AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE

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2. AMENDMENT/MODIFICATION NO. 0143

3. EFFECTIVE DATE 11/03/2015

4. REQUISITION/PURCHASE REQ. NO.

5. PROJECT NO. *(If applicable)*

6. ISSUED BY CODE 00901

Savannah River Operations
U.S. Department of Energy
Savannah River Operations
P.O. Box A
Aiken SC 29802

7. ADMINISTERED BY *(If other than Item 6)* CODE

8. NAME AND ADDRESS OF CONTRACTOR *(No., street, county, State and ZIP Code)*

PARSONS GOVERNMENT SERVICES INC.
Attn: KATHLEEN KADLUBAK
100 WEST WALNUT STREET
PASADENA CA 911240001

CODE 006908511 FACILITY CODE

(x) 9A. AMENDMENT OF SOLICITATION NO.

9B. DATED *(SEE ITEM 11)*

x 10A. MODIFICATION OF CONTRACT/ORDER NO. DE-AC09-02SR22210

10B. DATED *(SEE ITEM 13)* 09/17/2002

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 or as amended, by one of the following methods: (a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGEMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by 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)*
See Schedule

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

CHECK ONE	
	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: *(Specify authority)* THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES *(such as changes in paying office, appropriation date, etc.)* SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
X	D. OTHER *(Specify type of modification and authority)* Mutual Agreement of the Parties

E. IMPORTANT: Contractor ☐ is not. ☒ is required to sign this document and return 1 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:

A. Create CLIN 0010AE within the Schedule B to reflect the additional Scope of Work and funding that was added to NGS Testing in Modification 118. CLIN 0010AE will be added to reflect the value of $184,178.00.

Section B is hereby replaced in its entirety by the attached Section B.

B. In addition, Schedule B has updated to include funding data as of Mod 141.

Continued ...

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

15A. NAME AND TITLE OF SIGNER *(Type or print)*		16A. NAME AND TITLE OF CONTRACTING OFFICER *(Type or print)* Jordan C. Rhoades	
15B. CONTRACTOR/OFFEROR *(Signature of person authorized to sign)*	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA Signature on File *(Signature of Contracting Officer)*	16C. DATE SIGNED 11/19/2015

NAME OF OFFEROR OR CONTRACTOR
PARSONS GOVERNMENT SERVICES INC.

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	Payment: OR for Savannah River U.S. Department of Energy Oak Ridge Financial Service Center P.O. Box 4908 Oak Ridge TN 37831 Period of Performance: 09/17/2002 to 12/31/2016				

SECTION B

SUPPLIES OR SERVICES AND PRICES/COSTS

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PART I – THE SCHEDULE
SECTION B
SUPPLIES OR SERVICES AND PRICES/COSTS

OVERVIEW: This contract is for a two phased design/build process for design, construction and commissioning of a Salt Waste Processing Facility (SWPF) as described in Section C. Phase I of the contract is for enhanced conceptual design, preliminary design, value engineering, enhanced preliminary design PC3, final design, enhanced final design and testing engineering development. Phase II is for reliability and maintainability evaluation, construction, commissioning, one year of operations and six months of support The contractor shall not proceed and shall incur no cost for Phase II work without specific, written direction from the Contracting Officer.

B.1 ITEMS BEING ACQUIRED –TYPE OF CONTRACT

The contractor shall furnish all personnel, facilities, equipment, material and supplies and services (except as may be expressly set forth in this contract as furnished by the Government) and otherwise do all things necessary for, or incident to, efficiently and effectively accomplishing the work required by this contract.

Phase I (CLINs 0001 – 0003) – This Phase of the contract will be on a cost-plus-fixed-fee basis.

CLIN 0001 – Includes project familiarization and start up preparation.

CLIN 0002 – Is reserved at this time.

CLIN 0003- The contractor shall prepare an enhanced conceptual design, preliminary design, value engineering, enhanced preliminary design PC3, final design, enhanced final design and testing engineering development..

Phase II (CLINs 0004 – 0010) – This Phase of the contract will be on a cost-plus-incentive fee basis

Phase II – This Phase of the contract is contemplated to be a cost-plus-incentive-fee contract arrangement. The contractor shall not proceed with any Phase II work unless specifically authorized, in writing, by the Contracting Officer.

Phase II – Includes reliability and maintainability evaluation testing, construction, commissioning, one year of operations and six months of supportof the Salt Waste Processing Facility. .

Final Fee Adjustment: Upon construction complete and operational readiness review completion all fee will be paid in accordance with Section B2.

