

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT		1. CONTRACT ID CODE AC	PAGE 1 of 3 PAGES
2. AMENDMENT/MODIFICATION NO. M186	3. EFFECTIVE DATE See Block 16c.	4. REQUISITION/PURCHASE REQ. NO. NOPR	5. PROJECT NO. (If applicable)
6. ISSUED BY U.S. Department of Energy National Nuclear Security Administration P.O. Box 2050 Oak Ridge, TN 37831		7. ADMINISTERED BY (If other than Item 6) CODE	
8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, state, ZIP Code) Babcock & Wilcox Technical Services Y-12, LLC P.O. Box 2009 MS 8014 Oak Ridge, TN 37831-8014		9A. AMENDMENT OF SOLICITATION NO.	
CODE		9B. DATED (SEE ITEM 11)	
FACILITY CODE		10A. MODIFICATION OF CONTRACT/ORDER NO. DE-AC05-00OR22800	
		10B. DATED (SEE ITEM 13) August 31, 2000	

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.**

<input type="checkbox"/>	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.
<input type="checkbox"/>	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).
<input type="checkbox"/>	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
<input checked="" type="checkbox"/>	D. OTHER (Specify type of modification and authority): P.L. 95-91, American Recovery and Reinvestment Act of 2009, Pub. L. 111-5.

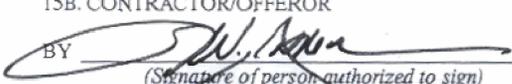
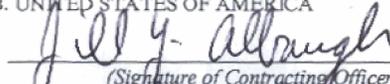
E. IMPORTANT: Contractor is required to sign this document and return 2 copies to the issuing office.

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

The purpose of this modification is to add provisions addressing the American Recovery and Reinvestment Act (ARRA).

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) Scott W. Baker, Senior Vice President Business services		16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) Jill Y. Albaugh Contracting Officer	
15B. CONTRACTOR/OFFEROR BY  (Signature of person authorized to sign)	15C. DATE SIGNED 5-6-09	16B. UNITED STATES OF AMERICA BY  (Signature of Contracting Officer)	16C. DATE SIGNED 5/7/09

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FAR (48 CFR) 53.243

The clauses provided under Modification M183 are deleted and replaced by the clauses contained in this modification. Additional clauses are incorporated into the contract as part of the Work Authorization Directive (WAD) for American Recovery and Reinvestment Act (Recovery Act). The Work Authorization System as addressed in Contract Clause H.19 of the contract defines the WAD process. The clauses are added to the WAD based on NNSA guidance. WADs are bilateral agreements and the WAD for the Recovery Act which includes FAR clauses is hereby incorporated into the contract when it is signed by both parties.

New provisions are added to Sections B and H of the contract in order to implement the requirements of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5. The work to be performed uses funds provided by the Recovery Act and is subject to special statutory conditions under the Recovery Act. The Department of Energy Oak Ridge Office provides funding for this work through Inter-Entity Work Orders (IEWO) which are signed by the NNSA Y-12 Contracting Officer. The total amount of authorized Recovery Act funding is reflected in clause B-4. The actual obligations will remain with the Department of Energy's Oak Ridge Office (ORO). The amounts authorized for each project will be included in the WAD.

The contractor is authorized to incur costs not-to-exceed the limitations provided in the first section of the WAD. A definitization schedule is provided in the WAD. Any Performance Fee will be negotiated separately as part of the definitization of the WAD. No fee, including provisional fee, will be paid prior to definitization of the WAD.

1. Section B-SUPPLIES OR SERVICES AND PRICES/COSTS is hereby amended to incorporate Clause B-4, American Recovery and Reinvestment Act Work Values, into the contract as follows:

B-4 American Recovery and Reinvestment Work

Total Funds authorized including maximum available performance fee, if any, for work funded under the American Recovery and Reinvestment Act (Recovery Act).

<u>Year</u>	<u>Total Funds Authorized</u>
2009	\$213,600,000

The Contractor shall not start work funded under the Recovery Act until the Contractor receives a Work Authorization and funds are authorized by the Contracting Officer. The contractor is authorized to incur costs not to exceed the amount as stipulated under each project as defined by the amounts contained in the IEWOs and WAD. This must also be consistent with the other contract terms and conditions of the contract, including the Work Authorization(s) and the Work Authorization Directive. Additional fee, if any, for the performance of work under the Recovery Act shall be determined by NNSA in accordance with Section B-2, and applicable NNSA policy.

2. Section H-SPECIAL CONTRACT REQUIREMENTS are hereby amended to incorporate Clause H.61 Work Funded Under the American Recovery and Reinvestment Act of 2009 (April 2009)

H.61 Work funded under the American Recovery and Reinvestment Act of 2009 (April 2009)

Preamble:

Work performed under this contract will be funded, in whole or in part, with funds appropriated by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, (Recovery Act or Act). The Recovery Act's purposes are to stimulate the economy and to create and retain jobs. The Act gives preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds made available by it for activities that can be initiated not later than June 17, 2009.

Contractors should begin planning activities for their first tier subcontractors, including obtaining a DUNS number (or updating the existing DUNS record), and registering with the Central Contractor Registration (CCR).

Be advised that Recovery Act funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of the Recovery Act and related Guidance. For projects funded by sources other than the Recovery Act, Contractors should plan to keep separate records for Recovery Act funds and to ensure those records comply with the requirements of the Act.

The Government has not fully developed the implementing instructions of the Recovery Act, particularly concerning the how and where for the new reporting requirements. The Contractor will be provided these details as they become available. The Contractor must comply with all requirements of the Act. If the contractor believes there is any inconsistency between ARRA requirements and current contract requirements, the issues will be referred to the Contracting Officer for reconciliation.

Be advised that special provisions may apply to projects funded by the Act relating to:

- Reporting, tracking and segregation of incurred costs;
 - Reporting on job creation and preservation;
 - Publication of information on the Internet;
 - Protecting whistleblowers; and
 - Requiring prompt referral of evidence of a false claim to the Inspector General.
3. The Recovery Act Work Authorization Directive #1.10.01 Revision 0 is attached as Section J, Attachment G.

All other terms and conditions remain unchanged.

End of Modification

M&O CONTRACTOR Y-12 NATIONAL SECURITY COMPLEX

FY2009 WORK AUTHORIZATION DIRECTIVE

Program Title: American Recovery and Reinvestment Act

Section J, Attachment G

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**NATIONAL NUCLEAR SECURITY ADMINISTRATION
U.S. DEPARTMENT OF ENERGY (U.S. DOE)
WORK AUTHORIZATION DIRECTIVE (WAD)
TO
Babcock and Wilcox Technical Services, L.L.C. (B&W Y-12)**

PROGRAM TITLE: **American Recovery and Reinvestment Act**
 WORK AUTHORIZATION NUMBER: **1.10.01** Revision: **0**
 PERFORMANCE PERIOD: **May 7, 2009 through September 30, 2011**

1. Funding and Definitization Introduction

The funds authorized for this Work Authorization Directive are subject to the following:

Baseline Value: **\$267,000,000 (May 7, 2009 to September 30, 2011)**

Authorization Value: \$213,600,000.00

Limitation of Cost: \$22,683,815.00

Pursuant to the clause B.04 and H.19, entitled "Work Authorization System," total funds in the amount of \$213,600,000.00 (*100% of funds to be obligated in FY 09*) are authorized for the performance of this WAD and made available for payment of allowable costs and fee earned related only to the Recovery Act work from May 7, 2009 through September 30, 2011. The contractor is approved to incur costs up to \$22,683,815.00 (Limitation of Cost amount) of the Authorization amount pending definitization of the WAD.

The definitization schedule:

Issue Mod/WAD	May 7, 2009
Receive Program/Cost plan	May 31, 2009
Agree to baseline and fee	July 31, 2009
Definitization Baseline on agreement	August 21, 2009

Associated accounting and appropriation data is as follows:

(Budget Outlay in the chart below is the Limitation of Cost, of which the Contractor is not authorized to exceed. It is noted that funding is obligated by DOE Oak Ridge Office (ORO). NNSA YSO provides authorization to use the ORO obligations.)

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IEWO	Project	Budget Authority	Budget Outlay
M1WALA09G1	Alpha 5	\$89,600,000.00	\$9,788,237.00
M1WEM09G2	WEMA	6,400,000.00	1,333,599.00
M1WBET09G3	Beta 4	16,000,000.00	4,383,835.00
M1WSAL09G4	Salvage Yard	28,000,000.00	5,772,782.00
M1WFIL09G5	Building 9206	5,600,000.00	231,456.00
M1WDEM09I8	Building 9735	4,000,000.00	376,488.00
M1WBIL09G6	Biology Complex	64,000,000.00	797,418.00
	Total	\$213,600,000.00	\$22,683,815.00

2. The specific Statement of Work funded by this Work Authorization pursuant to the American Recovery and Reinvestment Act, Pub. L. 111-5, (Recovery Act) is as follows:

The American Recovery and Reinvestment Act (ARRA) missions under the Waste Management and Integrated Facilities Disposition Program are to accelerate demolition of high-priority surplus contaminated facilities which are deteriorating at an increasing rate and currently pose the highest risk to human health, the environment and the Y-12 mission, and to accelerate remediation of the most significant sources of off-site mercury releases. These activities will reduce immediate risk to the environment, the public, and the Y-12 workforce from legacy facilities and associated environmental releases; stimulate the local economy by immediately producing new jobs, with emphasis on the local small business subcontracting community; reduce the inventory of legacy hazardous and radioactive waste with the potential to release contaminants to the environment; conserve energy and reduce surveillance and maintenance (S&M) costs associated with legacy facilities; and address long-standing infrastructure issues.

