

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS - AMARILLO DIVISION**

<b>SNL WORKFORCE FREEDOM ALLIANCE,</b> )	
<b>DAVID PETERSON, JON BROOKS, ANNA</b> )	
<b>BURNS, JOHN DOE #1, JANE DOE #2,</b> )	<b><u>Case No. 2:21-256</u></b>
Plaintiffs, )	
v. )	
)	
<b>NATIONAL TECHNOLOGY AND</b> )	
<b>ENGINEERING SOLUTIONS OF SANDIA,</b> )	
<b>LLC d/b/a SANDIA NAT'L LABORATORIES,</b> )	
<b>HONEYWELL INTERNAT'L, INC.</b> )	
Defendants. )	

**EXPEDITED EX-PARTE MOTION FOR TEMPORARY RESTRAINING  
ORDER TO BE ISSUED PRIOR TO JANUARY 4, 2021  
(BRIEF INCORPORATED)**

**INTRODUCTION** – Plaintiffs seek restraint preventing Defendants from enforcing a COVID vaccination mandate. The exigent nature of this Motion is that the Defendants have given Plaintiffs until January 18, 2021, to be fully vaccinated or thereafter be fired. However, the key date for purposes of this Motion is January 4, 2021, because Defendants define fully vaccinated to be 14 days from a final injection. **See Exhibit 1, attached.** Those Plaintiffs who have not gotten a final injection by January 4th will not have met the deadline. The undersigned regret demanding relief from this Court with such short notice to the Court.

The Court is requested to review all allegations in the Complaint. While many are included hereinbelow, some are not.

**REQUESTED TO RELIEF**

COME NOW Plaintiffs and move the Court to:

- A. Enter a temporary restraining order enjoining Defendants from firing, suspending without pay or taking any other negative action against Plaintiffs for not accepting the Covid-19 vaccines.
- B. If the Court does not address this motion prior to the Plaintiffs being terminated, reinstate Plaintiffs to their positions.
- C. At the very minimum the Court is requested to enjoin the requiring of vaccination for those who have already had COVID-19 and have natural immunity.

**IN SUPPORT IT IS STATED:**

**A. EXECUTIVE ORDER 14042 IS WITHOUT LEGAL AUTHORITY**

1. On September 9, 2020, President Joe Biden issued Executive Order 14042 which mandated the Safer Federal Workforce Task Force (SFWTF) to provide “guidance” for “adequate COVID–19 safeguards” by September 24, 2021, that would apply to all federal Contractors and subcontractors. Defendants here are federal contractors, and it is this Executive Order and its subsequent administrative promulgation which Defendants have based their vaccine mandates on. They have stated as much in several communications to employees. **See, Exhibit 1, attached.**

2. The President claimed 3 U.S.C. § 301 as one statutory authority to issue Executive Order 14042. This section provides as follows:

The President of the United States is authorized to designate and empower the head of any department or agency in the executive branch, or any official thereof who is required to be appointed by and with the advice and consent of the Senate, to perform without approval, ratification, or other action by the President (1) any function which is vested in the President by law, or (2) any function which such officer is required or authorized by law to perform only with or subject to the approval, ratification, or other action of the President: Provided, That nothing contained herein shall relieve the President of his responsibility in office for the acts of any such head or other official designated by him to perform such functions. Such designation and authorization shall be in writing, shall be published in the Federal Register, shall be

subject to such terms, conditions, and limitations as the President may deem advisable, and shall be revocable at any time by the President in whole or in part.

3. The President also claimed provisions of the Federal Property and Administrative Services Act, 40 U.S.C. § 101, *et seq.*, as statutory authority to issue Executive Order 14042. This section provides as follows:

The purpose of this subtitle is to provide the Federal Government with an economical and efficient system for the following activities:

(1) Procuring and supplying property and nonpersonal services, and performing related functions including contracting, inspection, storage, issue, setting specifications, identification and classification, transportation and traffic management, establishment of pools or systems for transportation of Government personnel and property by motor vehicle within specific areas, management of public utility services, repairing and converting, establishment of inventory levels, establishment of forms and procedures, and representation before federal and state regulatory bodies.

(2) Using available property.

(3) Disposing of surplus property.

(4) Records management.

4. The subsequent provisions of the Federal Property and Administrative Services Act are no broader than the purpose of this Act as set forth in § 101.

5. These statutes do not provide the President with authority to impose vaccine mandates, and thus, he lacks the statutory as well as constitutional authority to impose these mandates. *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952) addressed an executive order by the then president aimed at averting a nation-wide strike of steel workers in April 1952,<sup>1</sup> which the president believed would jeopardize national defense. He issued an Executive Order directing the Secretary of Commerce to seize and operate most of the country's steel mills. The Supreme Court held that:

---

<sup>1</sup> See also *Schaezlein v. Cabaniss*, 135 Cal. 466, 471, 67 P. 755 (1902); *State v. Marana Plantations*, 75 Ariz. 111, 115, 252 P.2d 87 (1953); and *Boreali v. Axelrod*, 71 N.Y.2d 1, 6, 517 N.E.2d 1350 (1987).

The President's power, if any, to issue the order must stem either from an act of Congress or from the Constitution itself. There is no statute that expressly authorizes the President to take possession of property as he did here. Nor is there any act of Congress to which our attention has been directed from which such a power can fairly be implied.

6. Executive Order 14042 states that it applies to, “any new contract; new contract-like instrument; new solicitation for a contract or contract-like instrument; extension or renewal.”

7. The Defendants’ contracts with the federal government are in existence now and have been since 2016. It is not a future contract. It is an extant contract. Therefore, Executive Order 14042 and the subsequent promulgation by SFWTF are inapplicable to the Defendants.

8. Defendants may claim that the 2016 contract was modified in 2020 to add Covid provisions, and then in October, 2021, incorporating the Safe Workplace Task Force Guidance into the contract. Plaintiffs contend that this is not a “new contract” within the meaning of Executive Order 14042, and therefore, is specifically exempt from the Executive Order.

9. The original contract, amended in 2021 as a result of the “pandemic,” which incorporates these provisions is not re-signed by the parties to the 2016 contract, but appears to have been simply digitally modified by adding additional provisions. **See, Exhibit 2, attached.** Thus, it is not a new contract at all. However, even if Defendants did recently enter a new contract with the federal government or modify their old one such that it might be considered “new,” Biden’s Executive order and the subsequent administrative promulgation are unlawful.

10. Addressing Executive Order 14042, the Court in *Kentucky, et al, v. Biden, 3:21-cv-00055-GFVT*, explained the President’s purported authority for 14042 as follows:

President Biden issued Executive Order 14042 pursuant to the U.S. Constitution, 3 U.S.C § 301, which provides the president with general delegation authority, and 40 U.S.C. 101 et seq., also known as the Federal Property and Administrative Services Act (FPASA). See 86 Fed. Reg. 50,985–88 (Sept. 9, 2021). Congress delegated to the president the authority to manage federal procurement through FPASA. 40 U.S.C. 101 et seq. The

President also claimed provisions of the Federal Property and Administrative Services Act (FPASA), 40 U.S.C. § 101, et seq., as statutory authority to issue Executive Order 14042." *Kentucky v. Biden, supra, p. 11.*

11. Plaintiffs vigorously contend that the President's attempt to base authority to mandate vaccination for tens of millions of American workers, (which treads on the fundamental constitutional rights of bodily integrity and medical choice) on what is essentially a procurement of goods and services statutory scheme is unlawful. The Court in *Kentucky, et al, v. Biden, supra*, so held. Citing *Chamber of Commerce v. Reich*, 74 F.3d 1322, 1330 (D.C. Cir. 1996) the Court stated:

The District of Columbia Circuit cautioned that the FPASA does not provide authority to "write a blank check for the President to fill in at his will. The procurement power must be exercised consistently with the structure and purposes of the statute that delegates that power." *Id.* (quoting *Kahn*, 618 F.2d at 793). Furthermore, the FPASA "does not allow the President to exercise powers that reach beyond the Act's express provisions, *Kahn*, 618 F.2d. at 797 (Tamm, J., concurring), and there must be a "close nexus between the Order and the objectives of the Procurement Act." *Id.* (Bazelon, J., concurring).....

..... If a vaccination mandate has a close enough nexus to economy and efficiency in federal procurement, then the statute could be used to enact virtually any measure at the president's whim under the guise of economy and efficiency. *Cf. Ala. Ass'n of Realtors v. Dept. of Health and Human Servs.*, 141 S. Ct. 2485, 2488–89 (2021) (finding the federal government's interpretation of § 361 would grant the CDC a "breathtaking amount of authority"..... The vaccine mandate applies to employees of federal contractors and subcontractors who work entirely from home and are not at risk of spreading Covid-19 to others. [R. 12 at 6 (citing Task Force Guidance).] Under the same logic employed by the Defendants regarding the vaccine mandate, what would stop FPASA from being used to permit federal agencies to refuse to contract with contractors and subcontractors who employ individuals over a certain BMI for the sake of economy and efficiency during the pandemic? After all, the CDC has declared that "obesity worsens the outcomes from Covid-19." Centers for Disease Control and Prevention, *Obesity, Race/Ethnicity And COVID-19*, <https://www.cdc.gov/obesity/data/obesity-and-covid-19.html> (last visited Nov. 22, 2021).

12. President Biden also issued Executive Order 14043 on September 9, 2021 which was a vaccine mandate for employees of federal agencies. Although Plaintiffs are not federal employees as such, they are employees of federal “agents” who are the Defendant contractors acting at the direction of federal agencies. Moreover, the authority of the President to make sweeping pronouncements as to mandatory health protocols for millions of workers either federal per se or working for federal contractors, has been successfully challenged for both Executive Orders 14042 and 14043 and there is overlap in the reasoning which the courts have applied.

