

2. AMENDMENT/MODIFICATION NO. <b>M132</b>	3. EFFECTIVE DATE See block 16C	4. REQUISITION/PURCHASE REQ. NO. <b>NOPR</b>	5. PROJECT NO. (if applicable)
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6. ISSUED BY <b>U.S. Department of Energy National Nuclear Security Administration P.O. Box 2050 Oak Ridge, TN 37831-8555</b>	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)  <b>BWXT Y-12, L.L.C. P.O. Box 2009 MS 8014 Oak Ridge, TN 37831-8014</b>	9A. AMENDMENT OF SOLICITATION NO.  9B. DATED (SEE ITEM 11)  10A. MODIFICATION OF CONTRACT/ORDER NO.  <b>DE-AC05-00OR22800</b> 10B. DATED (SEE ITEM 13) <b>August 31, 2000</b>
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**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) **N/A**

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

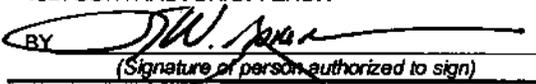
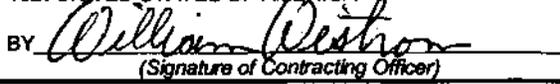
A.	THIS CHANGE ORDER IS ISSUED PURSUANT TO (Specify authority): THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
B.	THE ABOVE-NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (Such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
<b>X</b>	<b>C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: Public Law 95-91 and Other Applicable Laws</b>
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.)

See Page 2

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

15A. NAME AND TITLE OF SIGNER (Type or print) <b>Scott Baker, Manager Contracts and Special Initiatives Division</b>	16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) <b>William W. Wistrom Contracting Officer</b>
15B. CONTRACTOR/OFFEROR BY  (Signature of person authorized to sign)	15C. DATE SIGNED <b>19 May 06</b>
16B. UNITED STATES OF AMERICA BY  (Signature of Contracting Officer)	16C. DATE SIGNED <b>5/22/06</b>

The purpose of this modification is to:

Remove Clause B.2 and replace it in order to reflect the earned amounts of fee for FY 2005, and to show the available fee amount for FY 2006 including the allocation between Award Fee and Performance Based Incentives.

Remove and replace Clause H.13

Remove and replace Clause H.19(h)

Remove and replace Clause H.48(c)

Remove and replace Clause H.52

Remove and replace Clause I.82

Remove and replace Clause I.142

Remove and replace Clause I.146

Remove and replace Attachment "D"

1. **Clause B.2 of the contract is deleted and replaced with the B.2 clause shown below:**

**B.2 TRANSITION COST, ESTIMATED COST, MAXIMUM AVAILABLE FEE, AND AVAILABLE FEE**

**(a) Estimated Cost:**

- (1) The term of the transition period is from September 1, 2000 through October 31, 2000. The transition period will be on a cost reimbursement basis and the estimated cost will be negotiated after contract award.
- (2) The Estimated Cost of the Fiscal Year (FY) 2001 period of performance is \$567,376,000 (including fee).
- (3) The Estimated Cost of the Fiscal Year (FY) 2002 period of performance is \$634,411,000 (including fee).
- (4) The Estimated Cost of the Fiscal Year (FY) 2003 period of performance is \$674,299,000 (including fee).
- (5) The Estimated Cost of the Fiscal Year (FY) 2004 period of performance is \$719,428,000 (including fee).

**(b) Fee:**

- (1) The Estimated Fee Base as defined in Department of Energy Acquisition Regulations (DEAR) 970.15 for FY 2001 is \$484,177,068. The proposed Maximum Available Fee for FY 2001 is \$22,000,000.  
The Estimated Fee Base for FY 2002 is \$527,634,396. The Maximum Available Fee for FY 2002 is \$22,000,000.  
The Estimated Fee Base for FY 2003 is \$602,760,811. The Maximum Available Fee for FY 2003 is \$22,940,552.

The Estimated Fee Base for FY 2004 is \$633,649,655. The Maximum Available Fee for FY 2004 is \$26,200,000.