Regardless of WAD/BCP values, B&W Y-12 is always limited to the values of funding provided.

This document may constitute an interim authorization and may be revised based on subsequent approved Project Operating Plans (POPs) as deemed appropriate.

Activities will be managed by Babcock & Wilcox Technical Services Y-12, L.L.C. (B&W Y-12), under Contract Number DE-AC05-00-OR22800.

This WAD authorizes the execution of the work scope (with the exception of capital projects) identified in the Prioritized Project List (PPL), which is included in this WAD. Cost estimates are being developed to support the PPL's.

Basis of estimates (BOEs) have been incorporated into the Prioritized Project List (PPLs). B&W Y-12 may execute the activities in the PPL as provided in this document. Any changes to WAD technical scope, cost, or schedule that meet the definition of Level 1 or 2 baseline change must be approved by the Y-12 Site Office (Level 2) and/or NNSA Headquarters (for Level 1 only) utilizing the Baseline Change Proposal (BCP) process in accordance with B&W Y-12 Procedure Y30-601.

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This WAD approves budget authorization values and scope for the following projects:

SUMMARY STATEMENT OF WORK:

The current American Recovery and Reinvestment Act (ARRA) scope under the Waste Management and Integrated Facilities Disposition Program consists of the demolition of five facilities, the removal of legacy material in part or total from 2 facilities, decontamination and decommissioning (D&D) of a filter housing in a single facility, and the remediation of two facilities/areas over the next 30 months (May 2009-September 2011). Specific projects include:

- Removal of All Legacy Material from 9201-5 (Alpha-5)
- Removal of Legacy Material from the second floor of 9204-4 (Beta-4)
- Demolition of Buildings 9211, 9220, 9224, 9769
- Deactivation and Demolition (D&D) of Building 9206 bag filter house and associated recovery furnace
- Demolition of Building 9735
- Salvage Yard Remediation
- West End Mercury Area (Storm Sewer) Remediation

The Project Code for all projects included in this WAD is 2002100.

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Alpha-5 Legacy Material Disposition Project

Background

The Alpha-5 (9201-5) building is approximately 613,000 square feet and was constructed in 1946 to house alpha-stage Calutrons for uranium enrichment. It is currently designated as a Nuclear Hazard Category 3 facility. In addition to uranium enrichment, past operations in the facility include COLEX enrichment operations, and various metallurgical and machining processes involving uranium and beryllium. Alpha-5 includes beryllium areas, legacy material, and facility contamination which may involve enriched uranium, depleted uranium, and lithium. Contaminants of concern include, but are not limited to, mercury, asbestos, polychlorinated biphenyls (PCBs), beryllium, and radiological contamination.

Scope

This scope of work for the Alpha-5 Legacy Material Disposition Project is to complete removal and disposition of all legacy materials in Building 9201-5 (Alpha-5) to prepare the facility for eventual deactivation and demolition (D&D) under the Integrated Facility Disposition Program (IFDP). The contractor shall furnish all labor, equipment, materials, and supplies necessary to complete the scope of work in a safe, compliant and efficient manner. All work shall be in accordance with applicable federal, state, and local regulations, codes and standards, DOE Orders, and Environment, Safety and Health (ES&H) requirements.

Legacy materials/waste will be further characterized if necessary, treated if required, and prepared/packaged for shipment to the EMWMF, ORR Landfills, or shipped to other appropriate, permitted disposal facilities. Legacy materials include items such as, but not limited to: non-process equipment, containers, tools and miscellaneous contaminated office equipment. Legacy materials are defined as easily removable items that involve minimal reconfiguration efforts, e.g. unbolting, unplugging, wire cutting, or cold cutting. Those materials that have been determined to be either radiologically or chemically contaminated and are waste, may require segregation, size reduction, compaction, and treatment as necessary to meet WACs.

The project will be performed in accordance with the requirements of the Federal Facility Agreement for the Oak Ridge Reservation and an Action Memorandum for a time-critical removal action which will be prepared by DOE-EM. This Action Memorandum combines the scope of this project with the scope of the Beta-4 Legacy Material Disposition Project, thereby permitting a shared and combined Waste Handling Plan (WHP). A Waste Handling Plan (WHP) including a Sampling and Analysis Plan (SAP), as well as characterization, preparation of waste profiles, and any necessary sorting/segregation and/or size reduction prior to transportation to an approved disposal site are included in this work scope. Waste profiles, for waste to be disposed at the Environmental Management Waste Management Facility (EMWMF), will be developed and submitted to the EMWMF WAC Attainment Team for approval prior to disposal at the EMWMF. Scope also includes coordination of waste shipments with the DOE contractor for EMWMF and Landfill operations, including input to the contractor's Waste Generation Forecast. Some waste may

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be shipped to an approved off-site facility for treatment and/or disposal. This project scope includes preparation of a Removal Action Report (RmAR) for regulatory approval (Alpha-5 and Beta-4 legacy material disposition). The scope also includes facility characterization in preparation for facility D&D.

Project reporting will be performed in accordance with the requirements of the ARRA. Project Performance shall be reported using an ANSI/EIA-748-A-1998 certified Earned Value Management System.

<u>Section A: Contractor Recovery Act Schedule or Milestone Requirements</u>	
Complete project performance baseline, including Waste Generation Forecast, and schedule for obtaining approval for EMWMF shipments	5/31/09
Mobilize radcon and industrial hygiene teams to initiated health and safety characterization	6/2009
Initiate legacy material removal	6/2009
Complete Waste Handling Plans for legacy material disposition	9/2009*
Complete removal of enough excess nuclear material to downgrade the facility hazard category to a “non-nuclear facility	10/2009
Complete removal of all legacy material from the 4th floor of Alpha-5	3/2010
Complete removal of all legacy material from the 2nd floor of Alpha-5	9/2010
Complete removal of all legacy material from the 3rd floor of Alpha-5	3/2011
Complete Legacy Material Disposition for Alpha-5	9/2011
<u>Section B: Contractor Recovery Act Performance Outcomes and Measures</u>	
Complete Legacy Material Disposition for Alpha-5 according to schedule.	
<u>Section C: Contractor Recovery Act Deliverables</u>	
Legacy Material Disposition for Alpha-5.	

*One Waste Handling Plan and one RmAR may be submitted for both Alpha-5 and Beta-4. This is permissible since the LMD of both projects was covered in one action memorandum for time critical removal action.

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West End Mercury Area (WEMA) Storm Sewer Remediation Project

Background

The West End Mercury Area (WEMA) consists of former mercury use buildings Beta-4 (9204-4), Alpha-4 (9201-4), and Alpha-5 (9201-5) located in the west end of the Y-12 main plant area, including mercury contaminated soils and storm sewers in the immediate vicinity.

Scope

This scope of work for the West End Mercury Area (WEMA) Storm Sewer Remediation project is to complete the storm sewer remedial actions specified in the Upper East Fork Poplar Creek (UEFPC) Phase I Record of Decision (ROD). The project objective is to remove contaminated sediments from the storm sewers located in the WEMA of the Y-12 National Security Complex (Y-12), and reline or repair storm sewers and catch basins as needed. The WEMA consists of former mercury use buildings Beta-4 (9204-4), Alpha-4 (9201-4), and Alpha-5 (9201-5) located in the west end of the Y-12 main plant area, including mercury contaminated soils and storm sewers in the immediate vicinity. The project will:

- Complete design activities including video inspection of storm sewer pipe and sampling during video inspection;
- Prepare an Engineering Study Report;
- Prepare combined Remedial Action Work Plan (RAWP) and Waste Handling Plan (WHP), as needed;
- Complete storm sewer remediation in accordance with the UEFPC Phase I ROD
- Dispose of waste that is generated, including soil, sediment, and rinse water;
- Prepare Phased Construction Completion Report (PCCR).

A video inspection will be conducted on the storm sewer west of Outfall 200. The results of the video inspection and engineering study will determine the actual length of storm sewer to be cleaned and relined. This project assumes approximately 11,500 LF of storm sewer would be cleaned and 2,650 LF will be relined. Remediation activities include mobilization, relining storm sewer system, sampling, transporting soil and sediment to the pretreatment area, pre-treating the sediment and soil, transporting the sediment and soil to the Environmental Management Waste Management Facility (EMWMF) or other approved disposal facility for disposal and demobilizing. Contaminated sediment and soil that do not meet the WAC for EMWMF will be sent off-site for treatment and disposal. It is assumed that approximately 500 CY of contaminated sediment and 100 CY of contaminated soil will be generated from cleaning and excavation to repair sections of the storm sewer. Sampling will be performed to determine necessary pretreatment and for documentation with EMWMF waste acceptance criteria. Scope assumes 15% of storm sewer wastes will require low temperature thermal desorption (LTTD) treatment and stabilization (this includes 75 CY of sediment and 15 CY of soil). Scope assumes 500,000 gallons of wastewater will be treated at an on-site treatment facility. Scope includes coordination of waste shipments with the

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DOE contractor for EMWMF, including input to the contractor's Waste Generation Forecast. This project includes preparation of a Phased Construction Completion Report.

