

FILL IN OF CONTRACT CLAUSES

Certain solicitation clauses have been uploaded with the solicitation, as a separate Word document (Clauses.doc), which are to be completed by the Offeror, saved and submit as File 3.

All areas marked as **TBD in these clauses are to be filled in by the Offeror, this information shall then be utilized to complete these specific areas prior to contract award.**

B.1 SERVICES BEING ACQUIRED – INFORMATION TECHNOLOGY OPERATIONS AND MAINTENANCE SUPPORT SERVICES

The Contractor shall furnish all personnel, facilities, equipment, material, 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, the performance of the items of work as specified in the Statement of Work (SOW) set forth in Part III, Section J, Attachment A-2, and fulfill the other requirements of the contract including contract reporting set forth in Part III, Section J. This Task Order (TO or contract) is a hybrid blend of Cost-Plus-Award-Fee (CPAF), Cost-Plus-Fixed-Fee (CPFF), Firm-Fixed-Price (FFP), and Fixed-Price-Incentive (FPI) type Subtask Orders. The TO provides Information Technology (IT) solutions through support services described in the SOW. Subtasks Orders shall be issued in accordance with Section H of this TO.

Direct Productive Labor-Hours (DPLH) are defined as actual work hours exclusive of vacation, holiday, sick leave, and other absences. The DPLH indicated below are provided for estimating purposes. Changes in programmatic requirements may cause a substantial increase or decrease in the number of DPLH. The Contractor shall be required to provide all DPLH which may be needed to complete the Subtask Orders issued during the term of the contract. However, the Contractor shall not proceed beyond the estimated DPLH unless authorized to do so in a TO modification issued by the Contracting Officer.

Nothing in this clause shall be construed to constitute authorization for work not in accordance with the “Limitation of Funds”, “Limitation of Costs”, “Completion Dates”, or “Term of Contract” clauses of this TO.

Base Period (Effective date of award through 24 months)	
Estimated DPLH (Level of Effort)	303,360
Estimated Cost (based on estimated level of effort)	(TBD)
Maximum Available Fee Pool (based on estimated CPAF Subtasks)	(TBD)
Transition Cost	(TBD)
Option Period 1 (25 th month through 48 th month)	
Estimated DPLH (Level of Effort)	303,360
Estimated Cost (based on estimated level of effort)	(TBD)
Maximum Available Fee Pool (based on estimated CPAF Subtasks)	(TBD)
Option Period 2 (49 th month through 60 th month)	
Estimated DPLH (Level of Effort)	151,680

Estimated Cost (based on estimated level of effort) (TBD)

Maximum Available Fee Pool (based on estimated CPAF Subtasks) (TBD)

H.8 KEY PERSONNEL

The key personnel specified below are essential to the work being performed under this award. Any changes to these personnel require prior written approval by the DOE Contracting Officer.

The Program Manager shall serve as the Contractor's authorized supervisor for technical and administrative performance of all work hereunder. The Program Manager shall receive and execute, on behalf of the Contractor, such technical directions as the DOE Contracting Officer's Representative may issue within the terms and conditions of the contract.

The following is a list of key personnel that have been approved for this contract:

<u>Name</u>	<u>Title</u>
(TBD)	Program Manager
(TBD)	Manager for Enterprise Systems
(TBD)	Manager for Operations & Maintenance
(TBD)	(TBD)

Prior to diverting any of the specified individuals, the Contractor shall notify the Contracting Officer not less than thirty (30) calendar days prior to the diversion or substitution of key personnel and shall submit a written justification (including qualifications of proposed substitutions) to permit evaluation. The proposed changes will be approved in writing at the sole discretion of the Contracting Officer.

Retention of key personnel is important to the overall efficiency and continuity of execution of the contract. The Contractor shall not divert more than one (1) of the key personnel, listed above, during any single performance period (every six months). This means that, given the positions identified above as key personnel (including the program manager), no more than one of this group may be reassigned away from this contract during any given performance period. Exceptions will be made for documented performance issues with key personnel.