- (2) The Maximum Available Fee as proposed and set forth in (b)(1) above for FY 2001 shall also serve as the Maximum Available Fee for FY 2002 - FY 2005 and Option Years FY 2006 - FY 2010 unless the Estimated Fee Base for a given fiscal year deviates by more than plus or minus 15% from the Estimated Fee Base set forth above for FY 2001. The proposed Maximum Available Fee shall be applicable to the prime contractor and its members in a joint venture or Limited Liability Company, teaming partners, and subcontractors identified and considered as part of the selection and award of this contract, if any.
- (3) In the event the Estimated Fee Base deviates for any fiscal year more than plus or minus 15% from the Estimated Fee Base set forth in (b)(1) above, the Contractor agrees to negotiate with the U.S. Department of Energy (DOE) an equitable adjustment to the Maximum Available Fee amount to reflect the impact of such deviation. The new Maximum Available Fee for that fiscal year will be the amount calculated by DOE in accordance with DEAR 970.15 (consistent with the FY 2001 fee computation methodology), multiplied by the ratio of the proposed FY 2001 Maximum Available Fee in (b)(1) above and \$23,198,932. In the event the parties are unable to reach agreement on the Maximum Available Fee amount, the Government reserves the right to unilaterally establish the Maximum Available Fee amount.
- (4) The Available Fee for FY 2001 - FY 2005 and Option Years FY 2006 - FY 2010 will be negotiated annually (or any other period as may be mutually agreed to between the parties) between the Contractor and the Government. The Available Fee will be equal to or less than the Maximum Available Fee defined in (b)(1) above. The Available Fee shall be established considering the level of complexity, difficulty, cost effectiveness, and risk associated with specific objectives/incentives defined in the Performance Evaluation Plan (PEP), including work involving multiple-site taskings/objectives. Higher or lower levels of complexity, difficulty, cost effectiveness, and risk will correspondingly allow a higher or lower available fee. The portion of this Available Fee defined as award fee or comprehensive incentive versus performance-based incentives will be determined for each period during the negotiation of the requirements in the PEP. In the event the parties are unable to reach agreement on the Available Fee amount, the Government reserves the right to unilaterally establish the Available Fee amount. The Contract will be modified to reflect the Available Fee for each period.
- (5) RESERVED

- (6) The fee amounts Available and Earned for the specified Contract Periods are set forth below:

<u>Contract Periods</u>	<u>Amount</u>
<b>November 1, 2000, through September 30, 2001</b>	
<u>Available</u>	
Award Fee	\$ 8,570,808
Performance-Based Incentives	<u>\$ 11,595,858</u>
Total	\$ 20,166,666
<u>Earned</u>	
Award Fee	\$ 7,530,985
Performance-Based Incentives	<u>\$ 8,604,587</u>
Total	\$ 16,135,572
<b>October 1, 2001, through September 30, 2002</b>	
<u>Available</u>	
Award Fee	\$ 6,692,250
Performance-Based Incentives	<u>\$ 15,307,750</u>
Total	\$ 22,000,000
<u>Earned</u>	
Award Fee	\$ 5,554,568
Performance-Based Incentives	<u>\$ 13,758,121</u>
Total	\$ 19,312,689
<b>October 1, 2002, through September 30, 2003</b>	
<u>Available</u>	
Comprehensive Fee	\$ 12,054,996
Performance-Based Incentives	<u>\$ 10,885,556</u>
Total	\$ 22,940,552
<u>Earned</u>	
Comprehensive Fee	\$ 10,849,496
Performance-Based Incentives	<u>\$ 10,339,015</u>
Total	\$ 21,188,511
<b>October 1, 2003, through September 30, 2004</b>	
<u>Available</u>	
Comprehensive Fee	\$ 16,310,939
Performance-Based Incentives	<u>\$ 9,889,061</u>
Total	\$ 26,200,000

Earned

Comprehensive Fee	\$ 15,810,939
Performance-Based Incentives	<u>\$ 9,074,251</u>
Total	\$ 24,885,190

Fee for the above period will be earned by the contractor based on performance related to both the comprehensive fee performance objectives and the performance based incentives which are contained in the Performance Evaluation Plan.

