFR 101-26.701
- (13) Products made in Federal penal and correctional institutions-41 CFR 101-26.702
- (r) **Purchase vs. Lease Determinations.** Contractors shall determine whether required equipment and property should be purchased or leased, and establish appropriate thresholds for application of lease vs. purchase determinations. Such determinations shall be made:
 - (1) at time of original acquisition;
 - (2) when lease renewals are being considered; and
 - (3) at other times as circumstances warrant.
- (s) **Quality Assurance.** Contractors shall provide no less protection for the Government in its subcontracts than is provided in the prime contract.
- (t) **Setoff of Assigned Subcontractor Proceeds.** Where a subcontractor has been permitted to assign payments to a financial institution, the assignment shall treat any right of setoff in accordance with 48 CFR 932.803.
- (u) **Strategic and Critical Materials.** The contractor may use strategic and critical materials in the National Defense Stockpile.
- (v) **Termination.** When subcontracts are terminated as a result of the termination of all or a portion of this contract, the contractor shall settle with subcontractors in conformity with the policies and principles relating to settlement of prime contracts in 48 CFR Subparts 49.1, 49.2 and 49.3. When subcontracts are terminated for reasons other than termination of this contract, the contractor shall settle such subcontracts in general conformity with the policies and principles in 48 CFR Subparts 49.1, 49.2, 49.3 and 49.4. Each such termination shall be documented and consistent with the terms of this contract. Terminations which require approval by the Government shall be supported by accounting data and other information as may be directed by the contracting officer.
- (w) **Unclassified Controlled Nuclear Information.** Subcontracts involving unclassified uncontrolled nuclear information shall be treated in accordance with 10 CFR part 1017.
- (x) **Subcontract Flowdown Requirements.** In addition to terms and conditions that are included in the prime contract which direct application of such terms and conditions in appropriate subcontracts, the contractor shall include the following clauses in subcontracts, as applicable:
 - (1) Davis-Bacon clauses prescribed in 48 CFR 22.407.
 - (2) Foreign Travel clause prescribed in 48 CFR 952.247-70.
 - (3) Counterintelligence clause prescribed in 48 CFR 970.0404-4(a).
 - (4) Service Contract Act clauses prescribed in 48 CFR 22.1006.
 - (5) State and local taxes clause prescribed in 48 CFR 970.2904-1.
 - (6) Cost or pricing data clauses prescribed in 48 CFR 970.1504-3-1(b).
- (y) **Legal Services.** Contractor purchases of litigation and other legal services are subject to the requirements in 10 CFR part 719 and the requirements of this clause.

To Modification 187:

I.171 970.5244-1 Contractor Purchasing System (AUG 2016)

- (a) General. The Contractor shall develop, implement, and maintain formal policies, practices, and procedures to be used in the award of subcontracts consistent with this clause and 48 CFR subpart 970.44. The Contractor's purchasing system and methods shall be fully documented, consistently applied, and acceptable to the Department of Energy (DOE) in accordance with 48 CFR 970.4401-1. The Contractor shall maintain file documentation which is appropriate to the value of the purchase and is adequate to establish the propriety of the transaction and the price paid. The Contractor's purchasing performance will be evaluated against such performance criteria and measures as may be set forth elsewhere in this contract. DOE reserves the right at any time to require that the Contractor submit for approval any or all purchases under this contract. The Contractor shall not purchase any item or service, the purchase of which is expressly prohibited by the written direction of DOE, and shall use such special and directed sources as may be expressly required by the DOE Contracting Officer. DOE will conduct periodic appraisals of the Contractor's management of all facets of the purchasing function, including the Contractor's compliance with its approved system and methods. Such appraisals will be performed through the conduct of Contractor Purchasing System Reviews in accordance with 48 CFR subpart 44.3, or, when approved by the Contracting Officer, through the Contractor's participation in the conduct of the Balanced Scorecard performance measurement and performance management system. The Contractor's approved purchasing system and methods shall include the requirements set forth in paragraphs (b) through (y) of this clause.
- (b) Acquisition of utility services. Utility services shall be acquired in accordance with the requirements of 48 CFR subpart 970.41.
- (c) Acquisition of real property. Real property shall be acquired in accordance with 48 CFR subpart 917.74.
- (d) Advance notice of proposed subcontract awards. Advance notice shall be provided in accordance with 48 CFR 970.4401-3.
- (e) Audit of subcontractors.
- (1) The Contractor shall provide for—
- (i) Periodic post-award audit of cost-reimbursement subcontractors at all tiers; and
- (ii) Audits, where necessary, to provide a valid basis for pre-award or cost or price analysis.
- (2) Responsibility for determining the costs allowable under each cost-reimbursement subcontract remains with the contractor or next higher-tier subcontractor. The Contractor shall provide, in appropriate cases, for the timely involvement of the Contractor and the DOE Contracting Officer in resolution of subcontract cost allowability.
- (3) Where audits of subcontractors at any tier are required, arrangements may be made to have the cognizant Federal agency perform the audit of the subcontract. These arrangements shall be made administratively between DOE and the other agency involved and shall provide for the cognizant agency to audit in an appropriate manner in light of the magnitude and nature of the subcontract. In no case, however, shall these arrangements preclude determination by the DOE Contracting Officer of the allowability or unallowability of subcontractor costs claimed for reimbursement by the Contractor.
- (4) Allowable costs for cost reimbursable subcontracts are to be determined in accordance with the cost principles of 48 CFR Part 31, appropriate for the type of organization to which the subcontract is to be awarded, as supplemented by 48 CFR part 931. Allowable costs in the