Project reporting will be performed in accordance with the requirements of the American Recovery and Reinvestment Act (ARRA) of 2009. Project Performance shall be reported using an ANSI/EIA-748-A-1998 certified Earned Value Management System.

Section A: Contractor Recovery Act Schedule or Milestone Requirements

Complete project performance baseline, including Waste Generation Forecast, and schedule for obtaining approval for EMWMF shipments	5/31/09
Issue Request for Proposal for inspection of storm sewers	6/2009
Complete video inspection of storm sewers	9/2009
Complete draft engineering study reporting on inspection results	9/2009
Complete Remedial Action Work Plan/Waste Handling Plan for the storm sewers	5/2010
Complete cleaning, re-lining, and repair of storm sewers and issue Phased Construction Completion Report to Regulators for approval	9/2011

Section B: Contractor Recovery Act Performance Outcomes and Measures

Complete WEMA Storm sewer remediation according to schedule.

Section C: Contractor Recovery Act Deliverables

West End Mercury Area (WEMA) storm sewer video inspection, cleaning, relining and repair.

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Beta-4 Legacy Material Disposition Project

Background

Beta-4 is a 313,771 gross square feet facility that was constructed in 1944–45 housing Calutrons for uranium enrichment. Other past operations in the facility include production of Lithium-6 using the electroexchange separation process (ELEX) and other weapon fabrication support operations. Depleted Uranium, Highly Enriched Uranium and thorium are considered the main radiological contaminants. The primary hazards include lead, polychlorinated biphenyls (PCB)s, Freon, oils, mold, mildew, and asbestos. Other contaminants of concern include the potential for beryllium and mercury contamination on the surfaces and structural components in the facility.

Scope

This scope of work for the Beta-4 (Building 9204-4) Legacy Material Disposition Project is to complete removal and disposition of legacy materials from the entire second floor of Building 9204-4 (Beta-4) in preparation for eventual deactivation and demolition (D&D) under the Integrated Facility Disposition Program (IFDP). The contractor shall furnish all labor, equipment, materials, and supplies necessary to complete the scope of work in a safe, compliant and efficient manner. All work shall be in accordance with applicable federal, state, and local regulations, codes and standards, DOE Orders, and Environment, Safety and Health (ES&H) requirements.

Legacy materials/waste will be further characterized if necessary, treated if required, and prepared/packaged for shipment to the EMWMF, ORR Landfills, or shipped to other appropriate, permitted disposal location(s). Legacy materials include items such as, but not limited to: non-process equipment, containers, tools and miscellaneous contaminated office equipment. Legacy materials are defined as easily removable items that involve minimal reconfiguration efforts, e.g. unbolting, unplugging, wire cutting, or cold cutting. Legacy materials that have been determined to be either radiologically or chemically contaminated and are waste, may require segregation, size reduction, compaction, and treatment as necessary to meet waste acceptance criteria (WAC)s.

The project will be performed in accordance with the requirements of the Federal Facility Agreement for the Oak Ridge Reservation and an Action Memorandum for a time-critical removal action which will be prepared by DOE-EM. This Action Memorandum combines the scope of this project with the scope of the Alpha-5 Legacy Material Disposition Project, thereby permitting a shared and combined Waste Handling Plan (WHP). A Waste Handling Plan (WHP) including a Sampling and Analysis Plan (SAP) will be prepared (Alpha-5 and Beta-4). In addition, characterization, preparation of waste profiles, sorting/segregation, and size reduction prior to transportation to approved disposal sites are included in this work scope. Waste profiles, for waste to be disposed at the Environmental Management Waste Management Facility (EMWMF), will be developed and submitted to the EMWMF WAC Attainment Team for approval prior to waste disposal. Scope also includes coordination of waste shipments with the DOE contractor for EMWMF and Landfill operations, including input to the contractor's Waste Generation Forecast. Some waste may be shipped to an approved off-site facility for treatment and/or disposal. This

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project scope includes preparation of a Removal Action Report (RmAR) for regulatory approval (Alpha-5 and Beta-4 legacy material disposition).

Project reporting will be performed in accordance with the requirements of the American Recovery and Reinvestment Act (ARRA) of 2009. Project Performance shall be reported using an ANSI/EIA-748-A-1998 certified Earned Value Management System.

Section A: Contractor Recovery Act Schedule or Milestone Requirements

Complete project performance baseline, including Waste Generation Forecast, schedule for obtaining approval for EMWMF shipments	5/31/09
Mobilize radcon and industrial hygiene teams to initiated health and safety characterization	6/2009
Initiate legacy material removal	6/2009
Complete first shipment of waste for disposal	6/2009
Complete Waste Handling Plans for legacy material disposition	9/2009*
Complete removal of legacy material from the high bay and office areas on the 2nd floor	6/2010
Complete removal of legacy material from the Production Storage and Work Area on the 2nd floor	3/2011
Complete Legacy Material Disposition for the second floor of Beta-4	9/2011

Section B: Contractor Recovery Act Performance Outcomes and Measures

Complete Legacy Material Disposition for Beta-4 according to schedule.

Section C: Contractor Recovery Act Deliverables

Legacy Material Disposition for Beta-4.

*One Waste Handling Plan and one RmAR may be submitted for both Alpha-5 and Beta-4. This is permissible since the LMD of both projects was covered in one action memorandum for time critical removal action.

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Y-12 Salvage Yard Scrap Removal Project

Background

The Y-12 Salvage Yard is located at the west end of the Y-12 Plant and has been used since the early 1970's to receive scrap metal from Y-12 Plant operations. Some materials that were deposited were contaminated with radioactive materials, principally depleted uranium and uranium enriched in U-235. There is a possibility that some of the material may be considered hazardous under RCRA and/or TSCA. In the late 1980's, the Perimeter Intrusion Detection Assessment System (PIDAS) was constructed, which split the salvage yard into two segments. The segment outside of the PIDAS fence contains three open piles of radioactive scrap metal designated as SY-H1 Area 1, SY-H1 Area 2 and SY-C3 Area 3. These three piles were partially characterized in 1993 for total uranium, percent of U-235 by weight, and thorium. Characterization concluded that the primary contaminant was depleted uranium. Also, outside the PIDAS fence are 184 filled sealand containers and ~40 empty sealand containers. The portion of the salvage yard inside the PIDAS fence contains two open piles of radioactive scrap metal designated as SY-H1 Area 4, 37 sealand containers, and ~545 B-25 boxes.

Scope

The Y-12 Salvage Yard Scrap Removal Project will complete removal and disposition of scrap at the Y-12 National Security Complex in accordance with those portions of the selected remedy in the Record of Decision (ROD) for Phase II Interim Remedial Actions for Contaminated Soils and Scrapyard in Upper East Fork Poplar Creek (UEFPC) which are applicable to surface scrap metal.

The project will be performed in accordance with the requirements of the Federal Facility Agreement for the Oak Ridge Reservation. A Waste Handling Plan (Volume 2) will be prepared by the contractor for regulatory review and approval. Waste profiles will be developed and submitted to the Environmental Management Waste Management Facility (EMWMF) WAC Attainment Team for approval prior to waste disposal at EMWMF. Scope will include coordination of waste shipments with the DOE contractor for EMWMF and Landfill operations, including input to the contractor's Waste Generation Forecast. Remediation includes characterization and treatment as needed to meet waste acceptance criteria. Scrap will be transported to either EMWMF, NTS, or an approved off-site facility for treatment and/or disposal. Following completion of the remedial action, a Phased Construction Completion Report (PCCR) will be prepared to summarize remediation activities and post remediation surveillance and maintenance and monitoring requirements and to document that the remedial action was performed in compliance with the requirements of CERCLA.

Project reporting will be performed in accordance with the requirements of the American Recovery and Reinvestment Act of 2009. Project Performance will be reported using an ANSI/EIA-748-A-1998 certified Earned Value Management System.

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Section A: Contractor Recovery Act Schedule or Milestone Requirements

Complete project performance baseline, including Waste Generation Forecast, and schedule for obtaining approval for EMWMF shipments	5/31/09
Initiate container characterization and repackaging operations	6/2009
Mobilize subcontractor	6/2009
Initiate legacy material removal	6/2009
Complete first off-site shipment of waste for disposal	6/2009
Complete disposition of all containerized waste	12/2010
Complete disposition of all materials	6/2011
Issue the Phased Construction Completion Report to Regulators for Approval	9/2011

Section B: Contractor Recovery Act Performance Outcomes and Measures

Complete disposition of all materials at the Y-12 Salvage Yard according to schedule.

Section C: Contractor Recovery Act Deliverables

Y-12 Salvage Yard materials removal and disposition.

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9735 D&D Project

Background

Building 9735, Research Services Laboratory, is an approximately 15,000 ft² facility that was constructed in 1946. Contaminants of concern for Building 9735 include asbestos and lead with minimal radiological contamination.

Scope

The scope of work for Building 9735 is to complete deactivation and demolition (D&D) to grade (slab). The contractor shall furnish all labor, equipment, materials, and supplies necessary to complete the scope of work in a safe, compliant and efficient manner. All work shall be in accordance with applicable federal, state, and local regulations, codes and standards, DOE Orders, and Environment, Safety and Health (ES&H) requirements. The scope of work includes characterization, engineering design, asbestos abatement, equipment removal, deactivation of utilities, and D&D of the structure.