H.10 INCORPORATION OF CONTRACTOR'S PROPOSAL

The Contractor's proposal in its entirety is incorporated by reference. In the event of any conflict between the other terms and conditions of the contract and those presented in the Contractor's proposal, the contract shall prevail.

- (a) As part of its proposal, the Contractor offered certain resources at no cost to the Government to support mission specific activities of significant benefit to NETL. The following list of commitments have been proposed by the Contractor and accepted by the Government:

(TBD)

- (b) The Contractor shall provide to the Contracting Officer an annual report of accomplishments against the commitments specified above at the end of each Government fiscal year. The Contractor agrees that such reports may be made available to the public. The Contractor shall make available to DOE data that will validate the accomplishments of these commitments. A final report documenting and certifying the total commitments provided by the Contractor to NETL shall be submitted to NETL 30 days prior to the end of the contract period. The annual reports and final report shall constitute deliverables under this contract.

- (c) The costs associated with the Contractor's efforts in achieving its commitment under this clause are not allowable as direct or indirect charges against this contract or any other Government contract or agreement.
- (d) In the event it is determined by NETL, that the Contractor failed to achieve its commitment on an annual basis, NETL shall notify the Contractor in writing and the Fee Determination Official may elect to reduce the fee earned for that particular year. If the Government must acquire a Contractor committed resource at its own expense, the Contractor shall also be liable to the Government for the cost of the resource plus the Government's cost of acquiring the resource.

H.11 PRIOR APPROVAL REQUIREMENTS FOR PLACEMENT OF SUBCONTRACTS AND/OR CONSULTANTS

The Contractor shall obtain the Contracting Officer's written consent before placing any subcontract, including consultants, for which advance notification is required under FAR 52.244-2, "Subcontracts".

Any request for subcontract/consultant approval shall include the elements prescribed by FAR 52.244-2, including subcontractor/consultant Representations and Certifications. For consultants the Contractor will obtain and furnish information supporting the need for and selection of such consultant services and the reasonableness of the fees to be paid, including, but not limited to, whether fees to be paid to any consultant exceed the lowest fee charged by such consultants to others for performing consulting services of a similar nature.

Except as may be expressly set forth therein, any consent by the Contracting Officer to the placement of subcontracts and/or consultants shall not be construed to constitute approval of the subcontractor or any subcontract terms or conditions, determination of the allowability of any cost, revision of this contract or any of the respective obligations of the parties thereunder, or creation of any subcontractor privity of contract with the Government.

The Contractor is hereby given consent to the placement of the following subcontracts, which were evaluated during negotiations:

(TBD)

Notwithstanding this consent, the Contractor shall ensure compliance with FAR 52.244-2. All subcontracts and/or consultant agreements must contain all applicable flow-down clauses contained in Part II, Section I.

H.13 LIMITATION OF INDIRECT COST

Notwithstanding any other clause(s) of this contract, the Government shall not reimburse the Contractor for any site specific on-site and G&A indirect costs in excess of the indirect expense dollars derived for each of the Contractor's fiscal years by the application of the following individual indirect cost ceiling rates to the appropriate base outlined below. The indirect cost ceiling rates are based on a (*Contractor to insert either – percentage of overall rate or percentage of growth for individual or groups of cost elements*). All indirect costs in excess of said limit(s) shall be borne by the Contractor.

NOTE: Contractor (and prime participants) to complete table(s) consistent with the proposed ceilings contained in Volume III, Cost Exhibits C2, C3, and C4.