B.2 ESTIMATED COST OF THE CONTRACT AND FUND OBLIGATIONS

(a) The estimated cost of the contract is set forth below:

Contract Line Item Number (CLIN)	CLIN Description	Quantity	Dollar Value
Cost Plus Fixed Fee CLINS – Phase 1 (Complete)			
0001	**Startup**		
0002	**Reserved - Demobilization**		

Contract Line Item Number (CLIN)	CLIN Description	Quantity	Dollar Value
0003	**Design Work**		
Total CLINs (0001, 0002, and 0003) Estimated Cost			$196,695,850
Total CLINs (0001, 0002, and 0003) Non Fee Bearing Cost			$39,230,860
Total CLINs (0001, 0002, and 0003) Fixed Fee			$13,032,922
Total CLINs (0001, 0002, and 0003) Estimated Cost, Non Fee Bearing Cost, and Fixed Fee			**$248,959,632**
Cost Plus Incentive Fee CLINs – Phase 2			
0004	Reliability and Maintainability Evaluation (R&ME) Testing Target Cost	1 Lot	$6,362,013
0005	Construction		
0005AA	Construction Actual Cost as of December 29, 2012	1 Lot	$762,302,054 (includes 0005AA and 0005AB as of modification 115, a $39.5M cost overrun incurred on CLIN 0005, and cost incurred ($414,691) under CLIN 0009 as of modification 115)
0005AB*	Construction Complete Target Cost(TEC Funds)	1 Lot	$526,000,000
0005AC**	Commissioning Planning Target Cost(OPC Funds)	1 Lot	$4,000,000
0005AD***	Construction Closeout	1 Lot	TBD
0006	Commissioning Target Cost	1 Lot	$99,745,780.27
0007	One Year of Operations – Target Cost	1 Lot	$37,737,664
0008	Six Months Support – Target Cost	1 Lot	$3,826,250
Total CLINS (0004, 0005, 0006, 0007, and 0008) Phase 2 Target Cost (Fee Bearing)			**$1,439,973,761.27**
0009	**Reserved**		
0010	**DOE Directed Changes NGS**		
0010AA	Estimated Cost for Next Generation Solvent incurred cost to date through September 2011	1 Lot	$49,732.20
0010AB	Incentive Fee for incurred cost to date through September 2011 at 0010AA at 4.5%		$2,237.02
	Subtotal Estimated Cost and Target/Max Fee		$51,969.22
0010AC	Estimated Cost for next Generation Solvent Testing Proposal	1 Lot	$1,733,704.37

Contract Line Item Number (CLIN)	CLIN Description	Quantity	Dollar Value
0010AD	Targt Cost Incentive Fee/Max Incentive Fee for Item 0010AC at 7%		$121,355.83
	Subtotal Estimated Cost and target/Max Fee 0010AC and 0010AD		$1,855,060.20
0010AE	Next Generation Additional Testing "MOD 118"		$184,178.00
Total CLIN 0010 Estimated Cost			$1,967,614.57
Total CLIN 0010 Target/Max Incentive Fee			$123,592.85
Total CLIN 0010 Estimated Cost and Target/Max Incentive Fee			**$2,091,207.42**
Total Estimated Cost for Phase 1 and Phase 2			**$1,691,024,600.27**
Interim Milestone Schedule Incentive – Full Electrical Power to Switch Gear			$10,000,000
Schedule Incentive to accelerate Construction Complete ($2,000,000 per month up to $10,000,000)			NTE $10,000,000
Key Performance Incentive Fee K-2B and K-3 Performance Fee			$26,914,733
Total Estimated Cost (Total Target Cost, Target Fee, Fixed Fee and Non Fee Bearing Cost for Phases 1 and 2			**$1,737,939,333.27**

*CLIN 0005AB Construction Complete includes but is not limited to Completion of Construction as defined by Section J, Attachment 3, and Plant Cyber Security during construction, asset preservation and all training activities for construction. The CLIN 0005AB Cost to Complete Construction (Construction Complete) Target Cost is the estimated cost to complete from December 29, 2012 of $526M from Proposal V-PMP-J-00033, Rev 1. Target Cost of $530,000,000 is inclusive of all cost incurred under CLINS 0005AB and 0005AC.