- (7) There will be no fee paid for the transition period.
- (c) Beginning in Fiscal Year 2005 the maximum potential fee and the actual available fee for each fiscal year will be established by NNSA prior to the commencement of the applicable fiscal year in accordance with NNSA Policy Letter: BOP-003.0501 dated January 10, 2005 and incorporated into paragraph (c)(4) below by modification.

Up to thirty-five percent (35%) of the actual available fee pool shown in (c)(4) below for a given contract period may be paid to the Contractor provisionally in equal monthly increments of one-twelfth (1/12) of the amount per month. This provisional fee payment is the only fee payment that will be made prior to the final fee determination. The final determination of fee will be made by the Fee Determining Official (FDO), in accordance with the fee clauses of this contract. In the event that overpayment results from the payment of fee on a provisional basis, the Contractor shall reimburse such overpayment to the Government upon demand, payable with interest in accordance with FAR 52.232-17, Interest (JUN 1996).

- (1) Estimated Budget - The Estimated Budget amount for FY 2005 is \$692,148,000.
- (2) Work for Others - The Work for Others fee percentage for FY 2005 is 3.91% (85% of 4.6%)
- (3) Cash Work - The amount of fee for work accomplished for other Management and Operating contractors will be negotiated between the two contractors.
- (4) The fee amounts Available and Earned for the specified Contract Periods are set forth below:

<b>Contract Period</b>	<b>Amount</b>
<b>October 1, 2004, through September 30, 2005</b>	
<u>Maximum Potential Available Fee</u>	<u>\$ 45,280,710</u>

This amount relates only to the estimated budget in (c)(1) above. The fee obtained from work accomplished under paragraphs (2) and (3) above are additive to this amount.

Actual Available Fee

Award Fee	\$ 18,499,187
Performance-Based Incentives	<u>\$ 11,939,445</u>
Total	\$ 30,438,632

Fee for the above period will be earned by the contractor based on performance related to both the award fee objectives and the performance based incentives which are contained in the Performance Evaluation Plan.

Earned

Award Fee	\$ 16,538,795
Performance-Based Incentives	<u>\$ 10,947,995</u>
Total	\$ 27,486,790

- (d) Beginning in Fiscal Year 2005 the maximum potential fee and the actual available fee for each fiscal year will be established by NNSA prior to the commencement of the applicable fiscal year in accordance with NNSA Policy Letter: BOP-003.0501 dated January 10, 2005 and incorporated into paragraph (d)(4) below by modification.

Up to thirty-five percent (35%) of the actual available fee pool shown in (d)(4) below for a given contract period may be paid to the Contractor provisionally in equal monthly increments of one-twelfth (1/12) of the amount per month. This provisional fee payment is the only fee payment that will be made prior to the final fee determination. The final determination of fee will be made by the Fee Determining Official (FDO), in accordance with the fee clauses of this contract. In the event that overpayment results from the payment of fee on a provisional basis, the Contractor shall reimburse such overpayment to the Government upon demand, payable with interest in accordance with the FAR 52.232-17, Interest (JUN 1996).

- (1) Estimated Budget - The Estimated Budget amount for FY 2006 is \$682,699,000.
- (2) Work for Others - The Work for Others fee percentage for FY 2006 is 4.5% (85% of 5.3%)
- (3) Cash Work - The amount of fee for work accomplished for other Management and Operating contractors will be negotiated between the two contractors.
- (4) The fee amounts Available and Earned for the specified Contract Period are set forth below:

<u>Contract Period</u>	<u>Amount</u>
<b>October 1, 2005 through September 30, 2006</b>	
<u>Maximum Potential Available Fee</u>	<u>\$ 44,662,551</u>
This amount relates only to the estimated budget in (d)(1) above. The fee obtained from work accomplished under paragraphs (2) and (3) above are additive to this amount.	
<u>Actual Available Fee</u>	
Award Fee	\$ 17,180,934
Performance-Based Incentives	\$ <u>17,180,934</u>
Total	\$ 34,361,868
High Challenge Fee	\$ <u>10,300,683</u>
Total Available	\$ 44,662,551

Fee for the above period will be earned by the contractor based on performance related to both the award fee objectives and the performance based incentives which are contained in the Performance Evaluation Plan.