A) Percentage of Overall Rate

		Indirect Cost Ceiling Rate(s) per Contractor's Fiscal Year (1)				
Indirect Cost	Base of Application	FY[]	FY[]	FY[]	FY[]	FY[]
NETL Site Specific On-Site Overhead	\$(TBD)	(TBD)%	(TBD)%	(TBD)%	(TBD)%	(TBD)%
Off-Site Overhead (Contractor's site)	\$(TBD)	(TBD)%	(TBD)%	(TBD)%	(TBD)%	(TBD)%
G&A	\$(TBD)	(TBD)%	(TBD)%	(TBD)%	(TBD)%	(TBD)%

(1) For Contractor's FY beginning (TBD) and ending (TBD).

Or

B) Percentage of Growth for Individual or Group of Cost Elements

		Indirect Cost Ceiling Rate(s) per Contractor's Fiscal Year (1)				
Indirect Cost	Cost Element	FY[]	FY[]	FY[]	FY[]	FY[]
NETL Site Specific On-Site Overhead	(TBD)	(TBD)% of growth allowed	(TBD)% of growth allowed	(TBD)% of growth allowed	(TBD)% of growth allowed	(TBD)% of growth allowed
Off-Site Overhead (Contractor's site)	(TBD)	(TBD)% of growth allowed	(TBD)% of growth allowed	(TBD)% of growth allowed	(TBD)% of growth allowed	(TBD)% of growth allowed
G&A	(TBD)	(TBD)% of growth allowed	(TBD)% of growth allowed	(TBD)% of growth allowed	(TBD)% of growth allowed	(TBD)% of growth allowed

(1) For Contractor's FY beginning (TBD) and ending (TBD).

The indirect cost limitations set forth above include provisions for all known increases that will take place during the term of this contract resulting from statute, court decisions and/or written ruling or regulation by the Internal Revenue Service (IRS) or any other taxing authority. However, in the event that during the term of this contract, any other statute, court decision and/or written ruling or regulation affects the Contractor's indirect costs, the indirect cost limitations will be adjusted to the extent the Contracting Officer determines the increase or decrease, if any, said statute, court decision and/or ruling or regulation impacts the Contractor's indirect costs.

This clause shall be flowed down to all subcontracts issued under a cost reimbursement basis. The indirect rate ceilings contained in this clause shall be negotiated prior to the placement of any cost-reimbursement subcontracts not previously authorized in Part I, Section, H, "Prior Approval Requirements for Placement of Subcontracts and/or Consultants." The Prime Contractor is responsible for negotiating the indirect rate ceilings and ensuring a copy is contained in the subcontract approval package submitted to the Government. However, if the subcontractor is concerned with the Prime Contractor having access to company proprietary information, with permission from the Prime Contractor, the required information can be submitted directly to the Government for negotiation. In this instance, the Prime Contractor will forward an e-mail to the Contract Specialist stating their intention/agreement for the Government to negotiate the indirect rate ceilings. Upon completion, the Government will maintain the agreed upon rate ceilings and provide the Prime Contractor with a written notification that negotiations with the

subcontractor have been completed.

K.1 52.204-8 ANNUAL REPRESENTATIONS AND CERTIFICATIONS. (MAR 2012)