** CLIN 0005AC Commissioning Planning includes the following: Rev 0 documents for generic calibration; grooming and alignment procedures; revision 0 of all System Operational Test Procedures and completion of revision 0 of all Integrated Test Procedures described in the latest DOE approved revision of the SWPF Commissioning Plan (P-SUP-J-00001, Rev. 0). The CLIN 0005AC Cost to Complete Commissioning Planning Target Cost is the estimated cost to complete from December 29, 2012 of $4,000,000 from Proposal V-PMP-J-00033, Rev 1. Target Cost of $530,000,000 is inclusive of all cost incurred under CLINS 0005AB and 0005AC.

***CLIN 0005AD Construction closeout includes the following: closure of all Type B punchlist items defined in the contract except the items excluded by mutual agreement of the parties; final closure of all work packages in preparation for commissioning and operational readiness review; support of testing during the testing level commissioning phase; and complete within 6 months after construction completion unless prior approval is granted by the Federal Project Director and Contracting Officer. Costs for CLIN 0005AD will be definitized during the negotiations for CLINs 0006, 0007 and 0008.

The following tables identify the CLIN 0005AB Interim Milestone Schedule Incentive and contract Key Performance Incentives as of Modification 116. See Section J, Attachment 3, for Interim Milestone Schedule Incentive and Key Performance Incentives definitions.

Interim Milestone Schedule Incentive	Completion Date	Schedule Incentive Amount	Conditions of Incentive

Full Electrical Power to Switch Gear	November 30, 2013	$10,000,000	Conditional upon construction complete no later than November 30, 2016

Key Performance Incentives	
K-2B Hot Operations Incentive $4M/100k gallons above 4.025 M gal up to $24M max.	<$24,000,000>
K-3 Key Personnel Incentive 4%	$2,914,733

(b) In accordance with the clause entitled FAR 52.232-22 LIMITATION OF FUNDS (APR 1984),the amount presently obligated by the Government with respect to this contract is **$1,194,864,103.86, an increase of $7,528,823.92 (Modification 115).**

(c) **TARGET COST AND SCHEDULE, CLINS 0005AB AND 0005AC**

The CLIN 0005AB Construction Complete target cost is $526,000,000. The CLIN 0005AC Commissioning Planning target cost is $4,000,000. For the purpose of calculating the cost and schedule incentives, CLINS 0005AB and 0005AC are combined. The cumulative Construction Complete target cost subject to incentives described herein is inclusive of costs incurred under CLINS 0005AB and 0005AC.

The target completion date for Construction Complete is December 31, 2016. The contractor agrees in principle that it will continue on a pace to complete construction by December 2016, should the cost cap be reached.

(d) **CONSTRUCTION COMPLETE COST AND SCHEDULE INCENTIVE STRUCTURE**

The cost and schedule incentive will be cumulative and in no case shall the maximum shared savings to the Contractor exceed $50,000,000 ($30,000,000 Cost Share Savings and $20,000,000 schedule incentive, including the Interim milestone schedule incentive of $10,000,000). Any cost and/or schedule incentive earned is provisional based on successful commissioning of SWPF as determined by satisfactory completion of the DOE Operational Readiness Review. Any incentive (either cost or schedule, including the interim milestone schedule incentive) provisionally earned will be payable within 30 days of DOE acceptance of Construction Complete subject to the following retainage schedule. *80% of any incentive for cost or schedule for Construction Complete will be paid provisionally at the completion of construction and DOE acceptance. The remaining 20% of the fee will be paid upon successful completion of DOE Operational Readiness Review.

* Any cost or schedule incentive provisionally earned is not finally earned by the contractor until the Contracting Officer authorizes the contractor to submit a final incentive invoice upon completion of DOE Operational Readiness Review. If the DOE Operational Readiness Review is not successfully completed due to actions by the contractor all provisionally earned incentives will be forfeit and shall be returned to DOE within 30 days of written request by the Contracting Officer. In accordance with Clause I.67 FAR 52.232-17 Interest, all amounts payable to the Government are subject to simple interest from the due date until paid.

1. **Construction Complete Cost Incentive Structure**

The following cost incentive structure is established for Construction Complete (cumulative cost under CLINS 0005AB and 0005AC):

Target Cost: $530,000,000

a. For an actual final cost for Construction Complete equal to or greater than $550,000,000, shall be shared as follows:

Government's share:	0%
Contractor's share:	100%

There is no maximum Contractor share of cost over runs. The maximum Government liability for payment of allowable costs for Construction Complete is $540,000,000. The Contractor is required to complete workscope through Construction Complete regardless of final actual incurred cost.

b. For an actual final cost for Construction Complete equal to or greater than target cost of $530,000,000, but less than $550,000,000, costs exceeding the target cost shall be shared as follows:

Government's share:	50%
Contractor's share:	50%

c. For an actual final cost for Construction Complete equal to or greater than $500,000,000, but less than target cost $530,000,000, cost savings amounts less than $530,000,000 shall be shared as follows:

Government's share:	50%
Contractor's share:	50%

d. For an actual final cost for Construction Complete less than $500,000,000, cost savings amounts less than $500,000,000 shall be shared as follows:

Government's share:	25%
Contractor's share:	75%

The Maximum cumulative shared cost savings the contractor may earn under CLINS 0005AB and 0005AC (Construction Complete) is $30,000,000.