The project will be performed in accordance with the requirements of the Federal Facility Agreement for the Oak Ridge Reservation and an Action Memorandum for a time-critical removal action which will be prepared by DOE-EM. A Waste Handling Plan (WHP) including a Sampling and Analysis Plan (SAP), as well as characterization, preparation of waste profiles, sorting/segregation, and size reduction prior to transportation to an approved disposal site are included in this work scope, as needed. Waste profiles will be developed and submitted to the EMWMF WAC Attainment Team for approval prior to waste disposal at the EMWMF. Scope also includes coordination of waste shipments with the DOE contractor for Environmental Management Waste Management Facility (EMWMF) and Landfill operations, including input to the contractor's Waste Generation Forecast. Some waste may be shipped to an approved off-site facility for treatment and/or disposal. This project scope includes preparation of a Removal Action Report (RmAR) for regulatory approval following completion of all project activities.

Project reporting will be performed in accordance with the requirements of the American Recovery and Reinvestment Act of 2009. Project Performance will be reported using an ANSI/EIA-748-A-1998 certified Earned Value Management System.

Section A: Contractor Recovery Act Schedule or Milestone Requirements

Complete project performance baseline, including Waste Generation Forecast, and schedule for obtaining approval for EMWMF shipments	5/31/09
Initiate demolition of Building 9735	6/2010
Complete demolition of Building 9735	9/2010

Section B: Contractor Recovery Act Performance Outcomes and Measures

Complete demolition and disposition of Building 9735 according to schedule.

Section C: Contractor Recovery Act Deliverables

Demolition and disposition of Building 9735.

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9206 Filter House D&D Project

Building 9206 is a Hazard Category 2 facility that was used primarily for uranium recovery operations. The filter house is attached to the building, and consists of a number of bag filters used to remove particulate from the gaseous waste produced by the uranium recovery furnace.

Scope

The scope of work for the 9206 Filter House is to complete deactivation and demolition (D&D) of the 9206 Filter House attached to Building 9206. The contractor shall furnish all labor, equipment, materials, and supplies necessary to complete the scope of work in a safe, compliant and efficient manner. All work shall be in accordance with applicable federal, state, and local regulations, codes and standards, DOE Orders, and Environment, Safety and Health (ES&H) requirements. The scope of work for the 9206 Filter House includes updating the safety basis documentation for D&D work, if necessary, characterization, engineering design, asbestos abatement, equipment removal, deactivation of any utilities, waste disposition, and D&D of the structure. D&D of the filter house involves deactivation of the recovery furnace, removal of all materials and equipment including ductwork, baghouse, and the heat exchanger.

The project will be performed in accordance with the requirements of the Federal Facility Agreement for the Oak Ridge Reservation and an Action Memorandum for a time-critical removal action which will be prepared by DOE-EM. A Waste Handling Plan (WHP) including a Sampling and Analysis Plan (SAP), as well as characterization, preparation of waste profiles, sorting/segregation, and size reduction prior to transportation to an approved disposal site are included in this work scope, as needed. Waste profiles will be developed and submitted to the EMWMF WAC Attainment Team for approval prior to waste disposal at the EMWMF. Scope also includes coordination of waste shipments with the DOE contractor for Environmental Management Waste Management Facility (EMWMF) and Landfill operations, including input to the contractor's Waste Generation Forecast. Some waste may be shipped to an approved off-site facility for treatment and/or disposal. This project scope includes preparation of a Removal Action Report (RmAR) for regulatory approval following completion of all project activities.

Project reporting will be performed in accordance with the requirements of the American Recovery and Reinvestment Act of 2009. Project Performance will be reported using an ANSI/EIA-748-A-1998 certified Earned Value Management System.

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Section A: Contractor Recovery Act Schedule or Milestone Requirements

Complete project performance baseline, including Waste Generation Forecast, and schedule for obtaining approval for EMWMF shipments	5/31/09
Initiate fieldwork beginning with utility isolation for 9206 Filter House	3/2010
Complete removal of 9206 Filter House	9/2011

Section B: Contractor Recovery Act Performance Outcomes and Measures

Complete demolition and disposition of 9206 Filter House according to schedule.

Section C: Contractor Recovery Act Deliverables

Demolition and disposition of 9206 Filter House.

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Biology Complex D&D (Buildings 9211, 9220, 9224, and 9769)

Background

The Biology Complex Support Facilities are located in the northeast portion of the Y-12 Site outside of the Property Protection Area. As part of this project, the following facilities in the Biology Complex will be demolished: 9211, 9220, 9224, and 9769. These facilities have a combined total of approximately 136,000². With the exception of 9211 and 9220, the Biology complex is “cold and dark” i.e. and all service utilities are deactivated and air gapped in shutdown status pending deactivation and demolition (D&D). These facilities are currently classified as Standard Industrial. The primary chemical hazards include lead, polychlorinated biphenyls (PCB)s, Freon, oils, perchloric acid, and asbestos. Some facilities are known to have fixed radiological contamination areas inside the facilities. The scope of work for this project includes asbestos abatement, equipment removal as appropriate, deactivation of remaining utilities, and D&D of the facilities to grade level.

The 9211 Bldg. is a 4-story facility measuring approximately 83,500 ft² and contains an incinerator on the 4th story. Potential primary chemical hazards include lead, PCBs, Freon, oils, perchloric acid, and asbestos. Limited radiological contamination is present. There is the potential for RCRA contamination from incineration operations. It is assumed that there is no legacy waste in the facility, but due to structural and mold/mildew hazards, the facility has not been entered for several years to validate this assumption.

The 9220 Building, BD Virus Control Laboratory, is a one story concrete block facility with approximately 22,200 ft². Built in 1967, it has been used as a biological research facility. It is shutdown pending D&D and has fixed contamination signage at the entry doors. The primary chemical hazards identified include lead, mercury, PCBs, and asbestos.

Building 9224 is a small biological research facility, is approximately 10,100 ft², and has similar characteristics as Building 9220. The 9769 Complex is located within the property protected area of the Y-12 Site. It is situated along the southern edge of Bear Creek Road just west of the east Bear Creek security portal. The 9769 Complex comprises approximately 20,100 ft². The facility was originally constructed in 1945 and operated until the mid 1950’s as a uranium furnace/incinerator for the recovery of uranium. The building has three floors with a portion of the second floor being constructed in the high bay area in 1961 to make the second floor a complete floor. The process equipment was removed in the late 1950’s and the second floor mezzanine was constructed in 1961. The facility was used as animal receiving and holding facility from 1960 until 1985 in support of the ORNL animal research during which time the facility added a north annex and completed a third floor lab conversion. From 1985 until 1998 the facility underwent renovations to convert the facility into and analytical laboratory and offices. It operated until 2002, when it became “cold and dark.” The only remaining active utilities are the sanitary and storm sewers. The facility is radiologically contaminated with primarily depleted uranium. The source of the contamination originated from the

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uranium furnace/incinerator process. Contaminants in the soot produced from operations include uranium, mercury and lead. Other chemical concerns include the potential for Be in one hood located on the second floor and two perchloric acid hoods on the second floor, Pb, and asbestos containing materials.

Scope

The scope of work for the Biology Complex Deactivation and Demolition (D&D) Project is to complete D&D of Buildings 9211, 9220, 9224, and 9769 to grade including disposition of all material/waste. Building 9211 may need to be removed to surrounding soil elevation since the building is constructed on concrete piers with a crawl space under the first floor slab. The first floor slab may become damaged during demolition, necessitating removal. As part of this scope of work the contractor shall furnish all labor, equipment, materials, and supplies necessary to complete the scope of work in a safe, compliant and efficient manner. All work shall be in accordance with applicable federal, state, and local regulations, codes and standards, DOE Orders, and Environment, Safety and Health (ES&H) requirements.

The scope of work for this project includes asbestos abatement, equipment removal, deactivation of utilities as needed, characterization, engineering design, remaining utility isolation, hazardous material abatement, waste disposition and D&D of the facilities to grade level. The structures will be removed to the first floor slab, unless the first slab design is such that it requires removal to facilitate demolition of the balance of the facility.

The project will be performed in accordance with the requirements of the Federal Facility Agreement for the Oak Ridge Reservation and a time-critical action memorandum which will be prepared by DOE-EM. A Waste Handling Plan (WHP) including a Sampling and Analysis Plan (SAP) for waste destined for disposal at the EMWMF, as well as characterization, preparation of waste profiles, sorting/segregation, and size reduction prior to transportation to an approved disposal site are included in this work scope, as needed. Waste profiles will be developed and submitted to the EMWMF WAC Attainment Team for approval prior to waste disposal at the EMWMF. Scope also includes coordination of waste shipments with the DOE contractor for Environmental Management Waste Management Facility (EMWMF) and Landfill operations, including input to the contractor's Waste Generation Forecast. This project scope includes preparation of a Removal Action Report (RmAR) for regulatory approval following completion of all project activities.

Project reporting will be performed in accordance with the requirements of the American Recovery and Reinvestment Act of 2009. Project Performance will be reported using an ANSI/EIA-748-A-1998 certified Earned Value Management System.