purchase or transfer from contractor-affiliated sources shall be determined in accordance with 48 CFR 970.4402-3 and 48 CFR 31.205-26(e).

(f) Bonds and insurance.

- (1) The Contractor shall require performance bonds in penal amounts as set forth in 48 CFR 28.102-2(a) for all fixed-priced and unit-priced construction subcontracts in excess of \$150,000. The Contractor shall consider the use of performance bonds in fixed-price non-construction subcontracts, where appropriate.
- (2) For fixed-price, unit-priced and cost reimbursement construction subcontracts in excess of \$150,000, a payment bond shall be obtained on Standard Form 25A modified to name the Contractor as well as the United States of America as obligees. The penal amounts shall be determined in accordance with 48 CFR 28.102-2(b).
- (3) For fixed-price, unit-priced and cost-reimbursement construction subcontracts greater than \$25,000, but not greater than \$100,000, the Contractor shall select two or more of the payment protections at 48 CFR 28.102-1(b), giving particular consideration to the inclusion of an irrevocable letter of credit as one of the selected alternatives.
- (4) A subcontractor may have more than one acceptable surety in both construction and other subcontracts, provided that in no case will the liability of any one surety exceed the maximum penal sum for which it is qualified for any one obligation. For subcontracts other than construction, a co-surety (two or more sureties together) may reinsure amounts in excess of their individual capacity, with each surety having the required underwriting capacity that appears on the list of acceptable corporate sureties.

(g) Buy American. The Contractor shall comply with the provisions of the Buy American Act as reflected in 48 CFR 52.225-1 and 48 CFR 52.225-9. The Contractor shall forward determinations of non-availability of individual items to the DOE Contracting Officer for approval. Items in excess of \$500,000 require the prior concurrence of the Head of Contracting Activity. If, however, the Contractor has an approved purchasing system, the Head of the Contracting Activity may authorize the Contractor to make determinations of non-availability for individual items valued at \$500,000 or less.

(h) Construction and architect-engineer subcontracts.

- (1) Independent Estimates. A detailed, independent estimate of costs shall be prepared for all construction work to be subcontracted.
- (2) Specifications. Specifications for construction shall be prepared in accordance with the DOE publication entitled "General Design Criteria Manual."
- (3) Prevention of conflict of interest.
 - (i) The Contractor shall not award a subcontract for construction to the architect-engineer firm or an affiliate that prepared the design. This prohibition does not preclude the award of a "turnkey" subcontract so long as the subcontractor assumes all liability for defects in design and construction and consequential damages.
 - (ii) The Contractor shall not award both a cost-reimbursement subcontract and a fixed-price subcontract for construction or architect-engineer services or any combination thereof to the same firm where those subcontracts will be performed at the same site.
 - (iii) The Contractor shall not employ the construction subcontractor or an affiliate to inspect the firm's work. The contractor shall assure that the working relationships of the

construction subcontractor and the subcontractor inspecting its work and the authority of the inspector are clearly defined.