2. CLIN 0005AB Schedule Incentive to Complete Construction

a. For every month construction is completed before September 30, 2016, the Contractor will earn $2,000,000 per month up to a maximum of $10,000,000.

b. For any date that construction is completed between September 30, 2016 and December 31, 2016, no schedule incentive or disincentive will be applied.

c. For every month construction is complete beyond December 31, 2016, the Contractor will pay the Government a schedule disincentive of $2,000,000 per month up to a maximum of $20,000,000.

3. CLIN 0005AB Interim Milestone Schedule Incentive during Construction

The Contractor shall complete/connect Full Electrical Power to Switchgear by November 30, 2013. Successful completion of this milestone is defined as set forth in Section J, Attachment 3,

to this modification. The contractor will earn a provisional incentive of $10,000,000 upon successful completion of this milestone and completion of construction by November 30, 2016. Payment of any incentive earned under this milestone is due within 30 days of the Contracting Officer's final acceptance of completion of construction. All payments for incentives will be paid under FAR 52.232-25 Prompt Payment (May 2001). If the DOE Operational Readiness Review is not successfully completed due to actions by the contractor all provisionally earned incentives will be forfeit and shall be returned to DOE within 30 days of written request by the Contracting Officer. In accordance with Clause I.67 FAR 52.232-17 Interest, all amounts payable to the Government are subject to simple interest from the due date until paid.

(e) CLIN 0005AB and 0005AC assumed additional funding profile, subject to the availability of appropriated funds, is as follows:

FY13	FY14	FY15	FY16
$85 M	$77.5 M	$97 M	$133 M

Additional funding of $90M per year, beginning in FY17 for post-CLIN 0005AB and 0005AC activities, is assumed through CD-4. The amount of FY17 funding available for post-CLIN 0005AB and 0005AC activities is subject to reduction for any CLIN 0005AB and 0005AC cumulative cost and/or incentive payments exceeding the target cost as expressed herein.

DOE will utilize its best efforts, subject to the availability of appropriated funds, to provide the total annual funding specified above to the Contractor by November 15 of each Fiscal Year. Failure to provide funds by November 15 shall not entitle the Contractor to equitable relief on cost or schedule under this contract.

DOE agrees to utilize its best efforts, subject to availability of appropriated funds, to secure additional funding of $12M in Fiscal Year 2014. Failure to provide the additional funds shall not entitle the Contractor to equitable relief on cost or schedule under this contract.

(f) Accounting and Appropriation Data:

Approp. Symbol	B&R No.	Dollar Amount	Funding Action	ADS/TP
N/A	N/A	$500,000.00	**Award**	
89X0242.91	EW02L1560	$3,250,000.00	**A001**	
89X0242.91	EW02L1560	$750,000.00	**A004**	
89X0242.91	EW02L1560	$750,000.00	**A006**	
89X0242.91	EW02L1560	$2,325,000.00	**A007**	
89X0242.91	EW02L1560	$774,930.00	**A008**	
89X0242.91	39EW04LI	$2,421,191.00	**A009**	
89X0242.91	EW02L1560	$810,070.00	**A010**	**SR-HL13**
89X0251.91	EY3548140	$792,898.00	**A011**	
89X0251.91	EY3548140	$1,021,116.00	**A013**	
89X0251.91	39EY35480	$2,421,191.00	**A015**	
89X0251.91	EY3548140	$3,000,000.00	**A015**	
89X0251.91	39EY35480	$31,860,756.00	**A017**	
89X0251.91	39EY35480	$16,213,394.00	**A018**	
89X0251.91	EY3548010	$1,000,000.00	**A021/M023**	
89X0251.91	39EY13480	$22,943,576.00	**A025**	
89X0251.91	39EY13480	$24,792,000.00	**A025**	

