AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE	PAGE	OF	PAGES
	1		1

2. AMENDMENT/MODIFICATION NO.	3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. *(If applicable)*
M062	see block 16C	N/A	

6. ISSUED BY CODE

U.S. Department of Energy
National Nuclear Security Administration
P.O. Box 98518
Las Vegas, NV 89193-8518

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

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

National Security Technologies, LLC
P.O. Box 98521
Las Vegas, NV 89193-8521

EXECUTED COPY

CODE FACILITY CODE

(✓) 9A. AMENDMENT OF SOLICITATION NO.

9B. DATED *(SEE ITEM 11)*

(✓) 10A. MODIFICATION OF CONTRACT/ORDER NO.
DE-AC52-06NA25946

10B. DATED *(SEE ITEM 13)*
3/28/06

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 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 referenced 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.

(✓) 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 NUMBER 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:

(✓) 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 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 action is to transmit a revision to Work Authorization (WA) RA-09-001. The WA is being modified to add paragraph E.2., Baseline and Reporting Requirements for Work Performed under the Recovery Act. The revised WA is attached. The schedule for definitization of WA RA-09-001 is as follows:

- Issue ARRA modification and WA 6/04/2009
- Issue modification with WA revision 6/23/2009
- Receipt of NSTec proposal for the ARRA work scope: 7/21/2009 (WA E.2 req'ts and Entire Work Scope to be definitized)
- Definitization schedule based on proposal: 7/28/2009
- ARRA work scope definitization: 9/04/2009

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

15A. NAME AND TITLE OF SIGNER *(Type or print)*	16A. NAME AND TITLE OF CONTRACTING OFFICER *(Type or print)*
David F. Reith, NSTec Business Operations/CFO	Darby A. Dieterich, Contracting Officer

15B. CONTRACTOR/OFFEROR	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA	16C. DATE SIGNED
David F. Reith *(Signature of person authorized to sign)*	6/23/09	BY Darby A Dieterich *(Signature of Contracting Officer)*	6/23/09

WORK AUTHORIZATION
U.S. DEPARTMENT OF ENERGY CONTRACT WORK AUTHORIZATION

1a. Project Title: **NTS Recovery Act Project**	1b. Work Proposal Number (if applicable): **VL-NV-0030**

2. Headquarters Program Point of Contact.

Name: **Cynthia Anderson** | Organization Code: **EM-3** | Telephone No.: **202-586-2083**

3. Headquarters Budget Point of Contact.

Name: **George Garey** | Organization Code: **EM-31** | Telephone No.: **301-903-7948**

4. Responsible Program: **Environmental Management**	5. Responsible Secretarial Officer: **Ines Triay EM-1**

6. Responsible Field Organization: **NNSA Nevada Site Office**

7a. Site and Facility Management Contractor: **National Security Technologies, LLC**	7b. Contractor Point of Contact.

Name: **John Cuicci** Telephone No.: **702-295-0473**

8. Work Authorization Number: **RA-09-001**	9. Revision Number: **01**

10. Funds Authorized ($ in thousands). *See Page 4, Paragraph E., Funds Authorized.

Budget and Reporting Code: **FD0621000** | Previous: **$0** | Change: Current: **$25,000,000.00**

11. Performance Period Covered by Funds.	12. Work Start Date: **June 4, 2009**	13. Expected Completion Date: **Sep 30, 2011**

From: **June 4, 2009** To: **Sep 30, 2011**

14. Statement of Work:

See American Recovery and Reinvestment Act Requirements (Attachment 1) for a description of the Statement of Work, milestones, deliverables, performance measures/expectations and other requirements mandated by the American Recovery and Reinvestment Act.

15. Reporting Requirements (Status reports, scientific and technical information or similar):

16. Work Authorization Program Official.

Name (typed):	Signature:	Date:
Stephen A. Mellington	Stephen M. Mellington	6/19/09

17. DOE Field Organization Official.

Name (typed):	Signature:	Date:
Janet L. Appenzeller-Wing	Janet Appenzeller-Wing	6/19/2009

18. Contractor's Authorized Representative.

Name (typed):	Signature:	Date:
David F. Reith	David F. Reith	6/23/09

19. DOE Contracting Officer (or delegated representative).

Name (typed):	Signature:	Date:
Darby A. Dieterich	Darby A. Dieterich	6/23/09

*See paragraph E of the American Recovery and Reinvestment Act Requirements (Attachment 1) for total funds authorized.
**The revision number will consist of a 2-digit program identifier, 4-digit sequential number, and the last digit of the fiscal year.