- (i) **Contractor-affiliated sources.** Equipment, materials, supplies, or services from a contractor-affiliated source shall be purchased or transferred in accordance with 48 CFR 970.4402-3.
- (j) **Contractor-subcontractor relationship.** The obligations of the Contractor under paragraph (a) of this clause, including the development of the purchasing system and methods, and purchases made pursuant thereto, shall not relieve the Contractor of any obligation under this contract (including, among other things, the obligation to properly supervise, administer, and coordinate the work of subcontractors). Subcontracts shall be in the name of the Contractor, and shall not bind or purport to bind the Government.
- (k) **Government Property.** The Contractor shall establish and maintain a property management system that complies with criteria in 48 CFR 970.5245-1, Property, and 48 CFR 52.245-1, Government Property.
- (l) **Indemnification.** Except for Price-Anderson Nuclear Hazards Indemnity, no subcontractor may be indemnified except with the prior approval of the Senior Procurement Executive.
- (m) **Leasing of motor vehicles.** Contractors shall comply with 48 CFR subpart 8.11 and 48 CFR subpart 908.11.
- (n) [Reserved]
- (o) **Management, acquisition and use of information resources.** Requirements for automatic data processing resources and telecommunications facilities, services, and equipment, shall be reviewed and approved in accordance with applicable DOE Orders and regulations regarding information resources.
- (p) **Priorities, allocations and allotments.** Priorities, allocations and allotments shall be extended to appropriate subcontracts in accordance with the clause or clauses of this contract dealing with priorities and allocations.
- (q) **Purchase of special items.** Purchase of the following items shall be in accordance with the following provisions of 48 CFR subpart 8.5, 48 CFR subpart 908.71, Federal Management Regulation 41 CFR part 102, and the Federal Property Management Regulation 41 CFR chapter 101:
 - (1) **Motor vehicles—**48 CFR 908.7101
 - (2) **Aircraft—**48 CFR 908.7102
 - (3) **Security Cabinets—**48 CFR 908.7106
 - (4) **Alcohol—**48 CFR 908.7107
 - (5) **Helium—**48 CFR subpart 8.5
 - (6) **Fuels and packaged petroleum products—**48 CFR 908.7109
 - (7) **Coal—**48 CFR 908.7110
 - (8) **Arms and Ammunition—**48 CFR 908.7111
 - (9) **Heavy Water—**48 CFR 908.7121(a)

- (10) Precious Metals—48 CFR 908.7121(b)
- (11) Lithium—48 CFR 908.7121(c)
- (12) Products and services of the blind and severely handicapped—41 CFR 101-26.701
- (13) Products made in Federal penal and correctional institutions—41 CFR 101-26.702.
- (r) Purchase versus lease determinations. Contractors shall determine whether required equipment and property should be purchased or leased, and establish appropriate thresholds for application of lease versus purchase determinations. Such determinations shall be made—
 - (1) At time of original acquisition;
 - (2) When lease renewals are being considered; and
 - (3) At other times as circumstances warrant.
- (s) Quality assurance. Contractors shall provide no less protection for the Government in its subcontracts than is provided in the prime contract.
- (t) Setoff of assigned subcontractor proceeds. Where a subcontractor has been permitted to assign payments to a financial institution, the assignment shall treat any right of setoff in accordance with 48 CFR 932.803.
- (u) Strategic and critical materials. The Contractor may use strategic and critical materials in the National Defense Stockpile.
- (v) Termination. When subcontracts are terminated as a result of the termination of all or a portion of this contract, the Contractor shall settle with subcontractors in conformity with the policies and principles relating to settlement of prime contracts in 48 CFR subparts 49.1, 49.2 and 49.3. When subcontracts are terminated for reasons other than termination of this contract, the Contractor shall settle such subcontracts in general conformity with the policies and principles in 48 CFR subparts 49.1, 49.2, 49.3 and 49.4. Each such termination shall be documented and consistent with the terms of this contract. Terminations which require approval by the Government shall be supported by accounting data and other information as may be directed by the Contracting Officer.
- (w) Unclassified controlled nuclear information. Subcontracts involving unclassified uncontrolled nuclear information shall be treated in accordance with 10 CFR part 1017.
- (x) Subcontract flowdown requirements. In addition to terms and conditions that are included in the prime contract which direct application of such terms and conditions in appropriate subcontracts, the Contractor shall include the following clauses in subcontracts, as applicable:
 - (1) Davis-Bacon clauses prescribed in 48 CFR 22.407.
 - (2) Foreign Travel clause prescribed in 48 CFR 952.247-70.
 - (3) Counterintelligence clause prescribed in 48 CFR 970.0404-4(a).
 - (4) Service Contract Act clauses prescribed in 48 CFR 22.1006.
 - (5) State and local taxes clause prescribed in 48 CFR 970.2904-1.
 - (6) Cost or pricing data clauses prescribed in 48 CFR 970.1504-3-1(b).