89X0251.91	39EY13480	($19,000,000.00)	A027	
89X0251.91	39EY8700	$32,989,807.00	A028	PED
89X0251.91	39EY8700	$495,017.00	A028	TEC
89X0251.91	39EY8700	$1,941,785.00	A030	PED
89X0251.91	39EY8700	$15,000,000.00	A034	PED
89X0251.91	EY8748140	$1,500,000.00	A035	SR/TP-TEC
89X0251.91	39EY87000	$16,500,000.00	A037	SR/TP
89X0251.91	39EY87000	($200,000.00)	A038	SR/TP-TEC
89X0251.91	39EY87000	$4,000,000.00	A039	SR/TP-PED
89X0251.91	39EY35480	$3,000,000.00	A039	SR/TP-PED
89X0251.91	EY8748140	$2,166,139.00	A040	SR/TP-PED
89X0251.91	39EY87000	$2,000,000.00	A040	SR/TP-PED
89X0251.91	39EY87000	$14,008,755.00	A042	SR/TP-PED
89X0251.91	39EY87000	$52,796,000.00	A043	SR/TP-PED
89X0251.91	39EY87000	$14,500,000.00	A044	SR/TP-TEC
89X0251.91	39EY87000	$6,700,000.00	A047	SR/TP-TEC
89X0251.91	39EY87000	$5,000,000.00	A050	SR/TP-TEC
89X0251.91	39EY87000	$30,000,000.00	A052	SR/TP-TEC
89X0251.91	EY8748140	$2,000,000.00	A053	SR/TP-OPC
89X0251.91	39EY87000	$10,000,000.00	A053	SR/TP-TEC
89X0251.91	39EY87000	$9,757,991.00	A053	SR/TP-PED
89X0251.91	39EY87000	$3,084,100.00	M054	SR/TP-TEC
89X0251.91	EY8748140	$ 300,000.00	M054	SR/TP-OPC
89X0251.91	39EY87000	$15,000,000.00	M056	SR/TP-PED
01250/09/36	00250	$1,000,000.00	M059	OPC
01250/09/36	00320	28,760.000.00	M059	TEC
01250/09/36	00252	$2,000,000	A061	OPC
01250/09/36	00320	$10,000,000	A062	CC
01250/09/36	00320	$11,240,000	A063	TEC
01250/09/36	00320	$54,000,000	A064	TEC, OPC
See mod	see mod	$23,582,689.34	A067	TEC, OPC
01250/09/36	32001	$24,500,000	068	TEC
See mod	see mod	$3,040,896.24	069	TEC, OPC
See mod	see mod	$55,000,000	072	TEC, OPC
See mod	see mod	$75,000,000	073	TEC, OPC
See mod	see mod	$43,461,482.56	074	TEC, OPC, PED
01250/10/36	39EY87000	$75,000,000	075	TEC
01250/10/36	39EY87000	$3,346,566	077	TEC
01250/10/36	EY8748140	$3,000,000	078	
01250/11/36	see mod	$42,000,000	079	TEC,OPC
01250/11/36	39EY87000	$25,000,000	081	TEC
01250/11/36	39EY87000	$35,000,000	085	TEC
01250/11/36	39EY87000	$955,000	086	TEC
01250/11/36	39EY87000	$30,000	087	TEC
01250/11/36	39EY87000	$7,000,000	088	TEC
01250/11/36	39EY87000	$53,000,000	092	TEC
01250/11/36	39EY87000	$81,250,000	098	TEC
01250/11/36	EY8748141	$7,080,354.80	099	
01250/12/36	39EY87000	$30,000,000	101	
01250/12/36	39EY87000	$25,000,000	103	
01250/08/36	39EY87000	($4,800,000)	106	
01250/12/36	39EY87000	$18,173,575	107	
01250/12/36	39EY87000	$50,000,000	108	TEC
01250/12/36	39EY87000	$40,000,000	110	
01261/13/36	39EY87000	$10,997,147	113	

See mod	see mod	$14,551,853	**114**	
01250/10/36	see mod	$7,528,823.92	**115**	**TEC**

B.3 ALLOWABILITY OF SUBCONTRACTOR FEES

If the Contractor is part of a consortium, joint venture, and/or other teaming arrangement, the team shall share in this Contract fee structure (i.e., separate additional "subcontractor fee") for teaming partners will not be considered an allowable cost under the Contract.

B.4 FEE PAYMENTS

Fee payments will be available during the term of the contract as work progresses. Fee will be paid pursuant to one of the following clauses, as applicable: FAR 52.216-8 Fixed Fee or FAR 52.216-10 Incentive Fee. There is no provisional fee payable under CLIN 0005 except as specifically authorized in this modification 116.