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Section A: Contractor Recovery Act Schedule or Milestone Requirements

Complete project performance baseline, including Waste Generation Forecast, and schedule for obtaining approval for EMWMF shipments	5/31/09
Issue hazardous material abatement subcontract Request for Proposal for Biology Complex	9/2009
Initiate hazardous material abatement – Buildings 9211, 9220, 9224, and 9769	12/2009
Complete demolition of Building 9769	3/2011
Complete demolition of Building s 9211, 9220, 9224	9/2011

Section B: Contractor Recovery Act Performance Outcomes and Measures

Complete demolition and disposition of Buildings 9211, 9220, 9224, and 9769 according to schedule.

Section C: Contractor Recovery Act Deliverables

Demolition and disposition of Buildings 9211, 9220, 9224, and 9769.

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FY2009-2011 PRIORITIZED PROJECT LIST – BUDGET PLAN

Project reporting will be performed in accordance with the requirements of the ARRA. Project Performance shall be reported using an ANSI/EIA-748-A-1998 certified Earned Value Management System.

<i>FY 2009-2011 Prioritized Project List</i>				
<u>AMERICAN RECOVERY AND REINVESTMENT ACT</u>				
Project ID	Project Name	Estimated Cost (\$K)	Description	Basis of Estimate
1.10.01. 01.10	Removal of All Legacy Material from 9201-5	112,000/30 months	<p>Prepare the highest risk facility at Y-12 for accelerated D&D by completing all legacy material disposition (estimated at 1.1M cubic feet) from approximately 613,000 square feet of floor space.</p> <p>Facility and legacy material characterization will be performed on process systems, surfaces and stored materials to develop a waste handling plan. Characterization activities will include sample collection, preparation, management, analyses, and data management. This will support waste management in the determination of waste streams and for waste acceptance criteria (WAC) attainment.</p> <p>Wastes that fit into existing or easily modified profiles for the Y-12 Landfill or other applicable waste disposal outlets can be disposed at those outlets prior to the development and approval of the WHP(s).</p> <p>Legacy materials are defined as being easily removable items that involve minimal efforts for removal e.g., unbolting, unplugging, wire cutting, or cold cutting. ARRA funds will be utilized to disposition legacy materials from the entire facility footprint.</p>	Developed from a planning estimate with input from resource providers, the customer, and experience of similar, but smaller scale, ongoing projects. The estimate is based on timely start and completion of the work using reasonable contingency with the work-hour estimate.

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<u>AMERICAN RECOVERY AND REINVESTMENT ACT</u>				
Project ID	Project Name	Estimated Cost (\$K)	Description	Basis of Estimate
1.10.01. 01.20	Removal of Legacy Material from the second floor of 9204-4	20,000/30 months	<p>Complete removal of legacy material from the entire second floor of 9204-4 (84,000 square feet).</p> <p>Facility and legacy material characterization will be performed on process systems, surfaces and stored materials to develop a waste handling plan. Characterization activities will include sample collection, preparation, management, analyses, and data management. This will support waste management in the determination of waste streams and for WAC attainment.</p> <p>Wastes that fit into existing or easily modified profiles for the Y-12 Landfill or other applicable waste disposal outlets can be disposed at those outlets prior to the development and approval of the WHP(s).</p> <p>Legacy materials are defined as being easily removable items that involve minimal efforts for removal e.g., unbolting, unplugging, wire cutting, or cold cutting.</p>	Developed from a planning estimate with input from resource providers, the customer, and experience of similar, but smaller scale, ongoing projects. The estimate is based on timely start and completion of the work using reasonable contingency with the work-hour estimate.

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<i>FY 2009-2011 Prioritized Project List</i>				
<u>AMERICAN RECOVERY AND REINVESTMENT ACT</u>				
Project ID	Project Name	Estimated Cost (\$K)	Description	Basis of Estimate
1.10.01.02.10	Demolition of Buildings 9211, 9220, and 9224	72,000/30 months	<p>Remove any legacy materials, deactivate building utilities, remove equipment and appurtenances, and complete cleanup and demolition of the entire facility to slab.</p> <p>Facility and legacy material characterization will be performed on process systems, surfaces and stored materials to develop a waste handling plan. Characterization activities will include sample collection, preparation, management, analyses, and data management. This will support waste management in the determination of waste streams and for WAC attainment.</p> <p>These buildings are in the old Biology Complex which is slowly collapsing. Building 9211 suffered the collapse of an exterior wall in 2008, and represents a physical threat to workers and a threat of release of hazardous materials to the environment.</p>	Developed from a planning estimate with input from resource providers, the customer, and experience of similar, but smaller scale, ongoing projects. The estimate is based on timely start and completion of the work using reasonable contingency with the work-hour estimate.

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<i>FY 2009-2011 Prioritized Project List</i>				
<u>AMERICAN RECOVERY AND REINVESTMENT ACT</u>				
Project ID	Project Name	Estimated Cost (\$K)	Description	Basis of Estimate
1.10.01.02.20	D&D of Building 9206 bag filter house and associated recovery furnace	7,000/30 months	The scope of work for the 9206 Filter House includes updating the safety basis documentation for D&D work, readiness activities (as necessary), characterization, engineering design, equipment removal (recovery furnace), deactivation of utilities, waste disposition and D&D of the bag filter house structure.	Developed from a planning estimate with input from resource providers, the customer, and experience of similar, but smaller scale, ongoing projects. The estimate is based on timely start and completion of the work using reasonable contingency with the work-hour estimate.
1.10.01.02.30	Demolition of Building 9769	8,000/30 months	Remove any legacy materials, deactivate building utilities, remove equipment and appurtenances, and complete cleanup and demolition of the entire facility to slab. Facility and legacy material characterization will be performed on process systems, surfaces and stored materials to develop a waste handling plan. Characterization activities will include sample collection, preparation, management, analyses, and data management. This will support waste management in the determination of waste streams and for WAC attainment.	Developed from a planning estimate with input from resource providers, the customer, and experience of similar, but smaller scale, ongoing projects. The estimate is based on timely start and completion of the work using reasonable contingency with the work-hour estimate.

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<i>FY 2009-2011 Prioritized Project List</i>				
<u>AMERICAN RECOVERY AND REINVESTMENT ACT</u>				
Project ID	Project Name	Estimated Cost (\$K)	Description	Basis of Estimate
1.10.01.02.40	Demolition of Building 9735	5,000/30 months	The scope of work includes characterization, engineering design, asbestos abatement, equipment removal, deactivation of utilities, and D&D of the structure.	Developed from a planning estimate with input from resource providers, the customer, and experience of similar, but smaller scale, ongoing projects. The estimate is based on timely start and completion of the work using reasonable contingency with the work-hour estimate.
1.10.01.03.10	Salvage Yard Remediation	35,000/30 months	<p>Complete cleanup of the Y-12 Salvage Yard (7 acres) by removing over 31,000 cubic yards of uncontainerized material and approximately 1,100 containers of material from the Salvage Yard.</p> <p>Material characterization will be performed on stored materials to develop a waste handling plan. Characterization activities will include sample collection, preparation, management, analyses, and data management. This will support waste management in the determination of waste streams and for WAC attainment.</p>	Developed from a planning estimate with input from resource providers, the customer, and experience of similar, but smaller scale, ongoing projects. The estimate is based on timely start and completion of the work using reasonable contingency with the work-hour estimate.

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<i>FY 2009-2011 Prioritized Project List</i>				
<u>AMERICAN RECOVERY AND REINVESTMENT ACT</u>				
Project ID	Project Name	Estimated Cost (\$K)	Description	Basis of Estimate
1.10.01.03.20	WEMA (Storm Sewer) Remediation	8,000/30 months	Remove and dispose of mercury contaminated sludge. Video-inspect storm sewer pipes to identify damaged segments. Remove sediment from 11,550 linear feet of storm sewers and collect the sediment and rinse water. Reline an estimated 2,650 linear feet of damaged storm sewer, as identified by video inspection. Repair catch basins as needed. Treat and dispose an estimated 600 cubic yards of soil and sediment by low-temperature thermal desorption and/or stabilization and disposal at the Environmental Management Waste Management facility (EMWMF), as appropriate. Treat water at existing on-site treatment facilities prior to discharge.	Developed from a planning estimate with input from resource providers, the customer, and experience of similar, but smaller scale, ongoing projects. The estimate is based on timely start and completion of the work using reasonable contingency with the work-hour estimate.
	Estimated Cost of Expense Projects Funded at Target	267,000/30 months		

3. The other requirements mandated by the American Recovery and Reinvestment Act, which is applicable only to the Recovery Act work, are as follows:

Subcontracts: To the maximum extent possible, subcontracts funded under this Work Authorization shall be awarded as fixed-price contracts through the use of competitive procedures.

Definitions: For purposes of this paragraph, “Covered Funds” means funds expended or obligated from appropriations under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5. Covered Funds will have special accounting codes and will be identified as Recovery Act funds. Covered Funds must be reimbursed by September 30, 2015.

Non-Federal employer means any employer with respect to Covered Funds – the contractor or subcontractor, as the case may be, if the contractor or subcontractor is an employer; and any

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professional membership organization, certification of other professional body, any agent or licensee of the Federal government, or any person acting directly or indirectly in the interest of an employer receiving Covered Funds; or with respect to Covered Funds received by a State or local government, the State or local government receiving the funds and any contractor or subcontractor receiving the funds and any contractor or subcontractor of the State or local government; and does not mean any department, agency, or other entity of the federal government.