<u>Earned</u>	
Award Fee	\$ TBD
Performance-Based Incentives	\$ TBD
High Challenge Fee	<u>\$ TBD</u>
Total	\$ TBD

2. **Clause H.13 of the contract is deleted and replaced with the H.13 clause shown below:**

**H.13 CONTRACTORS MANAGERIAL PERSONNEL**

For the purpose of identifying the Managerial Personnel defined in the Contract Clause in Section I entitled "*Property*" and the references to Managerial Personnel in the Contract Clause in Section I entitled "*Insurance Litigation and Claims*," they are the same personnel as those Key Personnel identified in Section J, Attachment D, "*Key Personnel*" to this Contract.

3. **Clause H.19(h) of the contract is deleted and replaced with the H.19(h) clause shown below:**

**H.19 (h)** In Section I entitled "Obligation of Funds;" and in Section I, entitled "Payments and Advances." The Contractor is not authorized to incur costs on any WAD which is not in compliance with the other terms and conditions of this contract.

4. **Clause H.48 (c) of the contract is deleted and replaced with the H.48(c) clause shown below:**

**H.48 (c)** Regardless of which party to this contract is named subject of an enforcement action for noncompliance with environmental requirements by the cognizant regulatory authority, liability for payment of any fine or penalty will be governed by provisions of this contract related to allowable costs. If the named subject of an enforcement action or assessment of a fine or penalty is DOE and the fine or penalty would not otherwise be reimbursable under the allowable cost and preexisting conditions provisions of this contract if the Contractor was the named subject of the enforcement action, the Contractor will either pay the fine or penalty or reimburse the DOE (if DOE pays the fine or penalty). The governing provisions of the contract include, without limitations, the clause in Section I entitled, "Preexisting Conditions."

5. **Clause H.52 of the contract is deleted and replaced with the H.52 clause shown below:**

**H.52 LISTS AND ATTACHMENTS**

With respect to DEAR 970.5204-2, Laws, Regulations, and DOE Directives, any reference to "List B" will refer to "Section J Attachment E".

6. **In accordance with Acquisition Letter 2005-15 dated October 15, 2005, Section I, Clause I.82 of the contract is deleted and replaced with the I.82 clause shown below:**

**I.82 DEAR 952.250-70 NUCLEAR HAZARDS INDEMNITY AGREEMENT (OCT. 2005)**

- (a) *Authority.* This clause is incorporated into this contract pursuant to the authority contained in subsection 170d. of the Atomic Energy Act of 1954, as amended (hereinafter called the Act.)
- (b) *Definitions.* The definitions set out in the Act shall apply to this clause.
- (c) *Financial protection.* Except as hereafter permitted or required in writing by DOE, the contractor will not be required to provide or maintain, and will not provide or maintain at Government expense, any form of financial protection to cover public liability, as described in paragraph (d)(2) below. DOE may, however, at any time require in writing that the contractor provide and maintain financial protection of such a type and in such amount as DOE shall determine to be appropriate to cover such public liability, provided that the costs of such financial protection are reimbursed to the contractor by DOE.
- (d) (1) *Indemnification.* To the extent that the contractor and other persons indemnified are not compensated by any financial protection permitted or required by DOE, DOE will indemnify the contractor and other persons indemnified against (i) claims for public liability as described in subparagraph (d)(2) of this clause; and (ii) such legal

costs of the contractor and other persons indemnified as are approved by DOE, provided that DOE's liability, including such legal costs, shall not exceed the amount set forth in section 170d. of the Act, as that amount may be increased in accordance with section 170t., in the aggregate for each nuclear incident or precautionary evacuation occurring within the United States or \$500 million in the aggregate for each nuclear incident occurring outside the United States, irrespective of the number of persons indemnified in connection with this contract.