American Recovery and Reinvestment Act Requirements (Attachment 1)

A. The specific Statement of Work funded by this Work Authorization pursuant to contract **DE-AC52-06NA25946** clause B-9999, clause H-9999 and to the American Recovery and Reinvestment Act, Pub. L. 111-5, (Recovery Act) is as follows:

Recovery Act Project **Statement of Work**
▪ **Installation of two groundwater characterization/monitoring wells (one well in 2009 and one in 2011) in Pahute Mesa for the Underground Test Area (UGTA) project.** ▪ **Provide all labor, materials, and equipment to complete demolition of the Pluto Disassembly Facility; the Reactor Maintenance, Assembly, and Disassembly (RMAD) Facility; and two ancillary structures (i.e. furnace piping and a moveable shed [Building 3211]) associated with the Test Cell C Facility.** ▪ **Conduct characterization support for the Corrective Action Investigation Plans and Corrective Action Decision Documents at Soils Corrective Action Units 367, 374, and 375.**
Total overall estimated cost is TBD at time of definitization.

B. The specific milestones for this Work Authorization are as follows:

- **Complete demolition of furnace piping and movable shed associated with Test Cell C**
- **Initiate drilling of first accelerated well in Pahute Mesa**
- **Complete drilling of first accelerated well in Pahute Mesa**
- **Initiate demolition of RMAD**
- **Initiate demolition of Pluto**
- **Complete demolition of RMAD**
- **Complete demolition of Pluto**
- **Initiate drilling of second accelerated well in Pahute Mesa**
- **Complete drilling of second accelerated well in Pahute Mesa**
- **Complete review of Corrective Action Investigation Plan (CAIP) for first contaminated soil Corrective Action Unit**
- **Complete review of Corrective Action Decision Document (CADD) for first contaminated soil Corrective Action Unit**
- **Complete review of CAIP for second contaminated soil Corrective Action Unit**
- **Complete review of CADD for second contaminated soil Corrective Action Unit**
- **Complete review of CAIP for third contaminated soil Corrective Action Unit**
- **Complete review of CADD for third contaminated soil Corrective Action Unit**

NOTE: Actual performmance dates (ranging from June 4, 2009 – Sep 30, 2011) will be negotiated and clearly defined within this section after definitization of this Work Authorization.

C. The specific deliverables for this Work Authorization are as follows:

- **Daily reports while drilling, and final daily report noting completion of drilling, for each well in Pahute Mesa**
- **Site Specific Health and Safety Plan for RMAD demolition**
- **NEPA Checklist for RMAD demolition**
- **Field Management Plan for RMAD demolition**
- **Radiological Work Permit for RMAD demolition**
- **Final Radiological Survey Plan for RMAD demolition**
- **Real Estate Operating Permit for RMAD demolition**
- **Weekly status reports for RMAD demolition**
- **Daily reports during field work for RMAD demolition**
- **Photo and video documentation for RMAD demolition**
- **Letter Report for completion of RMAD demolition**
- **Site Specific Health and Safety Plan for Pluto demolition**
- **NEPA Checklist for Pluto demolition**
- **Field Management Plan for Pluto demolition**
- **Radiological Work Permit for Pluto demolition**
- **Final Radiological Survey Plan for Pluto demolition**
- **Real Estate Operating Permit for Pluto demolition**
- **Weekly status reports for Pluto demolition**
- **Daily reports during field work for Pluto demolition**
- **Photo and video documentation for Pluto demolition**
- **Letter Report for completion of Pluto demolition**
- **Letter Report for completion of demolition of nuclear furnace piping and movable shed**
- **Comments on the CAIP for each soils Corrective Action Unit**
- **Comments on the CADD for each soils Corrective Action Unit**

NOTE: Actual dates for each deliverable (ranging from June 4 , 2009 – Sep 30, 2011) will be negotiated and clearly defined within this section after definitization of this Work Authorization.