13. For example, in *BST Holdings, LLC v. Occupational Safety and Health Administration*, No. 21-60845, 17 F.4th 604 (5th Cir. November 12, 2021), the Court held that the OSHA mandate pursuant to Executive Order 14043 was "staggeringly overbroad".<sup>2</sup> The reasons it gave are equally true for the Safer Federal Workforce Task Force mandate pursuant to EO 14042 the Defendants are carrying out.

14. In *BST Holdings, LLC, supra*, the Fifth Circuit addressed a request for a stay of the OSHA vaccine mandate which was put into place by way of an Emergency Temporary Standard (ETS) on November 5, 2021, and which required employees of federal contractors to undergo a COVID-19 vaccination or to take weekly COVID-19 tests and wear a mask.

15. The Court initially stayed the OSHA Mandate pending briefing and an expedited judicial review because of what it characterized as "grave statutory and Constitutional issues". After conducting the expedited judicial review, the Court reaffirmed the initial stay finding that OSHA had gone beyond the agency's authority. It first noted at p. 13, "in its fifty-year history, OSHA has issued just ten ETSs. Six were challenged in court; only one survived" and stated that Congress had not,

---

<sup>2</sup> (*but see*, 6th Circuit's subsequent decision overruling *BST Holdings* in part, <https://www.opn.ca6.uscourts.gov/opinions.pdf/21a0287p-06.pdf>)

in creating OSHA, "intended to authorize a workplace safety administration in the deep recesses of the federal bureaucracy to make sweeping pronouncements on matters of public health affecting every member of society in the profoundest of ways. Cf. *Ala. Ass'n of Realtors v. HHS*, 141 S. Ct. 2485, 2488–90 (2021) (per curiam)." *BST Holdings, LLC* at p. 6.

16. The *BST* Court found persuasive the state of Texas's argument that an airborne virus was not the sort of "substances or agents" which are "toxic or physically harmful" that was in the purview of OSHA, stating, "Here, OSHA's attempt to shoehorn an airborne virus that is both widely present in society (and thus not particular to any workplace) and non-life-threatening to a vast majority of employees into a neighboring phrase connoting *toxicity* and *poisonousness* is yet another transparent stretch."

17. The court at p. 13 also stated:

"We next consider the necessity of the Mandate. The Mandate is staggeringly overbroad. Applying to 2 out of 3 private-sector employees in America, in workplaces as diverse as the country itself, the Mandate fails to consider what is perhaps the most salient fact of all: the ongoing threat of COVID-19 is more dangerous to some employees than to other employees. All else equal, a 28 year-old trucker spending the bulk of his workday in the solitude of his cab is simply less vulnerable to COVID-19 than a 62 year-old prison janitor. Likewise, a naturally immune unvaccinated worker is presumably at less risk than an unvaccinated worker who has never had the virus. The list goes on, but one constant remains—the Mandate fails almost completely to address, or even respond to, much of this reality and common sense."

18. In footnote 10 the Court in *BST Holdings, LLC, supra* made the following remarks:

As Justice Gorsuch recently observed, society's interest in slowing the spread of COVID- 19 "cannot qualify as [compelling] forever," for "[i]f human nature and history teach anything, it is that civil liberties face grave risks when governments proclaim indefinite states of emergency." *Does 1–3 v. Mills*, --- S. Ct. ---, 2021 WL 5027177, at \*3 (Oct. 29, 2021) (Gorsuch, J., dissenting); *see also Fla. Peach Growers*, 489 F.2d at 131 (situation ongoing for "last several years . . . fail[ed] to qualify for [OSHA] emergency measures").

19. The courts in *Kentucky v. Biden* and *BST Holdings'* objections to the scope of the vaccine mandate which requires even those who work from home to be vaccinated is applicable to the case at bar where Plaintiffs David Peterson and also John Doe #1, both residents of Texas, work from home. Yet, Defendants insist they be vaccinated. That the mandate and Defendants require to be vaccinated even those who have had Covid-19 and have greater immunity than the vaccines can give and will also be more likely to suffer serious side effects if vaccinated, is another reason these mandates are arbitrary, overbroad and actually damaging.<sup>3</sup>

20. Other recent decisions support granting the relief Plaintiffs are requesting. In *Louisiana v. Xavier Becerra et al.*, Case no. 3:21-CV-03970 (but see. Louisiana was joined in by attorneys general in 12 other states in its effort to block an emergency regulation issued Nov. 4 by the Centers for Medicare and Medicaid Services that required vaccines for nearly every full-time employee, part-time employee, volunteer, and contractor working at a wide range of healthcare facilities receiving Medicaid or Medicaid funding. District Judge Terry Doughty found that the Government Defendants did not have the statutory and/or constitutional authority to implement the CMS Mandate and granted a preliminary injunction against it.

21. The *Louisiana v. Xavier Becerra* court found persuasive the *BST Holdings* decision, stating:

The “serious Constitutional concerns” noted by the Court in *BST Holdings* were:

(a) that the OSHA Mandate exceeded the federal government’s authority under the Commerce Clause because it regulated noneconomic inactivity (person’s choice to remain unvaccinated) that falls squarely within the State’s police power;

(b) that separation of powers principles (“the major questions doctrine”) casts doubt over the OSHA Mandate’s assertion of virtually unlimited power to control individual conduct under the guise of a workplace regulation.

---

<sup>3</sup> These issues are extensively covered in the Complaint.



Additionally, the Court found “irreparable harm” to the petitioners’ liberty interests<sup>19</sup> of having to choose between their jobs and the vaccine. The Court noted that the loss of constitutional freedoms for even minimal periods of time constitutes irreparable injury.<sup>20</sup>

The Court also found a stay of the OSHA Mandate to be in the public interest in maintaining the country’s constitutional structure and maintaining the liberty of individuals and to make intensely personal decisions, even when those decisions frustrate government officials."

*Louisiana v. Xavier Becerra*, *supra* at p. 14.

22. The Court in *Louisiana v. Xavier Becerra* also held that the loss of constitutional freedoms for even minimal periods of time constitutes irreparable injury and found a stay of the OSHA Mandate to be in the public interest in maintaining the country’s constitutional structure and maintaining the liberty of individuals and to make intensely personal decisions, even when those decisions frustrate government officials.

23. Another reason that both the *Kentucky v. Biden* and *BST Holdings'* found President Biden's mandate unlawful and so should this Court is that:

[T]he Mandate likely exceeds the federal government’s authority under the Commerce Clause because it regulates noneconomic inactivity that falls squarely within the States’ police power. A person’s choice to remain unvaccinated and forgo regular testing is noneconomic inactivity. And *to mandate that a person receive a vaccine or undergo testing falls squarely within the States’ police power...The Commerce Clause power may be expansive, but it does not grant Congress the power to regulate noneconomic inactivity traditionally within the States’ police power.* In sum, the Mandate would far exceed current constitutional authority. (emphasis added)

*BST Holdings, LLC*, *supra*, at p. 15

## **B. EXECUTIVE ORDER 14042 IMPINGES ON STATES’ POLICE POWERS**

24. It is black letter constitutional law that the "police power" to make laws for the public health and safety of citizens belongs to the states and not the federal government. "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States are reserved to the States respectively, or to the people." 10th Amendment to the U.S. Constitution.

25. In *Wilkerson v. Rahrer*, 140 U.S. 545, 554 (1891) the Court held that the police power “is a power originally and always belonging to the States, not surrendered to them by the general government, nor directly restrained by the constitution of the United States, and **essentially exclusive.**” (Emphasis added.) It is well-recognized that the Constitution's framers were intent on limiting the power of the federal government which they were creating the parameters for.

26. The police power of the States forms “a portion of that immense mass of legislation which embraces everything within the territory of a State not surrendered to the General Government; all which can be most advantageously exercised by the States themselves. Inspection laws, **quarantine laws, health laws of every description**, as well as laws for regulating the internal commerce of a State, and those which respect turnpike roads, ferries, &c., are component parts of this mass.” *Gibbons v. Ogden*, 22 U.S. 1, 203 (1824) (emphasis added).

The police power under the American constitutional system has been left to the states. It has always belonged to them and was not surrendered by them to the general government, nor directly restrained by the constitution of the United States.  
\* \* \* Congress has no general power to enact police regulations operative within the territorial limits of a state.

*Shealey v. Southern Ry. Co.*, 127 S.C. 15, 120 S.E. 561, 562 (1924); *see also, Bohon's Assignee v. Brown*, 101 Ky. 354, 41 S.W.273 (1897); *John Woods & Sons v. Carl*, 75 Ark. 328, 87 S.W. 621, 623 (1905); *Southern Express Co. v. Whittle*, 194 Ala. 406, 69 So.2d 652, 655 (1915).

27. The President's mandating of vaccination is undeniably a foray into the area of public health and medicine which is and has always been within the police powers of the states. *See Linder v. United States*, 268 U.S. 5, 18 (1925) (“Obviously, direct control of medical practice in the states is beyond the power of the federal government”); *Lambert v. Yellowley*, 272 U.S. 581, 598 (1926) (“It is important also to bear in mind that ‘direct control of medical practice in the States is beyond the power of the Federal Government.’ ... Congress, therefore, cannot directly

restrict the professional judgment of the physician or interfere with its free exercise in the treatment of disease. Whatever power exists in that respect belongs to the states exclusively".