B.5 CHANGES TO TARGET COST, SCHEDULE, AND FEE (Applicable to any Cost-Plus-Incentive Fee arrangements under this contract)

(a) To the extent that DOE obligates funds to this Contract on a schedule consistent with the funding profile expressed herein, availability of funds shall not be a basis for proposed changes to the Target Cost, Target Fee, and/or Section F milestone dates.

(b) The contractor assumes all risk of performance except for DOE directed changes defined by FAR 52.243-2 Changes-Cost Reimbursement Alt III and acts of God.

B.6 FEE PAYMENTS UNDER CHANGE OF OWNERSHIP OR BANKRUPTCY OF GUARANTOR(S)

(a) Bankruptcy or Other Issues with Guarantor Company(ies). In order to assure the Contractor's ability to repay any fee payments that are determined to be in excess of the actual fee earned at the completion of the Contract, the Contracting Officer reserves the right to discontinue fee payments, in the event that a guarantor company files bankruptcy or is acquired by other owners, or other events arise with the Contractor's guarantor company(ies) that jeopardizes DOE ability to recover unearned fee payments.

(b) Repayment of Bankruptcy Reserve. In the event of a bankruptcy, acquisition by other owner, or other event the Contractor shall within 60 days after the event, provide evidence satisfactory to the Contracting Officer that the bankruptcy, change in ownership, or other event does not affect the ability of the Contractor to continue to perform the obligations under the Contract, or affect a material Governmental or DOE interest. Upon receipt of such evidence, the Contracting Officer shall resume making payments of fee and shall release all fee payments withheld due to events described in paragraph (a) above during the preceding 60 days.

B.7 DEAR 970.5215-3 - CONDITIONAL PAYMENT OF FEE, PROFIT, OR OTHER INCENTIVES (JAN 2004)

(a) General. (1) The payment of earned fee, fixed fee, profit, or share of cost savings under this contract is dependent upon:

(i) The contractor's or contractor employees' compliance with the terms and conditions of this contract relating to environment, safety and health (ES&H), which includes worker safety and health (WS&H), including performance under an approved Integrated Safety Management System (ISMS); and

(ii) The contractor's or contractor employees' compliance with the terms and conditions of this contract relating to the safeguarding of Restricted Data and other classified information.

(2) The ES&H performance requirements of this contract are set forth in its ES&H terms and conditions, including the DOE approved contractor ISMS or similar document. Financial incentives for timely mission accomplishment or cost effectiveness shall never compromise or impede full and effective implementation of the ISMS and full ES&H compliance.

(3) The performance requirements of this contract relating to the safeguarding of Restricted Data and other classified information are set forth in the clauses of this contract entitled, "Security" and "Laws, Regulations, and DOE Directives," as well as in other terms and conditions.

(4) If the contractor does not meet the performance requirements of this contract relating to ES&H or to the safeguarding of Restricted Data and other classified information during any performance evaluation period established under the contract pursuant to the clause of this contract entitled, "Total Available Fee: Base Fee Amount and Performance Fee Amount," otherwise earned fee, fixed fee, profit or share of cost savings may be unilaterally reduced by the contracting officer.

(b) Reduction Amount. (1) The amount of earned fee, fixed fee, profit, or share of cost savings that may be unilaterally reduced will be determined by the severity of the performance failure pursuant to the degrees specified in paragraphs (c) and (d) of this clause.

(2) If a reduction of earned fee, fixed fee, profit, or share of cost savings is warranted, unless mitigating factors apply, such reduction shall not be less than 26% nor greater than 100% of the amount of earned fee, fixed fee, profit, or the contractor's share of cost savings for a fist degree performance failure, not less than 11% nor greater than 25% for a second degree performance failure, and up to 10% for a third degree performance failure.

(3) In determining the amount of the reduction and the applicability of mitigating factors, the contracting officer must consider the contractor's overall performance in meeting the ES&H or security requirements of the contract. Such consideration must include performance against any site specific performance criteria/requirements that provide additional definition, guidance for the amount of reduction, or guidance for the applicability of mitigating factors. In all cases, the contracting officer must consider mitigating factors that may warrant a reduction below the applicable range (see 48 CFR 970.1504-1-2). The mitigating factors include, but are not limited to, the following ((v), (vi), (vii) and (viii) apply to ES&H only).

(i) Degree of control the contractor had over the event or incident.

(ii) Efforts the contractor had made to anticipate and mitigate the possibility of the event in advance.