D. The specific performance measures/expectations must be connected to the Recovery Act work under this Work Authorization. The specific performance measures/expectations for this Work Authorization are as follows:

- **Completion of two (2) monitoring wells in UGTA**
- **Demolition of two (2) buildings (RMAD and Pluto Facilities)**
- **Demolition of two (2) ancillary structures (nuclear furnace piping and a movable shed) associated with the Test Cell C Facility**

NOTE: Dates for each performance measure/expectation listed above (ranging from June 4 , 2009 – Sep 30, 2011) will be negotiated and clearly defined within this section after definitization of this Work Authorization.

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

1. Pursuant to clause B-9999 and the clause in Section I, entitled "Obligation of Funds," total funds in the amount of **$25,000,000.00**** *(100% of funds to be obligated in FY 09)* are obligated herein and made available for payment of allowable costs and fee earned related only to the Recovery Act work from ***June 4, 2009*** of this Work Authorization ***RA-09-001*** through **September 30, 2011.** Associated accounting and appropriation data is:

** Note: The funds obligation value is $25,000,000.00. **Pending definitization of this Work Authorization, in accordance with the Contract Clause 970.5232-2, Payments and Advances, the Contractor is only authorized to withdraw (or expend) from the Letter of Credit, the value, not to exceed amount, of *$7,500,000.00*. Any withdrawl in excess of the *$7,500,000.00* without the prior approval of the Contracting Officer will be considered an unallowable cost and is subject to the Government's right to offset or reduce the annual Program Performance Fee. In the event of an offset or reduction, the Contracting Office will provide further instructions. Once this Work Authorization is definitized (negotiated), the amount obligated will be revised as necessary, up to the total amount negotatiated, which will then be available for withdrawl as a result of definitization of this action.**

Accounting and Appropriations Data

Level	1	2	3	4	5	6	7	8	9
Numerical Characters	06049	2009	01	100035	25400	1111353	2002070	000000	0000000
Level Name	Fund	Appropriation Year	Allottee	Reporting Entity	Object Class	Program	Project	WFO	Local Use

(Include each appropriation, as applicable, in the above table.)

2. Baseline and Reporting Requirements for Work Performed under the Recovery Act

This paragraph defines the unique requirements for the Contractor's project management baseline and associated reporting requirements to address the contract performance requirements to be performed as identified within this Work Authorization which are funded under the provisions of the American Recovery and Reinvestment Act of 2009 (Recovery Act).

Baseline Requirements

a. For purposes of this paragraph, the "pre-definitized period" is defined as that timeframe from the date of issuance of the Undefinitized Work Authorization number **RA-09-001** directing the contractor to begin the Recovery Act work until the work is definitized and the update (Definitized Work Authorization Modification) has been executed by both the Contractor and Contracting Officer. All requirements for plans and deliverables during the pre-definitized

period shall be based on the definitization time period of 90 days after issuance of the Undefinitized Work Authorization or expenditure of 30% of the estimated value, *whichever comes first*.

(The pre-definitized period is sequenced with specific deliverables and actions each 30 days. These deliverables and actions may occur in less than 30 days based on the project size, scope, and level of confidence in current NTB/OPER, but no more than 30 day periods.)

b. During the pre-definitized period, the Contractor shall develop and deliver to the Contracting Officer the following:

1. Within 30 days after issuance of Work Authorization Number **RA-09-001**, the Contractor shall provide a work plan for performance of that portion of the work specified in Paragraphs A. through D. (of this Work Authorization) covering the Statement of Work and specific milestones, deliverables, and performance measures/expectations scheduled to be performed during the 180-day period after issuance of Work Authorization Number **RA-09-001**. This plan shall include the following:

   i. Product-oriented Work Breakdown Structure (WBS) and WBS dictionary in alignment with the Statement of Work, as modified for the Recovery Act work, to include performance of Recovery Act work totally within distinctly defined, separately tracked and uniquely managed WBS elements;

   ii. Monthly spend plan consistent with the Statement of Work, completely segregating the non-Recovery Act work from the Recovery Act funded portions of the Statement of Work;