28. In the very recent decision issued on December 16, 2021, in *State of Louisiana et al, v. Joseph R. Biden, et al.*, Slip Copy (2021), WL 5986815; CASE NO. 21-cv-3867, the court found that Biden's EO 14042 and its administrative promulgation exceeded the authority of the federal government. The court said:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. U.S. Const. amend. X. "Our Constitution principally entrusts '[t]he safety and the health of the people' to the politically accountable officials of the States 'to guard and protect.' *S. Bay United Pentecostal Church v. Newsom*, 140 S. Ct. 1613 (2020) (Roberts, C.J., concurring) (citing *Jacobson v. Massachusetts*, 197 U.S. 11, 38 (1905)). Against this constitutional reservation of delegated authority, the President has on more than one occasion publicly announced his disappointment regarding the country's supposedly low COVID-19 vaccination rate and expressed his intent to increase the vaccination rate by using Executive authority. Thus, EO 14042, although supported upon a nexus of economy and efficiency, was clearly and unequivocally motivated by public health policy first and foremost. See *Reich*, 74 F.3d at 1337 ("The President has, of course, acted to set procurement policy rather than labor policy. But the former is quite explicitly based—and would have to be based—on his views of the latter."). "Whatever one's views on the [vaccine mandate's ability to increase economy and efficiency in procurement], [EO 14042] surely goes to the heart of [the Tenth Amendment]." *Id.* See *Kentucky*, 2021 WL 5587446, at \*10 ("The Court is also concerned that the vaccine mandate intrudes on an area that is traditionally reserved to the States."); Cf. *BST Holdings, L.L.C. v. Occupational Safety & Health Admin., United States Dep't of Lab.*, 17 F.4th 604, 617 (5th Cir. 2021) ("[T]he [OSHA] Mandate likely exceeds the federal government's authority under the Commerce Clause because it regulates noneconomic inactivity that falls squarely within the States' police power.").

### **C. FAILURE TO COMPLY WITH THE APA**

29. The Court in *State of Louisiana et al, v. Joseph R. Biden, et al.*, also found another fatal illegality in the mandate for vaccination of federal contractors - the promulgation of the order by the Safer Federal Workforce Task Force (SFWTF) and the Office of Management and Budget (OMB) did not comply with the Administrative Procedures Act. The Court found that "Procedural compliance by the rule making agency is an indispensable component of the Administrative

Procedures Act (“APA”)” and that the agency action taken was “final agency action” for purposes of review by the Court. The Court then held that the administrative procedure utilized by the SFWTF and the OMB to promulgate EO 14042 failed to provide for an adequate comment period as required by § 1707 of the APA and stated that:

A regulation's comment period is critical for affected citizens to assert their rights and for the cooperative development of regulations that balance the needs of the government and the rights of the public. Because compliance requires significant action on the part of employees well before the effective date, these purposes were not preserved by the OMB's calendaring of the comment period. While we do not like to rely on the spirit of the law when the letter is clear, the actions of the OMB circumvent the protections envisioned under the APA by manipulating the letter.

*Louisiana v. Biden*, No. 21-cv-3867, 2021 U.S. Dist. LEXIS 240865, at \*28-29 (W.D. La. Dec. 15, 2021), referring to 5 USC § 706(2)(D).

### INJUNCTIVE RELIEF

30. The requirements for a preliminary injunction were set forth with clarity in *Louisiana v. Xavier Becerra et al.*, *supra*, at p. 11,12, as follows:

A preliminary injunction is an extraordinary remedy never awarded of right. *Benisek v. Lamone*, 138 S. Ct. 1942, 1943, 201 L. Ed. 2d 398 (2018). In each case, the claims of injury and must consider the effect on each party of the granting or withholding of the requested relief. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24, 129 S. Ct. 365, 172 L. Ed. 2d 249 (2008). The standard for a preliminary injunction requires a movant to show (1) the substantial likelihood of success on the merits, (2) that he is likely to suffer irreparable harm in the absence of a preliminary injunction, (3) that the balance of equities tips in his favor, and (4) that an injunction is in the public interest. *Benisek*, 138 S. Ct. at 1944. The party seeking relief must satisfy a cumulative burden of proving each of the four elements enumerated before a temporary restraining order or preliminary injunction can be granted. *Clark v. Prichard*, 812 F.2d 991, 993 (5th Cir. 1987). None of the four prerequisites has a quantitative value. *State of Tex. v. Seatrain Int'l, S. A.*, 518 F.2d 175, 180 (5th Cir. 1975).

### A. LIKELIHOOD OF SUCCESS ON THE MERITS

31. The element of likelihood of success on the merits is a problematic requirement for two reasons. First of all, it puts a court in the position of deciding to a large extent, the merits of a case before having seen all the evidence. Secondly, it ignores that injunctive relief may be needed to avert serious harm to the plaintiff and may not significantly harm the defendant at all such that a balance of equities clearly warrants granting relief, even if there is not a substantial likelihood of success or the Court simply cannot really judge the likelihood of success without a trial. Therefore many courts have eschewed a strict application of the "substantial likelihood" prong.

32. In *Greater Yellowstone Coalition v. Flowers*, 321 F.3d 1250, 1256 (10th Cir. 2003) the Court held that if the movant can show "that questions going to the merits are so serious, substantial, difficult, and doubtful as to make the issue ripe for litigation and deserving of more deliberate investigation," and the remaining three elements "tip strongly" in the movant's favor, the court will grant the preliminary injunction.

33. In *Cooper v. Salazar*, 196 F.3d 809, 813 (7th Cir.1999) (quoting *Boucher v. School Bd. of Greenfield*, 134 F.3d 821, 824 (7th Cir.1998)) the Court held that to show a likelihood of success on the merits at the preliminary injunction stage, a plaintiff need only show "a better than negligible chance of succeeding." *Cooper v. Salazar*, 196 F.3d 809, 813 (7th Cir.1999).

34. Other courts have implied that a showing well below 50% likelihood of success will suffice. *Machinery Co. v. Dresser Indus., Inc.*, 749 F.2d 380, 387 (7th Cir. 1984) (explaining that plaintiff must show that she has a "better than negligible" chance of succeeding in order to obtain a preliminary injunction). See generally, Morton Denlow, *The Motion for a Preliminary Injunction: Time for a Uniform Federal Standard*, 22 REV. LITIG. 495 (2003) (discussing the various standards).

35. If one reviews the cases, it seems that if a Plaintiff can show a reasonable possibility of success on the merits, it is sufficient for the "likelihood" prong.

### **B. IRREPARABLE HARM**

36. While there is a general rule that loss of employment in and of itself is not irreparable harm some courts have held otherwise particularly if constitutional rights are involved. "The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373-74 (1976) (holding county sheriff's office could not fire or threaten dismissal of employees for failure to affiliate with a political party).

37. In *BST Holdings, LLC supra*, the court, quoting *Elrod v. Burns*, stated:

It is clear that a denial of the petitioners' proposed stay would do them irreparable harm. For one, *the Mandate threatens to substantially burden the liberty interests of reluctant individual recipients put to a choice between their job(s) and their jab(s)*. For the individual petitioners, the loss of constitutional freedoms "for even minimal periods of time ... unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976) ... Not to mention the free religious exercise of certain employees. See U.S. Const. amend. I; cf. *Holt v. Hobbs*, 574 U.S. 352, 361 (2015)." (emphasis added)

38. Similarly in *Kentucky v. Biden, supra*, the Court found irreparable harm. The Court said: "Furthermore, "complying with a regulation later held invalid almost *always* produces the irreparable harm of nonrecoverable compliance." *Id.* (citing *Texas v. EPA*, 829 F.3d 405, 433 (5th Cir. 2016))." *Id.* at p. 27.

Although irreparable injury is an essential element to obtaining injunctive relief, most federal circuit courts have held that irreparable injury should be presumed in constitutional cases. A Farewell To Harms: Against Presuming Irreparable Injury In Constitutional Litigation, Anthony Disarro, *Harvard Journal of Law & Public Policy*, Vol. 35, No. 2, p. 744.

39. In *Overstreet v. Lexington-Fayette Urban County*, 305 F.3d 566, 578-79 (6th Cir. 2002), the Court stated:

Courts have also held that a plaintiff can demonstrate that a denial of an injunction will cause irreparable harm if the claim is based upon a violation of the plaintiff's constitutional rights. *See, e.g., Connection Distrib. Co. v. Reno*, 154 F.3d 281, 288 (6th Cir. 1998) (recognizing that the loss of First Amendment rights, for even a minimal period of time, constitutes irreparable harm) (citations omitted); *Covino v. Patrissi*, 967 F.2d 73, 77 (2d Cir. 1992) (holding that plaintiffs may establish irreparable harm based on an alleged violation of their Fourth Amendment rights); *McDonell v. Hunter*, 746 F.2d 785, 787 (8th Cir. 1984) (finding that a violation of privacy constitutes an irreparable harm).

40. Some judicial decisions state that constitutional privacy rights and first amendment rights are those for which irreparable harm may be presumed. *Community Communications Co., Inc. v. City of Boulder, Colo.*, 660 F.2d 1370 (10th Cir. 1981); *See McDonell v. Hunter*, 746 F.2d 785, 787 (8th Cir. 1984).

It is well settled that the loss of First Amendment freedoms for even minimal periods of time constitutes irreparable injury justifying the grant of a preliminary injunction." *Deerfield Medical Center v. City of Deerfield Beach*, 661 F.2d 328, 338 (5th Cir. Unit B 1981), *citing Elrod v. Burns*, 427 U.S. at 373, 96 S.Ct. at 2689. So too, direct penalization, as opposed to incidental inhibition, of First Amendment rights constitutes irreparable injury. *Johnson v. Bergland*, 586 F.2d 993, 995 (4th Cir. 1978) (transfer of employee allegedly for exercise of First Amendment rights; "[v]iolations of first amendment rights constitute per se irreparable injury"); *Citizens for a Better Environment v. City of Park Ridge*, 567 F.2d 689 (7th Cir. 1975).

*Cate v. Oldham*, 707 F.2d 1176, 1188 (11th Cir. 1983)

(The) area of constitutional jurisprudence where we have said that an on-going violation constitutes irreparable injury is the area of first amendment and right of privacy jurisprudence. *See, e.g., Cate v. Oldham*, [707 F.2d 1176, 1189](#) (11th Cir. 1983); *Deerfield Medical Center v. City of Deerfield Beach*, [661 F.2d 328, 338](#) (5th Cir. 1981). The rationale behind these decisions was that chilled free speech and invasions of privacy, because of their intangible nature, could not be compensated for by monetary damages; in other words, plaintiffs could not be made whole.