- (2) The public liability referred to in subparagraph (d)(1) of this clause is public liability as defined in the Act which (i) arises out of or in connection with the activities under this contract, including transportation; and (ii) arises out of or results from a nuclear incident or precautionary evacuation, as those terms are defined in the Act.
- (e) (1) *Waiver of Defenses.* In the event of a nuclear incident, as defined in the Act, arising out of nuclear waste activities, as defined in the Act, the contractor, on behalf of itself and other persons indemnified, agrees to waive any issue or defense as to charitable or governmental immunity.
- (2) In the event of an extraordinary nuclear occurrence which:
    - (i) Arises out of, results from, or occurs in the course of the construction, possession, or operation of a production or utilization facility; or
    - (ii) Arises out of, results from, or occurs in the course of transportation of source material, by-product material, or special nuclear material to or from a production or utilization facility; or
    - (iii) Arises out of or results from the possession, operation, or use by the contractor or a subcontractor of a device utilizing special nuclear material or by-product material, during the course of the contract activity; or
    - (iv) Arises out of, results from, or occurs in the course of nuclear waste activities, the contractor, on behalf of itself and other persons indemnified, agrees to waive:
      - (A) Any issue or defense as to the conduct of the claimant (including the conduct of persons through whom the claimant derives its cause of action) or fault of persons indemnified, including, but not limited to:

1. Negligence;
  2. Contributory negligence;
  3. Assumption of risk; or
  4. Unforeseeable intervening causes, whether involving the conduct of a third person or an act of God;
- (B) Any issue or defense as to charitable or governmental immunity; and
- (C) Any issue or defense based on any statute of limitations, if suit is instituted within 3 years from the date on which the claimant first knew, or reasonably could have known, of his injury or change and the cause thereof. The waiver of any such issue or defense shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action. The waiver shall be judicially enforceable in accordance with its terms by the claimant against the person indemnified.
- (v) The term *extraordinary nuclear occurrence* means an event which DOE has determined to be an extraordinary nuclear occurrence as defined in the Act. A determination of whether or not there has been an extraordinary nuclear occurrence will be made in accordance with the procedures in 10 CFR part 840.
- (vi) For the purposes of that determination, "offsite" as that term is used in 10 CFR part 840 means away from "the contract location" which phrase means any DOE facility, installation, or site at which contractual activity under this contract is being carried on, and any contractor-owned or controlled facility, installation, or site at which the contractor is engaged in the performance of contractual activity under this contract.
- (3) The waivers set forth above:
- (i) Shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action;
  - (ii) Shall be judicially enforceable in accordance with its terms by the claimant against the person indemnified;
  - (iii) Shall not preclude a defense based upon a failure to take reasonable steps to mitigate damages;
  - (iv) Shall not apply to injury or damage to a claimant or to a claimant's property which is intentionally sustained by the

claimant or which results from a nuclear incident intentionally and wrongfully caused by the claimant;