A. Flow Down Provision

The content of items 3A through 3G must be flowed down in every first-tier subcontract for work reimbursed by Recovery Act funds. (In turn, the first-tier is then responsible for flowing it to its subcontractors.)

B. Segregation and Payment of Costs

The Contractor must segregate the obligations and expenditures related to funding under the Recovery Act. See clause H.61 for additional guidance.

C. Prohibition on Use of Funds

None of the funds provided under this work authorization derived from the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

D. Wage Rates

All laborers and mechanics employed by the Contractor and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan numbered 14 of 1950 (64 Stat. 1267, 5 U.S.C. App.) and section 3145 of title 40 United States Code. See <http://www.dol.gov/esa/whd/contracts/dbra.htm>.

E. Publication

Information about this work will be published on the Internet and linked to the website www.recovery.gov, maintained by the Accountability and Transparency Board. The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security or to protect information that is not subject to disclosure under sections 552 and 552a of title 5, United States Code.

F. Registration requirements

The Contractor shall ensure that all first-tier subcontractors have a DUNS number and are registered in the Central Contractor Registration (CCR) no later than the date the first report is due under paragraph J (FAR 52.204-11) below.

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G. Utilization of Small Business

The Contractor shall to the maximum extent practicable give a preference to small business in the award of subcontracts for projects funded by Recovery Act dollars.

H. Access

See Paragraph K (FAR 52.215-2).

I. Certification

In order for the Contracting Officer to accept any products or services funded by the Recovery Act, the Contractor shall certify that the items were delivered and/or work was performed for a purpose authorized under the Recovery Act.

Note: The following paragraphs, J,K, and L are interim FAR clauses that are only applicable to this Work Authorization. These interim FAR clauses are in effect until the FAR is amended to implement, in final, provisions of the Recovery Act. The Contractor agrees that the Contracting Officer may unilaterally modify this Work Authorization to incorporate the final FAR clauses that implement the Recovery Act, and the following paragraphs will no longer be valid, and this Work Authorization will be considered modified to add the final FAR clauses.

J. FAR 52.204-11 American Recovery and Reinvestment Act--Reporting Requirements (MAR 2009)

(a) *Definitions.* As used in this clause—

Contract, as defined in [FAR 2.101](#), means a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate the Government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to) awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by [31 U.S.C. 6301, et seq.](#) For discussion of various types of contracts, see FAR Part 16.

First-tier subcontract means a subcontract awarded directly by a Federal Government prime contractor whose contract is funded by the Recovery Act.

Jobs created means an estimate of those new positions created and filled, or previously existing unfilled positions that are filled, as a result of funding by the American Recovery and Reinvestment Act of 2009 (Recovery Act). This definition covers only prime contractor positions established in the United States and outlying areas (see definition in [FAR 2.101](#)). The number shall be expressed as "full-time equivalent" (FTE), calculated cumulatively as all hours worked divided by the total number of hours in a full-time schedule, as defined by the contractor. For instance, two full-time

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employees and one part-time employee working half days would be reported as 2.5 FTE in each calendar quarter.

Jobs retained means an estimate of those previously existing filled positions that are retained as a result of funding by the American Recovery and Reinvestment Act of 2009 (Recovery Act). This definition covers only prime contractor positions established in the United States and outlying areas (see definition in [FAR 2.101](#)). The number shall be expressed as "full-time equivalent" (FTE), calculated cumulatively as all hours worked divided by the total number of hours in a full-time schedule, as defined by the contractor. For instance, two full-time employees and one part-time employee working half days would be reported as 2.5 FTE in each calendar quarter.

Total compensation means the cash and noncash dollar value earned by the executive during the contractor's past fiscal year of the following (for more information see [17 CFR 229.402\(c\)\(2\)](#)):

- (1) *Salary and bonus.*
 - (2) *Awards of stock, stock options, and stock appreciation rights.* Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - (3) *Earnings for services under non-equity incentive plans.* Does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
 - (4) *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.
 - (5) Above-market earnings on deferred compensation which is not tax-qualified.
 - (6) *Other compensation.* For example, severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property if the value for the executive exceeds \$10,000.
- (b) This contract requires the contractor to provide products and/or services that are funded under the American Recovery and Reinvestment Act of 2009 (Recovery Act). Section 1512(c) of the Recovery Act requires each contractor to report on its use of Recovery Act funds under this contract. These reports will be made available to the public.
 - (c) Reports from contractors for all work funded, in whole or in part, by the Recovery Act, and for which an invoice is submitted prior to June 30, 2009, are due no later than July 10, 2009. Thereafter, reports shall be submitted no later than the 10th day after the end of each calendar quarter.
 - (d) The Contractor shall report the following information, using the online reporting tool available at <http://www.FederalReporting.gov>.

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- (1) The Government contract and order number, as applicable.
- (2) The amount of Recovery Act funds invoiced by the contractor for the reporting period. A cumulative amount from all the reports submitted for this action will be maintained by the government's on-line reporting tool.
- (3) A list of all significant services performed or supplies delivered, including construction, for which the contractor invoiced in this calendar quarter.
- (4) Program or project title, if any.
- (5) A description of the overall purpose and expected outcomes or results of the contract, including significant deliverables and, if appropriate, associated units of measure.
- (6) An assessment of the contractor's progress towards the completion of the overall purpose and expected outcomes or results of the contract (i.e., not started, less than 50 percent completed, completed 50 percent or more, or fully completed). This covers the contract (or portion thereof) funded by the Recovery Act.
- (7) A narrative description of the employment impact of work funded by the Recovery Act. This narrative should be cumulative for each calendar quarter and only address the impact on the contractor's workforce. At a minimum, the contractor shall provide—
 - (i) A brief description of the types of jobs created and jobs retained in the United States and outlying areas (see definition in [FAR 2.101](#)). This description may rely on job titles, broader labor categories, or the contractor's existing practice for describing jobs as long as the terms used are widely understood and describe the general nature of the work; and
 - (ii) An estimate of the number of jobs created and jobs retained by the prime contractor, in the United States and outlying areas. A job cannot be reported as both created and retained.
- (8) Names and total compensation of each of the five most highly compensated officers of the Contractor for the calendar year in which the contract is awarded if—
 - (i) In the Contractor's preceding fiscal year, the Contractor received—
 - (A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and
 - (B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and
 - (ii) The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or

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15(d) of the Securities Exchange Act of 1934 ([15 U.S.C. 78m\(a\)](#), [78o\(d\)](#))
or [section 6104 of the Internal Revenue Code of 1986](#).

- (9) For subcontracts valued at less than \$25,000 or any subcontracts awarded to an individual, or subcontracts awarded to a subcontractor that in the previous tax year had gross income under \$300,000, the Contractor shall only report the aggregate number of such first tier subcontracts awarded in the quarter and their aggregate total dollar amount.
- (10) For any first-tier subcontract funded in whole or in part under the Recovery Act, that is over \$25,000 and not subject to reporting under paragraph 9, the contractor shall require the subcontractor to provide the information described in (i), (ix), (x), and (xi) below to the contractor for the purposes of the quarterly report. The contractor shall advise the subcontractor that the information will be made available to the public as required by section 1512 of the Recovery Act. The contractor shall provide detailed information on these first-tier subcontracts as follows:
- (i) Unique identifier (DUNS Number) for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company.
 - (ii) Name of the subcontractor.
 - (iii) Amount of the subcontract award.
 - (iv) Date of the subcontract award.
 - (v) The applicable North American Industry Classification System (NAICS) code.
 - (vi) Funding agency.
 - (vii) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract.
 - (viii) Subcontract number (the contract number assigned by the prime contractor).
 - (ix) Subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable.
 - (x) Subcontract primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable.

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- (xi) Names and total compensation of each of the subcontractor's five most highly compensated officers, for the calendar year in which the subcontract is awarded if—
 - (A) In the subcontractor's preceding fiscal year, the subcontractor received—
 - 1) 80 percent or more of its annual gross revenues in Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and
 - 2) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and
 - (B) The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 ([15 U.S.C. 78m\(a\), 78o\(d\)](#)) or [section 6104 of the Internal Revenue Code of 1986](#).

(End of clause)

K. Audit and Records

This FAR clause is applicable only to Recovery Act Work.