*Northeastern Florida Chapter v. Jacksonville*, 896 F.2d 1283, 1285 (11th Cir. 1990).

41. Both religious freedom (First Amendment rights) and privacy rights are at issue in the case at bar. The Defendant has denied some religious exemption requests and privacy rights are implicated by an invasion of bodily integrity with coerced vaccination.

42. The case *McDonell v. Hunter*, 746 F.2d 785, 787 (8th Cir. 1984) has factual similarities with this case. The Plaintiffs were female guards at Iowa Correctional Institution for Women. They were told by prison officials that the Department planned to conduct strip searches, blood tests, and urinalyses on Department employees and were asked to sign a form consenting to such searches. The Court held: "The violation of privacy in being subjected to the searches and tests in question is an irreparable harm that could reasonably be found to outweigh whatever increase in security the enforcement of the Department's policies might produce."

43. In *Northeastern Florida Chapter v. Jacksonville*, 896 F.2d 1283, 1285 (11th Cir. 1990), the court stated:

(The) area of constitutional jurisprudence where we have said that an ongoing violation constitutes irreparable injury is the area of first amendment and right of privacy jurisprudence. *See, e.g., Cate v. Oldham*, [707 F.2d 1176, 1189](#) (11th Cir. 1983); *Deerfield Medical Center v. City of Deerfield Beach*, [661 F.2d 328, 338](#) (5th Cir. 1981). The rationale behind these decisions was that chilled free speech and invasions of privacy, because of their intangible nature, could not be compensated for by monetary damages; in other words, plaintiffs could not be made whole.

44. While some courts have taken the position that loss of a job or income is not irreparable harm, Plaintiffs here argue that the mass layoff of large numbers of skilled employees all at once on the basis of an illegal executive order merits closer inspection than a cavalier rejection of such a substantial impact to individuals and a local economy as irreparable harm.

45. The factual circumstances of many Plaintiffs are such that loss of employment is different than for most persons who might lose a job. Many plaintiffs are highly trained in specialized work which is unique to weapons laboratories and nuclear facilities and even unique to the Sandia



National Laboratory. It will be a great challenge for them to find similar employment at all or with similar compensation. One plaintiff has stated to the undersigned attorneys, "If terminated, my income would be reduced by 25-50% based on market wages in the Albuquerque area for my career. I might be forced to leave the state to find a comparable wage, but then I would face moving costs and a forced sale of my house. Loss of my job and insurance would cause a reduction in my health and my wife's."

46. Older employees of SNL are not going to be able to find work outside SNL. Plaintiff Anna Burns is a 67 year old woman with numerous autoimmune conditions, who needs her health insurance. She moved from Texas where she had lived all her life, to accept employment from SNL, intending this would be where she would work the rest of her working life. She was glad to obtain work with SNL, as they were not discriminating against older workers.

47. Loss of employment will mean, for many of the plaintiffs, being uprooted, having to sell homes, move from the area, and since many Plaintiffs have worked at SNL and lived in the area for many years, the loss of a community and close personal relationships. Most, if not all, of the plaintiffs enjoy high level national security clearances, of level Q and above, including critical SAPs Special Access Programs. According to Plaintiffs, this level of security clearance is equivalent to Dept. of Defense "Top Secret" level. These security clearances will be lost if employees are away from their position over a certain period of time. This can impact and jeopardize future employment as a stigma upon their reputations for having lost their security clearance. Once lost, these clearances can take years to recover.

### **C. BALANCE OF EQUITIES**

48. Enjoining Defendants would save Plaintiffs from loss of employment and security clearances, and from being punished for their exercise of protected constitutional freedoms, as well

as from being discriminated against based on their religious beliefs and/or medical conditions. Loss of security clearances is serious and cannot be addressed simply by monetary compensation. There is a stigma that follows an employee who loses such high-level clearance. The consequence to the Plaintiffs of not obtaining injunctive relief is discussed in the prior section on Irreparable Harm. A potential harm to some plaintiffs is that they will, in fear of losing their career or source of income, submit to the vaccination. This is a serious harm either from the perspective of the very real serious adverse side effects the vaccines can cause and also from the perspective that they will have been coerced into sacrificing their right to make their own medical choices.

49. What is the injury to Defendants by granting injunctive relief? If their concern is that their workforce will be depleted because many people will become sick with Covid-19, this may be an understandable assumption. However, it is not scientifically supportable for several reasons. First of all, it simply is not true that only those who are unvaccinated spread Covid-19. The mRNA vaccines being injected in Americans do not prevent the recipient from getting or transmitting the SarsCoV-2 virus. Rather, the shot purportedly reduces the severity of symptoms should someone get Covid-19. What this means is that it is just as likely that vaccinated employees will be transmitting the virus as the unvaccinated. It could even be said that the vaccinated are more likely to spread it since they will have milder symptoms, and therefore, would be likely to go to work. Whereas, the unvaccinated without natural immunity who get the disease would most likely have symptoms and stay home.

50. Moreover, the vaccinated are getting Covid-19 as much as the unvaccinated. (See the statistics from Israel and Vermont in the Complaint, Paras. 91 and 95). An employee of SNL (not a plaintiff) who is familiar with the health records of the workforce will testify that the majority of recent COVID cases at the Lab are of the vaccinated, not the other way around.

#### **D. PUBLIC INTEREST**

51. It is in the public interest that Plaintiffs remain in their positions at SNL. Many of them are educated, highly skilled and have very specialized skills and training required by SNL. Losing their services to the nation and its military defense needs is contrary to the public interest. This case involves potentially hundreds of plaintiffs, through the unincorporated association of SNL Workforce Freedom Alliance. Because the number keeps growing, we do not know the exact number of plaintiffs. Hundreds of citizens losing their jobs and potentially their careers is contrary to the public interest. Since many Plaintiffs have top secret security clearances, firing many persons with top secret weapon information could be a risk for national security which certainly would be contrary to the public interest.

52. It is also in the public interest to uphold the public rights and policies ensconced in the United States Constitution for bodily integrity, freedom to consent to medical treatment and for religious freedom. Due to the large number of plaintiffs, vindicating that many people's constitutional rights is in the public interest.

53. While Plaintiffs have repeated much that is in the Complaint hereinabove, the Court is requested to refer to Sections IV and V of the Complaint for the arguments that the Defendants' vaccine mandates violate Plaintiffs Constitutional rights and that the Defendants, though ostensibly private companies are legally obligated to abide by the U.S. Constitution.

**WHEREFORE**, Plaintiffs respectfully request that the Court:

1. Enter a temporary restraining order enjoining Defendants from firing, suspending without pay or taking any other negative action against Plaintiffs for not accepting the Covid-19 vaccines.
2. If the Court does not address this motion prior to the Plaintiffs being terminated, reinstate Plaintiffs to their positions.
3. At the very minimum the Court is requested to enjoin the requiring of vaccination for those who have a medical exemption signed by a doctor or who have already had COVID-19 and have natural immunity.

Respectfully submitted,

NORRED LAW, PLLC

/s/ Warren V. Norred

Warren V. Norred, Texas Bar No. 24045094, wnorred@norredlaw.com

515 E. Border St., Arlington, Texas 76010

T (817) 704-3984, F (817) 524-6686

Attorney for Plaintiffs

/S/ N. Ana Garner

N. Ana Garner, NM Bar No. 921

Attorney for Plaintiffs

206 W. Main St.

Farmington, NM 87401

(505) 930-5170/(505)235-3302

Garnerlaw@yahoo.com

*Pro Hac Vice App. to be submitted*

/s/ Jonathan Diener

Jonathan Diener

Attorney for Plaintiffs

P.O. Box 27, Mule Creek, NM 88051

(575) 535-2760

jonmdiener@gmail.com

*Pro Hac Vice App. to be submitted*

**Certificate of Service** – This Motion is filed with the Complaint and will be served with it.

/s/Warren V. Norred

Warren V. Norred



**From:** Sandia Communications <[SandiaCommunications@sandia.gov](mailto:SandiaCommunications@sandia.gov)>  
**Sent:** Monday, November 29, 2021 6:41 PM  
**To:** (REDACTED)  
**Subject:** Updates on COVID-19 Vaccination Mandates



Sandia National Laboratories

health

## Updates on COVID-19 Vaccination Mandate

Updating the [Attestation Tool](#) is an important step to document a change to your COVID-19 vaccination status. If your status has changed recently and you have not updated your information in the [Attestation Tool](#), please do so.

To comply with the federal requirements published by the [Safer Federal Workforce Task Force](#), which include a COVID-19 vaccination mandate, all Sandia members of the workforce and embedded subcontractors must be [fully vaccinated](#) by **Tuesday, Jan. 18, 2022**, unless they have received an accommodation approval or have an accommodation request in progress. The vaccine mandate also applies to all virtual workers and telecommuters.

As a result, **Jan. 4, 2022, is a key date for unvaccinated personnel. To meet the Jan. 18 federal mandate,** staff who choose the Moderna vaccine must have received their first shot no later than Dec. 7 to be eligible to have their second shot by Jan. 4.

For the FDA-approved Pfizer vaccine, the first shot should be received no later than Dec. 14, with the second shot three weeks later on Jan. 4. For the one-series Johnson & Johnson-Janssen vaccine, everyone needs their shots by Jan. 4.

As a reminder, the Sandia Medical Clinic in Albuquerque is offering COVID-19 Moderna and Pfizer vaccines to employees needing their first or second shots.

To schedule a vaccine appointment at the Sandia Medical Clinic in Albuquerque, call 505-284-4700, and select option 1. Vaccines administered by Sandia are not available at Sandia's other sites. Everyone can use [VaccineFinder](#) (CDC) to obtain convenient local vaccination appointments for the desired vaccine type.

## Resources

Questions? Contact [HR Solutions](#) or call 505-284-4700.