- (v) Shall not apply to injury to a claimant who is employed at the site of and in connection with the activity where the extraordinary nuclear occurrence takes place, if benefits therefore are either payable or required to be provided under any workmen's compensation or occupational disease law;
  - (vi) Shall not apply to any claim resulting from a nuclear incident occurring outside the United States;
  - (vii) Shall be effective only with respect to those obligations set forth in this clause and in insurance policies, contracts or other proof of financial protection; and
  - (viii) Shall not apply to, or prejudice the prosecution or defense of, any claim or portion of claim which is not within the protection afforded under (A) the limit of liability provisions under subsection 170e. of the Act, and (B) the terms of this agreement and the terms of insurance policies, contracts, or other proof of financial protection.
- (f) Notification and litigation of claims. The contractor shall give immediate written notice to DOE of any known action or claim filed or made against the contractor or other person indemnified for public liability as defined in paragraph (d)(2). Except as otherwise directed by DOE, the contractor shall furnish promptly to DOE, copies of all pertinent papers received by the contractor or filed with respect to such actions or claims. DOE shall have the right to, and may collaborate with, the contractor and any other person indemnified in the settlement or defense of any action or claim and shall have the right to (1) require the prior approval of DOE for the payment of any claim that DOE may be required to indemnify hereunder; and (2) appear through the Attorney General on behalf of the contractor or other person indemnified in any action brought upon any claim that DOE may be required to indemnify hereunder, take charge of such action, and settle or defend any such action. If the settlement or defense of any such action or claim is undertaken by DOE, the contractor or other person indemnified shall furnish all reasonable assistance in effecting a settlement or asserting a defense.
- (g) Continuity of DOE obligations. The obligations of DOE under this clause shall not be affected by any failure on the part of the contractor to fulfill its obligation under this contract and shall be unaffected by the death, disability, or termination of existence of the contractor, or by the completion, termination or expiration of this contract.
- (h) Effect of other clauses. The provisions of this clause shall not be limited in any way by, and shall be interpreted without reference to, any other clause

of this contract, including the clause entitled Contract Disputes, provided, however, that this clause shall be subject to the clauses entitled Covenant Against Contingent Fees, and Accounts, records, and inspection, and any provisions that are later added to this contract as required by applicable Federal law, including statutes, executive orders and regulations, to be included in Nuclear Hazards Indemnity Agreements.

- (i) Civil penalties. The contractor and its subcontractors and suppliers who are indemnified under the provisions of this clause are subject to civil penalties, pursuant to section 234A of the Act, for violations of applicable DOE nuclear-safety related rules, regulations, or orders. If the contractor is a not-for-profit contractor, as defined by section 234Ad.(2), the total amount of civil penalties paid shall not exceed the total amount of fees paid within any 1-year period (as determined by the Secretary) under this contract.
- (j) Criminal penalties. Any individual director, officer, or employee of the contractor or of its subcontractors and suppliers who are indemnified under the provisions of this clause are subject to criminal penalties, pursuant to section 223(c) of the Act, for knowing and willful violation of the Atomic Energy Act of 1954, as amended, and applicable DOE nuclear safety-related rules, regulations or orders which violation results in, or, if undetected, would have resulted in a nuclear incident.
- (k) Inclusion in subcontracts. The contractor shall insert this clause in any subcontract which may involve the risk of public liability, as that term is defined in the Act and further described in paragraph (d)(2) above. However, this clause shall not be included in subcontracts in which the subcontractor is subject to Nuclear Regulatory Commission (NRC) financial protection requirements under section 170b. of the Act or NRC agreements of indemnification under section 170c. or k. of the Act for the activities under the subcontract.
- (l) Effective Date. This contract was in effect prior to August 8, 2005 and contains the clause at DEAR 952.250-70 (JUNE 1996) or prior version. The indemnity of paragraph (d)(1) is limited to the indemnity provided by the Price-Anderson Amendments Act of 1988 for any nuclear incident to which the indemnity applies that occurred before August 8, 2005. The indemnity of paragraph (d)(1) of this clause applies to any nuclear incident that occurred on or after August 8, 2005. The Contractor's liability for violations of the Atomic Energy Act of 1954 under this contract is that in effect prior to August 8, 2005.

7. **In accordance with Acquisition Letter 2005-04 dated 11/2/2004, Section I, Clause I. 142, DEAR 970.5232-3 Accounts, Records, and Inspection (DEC 2000) of this Contract is removed and replaced with the following Section I Clause as follows:**