(iii) Contractor self-identification and response to the event to mitigate impacts and recurrence.

(iv) General status (trend and absolute performance) of: ES&H and compliance in related areas; or of safeguarding Restricted Data and other classified information and compliance in related areas.

(v) Contractor demonstration to the contracting officer's satisfaction that the principles of industrial ES&H standards are routinely practiced (e.g., Voluntary Protection Program, ISO 14000).

(vi) Event caused by "Good Samaritan" act by the contractor (e.g., offsite emergency response).

(vii) Contractor demonstration that a performance measurement system is routinely used to improve and maintain ES&H performance (including effective resource allocation) and to support DOE corporate decision-making (e.g., policy, ES&H programs).

(viii) Contractor demonstration that an Operating Experience and Feedback Program is functioning that demonstrably affects continuous improvement in ES&H by use of lessons-learned and best practices inter-and intra-DOE sites.

(4) (i) The amount of fee, fixed fee, profit, or share of cost savings that is otherwise earned by a contractor during an evaluation period may be reduced in accordance with this clause if it is determined that a performance failure warranting a reduction under this clause occurs within the evaluation period.

(ii) The amount of reduction under this clause, in combination with any reduction made under any other clause in the contract, shall not exceed the amount of fee, fixed fee, profit, or the contractor's share of cost savings that is otherwise earned during the evaluation period.

(iii) For the purposes of this clause, earned fee, fixed fee, profit, or share of cost savings for the evaluation period shall mean the amount determined by the contracting officer or fee determination official as otherwise payable based on the contractor's performance during the evaluation period. Where the contract provides for financial incentives that extend beyond a singe evaluation period, this amount shall also include: any provisional amounts determined otherwise payable in the evaluation period; and, if provisional payments are note provided for, the allocable amount of any incentive determined otherwise payable at the conclusion of a subsequent evaluation period. The allocable amount shall be the total amount of the earned incentive divided by the number of evaluation period over which it was earned.

(iv) The Government will effect the reduction as soon as practicable after the end of the evaluation period in which the performance failure occurs. If the Government is not aware of the failure, it will effect the reduction as soon as practical after becoming aware. For any portion of the reduction requiring an allocation the Government will effect the reduction at the end of the evaluation period in which it determines the total amount earned under the incentive. If at any time a reduction causes the sum of the payments the contractor has received for fee, fixed fee, profit, or share of cost savings to exceed the sum of fee, fixed fee, profit, or share of cost savings the contractor has earned (provisionally or otherwise), the contractor shall immediately return the excess to the Government. (What the contractor "has earned" reflects any reduction made under this or any other clause of the contract.)

(v) At the end of the contract:

(A) The Government will pay the contractor the amount by which the sum of fee, fixed fee, profit, or share of cost savings the contractor has earned exceeds the sum of the payments the contractor has received; or

(B) The contractor shall return to the Government the amount by which the sum of the payments the contractor ahs received exceeds the sum of fee, fixed fee, profit, or share of cost savings the contractor has earned. (What the contractor "has earned" reflects any reduction made under this or any other clause of the contract.)

(c) Environment, Safety and Health (ES&H). Performance failures occur if the contractor does not comply with the contract's ES&H terms and conditions, including the DOE approved contractor ISMS. The degrees of performance failure under which reductions of earned or fixed fee, profit, or share of cost savings will be determined are:

(1) First Degree: Performance failures that are most adverse to ES&H. Failure to develop and obtain required DOE approval of an ISMS is considered first degree. The Government will perform necessary review of the ISMS in a timely manner and will not unreasonably withhold approval of the contractor's ISMS. The following performance failures or performance failures of similar import will be considered first degree.

(i) Type A accident (defined in Doe Order 225.1A).

(ii) Two Second Degree performance failures during an evaluation period.

(2) Second Degree: Performance failures that are significantly adverse to ES&H. They include failures to comply with an approved ISMS that result in an actual injury, exposure, or exceedence that occurred or nearly occurred but had minor practical long-term health consequences. They also include breakdowns of the Safety Management System. The following performance failures or performance failures of similar import will be considered second degree:

(i) Type B accident (defined in DOE Order 225.1A).

(ii) Non-compliance with an approved ISMS that results in a near miss of a Type A or B accident. A near miss is a situation in which an inappropriate action occurs, or a necessary action is omitted, but does not result in an adverse effect.

(iii) Failure to mitigate or notify DOE of an imminent danger situation after discovery, where such notification is a requirement of the contract.