Human Resources personnel at Sandia National Laboratories provide support to all Sandia National Laboratories employees.

Sandia's ExITS process has approved the use of this cloud-based product. See [exits.sandia.gov](https://exits.sandia.gov) for more information.

© 2021 National Technology and Engineering Solutions of Sandia, LLC  
[Disclaimer](#) | [Privacy & Security](#)



<b>SOLICITATION, OFFER AND AWARD</b>		1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)		RATING DOE-E2	PAGE OF PAGES 1   246
2. CONTRACT NUMBER DE-NA0003525		3. SOLICITATION NUMBER DE-SOL-0008470		4. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input checked="" type="checkbox"/> NEGOTIATED (RFP)	5. DATE ISSUED 06/23/2016
7. ISSUED BY NNSA M&O Contracting Operations Div NA-APM-13 Forrestal Building 1000 Independence Avenue, S.W. Washington DC 20585		8. ADDRESS OFFER TO (if other than item 7)			

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".

**SOLICITATION**

9. Sealed offers in original and \_\_\_\_\_ copies for furnishing the supplies or services in the Schedule will be received at the place specified in item 8, or if hand carried, in the depository located in \_\_\_\_\_ until \_\_\_\_\_ (Hour) local time \_\_\_\_\_ (Date)

CAUTION: LATE Submissions, Modifications, and Withdrawals: See Section L, Provision No. 52.214-7 or 52.215-1. All offers are subject to all terms and conditions contained in this solicitation.

10. FOR INFORMATION CALL:	A. NAME Ariane S. Kaminsky	B. TELEPHONE (NO COLLECT CALLS)			C. E-MAIL ADDRESS ariane.kaminsky@nnsa.doe.gov
		AREA CODE 202	NUMBER 586-9713	EXT.	

(X)	SEC.	DESCRIPTION	PAGE(S)	(X)	SEC.	DESCRIPTION	PAGE(S)
PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES			
<input type="checkbox"/>	A	SOLICITATION/CONTRACT FORM		<input checked="" type="checkbox"/>	I	CONTRACT CLAUSES	51-149
<input checked="" type="checkbox"/>	B	SUPPLIES OR SERVICES AND PRICES/COSTS	11-17	PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.			
<input checked="" type="checkbox"/>	C	DESCRIPTION/SPECS/WORK STATEMENT	18	<input checked="" type="checkbox"/>	J	LIST OF ATTACHMENTS	150
<input checked="" type="checkbox"/>	D	PACKAGING AND MARKING	19	PART IV - REPRESENTATIONS AND INSTRUCTIONS			
<input checked="" type="checkbox"/>	E	INSPECTION AND ACCEPTANCE	20-21	<input type="checkbox"/>	K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS	
<input checked="" type="checkbox"/>	F	DELIVERIES OR PERFORMANCE	22-25	<input type="checkbox"/>	L	INSTRS., CONDS., AND NOTICES TO OFFERORS	
<input checked="" type="checkbox"/>	G	CONTRACT ADMINISTRATION DATA	26-29	<input type="checkbox"/>	M	EVALUATION FACTORS FOR AWARD	
<input checked="" type="checkbox"/>	H	SPECIAL CONTRACT REQUIREMENTS	30-50				

OFFER (Must be fully completed by offeror)

NOTE: Item 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period.

12. In compliance with the above, the undersigned agrees, if this offer is accepted within \_\_\_\_\_ calendar days (30 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule.

13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52.232.0)	10 CALENDAR DAYS (%)	20 CALENDAR DAYS (%)	30 CALENDAR DAYS (%)	CALENDAR DAYS (%)
	NET 30			

14. ACKNOWLEDGEMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offers and related documents numbered and dated):	AMENDMENT NO.	DATE	AMENDMENT NO.	DATE

15A. NAME AND ADDRESS OF OFFEROR NATIONAL TECHNOLOGY & ENGINEERING SOLUTIONS OF Attn: JOHN MURRAY 23500 W 105TH ST MD300 OLATHE KS 68061	CODE 080292070	FACILITY	16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print) Mr. Victor Miller- NTESS General Counsel & Secretary 23500 W. 105 <sup>th</sup> Street (M/D 300) Olathe, KS 66061
--	-------------------	----------	---

16B. TELEPHONE NUMBER AREA CODE NUMBER EXT.	19C. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE.	17. [REDACTED]	18. OFFER DATE 11/3/17
--	--	----------------	---------------------------

**AWARD (To be completed by government)**

19. ACCEPTED AS TO ITEMS NUMBERED	20. AMOUNT \$12,686,652,914.00	21. ACCOUNTING AND APPROPRIATION See schedule
22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2304 (e) ( ) <input type="checkbox"/> 41 U.S.C. 253 (c) ( )	23. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified)	
24. ADMINISTERED BY (if other than item 7) See Schedule G	CODE 05005	25. PAYMENT WILL BE MADE BY See Schedule G
26. NAME OF CONTRACTING OFFICER (Type or print) Sandra C. Caesar	27. UNITED STATES OF AMERICA [REDACTED] (Signature of Contracting Officer)	28. AWARD DATE 12/16/2016