**L.142 DEAR 970.5232-3 ACCOUNTS, RECORDS, AND INSPECTION (DEC 2000) (DEVIATION)**

- (a) **Accounts.** The contractor shall maintain a separate and distinct set of accounts, records, documents, and other evidence showing and supporting: all allowable costs incurred; collections accruing to the contractor in connection with the work under this contract, other applicable credits, negotiated fixed amounts, and fee accruals under this contract; and the receipt, use, and disposition of all Government property coming into the possession of the contractor under this contract. The system of accounts employed by the contractor shall be satisfactory to DOE and in accordance with generally accepted accounting principles consistently applied.
- (b) **Inspection and audit of accounts and records.** All books of account and records relating to this contract shall be subject to inspection and audit by DOE or its designees in accordance with the provisions of Clause 970.5204-3, Access to and ownership of records, at all reasonable times, before and during the period of retention provided for in paragraph (d) of this clause, and the contractor shall afford DOE proper facilities for such inspection and audit.
- (c) **Audit of subcontractors I records.** The contractor also agrees, with respect to any subcontracts (including fixed-price or unit-price subcontracts or purchase orders) where, under the terms of the subcontract, costs incurred are a factor in determining the amount payable to the subcontractor of any tier, to either conduct an audit of the subcontractor's costs or arrange for such an audit to be performed by the cognizant government audit agency through the contracting officer.
- (d) **Disposition of records.** Except as agreed upon by the Government and the contractor, all financial and cost reports, books of account and supporting documents, system files, data bases, and other data evidencing costs allowable, collections accruing to the contractor in connection with the work under this contract, other applicable credits, and fee accruals under this contract, shall be the property of the Government, and shall be delivered to the Government or otherwise disposed of by the contractor either as the contracting officer may from time to time direct during the progress of the work or, in any event, as the contracting officer shall direct upon completion or termination of this contract and final audit of accounts hereunder. Except as otherwise provided in this contract, including provisions of Clause, Access to and ownership of records, all other records in the possession of the contractor relating to this contract shall be preserved by the contractor for a period of three years after final payment under this contract or otherwise disposed of in such manner as may be agreed upon by the Government and the contractor.
- (e) **Reports.** The contractor shall furnish such progress reports and schedules, financial and cost reports, and other reports concerning the work under this contract as the contracting officer may from time to time require.

- (f) **Inspections.** The DOE shall have the right to inspect the work and activities of the contractor under this contract at such time and in such manner as it shall deem appropriate.
- (g) **Subcontracts.** The contractor further agrees to require the inclusion of provisions similar to those in paragraphs (a) through (g) and paragraph (h) of this clause in all subcontracts (including fixed-price or unit-price subcontracts or purchase orders) of any tier entered into hereunder where, under the terms of the subcontract, costs incurred are a factor in determining the amount payable to the subcontractor.
- (h) **Comptroller General.**
  - (1) The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the contractor's directly pertinent records involving transactions related to this contract or a subcontract hereunder.
  - (2) This paragraph may not be construed to require the contractor or subcontractor to create or maintain any record that the contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.
  - (3) Nothing in this contract shall be deemed to preclude an audit by the General Accounting Office of any transaction under this contract.
- (i) **Internal audit.** The contractor agrees to establish and maintain an internal audit activity and provide the following reports:
  - (1) **Internal Audit Implementation Design.** Within thirty (30) days of contract award and each 5th year of contract performance or upon the exercise of any contract option or the extension of the contract, the contractor shall submit to the contracting officer an Internal Audit Implementation Design to include the overall strategy for the audit activity. The Implementation Design, will describe
    - (i) the audit activity's placement within the contractor's organization including reporting requirements;
    - (ii) its size and the experience and educational standards of the audit staff;
    - (iii) its relationship to the corporate parent(s) of the contractor;
    - (iv) the standards used to audit;
    - (v) an overall audit strategy for relevant performance period of this contract, considering particularly the method of auditing costs incurred in the performance of the contract;
    - (vi) the intended use of external audit resources;