FAR 52.215-2 Audit and Records -- Negotiation (Mar 2009) (ALT 1) (Mar 2009)

- (a) As used in this clause, “records” includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.
- (b) Examination of costs. If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price redeterminable contract, or any combination of these, the Contractor shall maintain and the Contracting Officer, or an authorized representative of the Contracting Officer, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract. This right of examination shall include inspection at all reasonable times of the Contractor’s plants, or parts of them, engaged in performing the contract.
- (c) Cost or pricing data. If the Contractor has been required to submit cost or pricing data in connection with any pricing action relating to this contract, the Contracting Officer, or an authorized representative of the Contracting Officer, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor’s records, including computations and projections, related to -
 - (1) The proposal for the contract, subcontract, or modification;

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- (2) The discussions conducted on the proposal(s), including those related to negotiating;
 - (3) Pricing of the contract, subcontract, or modification; or
 - (4) Performance of the contract, subcontract or modification.
- (d) *Comptroller General or Inspector General.*
- (1) The Comptroller General of the United States, an appropriate Inspector General appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), or an authorized representative of either of the foregoing officials, shall have access to and the right to—
 - (i) Examine any of the Contractor's or any subcontractor's records that pertain to and involve transactions relating to this contract or a subcontract hereunder; and
 - (ii) Interview any officer or employee regarding such transactions.
 - (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.
- (e) *Reports.* If the Contractor is required to furnish cost, funding, or performance reports, the Contracting Officer or an authorized representative of the Contracting Officer shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating -
- (1) The effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports; and
 - (2) The data reported.
- (f) *Availability.* The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in paragraphs (a), (b), (c), (d), and (e) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulation (FAR), or for any longer period required by statute or by other clauses of this contract. In addition -
- (1) If this contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until 3 years after any resulting final termination settlement; and
 - (2) The Contractor shall make available records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.
- (g) (1) Except as provided in paragraph (g)(2) of this clause, the Contractor shall insert a clause containing all the terms of this clause, including this paragraph (g), in all

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subcontracts under this *contract*. The clause may be altered only as necessary to identify properly the contracting parties and the Contracting Officer under the Government prime contract.

- (2) The authority of the Inspector General under paragraph (d)(1)(ii) of this clause does not flow down to subcontracts.

(End of Clause)

L. Buy American.

When using funds appropriated under the American Recovery and Reinvestment Act for construction, the following FAR clauses are applicable to the contract under the circumstances cited in the clause.

FAR 52.225-21 is used for Recovery Act funded construction projects under \$7,443,000 in accordance with FAR 25.11-2(e) and replaces 52.225-9.

FAR 52.225-22 is to be used for Recovery Act construction projects if 52.225-21 is used in accordance with FAR 25.1102(e) and replaces 52.225-10.

FAR 52.225-23 is to be used for Recovery Act construction projects of \$7,443,000 or more in accordance with FAR 25.1102(e) and replaces 52.225-11.

FAR 52.225-24 is to be used for Recovery Act construction projects of \$7,443,000 or more if 52.225-23 is used in accordance with FAR 25.1102(e) and replaces 52.225-12.

FAR 52.225-21 Required Use of American Iron, Steel, and Manufactured Goods-Buy American Act-- Construction Materials (MAR 2009)

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

Construction material means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

Domestic construction material means—

- (1) An unmanufactured construction material mined or produced in the United States;
or
- (2) A construction material manufactured in the United States.

Foreign construction material means a construction material other than a domestic construction material.

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Manufactured construction material means any construction material that is not unmanufactured construction material.

Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

United States means the 50 States, the District of Columbia, and outlying areas.

Unmanufactured construction material means raw material brought to the construction site for incorporation into the building or work that has not been—

- (1) Processed into a specific form and shape; or
- (2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

(b) *Domestic preference.*

- (1) This clause implements—
 - (i) Section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act) ([Pub. L. 111-5](#)), by requiring, unless an exception applies, that all iron, steel, and other manufactured goods used as construction material in the project are produced in the United States; and
 - (ii) The Buy American Act ([41 U.S.C. 10a-10d](#)) by providing a preference for unmanufactured domestic construction material.
- (2) The Contractor shall use only domestic construction material in performing this contract, except as provided in paragraph (b)(3) and (b)(4) of this clause.
- (3) This requirement does not apply to the construction material or components listed by the Government as follows:

[Contracting Officer to list applicable excepted materials or indicate "none"]

- (4) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(3) of this clause if the Government determines that--
 - (i) The cost of domestic construction material would be unreasonable.
 - (A) The cost of domestic iron, steel, or other manufactured goods used as construction material is unreasonable when the cumulative cost of such material will increase the cost of the contract by more than 25 percent;
 - (B) The cost of unmanufactured construction material is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;

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- (ii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
 - (iii) The application of the restriction of section 1605 of the Recovery Act or the Buy American Act to a particular construction material would be inconsistent with the public interest.
- (c) *Request for determination of inapplicability of Section 1605 of the Recovery Act or the Buy American Act.*
- (1) (i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) of this clause shall include adequate information for Government evaluation of the request, including—
 - (A) A description of the foreign and domestic construction materials;
 - (B) Unit of measure;
 - (C) Quantity;
 - (D) Cost;
 - (E) Time of delivery or availability;
 - (F) Location of the construction project;
 - (G) Name and address of the proposed supplier; and
 - (H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(4) of this clause.
 - (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this clause.
 - (iii) The cost of construction material shall include all delivery costs to the construction site and any applicable duty.
 - (iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.
- (2) If the Government determines after contract award that an exception to section 1605 of the Recovery Act or the Buy American Act applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable cost of a domestic

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construction material, adequate consideration is not less than the differential established in paragraph (b)(4)(i) of this clause.

- (3) Unless the Government determines that an exception to section 1605 of the Recovery Act or the Buy American Act applies, use of foreign construction material is noncompliant with section 1605 of the American Recovery and Reinvestment Act or the Buy American Act.
- (d) *Data.* To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Construction Materials Cost Comparison

Construction Material	Unit of Measure	Quantity	Cost Description (dollars)*
Item 1:			
Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____
Item 2			
Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____

[List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information]

[*Include all delivery costs to the construction site.]

(End of clause)

52.225-22 Notice of Required Use of American Iron, Steel, and Other Manufactured Goods and Buy American Act—Construction Materials (MAR 2009)

- (a) *Definitions.* "Construction material," "domestic construction material," "foreign construction material," "manufactured construction material," "steel," and "unmanufactured construction material," as used in this provision, are defined in the clause of this solicitation entitled "Required Use of Iron, Steel, and Other Manufactured Goods--Buy American Act--Construction Materials" (Federal Acquisition Regulation (FAR) clause 52.225-21).
- (b) *Requests for determinations of inapplicability.* An offeror requesting a determination regarding the inapplicability of section 1605 of the American Recovery and Reinvestment Act of 2009 ([Pub. L. 111-5](#)) (Recovery Act) or the Buy American Act should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include the information and applicable

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supporting data required by paragraphs (c) and (d) of the clause at [FAR 52.225-21](#) in the request. If an offeror has not requested a determination regarding the inapplicability of 1605 of the Recovery Act or the Buy American Act before submitting its offer, or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.

(c) *Evaluation of offers.*

- (1) If the Government determines that an exception based on unreasonable cost of domestic construction material applies, the Government will evaluate an offer requesting exception to the requirements of section 1605 of the Recovery Act or the Buy American Act by adding to the offered price of the contract—
 - (i) 25 percent of the offered price of the contract, if foreign iron, steel, or other manufactured goods are used as construction material based on unreasonable cost of comparable manufactured domestic construction material; and
 - (ii) 6 percent of the cost of foreign unmanufactured construction material included in the offer based on unreasonable cost of comparable domestic unmanufactured construction material.
- (2) If two or more offers are equal in price, the Contracting Officer will give preference to an offer that does not include foreign construction material excepted at the request of the offeror on the basis of unreasonable cost.

(d) *Alternate offers.*

- (1) When an offer includes foreign construction material not listed by the Government in this solicitation in paragraph (b)(2) of the clause at [FAR 52.225-21](#), the offeror also may submit an alternate offer based on use of equivalent domestic construction material.
- (2) If an alternate offer is submitted, the offeror shall submit a separate Standard Form 1442 for the alternate offer and a separate cost comparison table prepared in accordance with paragraphs (c) and (d) of the clause at [FAR 52.225-21](#) for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.
- (3) If the Government determines that a particular exception requested in accordance with paragraph (c) of the clause at [FAR 52.225-21](#) does not apply, the Government will evaluate only those offers based on use of the equivalent domestic construction material, and the offeror shall be required to furnish such domestic construction material. An offer based on use of the foreign construction material for which an exception was requested—
 - (i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or

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- (ii) May be accepted if revised during negotiations.

(End of provision)

Alternate I (MAR 2009]). As prescribed in 25.1102(e), substitute the following paragraph (b) for paragraph (b) of the basic provision:

- (b) *Requests for determinations of inapplicability.* An offeror requesting a determination regarding the inapplicability of section 1605 of the American Recovery and Reinvestment Act of 2009 ([Pub. L. 111-5](#)) (Recovery Act) or the Buy American Act shall submit the request with its offer, including the information and applicable supporting data required by paragraphs (c) and (d) of the clause at [FAR 52.225-21](#).

FAR 52.225-23 Required Use of American Iron, Steel, and Other Manufactured Goods--Buy American Act--Construction Materials Under Trade Agreements (MAR 2009)

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

Construction material means an article, material, or supply brought to the construction site by the Contractor or subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

Domestic construction material means—

- (1) An unmanufactured construction material mined or produced in the United States; or
- (2) A construction material manufactured in the United States.

Foreign construction material means a construction material other than a domestic construction material.

Free trade agreement (FTA) country construction material means a construction material that—

- (1) Is wholly the growth, product, or manufacture of an FTA country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in an FTA country into a new and different construction material distinct from the materials from which it was transformed.

Least developed country construction material means a construction material that—

- (1) Is wholly the growth, product, or manufacture of a least developed country; or

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- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.

Manufactured construction material means any construction material that is not unmanufactured construction material.