EXHIBIT 2 TO TRO



**SECTION B: SUPPLIES OR SERVICES AND PRICES/COSTS .....1**

B-1 SERVICES BEING ACQUIRED.....1

CLIN 0001 MANAGEMENT AND OPERATION OF THE SANDIA NATIONAL LABORATORIES.....1

CLIN 0001A TRANSITION TERM (MODIFIED 0004).....1

CLIN 0001B BASE TERM.....1

CLIN 0001C OPTION TERM 1 (MODIFIED 0057).....1

CLIN 0001D OPTION TERM 2.....1

CLIN 0001E OPTION TERM 3.....1

CLIN 0001F OPTION TERM 4.....1

CLIN 0001G OPTION TERM 5(MODIFIED 0057).....1

CLIN 0002 STRATEGIC PARTNERSHIP PROJECTS.....2

CLIN 0002A BASE TERM.....2

CLIN 0002B OPTION TERM 1(MODIFIED 0057).....2

CLIN 0002C OPTION TERM 2.....2

CLIN 0002D OPTION TERM 3.....2

CLIN 0002E OPTION TERM 4.....2

CLIN 0002F OPTION TERM 5 (MODIFIED 0057).....2

CLIN 0003 CAPITAL CONSTRUCTION PROJECTS.....2

B-2 CONTRACT TYPE AND VALUE (MODIFIED 0008, 0023, 0026, 0050, 0060, 0077, 0057, 0081, 0098, 0109; REPLACED 0071).....3

B-3 CONTRACT FEE STRUCTURES (MODIFIED 0051; REPLACED 0071).....4

B-4 KEY PERSONNEL REPLACEMENT.....6

B-5 OBLIGATION OF FUNDS (LAST MODIFIED BY FUNDING MODIFICATION 0120).....6

B-6 AVAILABILITY OF APPROPRIATED FUNDS.....6

B-7 LEADERSHIP PERFORMANCE EVALUATION (REPLACED 0051).....7

**SECTION C: DESCRIPTION/SPECIFICATIONS/STATEMENT OF WORK.....8**

C-1 STATEMENT OF WORK.....8

**SECTION D: PACKAGING AND MARKING.....9**

D-1 PACKAGING AND MARKING.....9

**SECTION E: INSPECTION AND ACCEPTANCE .....10**

E-1 FAR 52.246-5 INSPECTION OF SERVICES –COST REIMBURSEMENT (APR 1984).....10

E-2 INSPECTION AND ACCEPTANCE.....10

E-3 FAR 52.246-9 INSPECTION OF RESEARCH AND DEVELOPMENT (SHORT FORM)(APR 1984)..11

**SECTION F: DELIVERIES OR PERFORMANCE.....12**

F-1 FAR 52.242-15 STOP-WORK ORDER (AUG 1989) ALTERNATE I (APR 1984).....12

F-2 STOP WORK IN EVENT OF IMMINENT DANGER.....13

F-3 PERIOD OF PERFORMANCE (MODIFIED 0057).....13

F-4 PRINCIPAL PLACES OF PERFORMANCE.....13

F-5 EVALUATION OF PERFORMANCE AND EXERCISE OF OPTION(S).....14

F-6 DELIVERABLES DURING TRANSITION.....14

**SECTION G: CONTRACT ADMINISTRATION DATA .....16**

G-1 GOVERNMENT CONTACTS.....16

G-2 MODIFICATION AUTHORITY.....17

G-3 CONTRACTOR CONTACT (MODIFIED 0026, 0057).....18

G-4 PERFORMANCE GUARANTEE(S).....18

G-5 RECOGNITION OF PERFORMING ENTITY.....18

G-6 RESPONSIBLE CORPORATE OFFICIAL (MODIFIED 0026, 0072, 0085).....19

G-7 INVOICING FOR TRANSITION COSTS.....19

**SECTION H: SPECIAL CONTRACT REQUIREMENTS .....20**

H-1 CONTINUATION OF PREDECESSOR CONTRACTOR’S OBLIGATIONS AND TRANSFER OF

	OBLIGATIONS TO SUCCESSOR CONTRACTOR.....	20
H-2	SMALL BUSINESS PARTICIPATION .....	20
H-3	REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFEROR.....	21
H-4	ORGANIZATIONAL CONFLICT OF INTEREST (OCI) – SPECIAL PROVISION <i>(MODIFIED 0008)</i> .....	21
H-5	LOBBYING RESTRICTION.....	21
H-6	FLOWDOWN OF RIGHTS TO PROPOSAL DATA.....	21
H-7	PRIVACY RECORDS .....	21
H-8	SANDIA NATIONAL LABORATORIES MANAGEMENT SYSTEM (SEP 2015).....	22
H-9	TRANSITION .....	24
H-10	CONFERENCE MANAGEMENT (SEP 2015).....	24
H-11	FEDERAL FLEET MANAGEMENT SYSTEM .....	26
H-12	ACCOUNTABILITY .....	27
H-13	NNSA OVERSIGHT .....	27
H-14	CLAUSE UPDATES AND IMPLEMENTATION SECTION TO FAR CLAUSES <i>(MODIFIED 0018, 0026, 0057)</i> .....	27
H-15	MANAGEMENT TEAM COSTS <i>(MODIFIED 0026)</i> .....	29
H-16	CONFIDENTIALITY OF INFORMATION <i>(MODIFIED 0063)</i> .....	29
H-17	NNSA PRIME CONTRACTS .....	30
H-18	INSTRUCTIONS FOR UPDATING FOREIGN OWNERSHIP, CONTROL OR INFLUENCE (FOCI) INFORMATION .31 H-19	
	CONTRACTOR EMPLOYEES.....	32
H-20	CONSTRUCTION PROJECTS <i>(MODIFIED 0093)</i> .....	32
H-21	[RESERVED] <i>(REMOVED 0026)</i> .....	33
H-22	MANAGEMENT AND OPERATING CONTRACTOR SUBCONTRACT REPORTING (NOV 2015) <i>(MODIFIED 0032)</i> .....	33
H-23	INDIRECT COST MANAGEMENT <i>(MODIFIED 0072)</i> .....	34
H-24	CONTRACTOR COMMUNITY COMMITMENTS <i>(MODIFIED 0008)</i> .....	35
H-25	ASSET MANAGEMENT REQUIREMENTS <i>(MODIFIED 0018)</i> .....	35
H-26	STANDARDS MANAGEMENT.....	37
H-27	STRATEGIC PURCHASING.....	38
H-28	UTILIZATION OF PARENT CORPORATE SYSTEMS .....	38
H-29	PERFORMANCE BASED MANAGEMENT SYSTEM <i>(MODIFIED 0051)</i> .....	38
H-30	BUSINESS ENTITY – FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER (FFRDC).....	38
H-31	IMPLEMENTATION OF ITER AGREEMENT ANNEX ON INFORMATION AND INTELLECTUAL PROPERTY.....	39
H-32	PERFORMANCE OF WORK AT FACILITIES AND SITES OTHER THAN SANDIA NATIONAL LABORATORIES.....	40
H-33	ADVANCE UNDERSTANDING REGARDING ADDITIONAL ITEMS OF ALLOWABLE AND UNALLOWABLE COSTS AND OTHER MATTERS <i>(ADDED APPENDIX C AND MODIFIED 0008, 0018, 0026, 0050, 0073, 0093)</i> .....	40
H-34	INTELLECTUAL AND SCIENTIFIC FREEDOM.....	41
H-35	CONTRACTOR PERFORMANCE EVALUATIONS .....	41
H-36	STRATEGIC PLANNING <i>(MODIFIED 0010, 0050)</i> .....	42
H-37	DEFINITION OF UNUSUALLY HAZARDOUS OR NUCLEAR RISK AND OTHER TERMS FOR PURPOSES OF FAR CLAUSE 52.250-1, INDEMNIFICATION UNDER PUBLIC LAW 85-804 (APR 1984) ALTI (APR 1984) <i>(ADDED 0008; MODIFIED 0057, 0088)</i> .....	41
H-38	PAID LEAVE UNDER SECTION 3610 OF THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT (CARES ACT) TO MAINTAIN EMPLOYEES AND SUBCONTRACTORS IN A READY STATE. (APRIL 2020) <i>(ADDED 0090; MODIFIED 100, 0105, 0108, 0116)</i> .....	44
H-39	CORONAVIRUS (COVID-19) VACCINE <i>(ADDED 0105)</i> .....	45

<b>SOLICITATION, OFFER AND AWARD</b>		1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)		RATING	PAGE OF PAGES 1   246	
2. CONTRACT NUMBER DE-NA0003525		3. SOLICITATION NUMBER DE-SOL-0008470		4. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input checked="" type="checkbox"/> NEGOTIATED (RFP)		5. DATE ISSUED 06/23/2016
7. ISSUED BY NNSA M&O Contracting Operations Div NA-APM-13 Forrestal Building 1000 Independence Avenue, S.W. Washington DC 20585		CODE 05114		8. ADDRESS OFFER TO (if other than item 7)		

**SOLICITATION**

9. Sealed offers in original and \_\_\_\_\_ copies for furnishing the supplies or services in the Schedule will be received at the place specified in item 8, or if hand carried, in the depository located in \_\_\_\_\_ until \_\_\_\_\_ (Hour) local time \_\_\_\_\_ (Date)

CAUTION: LATE Submissions, Modifications, and Withdrawals: See Section L, Provision No. 52.214-7 or 52.215-1. All offers are subject to all terms and conditions contained in this solicitation.

10. FOR INFORMATION CALL:	A. NAME Ariane S. Kaminsky	B. TELEPHONE (NO COLLECT CALLS)			C. E-MAIL ADDRESS ariane.kaminsky@nnsa.doe.gov
	AREA CODE 202	NUMBER 586-9713	EXT.		

(X)	SEC.	DESCRIPTION	PAGE(S)	(X)	SEC.	DESCRIPTION	PAGE(S)
PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES			
<input type="checkbox"/>	A	SOLICITATION/CONTRACT FORM		<input checked="" type="checkbox"/>	I	CONTRACT CLAUSES	51-149
<input checked="" type="checkbox"/>	B	SUPPLIES OR SERVICES AND PRICES/COSTS	11-17	PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.			
<input checked="" type="checkbox"/>	C	DESCRIPTION/SPECS./WORK STATEMENT	18	<input checked="" type="checkbox"/>	J	LIST OF ATTACHMENTS	150
<input checked="" type="checkbox"/>	D	PACKAGING AND MARKING	19	PART IV - REPRESENTATIONS AND INSTRUCTIONS			
<input checked="" type="checkbox"/>	E	INSPECTION AND ACCEPTANCE	20-21	<input type="checkbox"/>	K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS	
<input checked="" type="checkbox"/>	F	DELIVERIES OR PERFORMANCE	22-25	PART V - REPRESENTATIONS AND INSTRUCTIONS			
<input checked="" type="checkbox"/>	G	CONTRACT ADMINISTRATION DATA	26-29	<input type="checkbox"/>	L	INSTRS., CONDS., AND NOTICES TO OFFERORS	
<input checked="" type="checkbox"/>	H	SPECIAL CONTRACT REQUIREMENTS	30-50	<input type="checkbox"/>	M	EVALUATION FACTORS FOR AWARD	

OFFER (Must be fully completed by offeror)

NOTE: Item 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period.

12. In compliance with the above, the undersigned agrees, if this offer is accepted within \_\_\_\_\_ calendar days (30 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule.

13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52.232(d))

10 CALENDAR DAYS (%)	20 CALENDAR DAYS (%)	30 CALENDAR DAYS (%)	CALENDAR DAYS (%)
NET 30			

14. ACKNOWLEDGEMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offers and related documents numbered and dated):

AMENDMENT NO.	DATE	AMENDMENT NO.	DATE

15A. NAME AND ADDRESS OF OFFEROR NATIONAL TECHNOLOGY & ENGINEERING SOLUTIONS OF Attn: JOHN MURRAY 23500 W 105TH ST MD300 OLATHE KS 68061	CODE 080292070	FACILITY	16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print) Mr. Victor Miller- NTESS General Counsel & Secretary 23500 W. 105 <sup>th</sup> Street (M/D 300) Olathe, KS 66061
--	----------------	----------	--

16B. TELEPHONE NUMBER AREA CODE NUMBER EXT.	19C. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE.	17. SIGNATURE	18. OFFER DATE 11/3/17
--	--	---------------	---------------------------

**AWARD (To be completed by government)**

19. ACCEPTED AS TO ITEMS NUMBERED	20. AMOUNT \$12,686,652,914.00	21. ACCOUNTING AND APPROPRIATION See schedule
-----------------------------------	-----------------------------------	--

22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2304 (e) ( ) <input type="checkbox"/> 41 U.S.C. 253 (c) ( )	23. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified)	ITEM
24. ADMINISTERED BY (if other than item 7) See Schedule G	CODE 05005	25. PAYMENT WILL BE MADE BY See Schedule G

26. NAME OF CONTRACTING OFFICER (Type or print) Sandra C. Caesar	27. UNITED STATES OF AMERICA (Signature of Contracting Officer)	28. AWARD DATE 12/16/2016
---	--	------------------------------

<b>CONTINUATION SHEET</b>	REFERENCE NO. OF DOCUMENT BEING CONTINUED	PAGE	OF
	DE-NA0003525	2	246

NAME OF OFFEROR OR CONTRACTOR  
 NATIONAL TECHNOLOGY & ENGINEERING SOLUTIONS OF SANDIA, LLC

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	Tax ID Number: 81-2889192 DUNS Number: 080292070 Contract Award DE-NA0003525 to National Technology & Engineering Solutions of Sandia, LLC (NTESS) for the Management and Operation of the Department of Energy, National Nuclear Security Administration's Sandia National Laboratories.				
	Delivery Location Code: 05005 NNSA/Sandia Site Office U.S. Department of Energy NNSA/Sandia Site Office P.O. Box 5400 Sandia Site Office (MS 0184) Albuquerque NM 87185-5400  Payment: OR for NNSA U.S. Department of Energy Oak Ridge Financial Service Center P.O. Box 5807 Oak Ridge TN 37831 FOB: Destination Period of Performance: 01/18/2017 to 04/30/2022				
00001	CLIN 0001A Management and Operation of the Sandia National Laboratories--Transition Term Line item value is:: \$5,000,000.00  Delivery: 04/30/2017				5,000,000.00
00002	CLIN 0001B Management and Operation of the Sandia National Laboratories Site Base Term--NNSA Estimated Cost, Fixed Fee, and Award Fee--CLIN 0001B is a hybrid CLIN, comprised of a fixed fee and an award fee component.  Estimated Cost CLIN 0001B: \$7,600,088,876 Fixed Fee CLIN 0001B: \$75,997,000 Award Fee Pool CLIN 0001B: \$30,408,000				7,706,493,876.00
	CLIN 0001B Management and Operation of the Sandia National Laboratories Site Base Term--NNSA Estimated Cost, Fixed Fee, and Award Fee--CLIN 0001B is a hybrid CLIN, comprised of a fixed fee and an award fee component.  Estimated Cost CLIN 0001B: \$7,600,088,876 Fixed Fee CLIN 0001B: \$75,997,000 Award Fee Pool CLIN 0001B: \$30,408,000 Continued ...				