(y) Legal services. Contractor purchases of litigation and other legal services are subject to the requirements in 10 CFR part 719 and the requirements of this clause.

(End of clause)

15) Revise Section J, Attachment A, List B

From Modification 107:

DOE Order	Title	*S/RID
DOE O 130.1	Budget Formulation	
DOE O 142.3A	Unclassified Foreign Visits and Assignments Program	
DOE O 150.1A	Continuity Programs	X
DOE O 151.1C	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 205.1B, Change 3	Department of Energy Cyber Security 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 221.1A	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 227.1	Independent Oversight Program	X
DOE O 231.1B, Admin. Change 1	Environment, Safety and Health Reporting	
DOE O 232.2, Admin. Change 1	Occurrence Reporting and Processing of Operations Information	X
DOE O 241.1B	Scientific and Technical Information Management	
DOE O 243.1B, Admin. Change 1	Records Management Program	
DOE O 252.1A, Admin. Change 1	Technical Standards Program	
DOE O 350.1, Change 5	Contractor Human Resource Management Programs	
DOE O 350.2B	Use of Management and Operating or Other Facility Management Contractor Employees for Services to DOE in the Washington, D.C., Area	
DOE O 413.1B	Internal Control Program	
DOE O 413.3B	Program and Project Management for the Acquisition of Capital Assets See Tracy Mustin Memo dated 3/15/12 titled Policy and Protocol for Office of Environmental Management Operations Activities.	
DOE O 414.1D, Admin. Change 1	Quality Assurance	X

DOE Order	Title	*S/RID
DOE O 420.1C	Facility Safety	X
DOE O 422.1, Admin. Change 2	Conduct of Operations	X
DOE O 425.1D, Admin. Change 1	Verification of Readiness to Startup or Restart Nuclear Facilities	X
DOE O 426.2, Admin. Change 1	Personnel Selection, Training, Qualification, and Certification Requirements for DOE Nuclear Facilities	X
DOE O 430.1B, Change 2	Real Property Asset Management	
DOE O 433.1B, Admin. Change 1	Maintenance Management Program for DOE Nuclear Facilities	X
DOE O 435.1, Change 1	Radioactive Waste Management	X
DOE O 436.1	Departmental Sustainability	X
DOE O 442.1A	Department of Energy Employee Concerns Program	
DOE O 442.2	Differing Professional Opinions for Technical Issues Involving Environment, Safety, and Health	
DOE O 451.1B Change 3	National Environmental Policy Act Protection Program	X
DOE O 458.1, Admin Change 3	Radiation Protection of the Public and the Environment	X
DOE O 460.1C	Packaging and Transportation Safety See attached letter dated March 29, 2012, from Stephen C. O'Connor to Jose Franco, CBFO Manager, which provides clarification for the requirements in this order. NWP will provide the documents to CBFO to forward to DOE-HQ.	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 Change 1	Safeguards and Security Program Operations	
DOE O 471.1B	Identification and Protection of Unclassified Controlled Nuclear Information	
DOE O 471.3, Admin Change 1	Identifying and Protecting Official Use Only Information	
DOE O 471.6, Admin. Change 1	Information Security	
DOE O 472.2, Change 1	Personnel Security	
DOE O 473.3	Protection Program Operations	
DOE O 475.1	Counterintelligence Program	
DOE O 483.1A	DOE Cooperative Research and Developments Agreements	
DOE O 522.1	Pricing of Departmental Materials and Services	
DOE O 534.1B	Accounting	
DOE O 551.1D	Official Foreign Travel	
DOE O 580.1A Admin Change 1	Personal Property Management Program	

