

ENVIRONMENT, SAFETY AND HEALTH (COMPANY) (FEB 2010)

Applicability -- This clause applies to all on-site work for both Seller and its lower-tier subcontractors at any level.

Definitions -- (The following definitions are applicable to this clause)

On-Site -- For this clause, on-site is defined as DOE owned or leased or Company leased facilities.

Employees – Seller employees and all lower-tier subcontractor employees

Environment, Safety and Health (ES&H) – includes pollution prevention and waste minimization.

REQUIREMENTS

(a) Seller shall perform work under B&W Y-12's approved 10 CFR 851 Worker Safety and Health Program, which can be found at:

Y73-004PD, BWXT Y-12 10 CFR Part 851 Worker Safety and Health Program (5/16/07)

(b) The Seller shall take all reasonable precautions in the performance of the work under this subcontract to protect the safety and health of all personnel and members of the public, and minimize danger from all hazards to the environment, life and property. Additionally, the Seller shall comply with all health and safety regulations and requirements of the Company and DOE including, without limitation, such other provisions as may be contained in this subcontract relating to safety and health and shall comply with the applicable provisions of 10 CFR 851, *Worker Safety and Health Program*. Seller is subject to civil penalties for failure to comply with applicable 10 CFR 851, *Worker Safety and Health Program* requirements.

(c) In the performance of any and all aspects of work subject to this clause the Seller shall:

(1) Establish line management that is responsible for the protection of personnel, the public, and the environment. (Line management includes those Seller and subcontractor employees managing or supervising employees performing work).

(2) Establish and maintain clear and unambiguous lines of authority and responsibility for ES&H matters at all organizational levels.

(3) Ensure personnel possess the experience, knowledge, skills, and abilities necessary to discharge their responsibilities.

(4) Ensure resources are effectively allocated to address ES&H, programmatic, and operational considerations.

(5) Determine, before any on-site work is performed, the associated hazards are evaluated and ES&H standards and requirements are established which, if properly implemented, provide adequate assurance that employees, the public, and the environment are protected from adverse consequences.

(6) Ensure necessary administrative and engineering controls to prevent and mitigate hazards are tailored to the work being performed and associated hazards.

(d) Comply with ES&H requirements of all applicable laws and regulations, and applicable Company or DOE directives identified in this subcontract.

(e) Cooperate with Federal, state, and local agencies having jurisdiction over ES&H matters under this subcontract.

(f) Promptly evaluate and resolve any noncompliance with ES&H requirements that it discovers or of which it is notified by the Company. If the Seller fails to resolve the noncompliance or if, at any time, the Seller's acts or failures to act cause substantial harm or an imminent danger to the environment or health and safety of employees or the public, the Subcontract Administrator may require the Seller's participation, at the Seller's expense, in the Company's fact-finding investigations of accidents, injuries, occurrences, and near-misses.

COMPANY RIGHTS

In addition to any rights and remedies otherwise available to Company, if the Seller fails to comply with the requirements of this clause, the Company may:

(a) Notify the Seller in writing of any noncompliance with the provisions of this clause and the corrective action to be taken. After receipt of such notice, the Seller shall immediately take appropriate corrective actions.

(b) Require, in writing, that the Seller remove from the work any employee the Company deems unsafe, incompetent, careless, or otherwise objectionable.

INDEMNIFICATION

The Seller shall indemnify, hold harmless, and defend the Company, its members, directors, officers and employees from any liability under 10 CFR 851 arising out of activities by the Seller, its subcontractors, suppliers, agents, employees, and their officers, or directors. The Seller's obligation to indemnify, hold harmless and defend includes fines and penalties, attorneys' fees and other reasonable costs of defending any action or proceeding instituted under 10 CFR 851.

FLOWDOWN

The Seller shall include this clause in all lower-tier subcontracts involving performance of on-site work. However, such provision in lower-tier subcontracts shall not relieve the Seller of its obligation to assure compliance with this clause for all aspects of the work.

End of Clause