   iii. Crosswalk of Statement of Work WBS elements and associated planned milestones, metrics, and estimated costs (at the 80% confidence level), at the Activity Building Block (ABB) level, between the current base program/project Near-Term Baseline (NTB) and/or Out-year Planning Estimate Range (OPER) and the Recovery Act work;

   iv. Milestone list including, but not limited to, major hiring actions that create newly "created" or "retained" jobs by the Contractor or first tier subcontractors in accordance with paragraph F.12. of this Work Authorization, key starts and completions, enforceable regulatory dates, approval of key regulatory decisions, project critical decisions, delivery of critical Government Furnished Services and Items; and

   v. Planned quarterly summary of jobs "created" or "retained" by the Contractor and first tier subcontractors as defined in paragraph F.12 of this Work Authorization.

2. Within 120 days after issuance of Work Authorization Number **RA-09-001**, the Contractor shall propose a Performance Baseline for the complete work specified in

Paragraph C. Statement of Work. This baseline shall use control accounts that will be made up of work packages. The WBS elements at the lowest level should roll up within the WBS structure and clearly identify the entire work to be performed. The WBS shall clearly distinguish all non-Recovery Act work from all Recovery Act work. The proposed Performance Baseline shall include the following:

i. The Contractor shall propose a performance baseline, at the a high confidence level, for the work to be performed, including the pre-definitized period and the post-definitzed period. This baseline shall be based upon the work and schedule included in Work Authorization Number **RA-09-001** and the Contractor's cost proposal. A month-by-month baseline or budgeted cost of work scheduled (BCWS)/planned value (PV) must be developed for the complete Recovery Act work. This will be the original baseline for Recovery Act work and shall include all of the work by WBS, including both the pre- and post- definitized periods, and the Contractor's defined management reserve.. The sum of these three items (estimated cost for the pre-definitized period, estimated cost for the post-definitized period, and the management reserve) shall equal the Contractor's proposed estimated cost for the Recovery Act work. This performance baseline is subject to independent project review and certification before approval by the Government.

ii. A network logic schedule utilizing Primavera will be developed at the activity level for each control account which includes milestones. The schedule must be resource loaded and coded to allow summarization of lower level activities through the control account for the complete Recovery Act work.

iii. The proposed Performance Baseline shall also include the planned quarterly summary of jobs "created" or "retained" by the Contractor and first tier subcontractors as defined in paragraph F.12. of this Work Authorization.

Deliverables supporting the Recovery Act performance baseline shall include all deliverables required under existing contract requirements, those Recovery Act deliverable and reporting requirements specified in this Work Authorization, *and those Recovery Act-unique deliverables listed below.* For all common deliverables, the data shall be clearly segregated and distinguished between non-Recovery Act work and Recovery Act work, as well as summing to complete contract totals.

a. Work breakdown structure and associated dictionary;
b. List of planning basis and assumptions;
c. Cost baseline description document that includes the basis of cost estimate;
d. Schedule baseline that employs a critical path method and is resources loaded such that earned value can be measured;
e. Organizational breakdown structure;
f. Responsibility assignment matrix that identifies Control Account Managers;

g. *Earned value management system description and a copy of the letter of certification against ANSI/EIA-748-B, "Earned Value Management Systems;"*
h. *Project controls system description document;*
i. *Risk management plan with results of qualitative and quantitative analysis including S-curves, cost and schedule contingency determinations, risk mitigation/risk response plans, and risk register;*
j. *All work packages;*
k. *Technical design documentation;*
l. *Documented safety analysis;*
m. *Safety evaluation report (if required);*
n. *Safety design strategy;*
o. *Integrated safety management system description document and latest annual certification;*
p. *NEPA documentation (analysis of environmental impacts); and*
q. *Regulatory decision documents.*

These documents shall be submitted to the Contracting Officer to support DOE review and baseline approval. The Contracting Officer may identify other documents as needed to support project reviews and audits.