- (a)
- (1) The North American Industry classification System (NAICS) code for this acquisition is 541513.
 - (2) The small business size standard is \$25.5 Million.
 - (3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.
- (b)
- (1) If the clause at 52.204-7, Central Contractor Registration, is included in this solicitation, paragraph (d) of this provision applies.
 - (2) If the clause at 52.204-7 is not included in this solicitation, and the Offeror is currently registered in CCR, and has completed the ORCA electronically, the Offeror may choose to use paragraph (d) of this provision instead of completing the corresponding individual representations and certification in the solicitation. The Offeror shall indicate which option applies by checking one of the following boxes:
[TBD] (i) Paragraph (d) applies.
[TBD] (ii) Paragraph (d) does not apply and the Offeror has completed the individual representations and certifications in the solicitation.
- (c)
- (1) The following representations or certifications in ORCA are applicable to this solicitation as indicated:
 - (i) 52.203-2, Certificate of Independent Price Determination. This provision applies to solicitations when a firm-fixed-price contract or fixed-price contract with economic price adjustment is contemplated, unless—
 - (A) The acquisition is to be made under the simplified acquisition procedures in Part 13;
 - (B) The solicitation is a request for technical proposals under two-step sealed bidding procedures; or
 - (C) The solicitation is for utility services for which rates are set by law or regulation.
 - (ii) 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. This provision applies to solicitations expected to exceed \$150,000.
 - (iii) 52.204-3, Taxpayer Identification. This provision applies to solicitations that do not include the clause at 52.204-7, Central Contractor Registration.
 - (iv) 52.204-5, Women-Owned Business (Other Than Small Business). This provision applies to solicitations that—
 - (A) Are not set aside for small business concerns;
 - (B) Exceed the simplified acquisition threshold; and
 - (C) Are for contracts that will be performed in the United States or its outlying areas.
 - (v) 52.209-2, Prohibition on Contracting with Inverted Domestic Corporations—Representation. This provision applies to solicitations using funds appropriated in fiscal years 2008, 2009, or 2010.
 - (vi) 52.209-5; Certification Regarding Responsibility Matters. This provision applies to solicitations where the contract value is expected to exceed the simplified acquisition threshold.
 - (vii) 52.214-14, Place of Performance--Sealed Bidding. This provision applies to invitations for bids except those in which the place of performance is specified by the Government.
 - (viii) 52.215-6, Place of Performance. This provision applies to solicitations unless the place of performance is specified by the Government.
 - (ix) 52.219-1, Small Business Program Representations (Basic & Alternate I). This provision applies to solicitations when the contract will be performed in the United States or its outlying areas.
 - (A) The basic provision applies when the solicitations are issued by other than DoD, NASA, and the Coast Guard.
 - (B) The provision with its Alternate I applies to solicitations issued by DoD, NASA, or the Coast Guard.
 - (x) 52.219-2, Equal Low Bids. This provision applies to solicitations when contracting by sealed bidding and the contract will be performed in the United States or its outlying areas.

- (xi) 52.222-22, Previous Contracts and Compliance Reports. This provision applies to solicitations that include the clause at 52.222-26, Equal Opportunity.
- (xii) 52.222-25, Affirmative Action Compliance. This provision applies to solicitations, other than those for construction, when the solicitation includes the clause at 52.222-26, Equal Opportunity.
- (xiii) 52.222-38, Compliance with Veterans' Employment Reporting Requirements. This provision applies to solicitations when it is anticipated the contract award will exceed the simplified acquisition threshold and the contract is not for acquisition of commercial items.
- (xiv) 52.223-1, Biobased Product Certification. This provision applies to solicitations that require the delivery or specify the use of USDA-designated items; or include the clause at 52.223-2, Affirmative Procurement of Biobased Products Under Service and Construction Contracts.
- (xv) 52.223-4, Recovered Material Certification. This provision applies to solicitations that are for, or specify the use of, EPA- designated items.
- (xvi) 52.225-2, Buy American Act Certificate. This provision applies to solicitations containing the clause at 52.225-1.
- (xvii) 52.225-4, Buy American Act--Free Trade Agreements--Israeli Trade Act Certificate. (Basic, Alternates I, II, and III.) This provision applies to solicitations containing the clause at 52.225- 3.
 - (A) If the acquisition value is less than \$25,000, the basic provision applies.
 - (B) If the acquisition value is \$25,000 or more but is less than \$50,000, the provision with its Alternate I applies.
 - (C) If the acquisition value is \$50,000 or more but is less than \$77,494, the provision with its Alternate II applies.
 - (D) If the acquisition value is \$77,494 or more but is less than \$100,000, the provision with its Alternate III applies.
- (xviii) 52.225-6, Trade Agreements Certificate. This provision applies to solicitations containing the clause at 52.225-5.
- (xix) 52.225-20, Prohibition on Conducting Restricted Business Operations in Sudan-- Certification. This provision applies to all solicitations.
- (xx) 52.225-25, Prohibition on Contracting with Entities Engaging in Sanctioned Activities Relating to Iran—Representation and Certification. This provision applies to all solicitations.
- (xxi) 52.226-2, Historically Black College or University and Minority Institution Representation. This provision applies to—
 - (A) Solicitations for research, studies, supplies, or services of the type normally acquired from higher educational institutions; and
 - (B) For DoD, NASA, and Coast Guard acquisitions, solicitations that contain the clause at 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns.