CONTINUATION SHEET

REFERENCE NO. OF DOCUMENT BEING CONTINUED  
DE-NA0003525

PAGE OF  
3 246

NAME OF OFFEROR OR CONTRACTOR  
NATIONAL TECHNOLOGY & ENGINEERING SOLUTIONS OF SANDIA, LLC

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	Line item value is:: \$7,706,493,876.00 Delivery: 04/30/2022				
00003	CLIN 0001C Option Term 1 Management and Operation of the Sandia National Laboratories Site Base Term--NNSA Estimated Cost, Fixed Fee, and Award Fee--CLIN 0001C is a hybrid CLIN, comprised of a fixed fee and an award fee component.  Estimated Cost CLIN 0001C: \$1,621,794,075 Fixed Fee CLIN 0001C: \$16,217,000 Award Fee Pool CLIN 0001C: \$6,488,000 Amount: \$1,644,499,075.00 (Option Line Item) Line item value is:: \$1,644,499,075.00  Delivery: 04/30/2023				1,644,499,075.00
00004	CLIN 0001D Option Term 2 Management and Operation of the Sandia National Laboratories Site Base Term--NNSA Estimated Cost, Fixed Fee, and Award Fee--CLIN 0001D is a hybrid CLIN, comprised of a fixed fee and an award fee component.  Estimated Cost CLIN 0001D: \$1,657,473,545 Fixed Fee CLIN 0001D: \$16,574,000 Award Fee Pool CLIN 0001D: \$6,631,000 Amount: \$1,680,678,545.00 (Option Line Item) Line item value is:: \$1,680,678,545.00  Delivery: 04/30/2024				1,680,678,545.00
00005	CLIN 0001E Option Term 3 Management and Operation of the Sandia National Laboratories Site Base Term--NNSA Estimated Cost, Fixed Fee, and Award Fee--CLIN 0001D is a hybrid CLIN, comprised of a fixed fee and an award fee component.  Estimated Cost CLIN 0001E: \$1,693,937,963 Fixed Fee CLIN 0001E: \$16,939,000 Award Fee Pool CLIN 0001E: \$6,776,000 Amount: \$1,717,652,963.00 (Option Line Item) Line item value is:: \$1,717,652,963.00  Delivery: 04/30/2025				1,717,652,963.00
00006	CLIN 0001F Option Term 4 Management and Operation of the Sandia National Laboratories Site Base Term--NNSA Estimated Cost, Fixed Fee, and Award Fee--CLIN 0001D is a hybrid CLIN, comprised of a Continued ...				1,755,444,598.00

CONTINUATION SHEET	REFERENCE NO. OF DOCUMENT BEING CONTINUED	PAGE	OF
	DE-NA0003525	4	246

NAME OF OFFEROR OR CONTRACTOR  
 NATIONAL TECHNOLOGY & ENGINEERING SOLUTIONS OF SANDIA, LLC

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	fixed fee and an award fee component.  Estimated Cost CLIN 0001F: \$1,731,204,598 Fixed Fee CLIN 0001F: \$17,312,000 Award Fee Pool CLIN 0001F: \$6,928,000 Amount: \$1,755,444,598.00 (Option Line Item) Line item value is: \$1,755,444,598.00				
00007	Delivery: 04/30/2026  CLIN 0001G Option Term 5 Management and Operation of the Sandia National Laboratories Site Base Term--NNSA Estimated Cost, Fixed Fee, and Award Fee--CLIN 0001D is a hybrid CLIN, comprised of a fixed fee and an award fee component. :  Estimated Cost CLIN 0001G: \$1,769,291,099 Fixed Fee CLIN 0001G: \$17,692,000 Award Fee Pool CLIN 0001G: \$7,078,000 Amount: \$1,794,061,099.00 (Option Line Item) Line item value is: \$1,794,061,099.00				1,794,061,099.00
00008	Delivery: 04/30/2027  CLIN 0002A Strategic Partnership Projects Base Term Line item value is: \$4,975,159,038.00				4,975,159,038.00
00009	Delivery: 04/30/2022  CLIN 0002B Strategic Partnership Projects Option Term 1 Amount: \$1,023,485,204.00 (Option Line Item) Line item value is: \$1,023,485,204.00				1,023,485,204.00
00010	Delivery: 04/30/2023  CLIN 0002C Strategic Partnership Projects Option Term 2 Amount: \$1,033,719,491.00 (Option Line Item) Line item value is: \$1,033,719,491.00				1,033,719,491.00
00011	Delivery: 04/30/2024  CLIN 0002D Strategic Partnership Projects Option Term 3 Amount: \$1,044,056,696.00 (Option Line Item) Line item value is: \$1,044,056,696.00				1,044,056,696.00
	Delivery: 04/30/2025 Continued ...				

CONTINUATION SHEET	REFERENCE NO. OF DOCUMENT BEING CONTINUED	PAGE	OF
	DE-NA0003525	5	246

NAME OF OFFEROR OR CONTRACTOR  
 NATIONAL TECHNOLOGY & ENGINEERING SOLUTIONS OF SANDIA, LLC

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
00012	CLIN 0002E Strategic Partnership Projects Option Term 4 Amount: \$1,054,497,828.00 (Option Line Item) Line item value is: \$1,054,497,828.00 Delivery: 04/30/2026				1,054,497,828.00
00013	CLIN 0002F Strategic Partnership Projects Option Term 5 Amount: \$1,065,042,887.00 (Option Line Item) Line item value is: \$1,065,042,887.00 Delivery: 04/30/2027				1,065,042,887.00
00014	CLIN 0003 Capital Construction Projects - The Contractor shall provide the personnel, equipment, materials, supplies, and services (except as may be furnished by the Government) and otherwise do all things necessary for, or incidental to, the efficient, effective, and safe management and/or performance of Capital Construction Projects (defined in Clause H-20 of this contract) as the Parties may agree. Each mutually-agreed-upon Capital Construction Project shall be identified hereunder as a Sub-CLIN to CLIN 0003 via bilateral contract modification. Price and price structure (such as Firm Fixed Price, Cost-Plus-Incentive-Fee, or other price structures as agreed) and any applicable special terms and conditions shall be identified for each Capital Construction Project covered by CLIN 0003. Obligated Amount: \$0.00				0.00

<b>SECTION B: SUPPLIES OR SERVICES AND PRICES/COSTS .....</b>	<b>11</b>
B-1 SERVICES BEING ACQUIRED.....	11
CLIN 0001 MANAGEMENT AND OPERATION OF THE SANDIA NATIONAL LABORATORIES .....	11
CLIN 0001A TRANSITION TERM .....	11
CLIN 0001B BASE TERM .....	11
CLIN 0001C OPTION TERM 1 .....	11
CLIN 0001D OPTION TERM 2 .....	11
CLIN 0001E OPTION TERM 3 .....	11
CLIN 0001F OPTION TERM 4 .....	11
CLIN 0001G OPTION TERM 5 .....	11
CLIN 0002 STRATEGIC PARTNERSHIP PROJECTS.....	12
CLIN 0002A BASE TERM .....	12
CLIN 0002B OPTION TERM 1 .....	12
CLIN 0002C OPTION TERM 2 .....	12
CLIN 0002D OPTION TERM 3 .....	12
CLIN 0002E OPTION TERM 4 .....	12
CLIN 0002F OPTION TERM 5 .....	12
CLIN 0003 CAPITAL CONSTRUCTION PROJECTS.....	12
B-2 CONTRACT TYPE AND VALUE .....	13
B-3 CONTRACT FEE STRUCTURES.....	15
B-4 KEY PERSONNEL REPLACEMENT.....	16
B-5 OBLIGATION OF FUNDS .....	16
B-6 AVAILABILITY OF APPROPRIATED FUNDS .....	16
B-7 LEADERSHIP PERFORMANCE EVALUATION .....	17
<b>SECTION C: DESCRIPTION/SPECIFICATIONS/STATEMENT OF WORK.....</b>	<b>18</b>
C-1 STATEMENT OF WORK .....	18
<b>SECTION D: PACKAGING AND MARKING.....</b>	<b>19</b>
D-1 PACKAGING AND MARKING .....	19
<b>SECTION E: INSPECTION AND ACCEPTANCE .....</b>	<b>20</b>
E-1 FAR 52.246-5 INSPECTION OF SERVICES – COST REIMBURSEMENT (APR 1984).....	20
E-2 INSPECTION AND ACCEPTANCE .....	21
E-3 FAR 52.246-9 INSPECTION OF RESEARCH AND DEVELOPMENT (SHORT FORM) (APR 1984) ..	21
<b>SECTION F: DELIVERIES OR PERFORMANCE.....</b>	<b>22</b>
F-1 FAR 52.242-15 STOP-WORK ORDER (AUG 1989) ALTERNATE I (APR 1984).....	22
F-2 STOP WORK IN EVENT OF IMMINENT DANGER .....	23
F-3 PERIOD OF PERFORMANCE .....	23
F-4 PRINCIPAL PLACES OF PERFORMANCE .....	23
F-5 EVALUATION OF PERFORMANCE AND EXERCISE OF OPTION(S).....	24
F-6 DELIVERABLES DURING TRANSITION.....	24
<b>SECTION G: CONTRACT ADMINISTRATION DATA.....</b>	<b>26</b>
G-1 GOVERNMENT CONTACTS .....	26
G-2 MODIFICATION AUTHORITY .....	27
G-3 CONTRACTOR CONTACT.....	28
G-4 PERFORMANCE GUARANTEE(S).....	28
G-5 RECOGNITION OF PERFORMING ENTITY .....	28
G-6 RESPONSIBLE CORPORATE OFFICIAL.....	29
G-7 INVOICING FOR TRANSITION COSTS .....	29