3. The contractor shall support resolution of IPR or External Independent Review (EIR) corrective actions for the performance baseline submitted.

c. During the pre-definitized period, the Contractor shall determine the budgeted cost of work performed (BCWS)/earned value (EV) for budgeted cost for work performed (BCWP)/planned value (PV) on a monthly basis utilizing measurable units associated with each activity in the schedule (e.g., square foot reduction, number of TRU shipments, foot print reduction, etc.), as appropriate, that will allow the reporting of the Contractor's progress in accordance with the reporting requirements specified in paragraph F.12. of this Work Authorization. The associated actual cost of work performed (ACWP)/actual cost (AC), cost and schedule variances and performance indices, and variance analyses shall be reported monthly. Performance against the Recovery Act performance baseline shall be tracked separately from other work under the contract funded by other appropriations.

d. Upon negotiation and execution of the Definitized Work Authorization Modification, the performance baseline documentation submitted in accordance with paragraph b.2 above shall be revised by the Contractor to reconcile cost estimates and WBS elements, if necessary, consistent with the Definitized Work Authorization Modification.

Reporting Requirements

e. Within 30 days of definitization of the Recovery Act work, the Contractor shall begin reporting against the established performance baseline in accordance with the reporting requirements specified under existing contract requirements, those reporting requirements specified in this Work Authorization, *and those Recovery Act-unique deliverables listed*

below. Performance against the Recovery Act work shall be tracked and reported separately from other work under the contract funded by other appropriations.

f. These reports shall be provided to the Contracting Officer on a monthly basis.

1. *Contract Performance Report (Refer to OMB No. 0704-0188 or DD FORM 2734/1, MAR 05) :Format 1 - Work Breakdown Structure, Format 3 - Baseline, and Format 5 - Explanations and Problem Analyses.*

2. *A Milestone report from Primavera reflecting status of all milestones being reported with columns for the scope, original planned date, current planned date, and the actual date the milestone was completed.*

A funds management report by Budgeting & Reporting (B&R) codes that identifies the amount of funds obligated to the contract and the amount of funds obligated to the contractor, and committed and expended by the contractor.

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

1. Subcontracts: The Contractor is informed of the Government's preference, to the maximum extent possible, when issuing subcontracts funded under this Work Authorization for Recovery Act work, the subcontracts should be awarded as fixed priced actions using competitive procedures and documented accordingly in the event fixed priced/competitive procedures are not utilized.

2. 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 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.

3. Flow Down Provision

The Contractor must include the below requirements in every subcontract that is funded, in whole or in part, by the Recovery Act unless the subcontract is with an individual.

4. Segregation and Payment of Costs

The Contractor must segregate the obligations and expenditures related to funding under the Recovery Act. Financial and accounting systems should be revised as necessary to segregate, track and maintain these funds apart and separate from other revenue streams. No part of the funds from the Recovery Act shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for Recovery Act projects. The Recovery Act funds can be used in conjunction with other funding as necessary to complete projects. However, the Contractor must ensure that the project contains the authorized Treasury Accounting Symbol (TAS) approved by the Contracting Officer to ensure linkage between procurement and financial data. The Contractor should issue separate contracts (if subcontracted) for the Recovery Act project tasks to ensure compliance with the tracking and reporting requirements of the Recovery Act and related Guidance.

5. 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.

6. 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.

7. 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.

8. Registration requirements

The Contractor shall ensure that all first-tier subcontractors have a DUNS number and are registered in the Central Contractor Registration (CCR) within 10 days after receipt of subcontract.

9. 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.

10. Access

As required by the Recovery Act, the Recovery Accountability and Transparency Board (The Board) and its representatives are authorized to conduct audits and reviews of contracts that use Recovery Act funds. In addition to having access to records of the contractor and any of its subcontractors, and the right to interview any officer or employee of the contractor or subcontractor, the Board is also authorized to issue and enforce subpoenas to compel the testimony at public hearings, or otherwise, of persons who are not Federal officers or employees.

11. 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, 12 , 13, 14, and 15 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.

12. **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 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.
(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 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.
(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--
(l) 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)

13. **FAR 52.215-2 Audit and Records -- Negotiation (Alt I) (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;
(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 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)

14. Buy American. In the event this action is considered construction work as defined under the Federal Acquistion Regulation, the following FAR clause 52.225-23 applies this this action

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
(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
(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:

None

[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
(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 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 material other than that covered by trade agreements is noncompliant with the applicable 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 description	Unit of measure	Quantity	Cost (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)

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--
(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.

15. 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)