DOE Manual	Title	S/RID
DOE M 140.1-1B	Interface with the Defense Nuclear Facilities Safety Board	
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 Change 1	Manual for Identifying and Protecting Official Use Only Information	

To Modification 187:

DOE Order	Title	*S/RID
DOE O 130.1	Budget Formulation	
DOE O 142.3A	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 205.1B, Change 3	Department of Energy Cyber Security 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 221.1A	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 227.1	Independent Oversight Program	X
DOE O 231.1B, Admin. Change 1	Environment, Safety and Health Reporting	
DOE O 232.2A	Occurrence Reporting and Processing of Operations Information	X
DOE O 241.1B Admin. Change 1	Scientific and Technical Information Management	
DOE O 243.1B, Admin. Change 1	Records Management Program	
DOE O 252.1A, Admin. Change 1	Technical Standards Program	
DOE O 350.1, Change 5	Contractor Human Resource Management Programs	
DOE O 350.2B	Use of Management and Operating or Other Facility Management Contractor Employees for Services to DOE in the Washington, D.C., Area	
DOE O 413.1B	Internal Control Program	

DOE Order	Title	*S/RID
DOE O 413.3B Change 3	Program and Project Management for the Acquisition of Capital Assets See Tracy Mustin Memo dated 3/15/12 titled Policy and Protocol for Office of Environmental Management Operations Activities.	
DOE O 414.1D, Admin. Change 1	Quality Assurance	X
DOE O 420.1C	Facility Safety	X
DOE O 422.1, Admin. Change 2	Conduct of Operations	X
DOE O 425.1D, Admin. Change 1	Verification of Readiness to Startup or Restart Nuclear Facilities	X
DOE O 426.2, Admin. Change 1	Personnel Selection, Training, Qualification, and Certification Requirements for DOE Nuclear Facilities	X
DOE O 430.1C,	Real Property Asset Management	
DOE O 433.1B, Admin. Change 1	Maintenance Management Program for DOE Nuclear Facilities	X
DOE O 435.1, Change 1	Radioactive Waste Management	X
DOE O 436.1	Departmental Sustainability	X
DOE O 442.1A	Department of Energy Employee Concerns Program	
DOE O 442.2	Differing Professional Opinions for Technical Issues Involving Environment, Safety, and Health	
DOE O 451.1B Change 3	National Environmental Policy Act Protection Program	X
DOE O 458.1, Admin Change 3	Radiation Protection of the Public and the Environment	X
DOE O 460.1C	Packaging and Transportation Safety See attached letter dated March 29, 2012, from Stephen C. O'Connor to Jose Franco, CBFO Manager, which provides clarification for the requirements in this order. NWP will provide the documents to CBFO to forward to DOE-HQ.	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 Change 1	Safeguards and Security Program Operations	
DOE O 471.1B	Identification and Protection of Unclassified Controlled Nuclear Information	
DOE O 471.3, Admin Change 1	Identifying and Protecting Official Use Only Information	
DOE O 471.6, Admin. Change 1	Information Security	
DOE O 472.2, Change 1	Personnel Security	
DOE O 473.3	Protection Program Operations	
DOE O 475.1	Counterintelligence Program	
DOE O 483.1A	DOE Cooperative Research and Developments Agreements	
DOE O 522.1	Pricing of Departmental Materials and Services	
DOE O 534.1B	Accounting	
DOE O 551.1D	Official Foreign Travel	

DOE Order	Title	*S/RID
DOE O 580.1A Admin Change 1	Personal Property Management Program	
DOE Manual	Title	*S/RID
DOE M 140.1-1B	Interface with the Defense Nuclear Facilities Safety Board	
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 Change 1	Manual for Identifying and Protecting Official Use Only Information	

16) Contractor's Statement of Release:

In consideration of modification 187, Nuclear Waste Partnership, LLC (NWP) agrees to release the Government from any and all liability under the contract for any equitable adjustments for interest attributable to late payment of fee invoices through FY2017 and/or such facts or circumstances giving rise to this modification of the option period terms.

Funding will continue to be allocated by separate modification on an incremental basis.

All other terms and conditions remain unchanged.