Recovery Act designated country means any of the following countries:

- (1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, or United Kingdom);
- (2) A Free Trade Agreement country (FTA)(Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Mexico, Morocco, Nicaragua, Oman, Peru, or Singapore); or
- (3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, East Timor, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, Tanzania, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia).

Recovery Act designated country construction material means a construction material that is a WTO GPA country construction material, an FTA country construction material, or a least developed country construction material.

Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

United States means the 50 States, the District of Columbia, and outlying areas.

Unmanufactured construction material means raw material brought to the construction site for incorporation into the building or work that has not been—

- (1) Processed into a specific form and shape; or
- (2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

WTO GPA country construction material means a construction material that—

- (1) Is wholly the growth, product, or manufacture of a WTO GPA country; or

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- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different construction material distinct from the materials from which it was transformed.

(b) *Construction materials.*

- (1) The restrictions of section 1605 of the American Recovery and Reinvestment Act of 2009 ([Pub. L. 111-5](#)) (Recovery Act) and the Buy American Act ([41 U.S.C. 10a-10d](#)) do not apply to Recovery Act designated country construction material. Consistent with U.S. obligations under international agreements, this clause implements--
- (i) Section 1605 of the Recovery Act by requiring, unless an exception applies, that all iron, steel, and other manufactured goods used as construction material in the project are produced in the United States; and
- (ii) The Buy American Act by providing a preference for unmanufactured domestic construction material.
- (2) The Contractor shall use only domestic or Recovery Act designated country construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.
- (3) The requirement in paragraph (b)(2) of this clause does not apply to the construction materials or components listed by the Government as follows:

[Contracting Officer to list applicable excepted materials or indicate "none".]

- (4) The Contracting Officer may add other construction material to the list in paragraph (b)(3) of this clause if the Government determines that--
- (i) The cost of domestic construction material would be unreasonable.
- (A) The cost of domestic iron, steel, or other manufactured goods used as construction material is unreasonable when the cumulative cost of such material will increase the overall cost of the contract by more than 25 percent;
- (B) The cost of unmanufactured construction material is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;
- (ii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality; or

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- (iii) The application of the restriction of section 1605 of the Recovery Act or the Buy American Act to a particular construction material would be inconsistent with the public interest.
- (c) *Request for determination of inapplicability of section 1605 of the Recovery Act or the Buy American Act.*
- (d) (1) (i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) of this clause shall include adequate information for Government evaluation of the request, including—
- (A) A description of the foreign and domestic construction materials;
 - (B) Unit of measure;
 - (C) Quantity;
 - (D) Cost;
 - (E) Time of delivery or availability;
 - (F) Location of the construction project;
 - (G) Name and address of the proposed supplier; and
 - (H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(4) of this clause.
- (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this clause.
- (iii) The cost of construction material shall include all delivery costs to the construction site and any applicable duty.
- (iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.
- (2) If the Government determines after contract award that an exception to section 1605 of the Recovery Act or the Buy American Act applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable cost of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(4)(i) of this clause.
- (3) Unless the Government determines that an exception to the section 1605 of the Recovery Act or the Buy American Act applies, use of foreign construction

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material other than that covered by trade agreements is noncompliant with the applicable Act.

- (e) *Data.* To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Construction Materials Cost Comparison

Construction material	Unit of measure	Quantity	Cost (dollars)* Description
Item 1:			
Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____
Item 2:			
Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____

[List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

[* Include all delivery costs to the construction site.]

(End of clause)

Alternate I (MAR 2009). As prescribed in 25.1102(e), add the following definition of "Bahrainian, Mexican, or Omani construction material" to paragraph (a) of the basic clause, and substitute the following paragraphs (b)(1) and (b)(2) for paragraphs (b)(1) and (b)(2) of the basic clause:

Bahrainian, Mexican, or Omani construction material" means a construction material that—

- (1) Is wholly the growth, product, or manufacture of Bahrain, Mexico, or Oman; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in Bahrain, Mexico, or Oman into a new and different construction material distinct from the materials from which it was transformed.

(b) *Construction materials.*

- (1) The restrictions of section 1605 of the American Recovery and Reinvestment Act of 2009 ([Pub. L. 111-5](#)) (Recovery Act) and the Buy American Act do not apply to Recovery Act designated country construction material. Consistent with U.S. obligations under international agreements, this clause implements—

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- (i) Section 1605 of the Recovery Act, by requiring, unless an exception applies, that all iron, steel, and other manufactured goods used as construction material in the project are produced in the United States; and
 - (ii) The Buy American Act providing a preference for unmanufactured domestic construction material.
- (2) The Contractor shall use only domestic or Recovery Act designated country construction material other than Bahrainian, Mexican, or Omani construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.

52.225-24 Notice of Required Use Of American Iron, Steel, and Other Manufactured Goods-- Buy American Act--Construction Materials Under Trade Agreements (MAR 2009)

- (a) *Definitions.* "Construction material," "domestic construction material," "foreign construction material," "manufactured construction material," "Recovery Act designated country construction material," "steel," and "unmanufactured construction material," as used in this provision, are defined in the clause of this solicitation entitled "Required Use of Iron, Steel, and Other Manufactured Goods--Buy American Act--Construction Materials Under Trade Agreements" (Federal Acquisition Regulation (FAR) clause 52.225-23).
- (b) *Requests for determination of inapplicability.* An offeror requesting a determination regarding the inapplicability of section 1605 of the American Recovery and Reinvestment Act of 2009 ([Pub. L. 111-5](#)) (Recovery Act) or the Buy American Act should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include the information and applicable supporting data required by paragraphs (c) and (d) of FAR clause 52.225-23 in the request. If an offeror has not requested a determination regarding the inapplicability of section 1605 of the Recovery Act or the Buy American Act before submitting its offer, or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.
- (c) *Evaluation of offers.*
 - (1) If the Government determines that an exception based on unreasonable cost of domestic construction material applies, the Government will evaluate an offer requesting exception to the requirements of section 1605 of the Recovery Act or the Buy American Act by adding to the offered price of the contract—
 - (i) 25 percent of the offered price of the contract, if foreign iron, steel, or other manufactured goods are used as construction material based on unreasonable cost of comparable manufactured domestic construction material; and

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- (ii) 6 percent of the cost of foreign unmanufactured construction material included in the offer based on unreasonable cost of comparable domestic unmanufactured construction material.
- (2) If two or more offers are equal in price, the Contracting Officer will give preference to an offer that does not include foreign construction material excepted at the request of the offeror on the basis of unreasonable cost.
- (d) *Alternate offers.*
 - (1) When an offer includes foreign construction material, other than Recovery Act designated country construction material, that is not listed by the Government in this solicitation in paragraph (b)(3) of FAR clause 52.225-23, the offeror also may submit an alternate offer based on use of equivalent domestic or Recovery Act designated country construction material.
 - (2) If an alternate offer is submitted, the offeror shall submit a separate Standard Form 1442 for the alternate offer and a separate cost comparison table prepared in accordance with paragraphs (c) and (d) of FAR clause 52.225-23 for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.
 - (3) If the Government determines that a particular exception requested in accordance with paragraph (c) of FAR clause 52.225-23 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic or Recovery Act designated country construction material, and the offeror shall be required to furnish such domestic or Recovery Act designated country construction material. An offer based on use of the foreign construction material for which an exception was requested—
 - (i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or
 - (ii) May be accepted if revised during negotiations.

(End of provision)

Alternate I (MAR 2009). As prescribed in 25.1102(e), substitute the following paragraph (b) for paragraph (b) of the basic provision:

- (b) *Requests for determination of inapplicability.* An offeror requesting a determination regarding the inapplicability of section 1605 of the American Recovery and Reinvestment Act of 2009 ([Pub. L. 111-5](#)) (Recovery Act) or the Buy American Act shall submit the request with its offer, including the information and applicable supporting data required by paragraphs (c) and (d) of FAR clause 52.225-23.

Alternate II (MAR 2009). As prescribed in 25.1102(e), add the definition of "Bahrainian, Mexican, or Omani construction material" to paragraph (a) and substitute the following paragraph (d) for paragraph (d) of the basic provision:

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(d) *Alternate offers.*

- (1) When an offer includes foreign construction material, except foreign construction material from a Recovery Act designated country other than Bahrain, Mexico, or Oman that is not listed by the Government in this solicitation in paragraph (b)(3) of FAR clause 52.225-23, the offeror also may submit an alternate offer based on use of equivalent domestic or Recovery Act designated country construction material other than Bahrainian, Mexican, or Omani construction material.
- (2) If an alternate offer is submitted, the offeror shall submit a separate Standard Form 1442 for the alternate *14633 offer and a separate cost comparison table prepared in accordance with paragraphs (c) and (d) of FAR clause 52.225-23 for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.
- (3) If the Government determines that a particular exception requested in accordance with paragraph (c) of FAR clause 52.225-23 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic or Recovery Act designated country construction material other than Bahrainian, Mexican, or Omani construction material. An offer based on use of the foreign construction material for which an exception was requested—
 - (i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or
 - (ii) May be accepted if revised during negotiations.

M. Whistleblower Protection.

52.203-15 Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (MAR 2009)

- (a) The Contractor shall post notice of employees rights and remedies for whistleblower protections provided under section 1553 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5).
- (b) The Contractor shall include the substance of this clause including this paragraph (b) in all subcontracts.

(End of clause)