



DEPARTMENT OF ENERGY
National Nuclear Security Administration
Los Alamos Site Office
Los Alamos, New Mexico 87544



DEC 11 2015

Dr. Charles F. McMillan
Laboratory Director
Los Alamos National Security, LLC
PO Box 1663, MS-A100
Los Alamos, NM 87545

Dear Dr. McMillan:

Reference:

- 1.) Contract Number DE-AC52-06NA25396, Los Alamos National Security, LLC and the Department of Energy, National Nuclear Security Administration
- 2.) Part I, Section F, Clause F-2, *Period of Performance*
- 3.) Part I, Section G, Clause G-1, *Government Contracts*
- 4.) Part I, Section H, Clause H-2, *Performance Direction*
- 5.) Part I, Section H, Clause H-13, *Award Term*
- 6.) Part I, Section H, Clause H-14, *Performance Incentives*
- 7.) Part II, Section I, Clause I-121, *Management Controls*
- 8.) Part II, Section I, Clause I-124, *Conditional Payment of Fee, Profit, and Incentives – Facility Management Contracts*
- 9.) TA-53 Arc-Flash Accident, Joint Accident Investigation Team Report, Authorized Release Date July 9, 2015
- 10.) Letter from the DOE Office of Enforcement, Office of Enterprise Assessments to Dr. Charles F. McMillan, Laboratory Director, Los Alamos National Laboratory, dated June 4, 2015
- 11.) NA-LA letter to LANS, Subject: Contracting Officer's Notice of Intent to Reduce Los Alamos National Security, LLC, Fiscal Year 2015 Earned (At Risk Performance Incentive) Fee, dated December 9, 2015
- 12.) LANS letter to NA-LA Contracting Officer, Subject: Response to Notice of Intent to Reduce Los Alamos National Security, LLC, Fiscal Year 2015 Earned (At Risk Performance Incentive) Fee, dated December 10, 2015

Subject: Contracting Officer's Notice of Reduction of Los Alamos National Security, LLC, Fixed and Incentive Fee for Fiscal Year 2015

This letter is to inform you that I have determined that Los Alamos National Security, LLC (LANS) performance failures associated with the TA-53 Arc-Flash Accident on May 3, 2015 constitute a significant performance failure with respect to LANS Contract Clause I-124 environment, safety and health (ES&H) terms and conditions (reference 8). Specifically, LANS inadequate implementation of management controls resulted in the following human effect: an employee suffering third and fourth degree burns affecting approximately 30 percent of his body surface and being hospitalized in excess of 30 days. This incident constitutes a first degree performance failure. In accordance with clause I-124, and considering mitigating factors, including LANS response to NNSA's request for mitigating factors (references 11 and 12), I am

unilaterally reducing LANS FY 2015 fixed and earned (incentive) fee by \$7,243,171 for the LANS performance failure associated with the TA-53 Arc-Flash Accident. This reduction reflects an initial assessment of a reduction of 26% of fixed and earned (incentive) fee mitigated downward after consideration of factors identified in Clause I-124, information provided NNSA and review of LANS mitigating factors (reference 12).

In addition, LANS noncompliance and performance failures with regard to the documented losses of contamination control of highly enriched uranium at the Nevada National Security Site's National Criticality Experiments Research Center (NCERC) at the Device Assembly Facility on June 16, 2014 and on October 21, 2014 for which investigations were conducted during the FY 2015 performance period constitute a clause I-124 ES&H performance failure. Therefore, I am unilaterally reducing LANS FY 2015 fixed and earned (incentive) fee by \$500,000 for the LANS performance failure associated with the contamination control incident at the NCERC. This reduction reflects consideration of factors required by Clause I-124, information provided by NNSA and review of LANS mitigating factors (reference 12).

Therefore, IAW Clause I-124, I am unilaterally reducing LANS FY 2015 fixed and earned (incentive) fee by an aggregate amount of \$7,743,171.

A modification reflecting the results of this CO reduction in fee shall be incorporated into the contract NLT December 24, 2015.

Please note that NNSA takes this contractual action seriously, and anticipates that LANS management will work with the Los Alamos Field Office to assure Contactor accountability for safe, secure, effective, efficient, and economical management and operation of the Laboratory.

All questions regarding this direction shall be directed to the undersigned at (505) 665-1244.



Robert M. Poole
Contracting Officer