<b>SECTION H: SPECIAL CONTRACT REQUIREMENTS .....</b>	<b>30</b>
H-1 CONTINUATION OF PREDECESSOR CONTRACTOR’S OBLIGATIONS AND TRANSFER OF OBLIGATIONS TO SUCCESSOR CONTRACTOR .....	30
H-2 SMALL BUSINESS PARTICIPATION .....	30
H-3 REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFEROR .....	31
H-4 ORGANIZATIONAL CONFLICT OF INTEREST (OCI) – SPECIAL PROVISION .....	31
H-5 LOBBYING RESTRICTION .....	31
H-6 FLOWDOWN OF RIGHTS TO PROPOSAL DATA .....	31
H-7 PRIVACY RECORDS.....	31
H-8 SANDIA NATIONAL LABORATORIES MANAGEMENT SYSTEM (SEP 2015) .....	32
H-9 TRANSITION .....	34
H-10 CONFERENCE MANAGEMENT (SEP 2015) .....	34
H-11 FEDERAL FLEET MANAGEMENT SYSTEM .....	36
H-12 ACCOUNTABILITY .....	37
H-13 NNSA OVERSIGHT.....	37
H-14 CLAUSE UPDATES AND IMPLEMENTATION SECTION TO FAR CLAUSES.....	37
H-15 MANAGEMENT TEAM COSTS .....	38
H-16 CONFIDENTIALITY OF INFORMATION .....	38
H-17 NNSA PRIME CONTRACTS .....	39
H-18 INSTRUCTIONS FOR UPDATING FOREIGN OWNERSHIP, CONTROL OR INFLUENCE (FOCI) INFORMATION ..	40
H-19 CONTRACTOR EMPLOYEES .....	41
H-20 CONSTRUCTION PROJECTS .....	41
H-21 CONTRACTOR – MULTIYEAR STRATEGY FOR PERFORMANCE IMPROVEMENT.....	42
H-22 MANAGEMENT AND OPERATING CONTRACTOR (M&O) SUBCONTRACT REPORTING (SEP 2015).....	43
H-23 INDIRECT COST MANAGEMENT .....	44
H-24 CONTRACTOR COMMUNITY COMMITMENTS .....	45
H-25 ASSET MANAGEMENT REQUIREMENTS .....	45
H-26 STANDARDS MANAGEMENT .....	46
H-27 STRATEGIC PURCHASING .....	47
H-28 UTILIZATION OF PARENT CORPORATE SYSTEMS.....	48
H-29 PERFORMANCE BASED MANAGEMENT SYSTEM.....	48
H-30 BUSINESS ENTITY – FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER (FFRDC).....	48
H-31 IMPLEMENTATION OF ITER AGREEMENT ANNEX ON INFORMATION AND INTELLECTUAL PROPERTY .....	48
H-32 PERFORMANCE OF WORK AT FACILITIES AND SITES OTHER THAN SANDIA NATIONAL LABORATORIES ..	49
H-33 ADVANCE UNDERSTANDING REGARDING ADDITIONAL ITEMS OF ALLOWABLE AND UNALLOWABLE COSTS AND OTHER MATTERS.....	49
H-34 INTELLECTUAL AND SCIENTIFIC FREEDOM.....	50
H-35 CONTRACTOR PERFORMANCE EVALUATIONS .....	50
<b>SECTION I - CONTRACT CLAUSES .....</b>	<b>51</b>
A. FAR CLAUSES INCORPORATED BY REFERENCE .....	51
B. DEAR CLAUSES INCORPORATED BY REFERENCE .....	55
C. FAR AND DEAR CLAUSES INCORPORATED IN FULL TEXT .....	57
I-1 FAR 52.202-1 DEFINITIONS (NOV 2013) (AS MODIFIED BY DEAR 952.202-1).....	58
I-2 FAR 52.208-8 REQUIRED SOURCES FOR HELIUM AND HELIUM USAGE DATA (APR 2014).....	58
I-3 FAR 52.216-7 ALLOWABLE COST AND PAYMENT (JUN 2013) (AS MODIFIED BY DEAR 952.216-7) .....	59
I-4 FAR 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000) .....	66
I-5 FAR 52.219-10 INCENTIVE SUBCONTRACTING PROGRAM (OCT 2014).....	66
I-6 FAR 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997), ALTERNATE I (JUL 1995).....	67
I-7 FAR 52.223-7 NOTICE OF RADIOACTIVE MATERIALS (JAN 1997) .....	68
I-8 FAR 52.223-9 ESTIMATE OF PERCENTAGE OF RECOVERED MATERIAL CONTENT FOR EPA DESIGNATED ITEMS (MAY 2008).....	70
I-9 FAR 52.223-11 OZONE - DEPLETING SUBSTANCES (MAY 2001) .....	70
I-10 FAR 52.223-14 ACQUISITION OF EPEAT® -REGISTERED TELEVISIONS (JUN 2014) .....	71

I-11	FAR 52.229-10 STATE OF NEW MEXICO GROSS RECEIPTS AND COMPENSATING TAX (APR 2003) (AS MODIFIED BY DEAR 970.2904-1(A)) .....	71
I-12	FAR 52.247-67 SUBMISSION OF TRANSPORTATION DOCUMENTS FOR AUDIT (FEB 2006) .....	72
I-13	FAR 52.249-6 TERMINATION (COST REIMBURSEMENT) (MAY 2004) (AS MODIFIED BY DEAR 970.4905-1) 73	
I-14	FAR 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998).....	77
I-15	FAR 52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984) .....	78
I-16	DEAR 952.204-2 SECURITY (AUG 2016).....	78
I-17	DEAR 952.250-70 NUCLEAR HAZARDS INDEMNITY AGREEMENT (AUG 2016).....	82
I-18	DEAR 952.5203-3 CONTRACTOR'S ORGANIZATION (DEC 2000) (CLASS DEVIATION) .....	87
I-19	DEAR 970.5204-2 LAWS, REGULATIONS, AND DOE DIRECTIVES (DEC 2000) (CLASS DEVIATION) .....	88
I-20	DEAR 970.5204-3 ACCESS AND OWNERSHIP (CLASS DEVIATION).....	89
I-21	DEAR 970.5215-3 CONDITIONAL PAYMENT OF FEE, PROFIT, AND OTHER INCENTIVES—FACILITY MANAGEMENT CONTRACTS (AUG 2009) ALTERNATE II (AUG 2009) (NNSA CLASS DEVIATION OCT 2011) (NNSA CLASS DEVIATION MAY 2016).....	91
I-22	DEAR 970.5227-2 RIGHTS IN DATA-TECHNOLOGY TRANSFER (DEC 2000) ALTERNATE I (DEC 2000) (NNSA CLASS DEVIATION OCT 2011) .....	97
I-23	DEAR 970.5227-3 TECHNOLOGY TRANSFER MISSION (AUG 2002) ALTERNATE II (DEC 2000) (NNSA CLASS DEVIATION OCT 2011) .....	111
I-24	DEAR 970.5227-2 PATENT RIGHTS-MANAGEMENT AND OPERATING CONTRACTS, FOR-PROFIT CONTRACTOR, ADVANCE CLASS WAIVER (AUG 2002) ALTERNATE I (NNSA CLASS DEVIATION OCT 2011).....	122
I-25	DEAR 970.5231-4 PRE EXISTING CONDITIONS (DEC 2000) ALTERNATE I (DEC 2000) ALTERNATE II (DEC 2000).....	136
I-26	.....DEAR 970.5232-2 PAYMENT AND ADVANCES (DEC 2000) ALTERNATE II (DEC 2000) ALTERNATE III (DEC 2000) (NNSA CLASS DEVIATION OCT 2011) .....	137
I-27	.....DEAR 970.5244-1 CONTRACTOR PURCHASING SYSTEM (JAN 2013) (CLASS DEVIATIONS: AUG 2011, JUN 2013, MAR 2015) (NNSA CLASS DEVIATION MAY 2016) .....	140
I-28	DEAR 970.5245-1 PROPERTY (AUG 2016).....	146
<b>SECTION J – LIST OF ATTACHMENTS.....</b>		<b>150</b>

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS - AMARILLO DIVISION**

**SNL WORKFORCE FREEDOM ALLIANCE, )  
DAVID PETERSON, JON BROOKS, ANNA )  
BURNS, JOHN DOE #1, JANE DOE #2, ) Case No. 2:21-256  
Plaintiffs, )  
v. )  
)  
**NATIONAL TECHNOLOGY AND )  
ENGINEERING SOLUTIONS OF SANDIA, )  
LLC d/b/a SANDIA NAT'L LABORATORIES, )  
HONEYWELL INTERNAT'L, INC. )  
Defendants. )****

**TEMPORARY RESTRAINING ORDER**

THIS MATTER comes before the Court on the Plaintiffs' Expedited Ex-Parte Motion For Temporary Restraining Order To Be Issued Prior To January 4, 2021. The Court FINDS:

1. There is a potential for irreparable harm absent injunctive relief.
2. There is a sufficient likelihood of Plaintiffs' success on the merits for granting the requested injunction.
3. In balancing equities, the damage to Plaintiffs absent injunctive relief outweighs harm to Defendants in granting it.
4. The public interest is served by granting the injunction.
5. The Defendants will have 15 days in which to file a written response to the Plaintiff's motion and Plaintiffs will have 10 days to file a reply, after which date the Court will set a hearing to determine if this Temporary Restraining Order shall continue.

---

UNITED STATES DISTRICT COURT JUDGE