- (vii) the plan for audit, both pre-award and post-award of subcontracts; and
  - (viii) the schedule of peer review of the internal audit activity by other DOE contractor internal audit activities.
- (2) Annual Audit Report. By each January 31 of the contract performance period, the contractor shall submit an annual audit report, providing a summary of the audit activities undertaken during the previous fiscal year and their results.
  - (3) Annual Audit Plan. By each June 30 of the contract performance period, the contractor shall submit to the contracting officer an annual audit plan that reflects the activities to be undertaken during the next fiscal year. The contractor shall design the Annual Audit Plan to test the costs incurred and contractor management systems described in the internal audit design.
  - (4) Contracting officer's satisfaction. The design of the internal audit activity submitted under subparagraph (1), the annual report submitted under subparagraph (2), and the annual audit plan submitted under subparagraph (3) shall be satisfactory to the contracting officer.
- (j) Statement of Costs Incurred and Claimed. At any time during contract performance, should the contracting officer determine that the costs incurred are unallowable to an extent to cause him or her to lose confidence in the contractor's management controls or the contractor's management systems that validate the costs incurred and claimed, the contracting officer may, in his or her sole discretion, impose conditions upon the contractor's use of the special financial institution account or use of the Statement of Costs Incurred and Claimed in whole or in part, including direction that specific types of costs be claimed by periodic vouchering. This action shall not relieve the contractor from any obligation to perform its obligations under this contract. In addition, the contracting officer may direct the contractor to pay the Government an amount equal to the unallowable costs or payments improperly made and take any other action or combination of actions provided in this contract, at law, or in equity.
8. In accordance with Acquisition Letter 2005-04 dated 11/2/2004, Section I, Clause I. 146, DEAR 970.5203-1 Management Controls. (DEC 2000) of this Contract is removed and replaced with the following Section I Clause as follows:
- L.146 DEAR 970.5203-1 Management Controls. (DEC 2000) (Deviation)**

- (a)
    - (1) The contractor shall be responsible for maintaining, as an integral part of its organization, effective systems of management controls for both administrative and programmatic functions. Management controls comprise the plan of organization, methods, and procedures adopted by management to reasonably ensure that: the mission and functions assigned to the contractor are properly executed; efficient and effective operations are promoted; resources are safeguarded against waste, loss, mismanagement, unauthorized use, or misappropriation; all encumbrances and costs that are incurred under the contract and fees that are earned are in compliance with applicable clauses and other current terms, conditions, and intended purposes; all collections accruing to the contractor in connection with the work under this contract, expenditures, and all other transactions and assets are properly recorded, managed, and reported; and financial, statistical, and other reports necessary to maintain accountability and managerial control are accurate, reliable, and timely.
    - (2) The systems of controls employed by the contractor shall be documented and satisfactory to DOE.
    - (3) Such systems shall be an integral part of the contractor's management functions, including defining specific roles and responsibilities for each level of management, and holding employees accountable for the adequacy of the management systems and controls in their areas of assigned responsibility.
    - (4) The contractor shall, as part of the internal audit program required elsewhere in this contract, periodically review the management systems and controls employed in programs and administrative areas to ensure that they are adequate to provide reasonable assurance that the objectives of the systems are being accomplished and that these systems and controls are working effectively.
  - (b) The contractor shall be responsible for maintaining, as a part of its operational responsibilities, a baseline quality assurance program that implements documented performance, quality standards, and control and assessment techniques. Annually, or at other intervals directed by the contracting officer, the contractor shall supply to the contracting officer copies of the reports reflecting the status of recommendations that result from audits of business, financial, or management controls performed by its internal audit activity and any other audit activity.
9. **Attachment "D" of the current contract is removed and replaced with the attached revision dated 2/20/06.**

**SECTION J – ATTACHMENT D  
KEY PERSONNEL**

General Manager	George E. Dials
Deputy General Manager, Programs	Steven D. Liedle
Deputy General Manager, Operations	Darrel P. Kohlhorst
Chief Financial Officer	Robert M. Gifford
Director, DSW Program	Janice W. Christman
Director, Campaigns Program	James P. Zonar
Director, RTBF Program	James J. Holland
Manager, Planning & Integration Division	William G. Reis
Manager, ES&H Division	Michelle M. Reichert
Manager, Manufacturing Division	Leslie L. Reed
Director, Projects	Dennis E. Grove
Manager, Safeguards & Security Division	Willis L. Clements
Manager, Engineering Division	John H. Gertsen

Effective as of February 20, 2006.