

<b>AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT</b>		1. CONTRACT ID CODE	PAGE OF PAGES 1   5
2. AMENDMENT/MODIFICATION NO. 1438	3. EFFECTIVE DATE See Block 16C	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. (If applicable)
6. ISSUED BY SC Oak Ridge Support Center Office of Science - Oak Ridge U.S. Department of Energy P.O. Box 2001 Oak Ridge TN 37831	CODE 892431	7. ADMINISTERED BY (If other than Item 6) PNSO U.S. Department of Energy Pacific Northwest Site Office P.O. Box 350, K9-42 Richland WA 99352	CODE 06010
8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code) Battelle Memorial Institute Attn: Dana Storms P.O. Box 999 ATTN: Dana Storms MSIN K6-46 RICHLAND WA 99352		(x)	9A. AMENDMENT OF SOLICITATION NO.
CODE 032987476			9B. DATED (SEE ITEM 11)
FACILITY CODE		x	10A. MODIFICATION OF CONTRACT/ORDER NO. DE-AC05-76RL01830
			10B. DATED (SEE ITEM 13) 12/30/2002

**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 electronic communication 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 letter or electronic communication, provided each letter or electronic communication 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 data, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
X	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: The mutual agreement of the parties for work within the scope of the contract
	D. OTHER (Specify type of modification and authority)

**E. IMPORTANT:** Contractor  is not  is required to sign this document and return \_\_\_\_\_ copies to the issuing office.

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

UEI: CWKJEXDG79A7

The purpose of this modification is to update Part I Section H and Part III Section J, Appendix D. (See continuation pages for purpose and details of this modification).

Payment:

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) Dana M. Storms, Executive Director		16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) Clora S. Harp	
15B. CONTRACTOR/OFFEROR Dana M. Storms <i>(Signature of person authorized to sign)</i>	15C. DATE SIGNED Digitally signed by Dana M. Storms Date: 2022.11.04 11:04:43 -07'00'	16B. UNITED STATES OF AMERICA Sue Harp <i>(Signature of Contracting Officer)</i>	16C. DATE SIGNED Digitally signed by Sue Harp Date: 2022.11.07 10:05:09 -08'00'

Previous edition unusable

## 1.0 Purpose of Modification:

The Department of Energy (DOE), Office of Science (SC), Pacific Northwest Site Office (PNSO) is modifying Contract No. DE-AC05-76RL01830 (Contract) to update Sections H and J as described in this Modification. The Contract shall be amended as described in this Modification to accomplish the following:

1. Revise Part I, Section H, Special Contract Requirements
2. Revise Part III, Section J, Appendix D, List of DOE Applicable Directives & External Requirements

## 2.0 Description of Modification:

1. Revise Part I, Section H, Special Contract Requirements for the following:
  - a. Add Clause H-42 entitled "EPACT Data Protection (DOE-H-7038) (APR 2022)" as follows:

### "(a) Rights to Protected Data

(1) In addition to the data rights set forth in 48 CFR § 970.5227-2 - Rights in data-technology transfer, for work authorized under the Energy Policy Act of 2005 (EPAct 2005) or the Energy Policy Act of 1992 (EPAct 1992), the Contractor may, with the concurrence of DOE, claim and mark as EPAct Protected Data, any data first produced in the performance of such work that would have been treated as a trade secret if developed at private expense. Any such claimed "EPAct Protected Data" will be clearly marked with the following Protected Rights Notice, and will be treated in accordance with such Notice, subject to the provisions of paragraph (b) of this clause.

### Protected Rights Notice

These protected data were produced under [INSERT WORK IDENTIFIER] with the U.S. Department of Energy and may not be published, disseminated, or disclosed to others outside the Government until [INSERT PERIOD OF PROTECTION END] (Note: The period of protection of such data is fully negotiable, but cannot exceed the applicable statutorily authorized maximum), unless express written authorization is obtained from the Contractor. Upon expiration of the period of protection set forth in this Notice, the Government shall have unlimited rights in this data. This Notice shall be marked on any reproduction of this data, in whole or in part.