(3) Third Degree: Performance failures that reflect a lack of focus on improving ES&H. They include failures to comply with an approved ISMS that result in potential breakdown of the System. The following performance failures or performance failures of similar import will be considered third degree:

(i) Failure to implement effective corrective actions to address deficiencies/non-compliances documented through; external (e.g., Federal) oversight and/or reported per DOE Order 232.1A requirements; or internal oversight of DOE Order 440.1A requirements.

(ii) Multiple similar non-compliances identified by external (e.g., Federal) oversight that in aggregate indicate a significant programmatic breakdown.

(iii) Non-compliances that either have, or may have, significant negative impacts to the worker, the public, or the environment or that indicate a significant programmatic breakdown.

(iv) Failure to notify DOE upon discovery of events or conditions where notification is required by the terms and conditions of the contract.

(d) Safeguarding Restricted Data and Other Classified Information. Performance failures occur if the contractor does not comply with the terms and conditions of this contract relating to the safeguarding of Restricted Data and other classified information. The degrees of performance failure under which reductions of fee, profit, or share of cost savings will be determined are as follows:

(1) First Degree: Performance failures that have been determined, in accordance with applicable law, DOE regulation, or directive, to have resulted in, or that can reasonably be expected to result in, exceptionally grave damage to the national security. The following are examples of performance failures or performance failure or similar import that will be considered first degree:

(i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating a risk of, loss, compromise, or unauthorized disclosure or Top Secret Restricted Data or other information classified as top secret, any classification level of information in a Special Access Program (SAP), information identified as sensitive compartmented information (SCI), or high risk nuclear weapons-related data.

(ii) Contractor actions that result in a breakdown of the safeguards and security management system that can reasonably be expected to result in the loss, compromise, or unauthorized disclosure of Top Secret Restricted Data, or other information classified as Top Secret, any classification level of information in a SAP, information identified as SCI, or high risk nuclear weapons-related data.

(iii) Failure to promptly report the loss, compromise, or a unauthorized disclosure of Top Secret Restricted Data, or other information classified as Top Secret, any classification level of information in a SAP, information identified as SCI, or high risk nuclear weapons-related data.

(iv) Failure to in a timely implement corrective actions stemming from the loss, compromise, or unauthorized disclosure of Top Secret Restricted Data, or other information classified as Top Secret, any classification level of information in a SAP, information identified as SCI, or high risk nuclear weapons-related data.

(2) Second Degree: Performance failures that have been determined, in accordance with applicable law, DOE regulation, or directive, to have actually resulted in, or that can reasonably be expected to result in, serious damage to the national security. The following are examples of performance failures or performance failures of similar import that will be considered second degree:

(i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating risk of loss, compromise, or unauthorized disclosure of Secret Restricted Data or other information classified as Secret.

(ii) Contractor actions that result in a breakdown of the safeguards and security management system that can reasonably be expected to result in the loss, compromise, or unauthorized disclosure of Secret Restricted Data, or other information classified as Secret.

(iii) Failure to promptly report the loss, compromise, or unauthorized disclosure of Restricted Data or other classified information regardless of classification (except for information covered by paragraph (d)(1)(iii) of this clause).

(iv) Failure to timely implement corrective actions stemming from the loss, compromise, or unauthorized disclosure of Secret Restricted Data or other classified information classified as Secret.

(3) Third Degree: Performance failures that have been determined, in accordance with applicable law, regulation, or DOE directive, to have actually resulted in, or that can reasonably be expected to result in, undue risk to the common defense and security. In addition, this category includes performance failures that result from a lack of contractor management and/or employee attention to the proper safeguarding of Restricted Data and other classified information. These performance failures may be indicators of future, more sever performance failures and/or conditions, and if identified and corrected early would prevent serious incidents. The following are examples of performance failures or performance failures of similar import that will be considered third degree:

(i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating risk of. loss, compromise, or unauthorized disclosure of Restricted Data or other information classified as Confidential.

(ii) Failure to promptly report alleged or suspected violations of laws, regulations, or directives pertaining to the safeguarding of Restricted Data or other classified information.

(iii) Failure to identify or timely execute corrective actions to mitigate or eliminate identified vulnerabilities and reduce residual risk relating to the protection of Restricted Data or other classified information in accordance with the contractor's Safeguards and Security Plan or other security plan, as applicable.

(iv) Contractor actions that result in performance failures which unto themselves pose minor risk, but when viewed in the aggregate indicate degradation in the integrity of the contractor's safeguards and security management system relating of the protection of Restricted Data and other classified information.

(End of Clause)