(2) The following certifications are applicable as indicated by the Contracting Officer:

- (i) 52.219-22, Small Disadvantaged Business Status.
 - (A) Basic.
 - (B) Alternate I.
- (ii) 52.222-18, Certification Regarding Knowledge of Child Labor for Listed End Products.
- (iii) 52.222-48, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment Certification.
- (iv) 52.222-52 Exemption from Application of the Service Contract Act to Contracts for Certain Services--Certification.
- (v) 52.223-9, with its Alternate I, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (Alternate I only).
- (vi) 52.227-6, Royalty Information.
 - (A) Basic.
 - (B) Alternate I.
- (vii) 52.227-15, Representation of Limited Rights Data and Restricted Computer Software.

(d)

The Offeror has completed the annual representations and certifications electronically via the Online Representations and Certifications Application (ORCA) website accessed through <https://www.acquisition.gov> . After reviewing the ORCA database information, the Offeror verifies by submission of the offer that the representations and certifications currently posted electronically that apply to this solicitation as indicated in paragraph (c) of this provision have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); except for the changes identified below [*Offeror to insert changes, identifying change by clause number, title, date*]. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR Clause	Title	Date	Change
TBD			

Any changes provided by the Offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on ORCA.

K.2 52.209-7 INFORMATION REGARDING RESPONSIBILITY MATTERS

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

“Administrative proceeding” means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (*e.g.*, Securities and Exchange Commission Administrative Proceedings, Civilian Board of Contract Appeals Proceedings, and Armed Services Board of Contract Appeals Proceedings). This includes administrative proceeding at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include agency actions such as contract audits, site visits, corrective plans, or inspection of deliverables.

“Federal contracts and grants with total value greater than \$10,000,000” means—

- (1) The total value of all current, active contracts and grants, including all priced options; and
- (2) The total value of all current, active orders including all priced options under indefinite-delivery, indefinite-quantity, 8(a), or requirements contracts (including task and delivery and multiple-award Schedules).

“Principal” means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (*e.g.*, general manager; plant manager; head of a division or business segment; and similar positions).

(b) The offeror has does not have current active Federal contracts and grants with total value greater than \$10,000,000.

(c) If the offeror checked “has” in paragraph (b) of this provision, the offeror represents, by submission of this offer, that the information it has entered in the Federal Awardee Performance and Integrity Information System (FAPIS) is current, accurate, and complete as of the date of submission of this offer with regard to the following information:

- (1) Whether the offeror, and/or any of its principals, has or has not, within the last five years, in connection with the award to or performance by the offeror of a Federal contract or grant, been the

subject of a proceeding, at the Federal or State level that resulted in any of the following dispositions:

(i) In a criminal proceeding, a conviction.

(ii) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more.

(iii) In an administrative proceeding, a finding of fault and liability that results in—

(A) The payment of a monetary fine or penalty of \$5,000 or more; or

(B) The payment of a reimbursement, restitution, or damages in excess of \$100,000.

(iv) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in paragraphs (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this provision.

(2) If the offeror has been involved in the last five years in any of the occurrences listed in (c)(1) of this provision, whether the offeror has provided the requested information with regard to each occurrence.

(d) The offeror shall post the information in paragraphs (c)(1)(i) through (c)(1)(iv) of this provision in FAPIIS as required through maintaining an active registration in the Central Contractor Registration database via <https://www.acquisition.gov> (see 52.204-7).