(End of notice)

(2) Any such marked Protected Data may be disclosed under obligations of confidentiality for the following purposes:

- (i) For evaluation purposes under the restriction that the "Protected Data" be retained in confidence and not be further disclosed; or

- (ii) To subcontractors or other team members performing work under the Government's program in which this data was produced, for information or use in connection with the work performed under their activity, and under the restriction that the Protected Data be retained in confidence and not be further disclosed.
- (3) The obligations of confidentiality and restrictions on publication and dissemination shall end for any Protected Data:
- (i) At the end of the protected period;
  - (ii) If the data becomes publicly known or available from other sources without a breach of the obligation of confidentiality with respect to the Protected Data;
  - (iii) If the same data is independently developed by someone who did not have access to the Protected Data and such data is made available without obligations of confidentiality;
  - or
  - (iv) If the Contractor disseminates or authorizes another to disseminate such data without obligations of confidentiality.
- (4) However, the Contractor shall not claim or mark as EPACT Protected Data, any lists of data identified by the funding program to be provided with unlimited rights. The Contractor agrees that notwithstanding the lists of types of data, nothing precludes the Government from seeking delivery of additional data in accordance with the requirements of the Contractor's contract, or from making publicly available unlimited rights data, nor does the lists of data constitute any admission by the Government that technical data not on the list is EPACT Protected Data.
- (5) When a Cooperative Research and Development Agreement (CRADA) is used with an EPAct Awardee, the CRADA Protected Information clause may be modified to incorporate the Protected Rights Notice of this clause. When a Strategic Partnership Project (SPP) is used with an EPAct Awardee, the Rights in Technical Data clause may be modified to incorporate the Protected Rights Notice of this clause.
- (6) The Government's sole obligation with respect to any EPACT Protected Data shall be as set forth in this clause.

(b) Unauthorized or Omitted Marking of Data

- (1) Notwithstanding any other provisions concerning inspection or acceptance, if any data developed is authorized by EPAct 1992 or 2005 bears any restrictive or limiting markings not authorized by this clause, the Contracting Officer has the right to remove, cancel, correct, or ignore any markings not authorized by this clause on any data furnished hereunder if, in response to a written inquiry by DOE concerning the propriety of the markings, the Contractor fails to respond within 60 days or fails to substantiate the propriety of the markings. In either case, DOE will notify the Contractor of the action taken.
- (2) The Government assumes no liability for the disclosure, use or reproduction of any data provided to the Government by the Contractor that lacks any protected rights notice

or other restrictive or limiting markings authorized by the Contractor's prime contract with DOE.”

- b. Add Clause H-43 entitled “Contractor's Obligations Concerning U.S. Manufacturing Requirements of a Determination of Exceptional Circumstances (DEC) (DOE-H-7039) (APR 2022)” as follows:

“(a) Applicability

This clause is applicable to work performed by the Contractor subject to a Determination of Exceptional Circumstance (DEC) under 35 U.S.C. 202(a) (ii) and in accordance with 37 CFR Part 401.3(e) having U.S. manufacturing requirements.

(b) U.S. Manufacturing Requirements for Subject Inventions

(1) In addition to the U.S. Preference provision in Patent Rights clause (48 CFR 970.5227-10 including any modifications) and the U.S. Industrial Competitiveness provision in the Technology Transfer Mission clause (48 CFR 970.5227-3 including any modifications) in the Contractor's prime contract with DOE, the Contractor agrees to comply with the manufacturing requirements of all applicable DEC's, including any remedies for breach of the applicable manufacturing requirements.

(2) The Contractor is required to comply with requirements of applicable DEC's including, but not limited to, any U.S. Manufacturing Plans or Commercialization Plans. If the Contractor fails to comply with an applicable DEC or any related/required U.S. Manufacturing or Commercialization Plans, the Contractor is subject to any enforcement provisions of the applicable DEC, including, but not limited forfeiture of rights to subject inventions.

(3) Request for a waiver of any U.S. manufacturing requirements, including the U.S. Preference provision in the Patent Rights clause (48 CFR 970.5227-10 including any modifications), the U.S. Industrial Competitiveness provision in the Technology Transfer Mission clause (48 CFR 970.5227-3 including any modifications), and any applicable U.S. Manufacturing or Commercialization Plan must be approved by the funding program in addition to the Contracting Officer. Such waiver requests must be accompanied by substantial evidence that it is not commercially feasible to comply with the U.S. manufacturing requirement and provide commitments that benefit the U.S. economy. These conditions shall be binding on any subsequent assignee, sublicensee, or any entity acquiring rights to any elected subject inventions.”

- c. Delete Clause H-42, Sustainability Program in its entirety.
  - d. Delete section 12 in its entirety entitled “Extended Domestic Travel” within Clause H-21 entitled “Advance Understandings on Allowable Costs.”
2. Revise Part III, Section J, Appendix D, List of Applicable Directives & External Requirements as follows:

- a. Replace: CRD O 206.2 Identity, Credential, and Access Management (ICAM)  
Replace With: CRD O 206.2 Chg. 1 (LtdChg) Identity, Credential, and Access Management (ICAM)
  - b. Replace: CRD O 420.2C Safety of Accelerator Facilities  
Replace With: CRD O 420.2D Safety of Accelerators
  - c. Add: CRD O 436.1 Departmental Sustainability
3. This modification results in no further changes to the Contract.

**(End of Contract Modification)**  
**[M1438]**